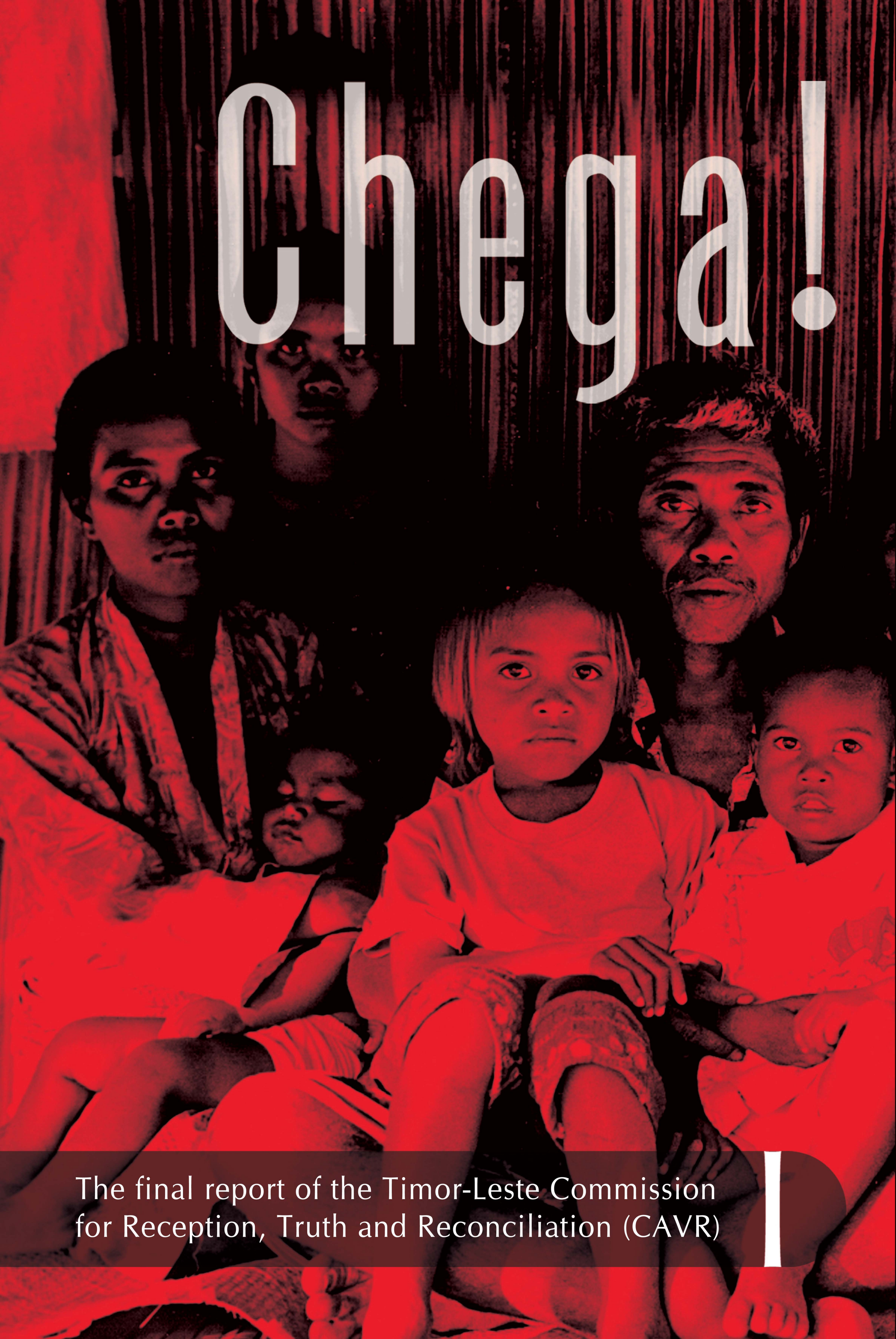


Chega!

The final report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)

I

Chega!

Volume I

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Chega!

The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)

Volume I

JAKARTA
KPG IN COOPERATION WITH STP-CAVR

Chega!

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Volume I

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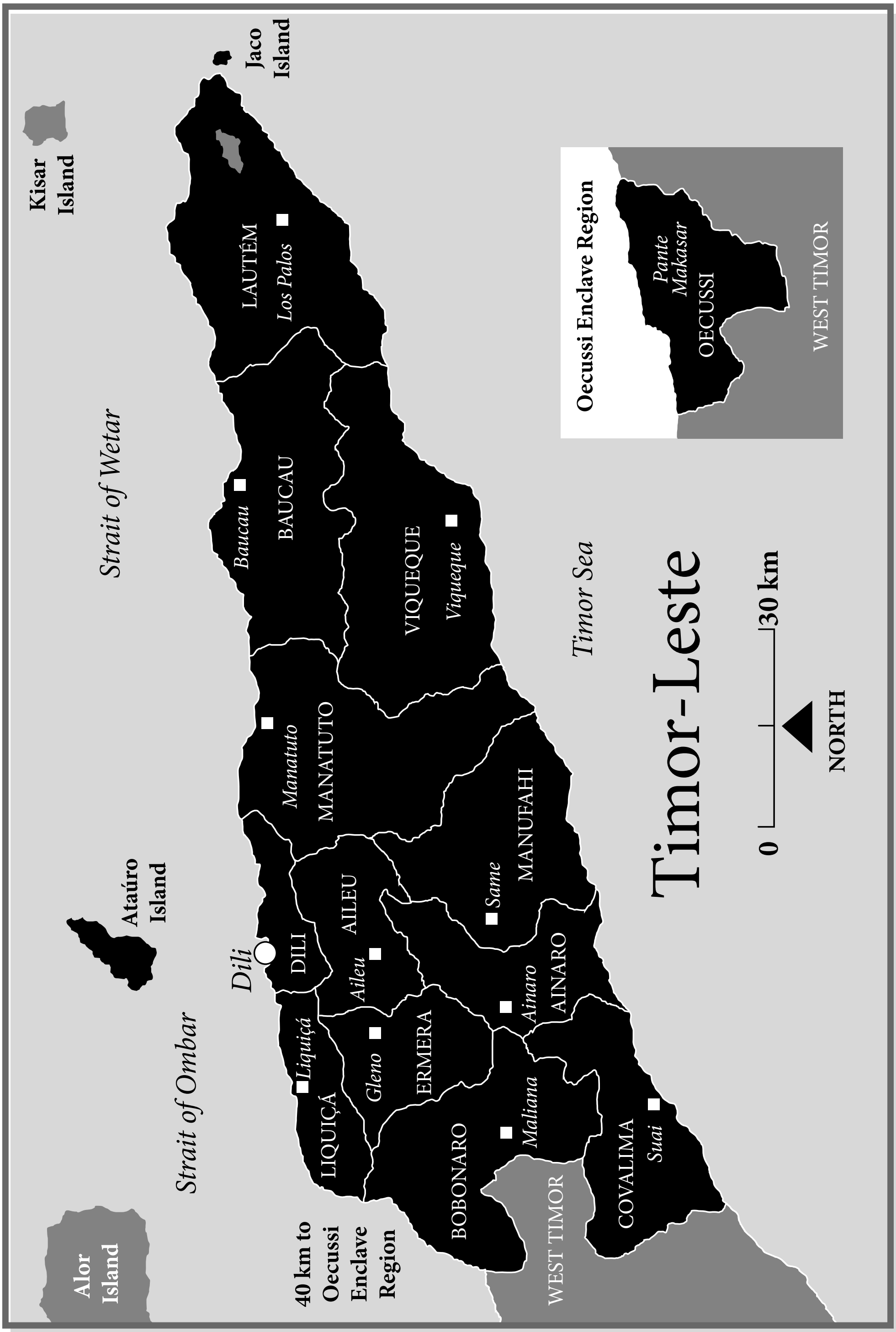
Every effort has been made to ensure that the contents of this English language version are faithful to the approved Indonesian version entitled *Chega! Laporan Komisi Penerimaan, Kebenaran, dan Rekonsiliasi (CAVR) di Timor-Leste* (KPG, 2010).

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Appreciation to donors

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- The UN High Commission for Human Rights
- European Commission
- MCC (Mennonite Central Committee)
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- The Government of Australia through AusAID
- The Government of Canada through CIDA
- The Government of Denmark
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- The Government of the United Kingdom
- The Government of the United States of America
- Pikul, West Timor
- UNDP
- UNHCR
- UN Volunteers
- United States Institute for Peace

Foreword

Archbishop Desmond Tutu
Nobel Peace Laureate, former Chair, South African Truth and Reconciliation Commission



I am deeply honoured to introduce this precious document.

Chega! is an extraordinary report about an extraordinary chapter in the history of the world's freedom struggles. It deserves to be more widely known and to take its rightful place in the international canon of human rights and conflict resolution literature.

The professionalism of the report is obvious. The CAVR Commissioners have followed their terms of reference rigorously, putting aside their strong personal feelings as Timorese who suffered great injustice, to apply the same international standards and judgement to all sides in the conflict. The result is a highly credible report. It is also a useful reference on international law, the workings (and failures) of the international system and a handy nuts and bolts introduction to the unique and effective community reconciliation process that CAVR facilitated.

What I find most compelling, however, is the human face of the suffering and sacrifice that forms the heart of the report. *Chega!* is above all the story of tens of thousands of ordinary Timorese, many of whom were subjected to unimaginable violence for daring to aspire to the basic freedoms that the international system says all people should enjoy. Jose Ramos-Horta, Timor-Leste's former President and my fellow Nobel Peace Laureate, said that the report moved him to tears and anger. I feel the same way. I ask God to hear the prayers of the many Timorese who are still hurting and also to remember the families of the Indonesian soldiers who died pointlessly in Timor-Leste.

I commend this English version of *Chega!* to the international community and its many components, including the churches.

As the tenth anniversary of the *Chega!* report approaches in 2015, my most earnest hope is, however, that those governments who generously funded CAVR will be the first to ensure that the report is widely disseminated in their countries and that its extensive recommendations will be implemented, for the sake of the most needy Timorese victims in particular.

This is the least we can do.

Preface

Aniceto Guterres Lopes, Chair CAVR

Your Excellencies, President Kay Rala Xanana Gusmão; President of the National Parliament, Francisco Guterres Lú-Olo; Prime Minister, Dr Mari Alkatiri; President of the Court of Appeal, Dr Claudio Ximenes; Dr Sukehiro Hasegawa, Special Representative of the Secretary-General; Members of the Parliament; Ministers of the Government; Distinguished members of the Diplomatic Corps and donor community. Representatives of the Church, faith communities and NGOs, my Commissioner colleagues and staff of CAVR, dear friends.

Today is both the end of CAVR's operational mandate and the occasion on which the Commission fulfills its last obligation – the hand over of our Report to the President of the Republic. This Report has been written pursuant to Regulation 10/2001 which requires that the Commission prepares and makes public a report of its activities, findings and recommendations regarding human rights violations committed in the context of the political conflicts during the 25 year period 1974–1999. As amended by the National Parliament, this Regulation also requires the Commission to present this Report to the President of the Republic before being dissolved. This is why we are here today.

Five years have passed since the idea of the CAVR was conceived in 2000. During these years Timor-Leste has moved on in many ways and continues to look to the future. Why, then, when Timor-Leste is focused on the future, is a Report being presented that deals with the past?

The function of history

The simple answer to this question is that the Commission did what it was asked to do, namely to inquire into and report on our tragic recent past. Because the result of this labour is a Report that touches on many difficult issues and sensitivities, it is important to remind ourselves that the CAVR was officially commissioned to do this work. The Commission's tasks were defined in law, written into the Constitution, endorsed by the current Parliament on more than one occasion and were supported by the United Nations and the international community. My Commissioner colleagues and I were required under oath to tell the truth, without fear or favour, about violations committed on all sides during Timor-Leste's tumultuous passage to independence. This included telling the truth about the role of the international community. The Report you see

before you is not the outcome of a private initiative or enthusiasm. It is the product of a process officially mandated by the State.

This begs the deeper question, however, as to why Timor-Leste chose to address its difficult past. As a resource-poor nation burdened with exceptional challenges, Timor-Leste could have done nothing or opted to forgive and forget. Instead our nation chose to pursue accountability for past human rights violations, to do this comprehensively for both serious and less serious crimes, unlike some countries emerging from conflict which focused on only one or two issues, and to demonstrate the immense damage done to individuals and communities when power is used with impunity. The CAVR was established as part of this process. Like other transitional justice mechanisms in Latin America, Africa and Europe, our mission was to establish accountability in order to deepen and strengthen the prospects for peace, democracy, the rule of law and human rights in our new nation. Central to this was the recognition that victims not only had a right to justice and the truth but that justice, truth and mutual understanding are essential for the healing and reconciliation of individuals and the nation. Our mission was not motivated by revenge or a morbid or political preoccupation with the past. The CAVR was required to focus on the past for the sake of the future – both the future of Timor-Leste and the future of the international system which, the Report demonstrates, also has much to learn from the experience of Timor-Leste.

The decision of our leaders to address the past through the CAVR process was widely supported by the community. The evidence for this can be seen in the excellent cooperation extended to all of the Commission's activities by all levels of society. Thousands of East Timorese from all parts of the country gave personal statements to the CAVR and, despite the pain it often caused them, participated in and supported reconciliation events and hearings both at district and national levels. The Government, Parliament, political parties, key political figures, civil society and the Church also gave CAVR excellent cooperation at all times, both morally and practically. Such was the cooperation given to the Commission that at no point did the CAVR have to consider activating its inquiry-related search and seizure powers. Only one conclusion is possible: the people of Timor-Leste strongly identified with the CAVR principles and process as the best way to build a stable future free of the violence that marred our past.

The Report

Allow me to say a few words about some features of the Report.

The Report is very long, over 2,000 pages. There are two main reasons for this. First, the CAVR's mandate covered 25 years of protracted conflict during which numerous violations of human rights were committed. In addition, many actors, both domestic and international, were involved making for a complex and dynamic mix of factors and events. Recording all of this has required many pages. Second, the Report is a compact with victims. It is based primarily on testimony from victims and is intended to contribute to healing through the restoration of their dignity. This also required space. The CAVR hopes that victims will see their experiences and suffering clearly reflected in the Report and know that what happened to them is valued in Timor-Leste and has

been preserved for posterity. In addition to its Final Report, the CAVR is also publishing the testimony of many victims given to seven of our national public hearings. The CAVR hopes that prioritising the interests and perspectives of victims and survivors in this way will contribute further to healing and a future free of violence.

Though a graphic medium for the voices of Timor-Leste's many victims, the Report is the result of impartial and painstaking inquiry and research. Our mandate required the CAVR to establish trends, patterns and factors. It also required the CAVR to establish accountability and to identify which persons, authorities, institutions and organisations were responsible for human rights violations. In carrying out these tasks, the CAVR has had no political agenda and has studiously avoided embellishment or the impulse to humiliate or take revenge. Human rights violations may have been utilised in the past to mobilise political support and score points against an adversary. The CAVR's sole objective has been to record the truth so that the shocking consequences of violence recorded in this document will serve to deter its repetition in the future and end impunity. The result is not perfect and it was beyond the CAVR's capacity to investigate every case or to establish the definitive truth on all issues. We believe, however, that the Report gives the people of Timor-Leste the big picture of what happened over the 25 years in question and that it will help the community understand our history and the forces that shaped our destiny.

In contrast to its length, the title of the Report is just one word. This is the Portuguese word "Chega!" which roughly translates to "no more, stop, enough!" We feel that this single word, which is the title in all language versions, captures the essential message of the whole report in an arresting way. We believe it is also the essential message that victims want us all to hear and commit to, namely that the individual and collective nightmares described in this Report must never be permitted to recur.

In preparing this Report, the CAVR had both to work in several languages and present this Report in several languages. This was both an official and practical imperative that placed additional heavy demands on the Commission. I want to stress, however, that the CAVR was also deeply aware that the "Question of East Timor", as it was referred to by the United Nations, was an international question and that it is important to ensure that the Report is accessible to key stakeholders in their own languages. The Report will be available in Portuguese, Indonesian, English and at least partially in Tetum. We hope that in due course an institution will offer to translate the full text into Tetum. In this context I should make it clear that Commissioners formally approved the text of the Report in Indonesian. We verified the text in the other languages but it is the Indonesian version of the Report that should be consulted if there is any misinterpretation of the Report or confusion about what we wanted to say.

Archives

In the course of its inquiry, the CAVR has amassed much documentation for the period 1974–1999. The bulk of this evidence now almost fills two large rooms in the Comarca. I want to make four points about this collection. First, these records are unique and must be preserved with great care – they are the living testimony of victims and key

actors from a period that witnessed both the painful birth of this nation and a shameful chapter in international politics. Second, they are a rich resource for further research, writing, and education. They will be a valuable resource for the Education Department in the development of curriculum and materials for the classroom and lecture theatre. As such I hope they will continue to attract continuing support to ensure their long term preservation, accessibility and use. Third, this collection must be further enriched through additional contributions. I take this opportunity to appeal to all East Timorese people who have material related to 1974–1999 in their possession, whether in Timor-Leste or abroad, to consider contributing their records, either originals or copies, to this central national depository. And fourthly, every care must be taken to ensure that access to the statements entrusted to the CAVR by victims is controlled and that the confidentiality of evidence and the rights and security of statement-givers are fully respected. The CAVR has made every effort, in collaboration with the Parliament and the Ministry of Justice, to ensure that this is guaranteed following its dissolution.

The future

This brings me to a final point in relation to the content of the Report. Much of the CAVR's work has been a good start but much remains to be done – in the areas of reconciliation, truth-seeking, healing and justice.

The CAVR believes that it has contributed to stabilising many local communities through its reconciliation programme. Nevertheless, many cases were not addressed and creative ways of using the CAVR's methodology need to be developed so that this unique process can be utilised to address conflict in the future. In the area of truth-seeking, the CAVR was not able to give definitive answers to many issues. It is hoped that, based on the evidence it has collected and the uncovering of new information through further research, the process of truth-seeking can continue. It also remains for this Report to be disseminated and its recommendations acted on. This is an item of unfinished business that is essential to the healing process, the deepening of a culture of human rights and rule of law, and the learning of lessons both nationally and internationally. For this to happen, an effective follow-up institution is essential. This body is also necessary to ensure the security, professional management, and development of the CAVR archives.

Appreciation

After being very high-profile in all parts of the country and through our nationally broadcast public hearings, the CAVR has been low-profile for over 12 months. Some may have wondered if we had gone to sleep on the job! The reality is that we have been fully engaged in fulfilling the second of our mandates over the past months – truth-seeking – and this has proven extremely taxing, difficult and time-consuming.

Therefore I want to begin this list of appreciations by acknowledging the understanding and support we have had from the National Parliament, particularly by granting us extra time on three occasions to complete our work. Thank you President Francisco Guterres Lú-Olo and all your Parliamentary colleagues.

The experts say that one of the conditions for a successful truth commission is a certain level of official support or acquiescence. That condition was certainly met in the CAVR's case. As Commissioners from the relatively youthful post-1975 generation, we can now confess that we felt considerable trepidation having to address issues in which revered older leaders were key actors. We need not have worried and owe a profound debt of thanks to our political leaders whose understanding and support meant a lot to us.

Mr President, you have long been a champion of reconciliation, and the CAVR's approach owes much to the inclusive ethos that is a hallmark of your leadership. We have deeply appreciated your support on the many occasions that we have sought your advice. Thank you also for sharing your knowledge with the Commission, for giving public testimony and assisting with fund-raising. We are also indebted to you, Mr Prime Minister. You gave unambiguous public support to the CAVR from the beginning, totally respected the independence of the Commission, and on top of your numerous duties found time to assist with fund-raising, to be interviewed and to give public testimony. The same can be said for your Senior Minister and Minister for Foreign Affairs and Cooperation, Dr José Ramos-Horta, who in addition to other assistance, used his access to international fora to speak on behalf of the CAVR. Because of their support, which was widely shared by the political parties, the faith community, the Catholic Bishops and civil society, the CAVR was able to focus on its sensitive work free of controversy and distraction.

We also wish to thank the President of the Court of Appeal, Dr Claudio Ximenes, and the Prosecutor General, Dr Longuinhos Monteiro, for their personal and institutional support. Both institutions were key components in the success of the CAVR Community Reconciliation Process.

The CAVR also enjoyed generous support from the international community, particularly in the form of financial grants and human resources. Because of Timor-Leste's economic situation, all funding for the CAVR had to be found externally. Over 25 governments and funding agencies responded to our appeals and provided the funds necessary to rehabilitate and run six offices, place nearly 300 staff in the field, provide the transport, equipment and resources needed for our work and to provide expert advisors to the Commission in several areas. The names and contributions of these donors can be found in the Report. On behalf of all my colleagues at the CAVR I wish to thank each of them most sincerely both for recognising that peace-building is the basis of sustainable development and for their unstinting practical and moral support over five years.

Last but not least, I wish to thank my six National and 28 Regional Commissioner colleagues and all our wonderful staff for their contribution. Over 500 people – including Commissioners, national and international staff and short-term volunteers – have worked at or for the CAVR since 2001. The CAVR was an ambitious *magnum opus* and adventure into the unknown for all of us. More than once it threatened to overwhelm us emotionally and organisationally. It has been particularly intense and demanding over the past 12 months. I know that working at the CAVR has been a unique and deeply meaningful experience for all my colleagues, Commissioners and staff alike. Nevertheless, Timor-Leste owes each of them an immense debt for the contribution they have made to peace, unity and human rights in our new nation.

Conclusion

Before I present our Report, I have only one thing to say by way of conclusion. It is that the deepest wish of all at the CAVR is that the Report will be received in the spirit in which it was written – with openness, honesty, a deep compassion for those who have suffered the most, an almost fanatical commitment to non-violence, and a determination never, ever to let any of what is in this Report happen again to our beautiful country and people.

On behalf of my Commissioner colleagues and all the CAVR staff, it is now my great honour and privilege to hand over the CAVR Report to your Excellency Mr President.

Presentation of the Report by CAVR National Commissioners

O Relatorio da Comissao de Acolhimento, Verdade e Reconcilição de Timor-Leste (CAVR) foi apresentada ao S.E. Presidente da Republica, Kay Rala Xanana Gusmão, no dia 31 de Outubro de 2005.*

Aniceto Guterres Lopes, *Chairperson*

Fr. Jovito do Rêgo de Jesus Araújo, *Vice-Chairperson*

Maria Olandina Isabel Caeiro Alves

Isabel Amaral Guterres

José Estevão Soares

Rev. Agustinho de Vasconselos

Jacinto das Neves Raimundo Alves

* The CAVR Report was presented to H.E., The President of Timor-Leste, Kay Rala Xanana Gusmão, on 31 October 2005.



Photo/CAVR archives

Chega!

Part 1.

Introduction

Part 1. Introduction

Table:

1. Introduction

Background to the Commission

1. The people of Timor-Leste's long struggle to secure their freedom and their destiny as a nation reached a decisive moment in 1999. After hundreds of years of Portuguese colonialism and 24 years of foreign occupation, we were finally able to express our wish to live as free and independent people in a free and independent country, as the international community at last supported our fundamental right to self-determination. The oppression of the long years of colonialism and the shocking violence of the years of militarised foreign occupation culminated in one last campaign of violence against the people of Timor-Leste in September and October 1999, which left our tiny country devastated in the wake of the departing military.

2. The immediate signs of the devastation were plain for all to see. The burned-out towns and villages, the blood-stained buildings which had been the site of massacres, whole regions almost empty of people who had fled or been forced to leave their homes. As slowly people returned home to look for the living and seek to salvage what they could, and as the international community came to help with emergency relief, gradually the longer-term scars of the long political conflicts became apparent.

3. For ordinary people the legacy of 24 years of conflict and violence was profound and multi-faceted. Amid the rubble of late 1999 it was apparent that steps needed to be taken to address the many elements of this legacy, to assist people to rebuild their lives and to enshrine human rights and the rule of law as governing principles of the new nation.

4. On 25 October 1999 the United Nations Security Council created the UN Transitional Administration in East Timor (UNTAET) mission, with a mandate to provide transitional administration of the territory and prepare it for independence. As the initial demands of the humanitarian crisis diminished, the focus shifted to the establishment of essential institutions. These included the institutions responsible for administering justice, including for past violations.

5. Many East Timorese human rights activists' first preoccupation was how to help tackle the humanitarian emergency produced by the violence of September–October. As humanitarian relief programmes became established, activists turned in 2000 to the

issue of past crimes and the legacy of the long conflict. There were concerns for the potential for violence to reignite, especially in the context of the virtually complete impunity enjoyed by perpetrators of crimes; and the longer term issue of developing a culture of respect for human rights and the rule of law in a society in which action on these fundamentals was long overdue.

6. In late 1999 the United Nations sent a Commission of Inquiry to investigate recent events and to recommend how those responsible for them should be held accountable. The Commission recommended an International Tribunal be established to try cases of 1999 crimes. Instead the UN established a Serious Crimes process in Timor-Leste and encouraged the Indonesian Government to show its commitment to the rule of law by using its own judicial system to try people residing in Indonesia. East Timorese human rights activists, aware that the impact of the conflict on East Timorese society was not confined to the events of 1999, sought other measures to complement this process.

7. On 7 March 2000, at a conference of its Comissão Política Nacional (National Political Commission, NPC) the Conselho Nacional da Resistência Maubere (CNRT, The National Council of East Timorese Resistance) decided to form a commission for reconciliation. In June 2000 the CNRT Reconciliation Commission conducted a workshop with support from Uppsala University (Sweden) and the Human Rights Unit of UNTAET. Participants included members of political organisations, human rights activists and members of the Catholic Church, who explored the idea of a truth and reconciliation commission. The group brought this idea to the August 2000 CNRT National Congress, a landmark gathering to help formulate the vision for the new independent Timor-Leste. The Congress endorsed the idea of a truth and reconciliation commission and established a steering committee to conduct consultations to determine whether the idea was acceptable to the broader East Timorese community. This was the beginning of the Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR, Comissão de Acolhimento, Verdade e Reconciliação).

From colonialism to militarised occupation

8. About 500 kilometres north of Australia, Timor-Leste straddles Asia and the Pacific, and this can be seen in the country's cultural and linguistic diversity. Timor was colonised by the Portuguese, just as their power in the region was diminishing in the face of the growing assertiveness of the Dutch and the British. Over the following centuries Portuguese Timor became increasingly isolated; Portugal's only foothold on the fringe of South-East Asia.

9. The Portuguese hold on Timor was tenuous until the 19th century, as it did little to assert control over the majority of East Timorese living in the mountainous interior. In the mid-19th century, Portugal introduced the forced cultivation of coffee as a cash crop, which together with the imposition of various taxes put them in much closer control of Timorese people's daily lives. Rebellions ensued into the early 20th century, when the Portuguese violently put down an uprising led by Dom Boaventura from Manufahi, which

gained widespread support throughout the territory. Portugal sought to shore up its control through a system of government which favoured certain local leaders over others. The result was a society which lacked the cohesion required to forge a sense of nationhood.

10. Compounding this colonial legacy was the fact that for most of the 20th century Portugal itself was under the authoritarian regime of Salazar and his successor Marcello Caetano. From the late 1920s until the Carnation Revolution of April 1974, political freedoms in Portugal were heavily curtailed. Portugal suppressed all aspirations for independence in its colonies, characterising them as an integral part of Portugal, even after the United Nations had declared them non-self-governing territories in 1960. Portugal was the last of the European powers to decolonise, ignoring the wave of decolonisation that began after the Second World War. It was only after liberation wars in Portugal's African colonies convinced many Portuguese that the empire could not be sustained that change occurred with the Carnation Revolution of 15 April 1974.

11. The promise of decolonisation was one of the main rallying cries of this revolution in Lisbon. However, for the Portuguese decolonisation meant above all rapid disengagement from the wars it was fighting against the liberation movements in its African colonies. Their Asian colony of Timor was a special case that was easily overlooked. Over the ensuing months Portuguese policy towards Timor suffered from inadequate attention and planning, compounded by constant changes of government in Lisbon. In Timor the Carnation Revolution opened the way for aspirations for freedom among the mostly young and inexperienced politically active. Political associations quickly formed, with the two main ones, Associação Social Democráta Timorense (Timorese Social Democratic Association, ASDT), later to be renamed Frente Revolucionária de Timor Leste Independente (Revolutionary Front for an Independent East Timor, Fretilin), and União Democrática Timorense (Timorese Democratic Union, UDT), favouring independence for the territory.

12. This was the height of the Cold War. During 1975, the year after the Carnation Revolution, the war in Vietnam was fought to its conclusion with the victory of the communist north over the south and its US patron. Amid US and Western fears of a "domino effect" that could turn more of South-East Asia communist, the staunchly anti-communist military regime of President Soeharto came to be seen as a bulwark of stability in the region.

13. Hopes that decolonisation in Timor would be smooth were thwarted by Portuguese neglect, Indonesian interference supported by its key Western allies, the US and Australia, and the inexperience and lack of political experience of the mainly young leaders of the newly-formed parties, whose political discourse was heavily laced with the rhetoric of violence and personal attacks rather than interchange of ideas.

14. On 11 August 1975 the centre-right party UDT launched an armed movement in Dili. Its objective was to establish control of the territory, demand the removal of Portuguese and East Timorese radicals, and thus demonstrate to Indonesia that Timor was not about to become a breeding ground for communism. An already volatile state of affairs exploded into violence across the districts of Timor. Within ten days the left-wing party Fretilin responded with a general armed insurrection.

15. This brief civil war was over by early September, but it had changed the situation irreversibly. The fighting took up to 3,000 lives and left deep and enduring scars. At the end of August the Portuguese colonial administration fled the mainland for the island of Ataúro, never to return. Leaders and members of UDT, and the other three smaller parties, Associação Popular Democrática Timorense (Timorese Popular Democratic Association, Apodeti), Klibur Oan Timor Aswain (Association of Timorese Warrior Sons, KOTA) and Trabalhista (Labour), fled across the border into Indonesian West Timor, and aligned themselves with Indonesian aims.

16. The Indonesian armed forces had been conducting covert operations in Portuguese Timor since mid-1974, and had been giving members of Apodeti military training in West Timor since December 1974. From September 1975 the Indonesian military conducted cross-border operations into Portuguese Timor aimed at undermining the position of the hard-pressed Fretilin *de facto* administration. In October 1975 it stepped up these operations through large-scale combined air, sea and land attacks that resulted in the occupation of key towns in the western district of Bobonaro.

17. Fretilin, hoping to put the decolonisation process back on track, sought the return of the Portuguese administration. Denied support or direction from Lisbon, the governor, Mário Lemos Pires, refused to return or to enter negotiations with Fretilin on the basis of its claim that it was the sole legitimate representative of the East Timorese people. To prevent military aggression by Indonesia and to gain international recognition and assistance, Fretilin unilaterally declared independence on 28 November 1975.

18. The four other East Timorese political parties, under pressure from the Indonesian military, signed a declaration, the Balibó Declaration, in Bali the next day proclaiming Portuguese Timor's integration with Indonesia. Indonesia launched a full-scale invasion of Timor on 7 December 1975. Fretilin and its armed wing, Falintil (Forças Armadas de Libertação Nacional de Timor-Leste or Armed Forces for the Liberation of Timor-Leste), retreated to the interior with tens of thousands of civilians. Thus began the war that lasted, through several distinct military and political phases, for 24 years.

19. Indonesia sought to legitimise its annexation of Timor-Leste. The Popular Representative Assembly, consisting of hand-picked Timorese, met in Dili in May 1976 and, citing the Balibó Declaration, unanimously approved a petition calling for integration. On the basis of this purported act of self-determination, in July 1976 the Indonesian Parliament passed a law declaring Timor-Leste the 27th province of Indonesia. The United Nations never recognised this process as constituting an internationally acceptable act of self-determination by the East Timorese people. The UN Security Council condemned the invasion and called for withdrawal of Indonesia troops in December 1975 and again in April 1976. The General Assembly passed a motion supporting self-determination for Timor-Leste every year until 1982, when the matter was referred to the good offices of the Secretary-General. Timor-Leste remained on the UN agenda throughout the occupation, listed as a non-self-governing territory under Portuguese administration.

20. In reality key member states did little to challenge Indonesia's annexation of Timor-Leste or the violent means used to enforce it. Most nations were prepared to appease

Indonesia as a major power in the South-East Asian region. The situation in Timor-Leste was poorly understood. Governments friendly to Indonesia supported its version of events there. Isolated in its own region during the years of Portuguese colonialism, it was a closed territory for the first 13 years of the occupation as the Indonesian military used every means at its disposal to subdue the people of Timor-Leste. The UN was frustrated in its efforts to enter Timor-Leste to assess the situation, foreign aid was blocked and international diplomats and media were granted permission to make only occasional, tightly-controlled visits to the territory. East Timorese in exile worked vigorously with international civil society to bring attention to the plight of the East Timorese people, but with limited means compared to the powers supporting Indonesia.

21. The war reached every village of Timor-Leste and profoundly influenced the lives of all East Timorese people. Cut off from the world and without any form of institutional protection, ordinary civilians suffered massively from the merciless assaults and random cruelties of the Indonesian military, particularly in the early years of the occupation. Those perceived to be political opponents of the occupation were treated particularly brutally. Especially in the early years of the occupation, ordinary civilians could also suffer vicious treatment if they fell afoul of the Resistance's sweeping notions of ideological deviance.

22. All this time Indonesian military and political leaders claimed that, the activities of a handful of "security disruptors" apart, the war was over and that reports of human rights violations were fabrications. Foreign allies of Indonesia were complicit in supporting these falsehoods, thereby reinforcing the impunity enjoyed by the Indonesian military domestically and allowing it to continue its ferocious campaign to subdue the people of Timor-Leste unchecked.

23. During the occupation years the character of the conflict went through several changes. The 1970s were years of large-scale military operations aimed at destroying the armed Resistance led by Fretilin. Large numbers of the civilian population lived in the interior with the Resistance, and suffered directly from these military operations. By the end of the 1970s the armed Resistance was shattered, and its strategy of fixed base areas, in which the civilian population was to play a crucial role, came to an end. When the civilian population were forced out of the interior, the Indonesian military pursued a strategy of separating the civilian population from the armed Resistance by holding tens of thousands of surrendered civilians in detention camps and resettlement villages with disastrous consequences for the people of Timor-Leste, who suffered terrible famine in the late 1970s and early 1980s.

24. The Resistance reorganised in the 1980s into a guerrilla force, supported by a growing clandestine movement in towns and villages. The Indonesian military extended its territorial reach to all villages in Timor-Leste, including a smothering intelligence and paramilitary presence made up largely of East Timorese. This militarisation of East Timorese society was pervasive and had the effect of severely curtailing the rights of East Timorese across the whole internationally-recognised spectrum that extends from the political and civil to the economic, social and cultural.

25. By the late 1980s Indonesia claimed to have "normalised" the province of Timor-Leste, and partially lifted its ban on access to the territory. Earlier in the decade young people began attending universities in Indonesia, and the clandestine movement was increasingly driven by this new generation. As the Cold War ended in 1989, and as foreigners trickled into the newly opened province of Timor-Leste, this young generation were in the front line of a new Resistance strategy in which demonstrations against the occupation were a core component. The response was swift and ruthless, and in 1991 the infamous Santa Cruz Massacre of young people by the Indonesian security forces took place in Dili. Unlike previous massacres, this one was filmed by a foreign journalist and images of the carnage reached the outside world. This had a profound effect on understanding of the situation in Timor-Leste worldwide, and renewed international efforts to seek a solution to "the question of East Timor".

26. With renewed international attention on Timor-Leste, and the paradigm shift in the assumptions of global politics that the end of the Cold War produced, Indonesia came under increasing pressure to respond. However, President Soeharto remained a favoured ally of Western and regional powers alike, and it was only when he fell from power in 1998 that real change became possible. The United Nations, which had remained seized of the matter throughout the occupation, stepped up its activities and ultimately brokered the 5 May 1999 Agreements that led to the Popular Consultation of 30 August 1999, in which the people of Timor-Leste chose independence.

27. While the international community finally supported the East Timorese right to self-determination by backing the Popular Consultation, once again it failed to confront the true nature of the Indonesian occupation. Security for the Consultation was placed in the hands of the Indonesian police, well-known to be subordinate to the Indonesian military, which not only continued to be deployed in the territory but blatantly nurtured East Timorese militias as the instrument of a strategy intended to ensure the victory of pro-integration forces. The result was predictable. However, the people of Timor-Leste defied the ensuing campaign of threats, intimidation and violence and came out and voted for independence. When the result of the ballot was announced, the Indonesian military and its militia allies carried out its threatened retaliation, to devastating effect, but this time governments were unable to ignore the contrast between the extraordinary courage and quiet dignity displayed by the voters of Timor-Leste and the terrible retribution wreaked by the TNI and its East Timorese partners.

Coming together: reconciliation

28. From the earliest days of the decolonisation process in Timor-Leste, when political associations were formed and differences emerged, there were efforts to try bridge these differences and to work cooperatively in the wider national interest. As members of the main political parties attacked each other verbally over the radio, others who saw the dangers came together and negotiated a short-lived coalition between the UDT and Fretilin parties. As this coalition threatened to unravel, there were members of both parties who struggled to keep it alive. The Commission heard that even when in August–September 1975 hopes of a rapprochement appeared to have been definitively

dashed by the UDT armed movement and the "civil war" that it precipitated, there were individuals prepared to try to open dialogue between the contending parties. In the early months after the invasion, when its true meaning was becoming apparent to many East Timorese who had supported it, the Commission also heard of quiet efforts at rapprochement between the enemies of the civil war. These early efforts largely failed, but they were the forerunners of the slow and persistent growth of a truly national consciousness that was forged in the long struggle for self-determination.

29. During the years of occupation the Resistance became an inclusive movement which sought ways to involve people from all East Timorese political backgrounds and those without any partisan allegiance, including members of the Catholic Church. As the Resistance moved away from hard-line ideology during the 1980s and embraced a "national unity" strategy, it reached out to all East Timorese who supported self-determination. From the early 1980s members of UDT and Fretilin in exile began working together to influence the international community. The path to rapprochement was not smooth – but a common commitment to liberty and self-determination sustained these efforts. Institutionally, the Resistance moved from the leadership of the single party Fretilin to the Conselho Revolucionário de Resistência Nacional (Revolutionary Council of National Resistance, CRRN), then the Conselho Nacional da Resistência Maubere (National Council of Maubere Resistance, CNRM) and finally the Conselho Nacional de Resistência Timorense (National Council of Timorese Resistance, CNRT) – each shift signalling the progressive broadening of the movement to include all East Timorese people sharing that commitment. The new generation of the 1980s and 1990s increasingly adopted this nationalist, non-partisan perspective on the struggle.

30. Moreover, the Resistance learned the strength of peaceful dialogue as a means of creating mutual respect and building confidence. In 1983 the Resistance promoted its first peace plan, and in the early 1990s the CNRM disseminated a peace plan that proposed unconditional dialogue to try to resolve the conflict. In the mid-1990s, under the auspices of the UN, East Timorese people from pro-independence and pro-integration backgrounds came together for a series of meetings designated the All-Inclusive Intra-East Timorese Dialogue. When change looked truly possible in Timor-Leste in 1998, but was threatened by violence, the Catholic Bishops of Timor-Leste brought together pro-independence and pro-integration East Timorese leaders in the meeting known as Dare I. A second meeting, Dare II, was convened in Jakarta in 1999, when violence put the Popular Consultation at risk.

31. It could be said that these initiatives failed because of the violence of September–October 1999. However, this misses their true significance, which is that for 25 years there were East Timorese who struggled to find a peaceful way of resolving divisions, and that ultimately, through the Popular Consultation of August 1999, the overwhelming majority of the people supported this approach. We need to learn from this, and to take inspiration from the efforts of East Timorese peacemakers. In the future, there will always be differences of view in our society and with our neighbours. We will be faced with choices, at the local, national and international levels, about how we approach these differences. The experience of the past shows that we must always choose the path of

peace. That way we can secure our future, and we can become a shining light to the world. Our knowledge of our past can help us shape a peaceful future.

Organising principle of this Report

32. Parts in this Report are organised thematically. There are a number of parts which provide essential background information to an understanding of the context and causes of the human rights violations which occurred during the mandate period: for example, Vol. I Part 3: The History of the Conflict; Vol. I Part 4: The Regime of Occupation; Vol. I Part 5: Resistance: Structure and Strategy. The main body of the Report is found in Vols. II-III Part 7, which is organised thematically into the main human rights violations committed during the mandate period. Within each of the sections in this part, violations are examined within a structure which divides the mandate period in up to seven main phases, as appropriate:

- April 1974-September 1975: the internal political and armed conflict
- September 1975-January 1976: the period of Fretilin administration, the aftermath of the internal conflict and Indonesian incursions
- December 1975, the full-scale Indonesian invasion
- 1976–1979: the period of large-scale Indonesian military operations and the armed resistance led by Fretilin
- 1980–1984: the period of Indonesian military "consolidation" and the rebuilding of the Resistance
- 1985–1998: the period of "normalisation"
- 1999: the period leading up to and following the Popular Consultation of 30 August 1999.

The truth

33. The mandate of the Commission included establishing the truth about the human rights violations which occurred in Timor-Leste throughout the 25-year mandate period. The scope of this mandate included determining the factors such as the context, causes, antecedents, motives and perspectives which led to the violence, whether they were part of a systematic pattern of abuse, the identity of persons, authorities, institutions and organisations involved in the violations, and whether the violations were a result of deliberate planning, policy or authorisation on the part of the state, political groups, militia groups, liberation movements or other groups or individuals.[1] The Commission was also mandated to examine the role of both internal and external factors, and to determine accountability for the violations (Regulation 10/2001, Section 3: see Vol. I Part 2: The Mandate of the Commission).

34. The Commission was not a court of law, and has not prepared cases or indictments against individuals or about individual cases. Nevertheless, the Commission's work to establish the truth has involved the gathering of a wide range of material that constitutes strong evidence of the human rights violations which

occurred throughout the period. According to the mandate of the Commission, this truth has several purposes. For example:

- To shed light on events that have until now been largely unreported or even covered up;
- To encourage further investigation, by states, international organisations and others, that can lead to prosecutions and thus advance the fight against impunity for serious crimes;
- To assist victims regain their dignity, by sharing with the nation and the international community the truth which has until now been suppressed and so not understood or perhaps not believed;
- To understand better the forces which have shaped East Timorese society and the nation, and to draw lessons from the past which can nurture a culture of peace and respect for human rights and the rule of law;
- To foster an awareness and understanding of the past in all citizens of Timor-Leste, especially among the young and in future generations, so that by remembering and honouring the suffering of our people during these years of conflict we learn to appreciate the difficult challenges they faced, how they coped with those challenges and value in particular those who made a contribution to lasting peace and freedom in our land.

35. The truth contained in this Report comes largely from the words of those who directly experienced the years of conflict. The Commission has attached special importance to listening directly to those who suffered human rights violations throughout the 25-year period, most of whom had not spoken outside the narrow circle of their family. These many voices, from across the country, have given Timor-Leste a priceless asset. They tell us who we are, what we have been through, what we have lost, and show us the value of what we have gained. From the stories of our sisters and brothers we learn that victory is not a simple matter of heroes and villains; that history is more than the listing of major events or the biographies of those who are called leaders. The experiences of "ordinary people", both the many who died and those who survived, tell us where we have come from and help us understand who we are today. From their stories we see more clearly both the extremes of human dignity and of human degradation that were manifested in our country during these 25 years. We must learn from both sides of this human story. We must acknowledge our potential for both extremes, and strive always to bring the best of our humanity into our lives and relationships – our families, our communities and our nation – each day as we build a new future.

Origins of the Commission

The workshop and the CNRT Congress

36. In June 2000, representatives of East Timorese civil society, the Catholic Church and community leaders held a workshop to consider transitional justice mechanisms, supported by the UNTAET Human Rights Unit. The advisability of establishing a truth commission for Timor-Leste was part of its agenda. The workshop recommended that a proposal to establish an independent commission with a mandate to investigate past violations and promote reconciliation should be put to the first National Congress of the CNRT (Conselho Nacional da Resistência Timorense) in August 2000.

37. The Congress was composed of delegates from district, sub-district and village constituencies based on the CNRT networks. Most of the East Timorese factions that had supported independence discussed and put forward policies to produce a vision for the future. One result was a formal acknowledgement that colonisation and the long military occupation had seriously damaged the social fabric and cultural identity of the nation. Commission III of the Congress, whose remit included, inter alia, socio-cultural development, noted that future national policies of social and cultural development should be "directed towards the formation of a Timorese society based on universal values that lead to the formation of a modern, more dignified, more humane and just society."[2]

38. The CNRT Congress adopted the following vision of reconciliation:

> Reconciliation is a process, which acknowledges past mistakes including regret and forgiveness as a product of a path inherent in the process of achieving justice; it is also a process which must involve the People of Timor-Leste so that the cycle of accusation, denial and counter-accusation can be broken. This process must not be seen only as a conflict resolution or mere political tool which aims at pacification and reintegration of individuals or groups in the context of their acceptance of independence and sovereignty of Timor-Leste but, above all, must be seen as a process where truth must be the outcome.

39. The Congress unanimously recommended the establishment of a "Commission for Resettlement and National Reconciliation". A Steering Committee to develop the proposal was formed. It included representatives from the CNRT, East Timorese human rights NGOs, women's groups, youth organisations, the Commission for Justice and Peace of the Catholic Church, the Association of ex-Political Prisoners (Assepol), Falintil, UNTAET and UNHCR. The Committee's first task was to conduct community consultations across Timor-Leste, and with East Timorese refugees in West Timor and other parts of Indonesia. The objective of these consultations was to collect information so as to gain an understanding of the attitudes of the East Timorese people on issues relating to reconciliation.

40. Following the Congress, assistance was sought from the UNTAET mission. The Transitional Administrator, Sérgio Vieira de Mello, nominated the Human Rights Unit of the mission to act on behalf of the UN in supporting the Steering Committee.

41. The Steering Committee conducted consultations with communities across Timor-Leste from September 2000 to January 2001. It visited each of the 13 districts, holding public meetings at district, sub-district and village levels. It also consulted political parties, jurists and human rights organisations and victims' groups. It found overwhelming community support for a truth and reconciliation commission.

Results of the Steering Committee's community consultations

42. The following themes emerged from the Steering Committee's consultations.

Truth-seeking and justice:

1. There should be justice for those responsible for serious crimes.
2. It was necessary for the future of Timor-Leste to learn from the history of the conflict. Investigating the past and establishing the truth should be seen as fundamental to sound nation building. However, opening up old wounds carried risks, and probing the past had to be carried out with great sensitivity. Otherwise the airing of past grievances could simply create anger and recrimination, and even renewed violence.
3. Although the incidence of violations was greatest during the long period of occupation by the Indonesian security forces, there was a real risk that reopening the chapter of the party conflict of 1974-75 would fuel strong emotions. Investigating and reporting the truth concerning violations committed by members of UDT, Fretilin and Falintil, including individuals now holding senior positions in government, the armed forces and the police, would also be particularly challenging.
4. There was residual anger on the part of many pro-independence supporters towards those who sided with the Indonesian occupation forces and former members of militia groups. Practical steps needed to be taken to try to reduce these tensions.
5. Many pro-autonomy supporters identified a need for popular education in the principles of political tolerance. Supporting the political goal of autonomy was not a crime and individuals should not be punished in any way for taking that political position.
6. Many women survivors of rape supported the idea of a commission with a truth-seeking function.
7. Families of those who had disappeared asked for help in discovering the fate of their loved ones.

8. The Indonesian government should be held responsible for the actions of its agents, particularly members of the security forces and East Timorese auxiliaries who were under their control. Such responsibility should include the payment of compensation to victims of these government-sponsored violations.
9. Representatives of the United Nations, Portugal and Indonesia should be investigated regarding the 5 May Agreements establishing the terms and conditions in which the Popular Consultation was to be held. These gave Indonesia responsibility for security during the 1999 ballot, when members of its forces were known to have already committed widespread human rights violations.

Reconciliation:

1. The view that reconciliation is possible was widely accepted, but there had to be accountability and justice for past serious crimes, including those committed before 1999.
2. The need for reconciliation at the village level should not be overlooked. Dissatisfaction was expressed that up to that time all reconciliation initiatives had focused on the leaders. There should be an organised effort to try to resolve past differences at a grassroots level.
3. Village elders or traditional leaders and traditional system should be involved in the processes of reception and reconciliation.
4. The Catholic Church and the culture of confession and forgiveness could play an important role in reconciliation processes at the community level.
5. The Commission must engage with the refugees in West Timor. It should conduct an information programme in West Timor to correct the misinformation about conditions in Timor-Leste being fed to refugees.

Supporting victims:

1. Support for the rehabilitation of victims, such as ex-political prisoners and survivors of torture, was necessary and compensation should be provided to victims.
2. Victims indicated overwhelmingly that they sought accountability and justice and were opposed to proposals for amnesty.
3. Commissioners should be knowledgeable about human rights and be respected in the community.
4. The Commission should operate at the village level and should conduct campaigns to inform the people about the nature of its work.
5. The Commission should not be seen as displacing the formal justice system and the courts. It should work in a complementary way to support both justice and reconciliation.
6. Doubts were expressed about the capacity of any Commission to deal with the vast number of crimes and violations committed over the 24 years of conflict.

Choosing the name of the Commission

43. The Steering Committee debated at length what the name of the Commission should be. That "truth" and "reconciliation" should both be included in the title was quickly accepted. However, the Committee felt that the title should reflect East Timorese cultural and spiritual values, which would play an essential part in the Commission's function of healing divisions between individuals and groups. These values can be described, but are difficult to encapsulate in a single word. It was agreed that the Portuguese word *acolhimento* most accurately conveyed these values. The term *acolhimento* has broader connotations than its Indonesian equivalent "penerimaan" or the English "reception". These include notions of welcoming, accepting, offering hospitality and forgiveness. In East Timorese culture it refers to the formal courtesy shown to others by virtue of their status as human beings to whom respect is due by virtue of their unique dignity, destiny and spiritual identity. This enables people to receive with some graciousness even those who have harmed them. As the work of the Commission would be to help break down barriers between perpetrators and victims the word was incorporated into the Commission's title. In Steering Committee discussions it was also felt that *acolhimento* could be compared to the Gospel story of the Prodigal Son who was welcomed with joy and an open heart.

Regulation 10/2001, establishing the Commission

44. The Steering Committee took the results of the consultation as the basis for an intensive debate over policy issues. Over a three-month period the Committee drafted legislation to establish the Commission. UNTAET and the US-based international non-governmental organisation the International Center for Transitional Justice (ICTJ)* provided technical assistance. The results of the community consultation strongly influenced the content of the draft regulation. They also helped shape thinking about the Commission's mandate and operating methods.

45. At the time the regulation was being drafted, UNTAET still retained full administrative authority over the territory. It was mandated to supervise the transition to independence. One of its transitional measures was the creation of a National Council, in which East Timorese political parties, religious communities and civil society were represented. After receiving cabinet approval, draft legislation was referred to the National Council. The drafts were given detailed consideration in the National Council's specialised standing committees.

46. Representatives of the Steering Committee appeared before the National Council to explain the proposed legislation and answer members' questions about it. Although there was enthusiasm for the proposal and it was quickly approved in principle by the full National Council, the issues it dealt with provoked extensive and at times heated debate.

* ICTJ is a New York-based non-governmental organisation, assisting countries which are trying to establish accountability for past human rights violations (for more information on the ICTJ, see www.ictj.org).

47. A large number of members wished to be involved in the technical consideration of the Regulation so the final draft was not referred to a standing committee. Instead a new committee was formed specifically to deal with the draft regulation and to allow for detailed discussion. The full National Council approved the draft after one month of deliberations; the regulation on the establishment of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR, Comissão de Acolhimento, Verdade e Reconciliação) was approved by the National Council on 13 June 2001.* The National Council forwarded its final draft to the Transitional Administrator with a recommendation that he promulgate it as law. The Transitional Administrator, Sérgio Vieira de Mello, promulgated the law on 13 July 2001.

48. The Commission's establishment was supported by political leaders of all political persuasions, non-government organisations, the Catholic Church and other religious institutions, the UN mission, UNHCR, the UN High Commission for Human Rights, other international organisations and donor countries. The level of support for the Commission was so broad that reference to it was included in Timor-Leste National Constitution Article 162. By the time the Constitution was signed in May 2002, the Commission was already operating.

Interim office

49. An Interim Office was established in August 2001, after Regulation 10/2001 was promulgated. The tasks of the office were to support the Steering Committee in implementing a selection process for National and Regional Commissioners, to seek funds for the establishment of the Commission, and to seek premises for the national and regional offices of the Commission. The Interim Office was supported by the UNTAET Human Rights Unit and staffed by a small team, with Pat Walsh of the Human Rights Unit as Executive Director, and Jacinto das Neves Raimundo Alves and José Estévão Soares as senior policy advisors. The Interim Office operated out of the former teachers training centre, which had also been the UNAMET compound and later the CNRT compound, in Balide, Dili.

The CAVR Advisory Council

50. In 2002 the CAVR Advisory Council was formed to provide authoritative advice and feedback to the National Commissioners. East Timorese members were Bishop Carlos Filipe Ximenes Belo, SDB; Bishop Basilio do Nascimento; Madre Zulmira Osorio Soares; José Ramos-Horta; Pastor Maria de Fatima Gomes and Dr Ana Pessoa Pinto. International members were Sérgio Vieira de Mello, Ian Martin, Mrs Saparinah Sadli and Munir SH.

51. The Commission reflects with sadness that two eminent international members of the CAVR Advisory Council were apparently assassinated during the Commission's

* The National Council had a total of 32 members; 30 voted in favour of the Regulation, one against, and one abstention.

work.[*] The Commission pays tribute to the dedication and courage of Sérgio Vieira de Mello and Munir SH, two friends and supporters of the CAVR, who lived and died for their principles and commitment as defenders of human rights.

Formation of the Commission

National Commissioners

52. In the Commission's formative period, consulting directly with a wide and representative cross-section of East Timorese society was important to establish and maintain the legitimacy of the Commission. It was essential to maintain this element for the successful completion of the mandate. Section 4 of Regulation 10/2001 provided for the Transitional Administrator to appoint between five and seven National Commissioners, at least 30% of whom should be women, on the advice of a Selection Panel which included representatives of the major political parties and civil society groups.[†] Following its formation the Panel travelled across Timor-Leste and to Indonesia to canvas nominations for the positions of National and Regional Commissioners. In addition to political, human rights and civil society organisations, a wide variety of community groups also participated in the nomination process.

53. The Regulation gave the Selection Panel the option to recommend the appointment of two "international persons" as National Commissioners. The panel's nominees did include a small number of foreign nationals who had a strong record in defence of human rights. However, the Selection Panel decided that East Timorese should have sole responsibility for the policies, programmes and findings of the Commission and that only persons who had gained the endorsement of members of the public during the community consultations should be appointed National Commissioners.

* Sérgio Vieira de Mello was the Transitional Administrator of East Timor from 25 October 1999 until 20 May 2002 during the period of the UNTAET administration. He was the UN High Commissioner for Human Rights when he was killed by a bomb attack in Baghdad on 19 August 2003, when he was leading the UN mission in Iraq. Munir SH was an Indonesian human rights lawyer, who was known for his struggle to challenge military-sponsored violence in Indonesia. He was a founder of Kontras (Komisi untuk Orang-Orang Hilang dan Korban Kekerasan, Commission for the Disappeared and Victims of Violence), and Chairman of Imparsial (Human Rights Watch Indonesia). He died of arsenic poisoning on a flight from Jakarta to the Netherlands on 7 September 2004.

† The members of the Selection Panel were: João Francisco Amaral, Maria Barreto, Francisco Miranda Branco, Patrick Burgess, Brigida Correia, Jacinto Alves Correia, Quiteria da Costa, Adelino Freitas, Cecilio Caminha Freitas, Jacob Martins dos Reis, Galuh Wandita Soedjatmoko dan Julião Mausiri. Section 4 of the Regulation required that the Selection Panel included one person from each of the four political parties, Trabalhista, KOTA, Fretilin and UDT, and one person from pro-autonomy supporters (to be nominated by the Transitional Administrator after consultation with pro-autonomy supporters), the NGO Forum, the Rede (Women's Network), Presidium Joventude (Youth Council), Association of Ex-Political Prisoners (Assepol), Association of Families of Disappeared Persons, a joint nomination from the Catholic Diocese of Dili and the Diocese of Baucau, and one person from the UNTAET Office of Human Rights Affairs. Section 4.3 required the Selection Panel to conduct a broad consultation for the process of selection of Commissioners, including public nominations.

54. On 21 January 2002 the Transitional Administrator, Sérgio Vieira de Mello, swore in as National Commissioners the five men and two women whom the Selection Panel had nominated. Those appointed were Aniceto Guterres Lopes, Father Jovito Rêgo de Jesus Araújo, Maria Olandina Isabel Caeiro Alves, Jacinto das Neves Raimundo Alves, José Estévão Soares, Reverend Agustinho de Vasconselos and Isabel Amaral Guterres. The Commission held its first official meeting on 4 February 2002, when the Chair and Deputy Chair were elected and particular portfolios were agreed, as below:

1. Chairperson: Aniceto Guterres Lopes
2. Deputy Chairperson: Father Jovito Rêgo de Jesus Araújo
3. Treasurer: Maria Olandina Isabel Caeiro Alves
4. Truth-Seeking portfolio: Jacinto das Neves Raimundo Alves and José Estévão Soares
5. Community Reconciliation portfolio: Reverend Agustinho de Vasconselos and Jacinto das Neves Raimundo Alves
6. Reception and Victim Support portfolio: Isabel Amaral Guterres

Profile of National Commissioners

Aniceto Guterres Lopes, Chairperson

Aniceto was born in Tapo, Maliana, Bobonaro District in 1967. He studied law at the Udayana University in Bali. He was a member of Renetil, a student group for national resistance, from 1989. He was Secretary General of Yayasan Etadep (East Timor Agriculture and Development Project), an early Timorese non-governmental organisation, in 1992-96. Aniceto was the co-founder and, from 1997, the Director of the foremost East Timorese human rights foundation, Yayasan HAK. He worked to promote justice in Timor-Leste in the early stages of the UN Transitional Administration, serving on the UNTAET Judicial Transitional Services Commission from January 2000 and was a founder of the Jurists' Association of Timor-Leste in April 2000. He was a member of the National Council of East Timor (October 2000-July 2001). Aniceto received the Ramon Magsaysay Award for emergent Asian leaders on 31 August 2003. After lecturing for several years at University Paz in Dili, he was appointed Dean of the Law Faculty in April 2005. The following month he was appointed by President Xanana Gusmão as a member of the Council of State. In August 2005 he was appointed by President Xanana Gusmão as a member of the Commission of Truth and Friendship (CTF).

Padre Jovito do Rêgo de Jesus Araújo, Deputy Chairperson

Fr Jovito was born in Hatolia in Ermera District in 1963. He has been a Catholic priest serving in Dili and Aileu since 1996. As President of the Catholic Youth Commission of Dili Diocese for three years prior to being appointed to the Commission, he developed strong links with the youth community. He was a member of Renetil from 1987. He has a particular interest in advocating for human rights involving youth issues. In September 2005 Fr Jovito continued his Biblical studies at the Gregorian University in Rome, Italy.

Maria Olandina Isabel Caeiro Alves

Olandina is from Ermera District, where she was born in 1956. She is a businesswoman who has also dedicated many years of work to public service and especially to the prevention of violence against women. She served as a member of the Provincial Parliament in Dili from 1997–1999, and was appointed a member of the Indonesian Commission for the Elimination of Violence Against Women in 1998. Olandina has been the Director of the NGO East Timorese Women Against Violence and for Child Care (ET-Wave) since 1998. Since 1999, Olandina has served in a number of leadership positions: as Chairperson of the Public Service Commission 2000-01; since 2003 as President of the East Timorese Women's Network (Rede Feto Timor-Leste); President of the East Timorese Scout Movement; and President of Habitat for Humanity Timor-Leste. She was a founder of the Peace and Democracy Foundation in 2002 and has served since then as a board member. Olandina manages her own restaurant, "Olandina's", in Dili. In August 2005 Olandina was appointed by President Xanana Gusmão as a member of the Commission of Truth and Friendship (CTF).

José Estévão Soares

José was born in 1955 in Laclubar, Manatuto District. Between October 1975 and May 1976 he was held as a political prisoner by Fretilin in relation to his political affiliation to the Apodeti party. José worked as a civil servant for the Indonesian administration in Timor-Leste. He was a government spokesman and Chief of Public Relations (1993-97), and later worked for the Coordination Board of Investments for East Timor (BKPMD). In 1999 he was a founding member of the pro-autonomy political organisation Forum Persatuan, Demokrasi dan Keadilan (FPDK, Forum for Unity, Democracy and Justice). He also held the position of Secretary of the Indonesian Public Servants' Organisation in East Timor (Korpri) at this time. José left Timor-Leste in September 1999, spending

one year as a refugee in Denpasar, Bali (Indonesia) before returning in October 2000. Immediately on his return, he became a member of the National Council of East Timor (October 2000-July 2001). José was a senior policy advisor to the Interim Office that supported establishment of the Commission.

Isabel Amaral Guterres

Isabel was born in Luca, Viqueque District, in 1958. She has worked with a range of organisations in the field of humanitarian assistance, including the Jesuit Refugee Services (JRS) providing support to people returning to Timor-Leste in 1999. Isabel lived in Australia for 15 years where she trained at the Aquinas and Mercy Catholic University in Victoria, Australia, and practiced as a registered nurse. In March 1999, she returned briefly to Timor-Leste to conduct conflict resolution workshops. She returned permanently in November 1999 and continued to use her professional experience in the health sector in her work with Médecins Sans Frontières (MSF) and World Vision. Isabel is a board member with the Timor-Leste Red Cross, and was appointed a member of the Electoral Commission for the village head and council elections in 2004 and 2005.

Reverend Agustinho de Vasconselos

Reverend Agustinho was born in 1970 in Kaiualita, Baguia, Baucau District. Reverend Agustinho completed his study in philosophy of religion at the Indonesian Christian University (UKI) in Tomohon, in 1995. He became a Minister in the Igreja Protestante di Timor-Leste (IPTL, Protestant Church of Timor-Leste) in 1996 and served as Minister of the Maranatha Church in Oecussi District (1996-99) and of the Maranatha Church and Bethany Church in Baucau (1999–2000), and Oecussi District (1996–1999). He was a board member of the Naroman Social Foundation (1999–2000), Head of the Protestant Youth (2000-04), Editorial Secretary of the *KeEsaan* (Witness) magazine (2001-02), and currently serves as Executive Secretary for the Department of Justice and Peace of the Protestant Church in Timor-Leste. He has participated in workshops and courses on reconciliation in West Timor and in other parts of Indonesia and continues to be active in several local NGOs.

Jacinto das Neves Raimundo Alves

Jacinto was born in Manatuto District in 1957. In 1979 he worked for the International Committee of the Red Cross (ICRC). Jacinto was a member of the Executive Committee of the Conselho Nacional

da Resistência Maubere (National Council of Maubere Resistance, CNRM) that planned the Santa Cruz demonstration. Following the Santa Cruz Massacre in November 1991 he was arrested. He served seven years of his ten-year sentence until his release on 30 December 1998. Jacinto was also a founding member of the NGO Commission for Human Rights in East Timor in1999 and was active in providing emergency assistance to displaced persons in Dare during the post-ballot violence of September 1999. As Coordinator of the Assosiação dos Ex-Prisioneiros Politicos (Assepol) beginning in 1999, Jacinto was one of two Assepol representatives on the Steering Committee that founded the CAVR and from July 2001 to January 2002 a senior policy advisor to the Interim Office that supported the establishment of the Commission. In March 2005, Jacinto was appointed by President Xanana Gusmão to the Superior Council for National Defence and Security, and in August 2005 he was appointed by President Xanana Gusmão as a member of the Commission of Truth and Friendship (CTF).

Principles and mission of the Commission

55. Immediately after their appointment at a swearing-in ceremony on 21 January 2002, the National Commissioners held a five-day retreat at the Carmelite Convent in Maubara, Liquiçá District. The retreat was an important moment in the Commission's development, when Commissioners exchanged views on their understanding of the mandate and developed a set of principles on which the work of the CAVR would be based. They included the following:

1. The Commission would be committed to promoting international, universal human rights standards in Timor-Leste. It would be politically neutral and independent. It would endeavour to reach out to East Timorese of all political backgrounds inside Timor-Leste and in Indonesia. It would seek to investigate objectively human rights violations committed by all parties to the political conflict, including those committed during the internal conflict of 1974-76.
2. It would place victims of human rights violations at the centre of its work and it would create an institution that would be open and responsive to them. As such it would recognise and value their experience. It would also seek practical ways to assist them and would promote their role in nation building.
3. The Commission accepted that reconciliation could not be achieved without justice. It would respect the call for justice made by ordinary East Timorese people, especially victims of human rights violations. The Commission would strive to understand what victims meant by justice and what steps needed to be taken to help restore their sense of dignity and to repair damaged relationships.

4. It accepted that establishing the truth and accountability for past human rights violations was a necessary step towards achieving justice and restoring the dignity of victims.
5. It understood that reconciliation and healing would be difficult and lengthy processes. They would require the continuing active contribution of families, communities and other organisations engaged in similar work. It therefore aimed to create partnerships rather than to be a stand-alone institution. It would strive to work for reconciliation and to contribute to the continuation of such work beyond its own mandate.
6. It acknowledged the importance of ensuring that women played a major role in the reconciliation process. This entailed that women should be recruited to the Commission and that female community members should be able to participate in its activities. The Commission recognised the existence of practical, cultural and economic barriers to women's participation, which it would strive to overcome.
7. The Commission recognised the rich diversity of East Timorese culture as it is lived and expressed in different communities across the country. It would seek to incorporate the strengths represented by traditional values and practices in its work.
8. The Commission would strive to be accessible to East Timorese people across the country and in Indonesia and to the wider international community. This would require working in the remotest regions of the country and in local languages, as well as in English, Portuguese and Indonesian.

Regional Commissioners

56. Regional Commissioners were the representatives of CAVR and the National Commissioners in the districts. Local communities were able to directly relate to Regional Commissioners who were selected to work in their home districts, while at the same time offer support to CAVR teams in neighbouring districts. This assisted significantly in facilitating community participation in the programmes of the Commission.

57. The role of a Regional Commissioner was to lead his or her district team. They introduced the Commission to communities, especially to local leaders. Regional Commissioners chaired the panels in community reconciliation hearings. They also played a leading role in victims' hearings in sub-districts.

58. The Regulation required between 25 and 30 Regional Commissioners to be appointed by the Transitional Administrator, on the advice of the National Commissioners.[3] Following a public nomination process in each district the Transitional Administrator, Sérgio Vieira de Mello, swore in 29 Regional Commissioners on 15 May 2002. Ten of those appointed were women.

59. The following individuals were appointed as Regional Commissioners of the CAVR:

Aileu Region

- Aileu: Francisco Martins, Meta Mendonca
- Manufahi: Jaime da Costa (resigned in 2002); Saturnino Tilman

Covalima Region

- Ainaro: Filomena Barros Pereira, Alarico da Costa Reis
- Covalima: Antonio Alves Fahik, Maria Nunes

Baucau Region

- Baucau: Carolina M E do Rosario, Aleixo Ximenes
- Manatuto: Geraldo Gomes, Ildefonso Pereira
- Lautém: Albino da Silva, Justino Valentin
- Viqueque: Helena H X Gomes, Daniel Sarmento Soares

Bobonaro Region

- Bobonaro: Ana de Fatima Cunha, Francisco dos Reis Magno, Domingas dos Santos
- Ermera: Eduardo de Deus Barreto, Egidio Maia

Dili Region

- Dili: Teresinha Maria Cardoso, Pedro Correia Lebre, Joanico dos Santos
- Liquiçá: Maria Fernanda Mendes, Ana Maria J. dos Santos

Oecussi Region

- Oecussi: Antonio da Costa, José Antonio Ote, Arnold Sunny

Operational issues and challenges

Practical challenges to the Commission's work

60. The operational phase of the Commission's mandate began on 7 April 2002. The Commission was established at a time when the physical, economic and logistical infrastructure in Timor-Leste was still in the early stages of reconstruction. Following the humanitarian emergency of late 1999, UNTAET began to import and install equipment essential for its operations, including a satellite internet link and a mobile phone system in the capital, Dili. However, there were no landline telephone, email or postal links between Dili and the districts, or between the districts, and only very limited mobile telephone services when the Commission was established.

61. Roads were in a very poor condition in many rural areas and were often impassable in the rainy season. However, interaction between the national and district offices required representatives to travel between these offices. There were

few commercial enterprises operating. Procurement of basic transport and office equipment was complicated, often requiring the import of goods from overseas. Very basic items, such as office paper or pens, were available only in Dili. The absence of banking facilities outside Dili made the transfer of funds to pay monthly salaries or meet operating expenses a security and logistical challenge.

62. Communication with the enclave of Oecussi was particularly difficult. It was isolated from the rest of Timor-Leste, bordered by sea and the land border with West Timor, Indonesia. Travel by land from Timor-Leste across West Timor to Oecussi was difficult after September 1999, and after the murder of three UNHCR international staff in Atambua, West Timor, in September 2000 it became less tenable. There was no regular ferry service to the enclave at the time of the establishment of the Commission. The only available air link was provided by UNTAET, which gave priority to the transport of UN staff and materials. Access to the island of Ataúro, a sub-district of Dili District, also presented logistical challenges.

63. The Commission took the view that reconciliation, comprehensive and objective truth-seeking and effective victim support could be achieved only if it established a presence across the territory. Ensuring that district teams had adequate logistical support, including transport and communications facilities, was critical to realising this goal. These problems continued to provide serious challenges to the Commission's district programmes throughout the period of operations.

The challenge of language

64. The Constitution of Timor-Leste recognises two official languages, Tetum and Portuguese, and two working languages, Indonesian and English. Many other languages and dialects are used across the country. The need to work in many languages was a major challenge for the Commission and in preparing its Final Report. Despite these challenges the Commission sought the greatest degree of participation by encouraging people to use the language they felt most comfortable speaking.

65. Throughout its operations the Commission used Indonesian, Tetum and English for written documents and Tetum as the main spoken language. Portuguese was not spoken or written by sufficient staff or community members to be used as one of the working languages. Tetum had never been officially taught in state schools before 1999. Most staff did not feel confident writing complex or formal documents in Tetum. Because of the language issue the majority of international staff who assisted with programmes and with the Final Report spoke Tetum or Indonesian or both as well as English.

66. The field activities of the Commission were carried out either in local regional languages or in Tetum. In some rural communities Tetum is not widely understood. Hiring staff locally was necessary for local understanding and acceptance. Statements and research interviews were usually conducted in Tetum or Indonesian, and were written in one of these two languages. The database coding system used Indonesian; statements taken in Tetum were summarised into Indonesian. Community Reconciliation Procedure statements were written in Indonesian or Tetum.

67. National programmes, such as thematic public hearings and workshops, were conducted in Tetum with translation provided in English. Indonesians giving evidence in public hearings spoke Indonesian. Some witnesses testified in regional languages, with interpretation into Tetum. International witnesses generally testified in English or Indonesian. The Serious Crimes Unit used English as its working language, so statements sent to the Office of the General Prosecutor were translated into English for consideration by UN international staff working as prosecutors. In compiling its Final Report the Commission used English, Indonesian, Portuguese and Tetum language materials.

68. The issue of language presented a particularly intense challenge for the process of writing the Final Report. Writers were both East Timorese, writing in Indonesian, and international, writing in English or Indonesian. Draft chapters of the Report were written in English or Indonesian, and then translated from one to the other of these languages so that they would be available to editors in both. English-language edited drafts had to be translated into Indonesian before being presented for approval to the Commissioners. Drafts were discussed by Commissioners in Indonesian, changes incorporated, and approved. The English version was modified accordingly and sent for translation into Portuguese. The Portuguese translation was reviewed by an expert provided by the Portuguese Government, and approved by a sub-committee of Portuguese-speaking National Commissioners.

69. The process of producing the Final Report in three languages was complex and time-consuming.

An integrated community-based approach

70. The regulation had provided a framework for the Commission to conduct specific activities focused on truth seeking and community reconciliation. Another core objective was to assist in restoring the dignity of victims. It was open to the Commission to develop policies and activities which best achieved these mandated goals.

71. The desires of the people expressed during the Steering Committee consultations were reflected in the establishment of the Commission and in the terms laid down in Regulation 10/2001. The needs and wishes of community members were to the highest degree possible to guide the development and implementation of these policies. This principle of community consultation continued to shape the decisions of the Commission during the operational period of its mandate.

72. Consultations on activities to be conducted took place during the start-up phase and in the early period of operations. As a result a number of pilot projects were implemented which provided additional information for the design of effective programmes. The Commission conducted three pilot projects to help determine how the mandate could be implemented most effectively (see box). Each project focused on a different area of activity in which the Commission planned to engage. The Commission continued to be responsive to additional suggestions from the public during the operational period.

Pilot projects on truth-seeking, community reconciliation and victim support

Truth-seeking

The first pilot project focused on truth-seeking work at the community level, in particular the statement-taking process. It was conducted in communities on Ataúro Island, Dili (Dili) from 28 May to 7 June and from 22 to 30 June 2002. Introduction and preparation phases were followed by statement-taking which resulted in 33 statements from victims and witnesses documenting a number of violations including killings, torture, rape and forced displacement.

This pilot project yielded valuable lessons in logistics and methodology. The Commission revised its language policy on statement-taking, to enable the statements to be written in either Tetum or Indonesian. It also decided to record all interviews to ensure accuracy. Statement-takers found that witnesses appreciated hearing a playback of their testimony. This increased their confidence in the reliability of the Commission's documentation of their statement.

Community Profiles

The Commission facilitated a community discussion on the impact of human rights violations in Metinaro in Dili District on 27 September 2003 as part of the second pilot project. Such discussions became known as Community Profile workshops. Two main tools were used to facilitate this discussion. A time-line exercise helped focus discussion on human rights violations experienced by the community between 1974 and 1999. A mapping exercise involved community members being invited to draw a map showing places which were significant as locations of human rights violations. Questions were posed to the community on the collective impact of these human rights violations, particularly as experienced by women and children. These workshops aimed to provide a community perspective on the impact of violations. They were to complement the individual focus of statement-taking and to help in assessing the overall impact of violence on the East Timorese community. This pilot project provided valuable lessons in community workshop facilitation and documentation methods, which informed subsequent staff training.

Community Reconciliation Procedures

The third pilot project was the Commission's first community reconciliation hearing. On 23 August 2002, in Maumeta in Liquiçá District, three former perpetrators ("deponents") participated in a hearing attended by about 150 community members, National Commissioners and the General Prosecutor. Introducing the mandate of the Commission and the legal basis for the hearing, Regional Commissioner Ana Maria J. dos Santos chaired the panel of local leaders. The deponents gave testimony, admitting their wrongdoing to victims and community members. They pledged never again to use violence for political ends. Victims and community members then spoke, offering their own perspectives on the events described by the perpetrators. Traditional elders cleansed the area of violent spirits, and invited the perpetrators and their victims to sit together on the *biti boot* (literally: large mat, the designated place on which communities have traditionally sought to resolve disputes).

The panel presiding over the hearing deliberated with victims and members of the community, and with the deponents. It was decided to accept the apologies of the perpetrators and not to impose any sanction. The hearing demonstrated the value of bringing together elements of the formal legal process with traditional customary principles. The combination of these two sources gave the procedure full legitimacy in the eyes of community members. The hearing showed the significance of local ownership in conducting the process of reconciliation. It also demonstrated the high level of organisation and logistical support needed if large numbers of community members were going to attend future hearings. The then UN High Commissioner for Human Rights, Mary Robinson, and senior officials from UNMISET also attended this event.

73. The Commission believed that progress towards reconciliation depended on taking practical steps to promote healing. The requirements for this healing to take place included seeking out and publishing the historical truth, and acknowledging victims' experiences to assist in their emotional healing. This public sharing provided an opportunity for reconciliation between divided parties at the grassroots level, as well as between local and national leaders. Statement taking, public hearings and community reconciliation meetings established an accurate and accessible record of district events related to the conflict. The activities which were established and implemented in pursuance of these objectives included:

- Taking statements from witnesses and victims of violations across Timor-Leste and in West Timor
- Conducting targeted research interviews with witnesses and victims
- Conducting national public hearings on themes that were central to the mandate and giving them the widest possible publicity by broadcasting them on radio and television
- Implementing community reconciliation procedures
- Providing communities with opportunities to record the history of the conflict in their villages and sub-villages and its specific impact on them
- Conducting victims' hearings at the sub-district level, thereby enabling them to share their experiences, to be acknowledged for their courage and for the suffering they had endured
- Conducting healing workshops at the national office for victims who had been seriously affected by the conflict. They shared experiences and participated in group counselling and other activities designed to promote healing
- Providing urgent reparations to some of the victims who were in greatest need of medical or other immediate assistance
- Producing and broadcasting a weekly radio programme on issues relating to reconciliation
- Designing and promoting an information programme in the refugee camps of West Timor
- Organising visits of National Commissioners to West Timor to meet pro-autonomy leaders
- Establishing an archive and a library of documents and materials relating to human rights violations and the history of the conflict generated by the Commission's work.

The strategic plan

74. The mandate and activities of the Commission had no historical precedent in Timor-Leste. In developing the organising framework of the institution, its policies, activities and administrative support mechanisms, its creators were unable to draw on pre-existing models, institutional memory or staff with comparable experience. Commission staff devised a formal strategic plan to provide a consistent and realisable framework for achieving its goals, which was approved by the National Commissioners in May 2002.

75. It allowed a multidisciplinary team of East Timorese and internationals in the national office and in district teams to maintain a clear sense of direction throughout the operational period. It set out from the beginning how the institution would grow from a small team at the national office to an institution of over 270 personnel based in all 13 districts implementing a variety of programmes. It also provided

the framework for cutting back the institution from its peak operational scale to a small team focused first on completing the Final Report and then on closing the Commission. The strategic plan was a reference point for Commissioners and staff as programmes were added or modified, and helped develop trust from donors and other stakeholders that the Commission had a clear road map for fulfilling its mandate.

76. The plan outlined an integrated approach to the Commission's field work in the three core programme areas of truth-seeking, community reconciliation and victim support. It divided the work of the Commission into 13 periods. In each period specified activities were to be undertaken according to strict timelines. The administrative and logistical implications and indicators of achieved goals were also spelt out. Local historical, cultural, political and logistical factors were taken into account in constructing the timing and nature of activities to be undertaken in each sub-district.

77. The district teams carried out broadly the same programme of work in each of the country's 65 sub-districts, concentrating its resources on one sub-district for three months before moving on to the next one. During their first six weeks in a sub-district, the teams held meetings and consultations. This intensive period of working together helped to strengthen relationships of trust and respect between local leaders and representatives of the Commission. The recruitment of district teams from the area demonstrated the Commission's commitment to a cooperative approach with local communities. It provided a deeper understanding of local conditions, and enabled direct communication in local languages and dialects. The truth-seeking, community reconciliation procedures and victim support activities were organised separately and implemented by different teams, but only one educational programme was required in each sub-district and logistical support was shared.

78. Integrated work in the sub-districts followed a standard series of steps. Regional Commissioners and district teams commenced by organising a public meeting to explain the Commission's mandate and its core programme of work. Members of the community were given an opportunity to voice their suggestions and worries. District teams often conducted informal discussions as well as formal meetings. Communities were asked to provide an overview of the major periods and incidents of violence during the 25-year mandate period. The district teams identified specific communities where demand for truth-seeking, statement-taking and community reconciliation work might be high.

79. Victim support and outreach staff facilitated group discussions on the impact of human rights violations and conducted follow-up meetings with individuals who were interested in providing statements on human rights violations or in participating in the community reconciliation process. Truth-seeking statement-takers would begin to take statements on human rights violations. When victims with urgent needs were identified during interviews they were referred to the victim support staff for follow-up. Reconciliation staff also took statements from people who wanted to participate in

the Community Reconciliation Procedure. They organised hearings for cases which had been approved by the Office of the General Prosecutor.

80. The final event of the three-month sub-district programme was a Victims' Hearing organised by Regional Commissioners and the district team and attended by a National Commissioner, local administrative, traditional and church leaders and police officers. After the hearing the Regional Commissioners informed the community about the activities conducted in the sub-district during the three-month period. They explained that the information gathered in the sub-district would be kept safely in the CAVR archives and would be used in the Commission's Final Report. These sub-district hearings were thus a way of simultaneously closing the Commission's work in the area, publicly acknowledging the support and contribution of the community during the three-month period, and sharing knowledge about the human rights violations that had occurred in the area.

Core programmes

Truth-seeking

81. The goal of the truth-seeking programme was to document human rights violations committed by all parties to the political conflicts between April 1974 and October 1999. The strategies developed were systematic statement-taking in each sub-district, focused research and the holding of public hearings. Submissions, including documents and other relevant materials, were sought from sources both within Timor-Leste and from abroad.

Statement-taking and data-processing

82. The Commission collected 7,824 statements from the 13 districts and 65 sub-districts of Timor-Leste.[*] Together with a coalition of local non-governmental organisations in West Timor it worked to give East Timorese in West Timor an opportunity also to give statements. Between February and August 2003 the NGO coalition collected on behalf of the Commission a total of 91 statements from East Timorese living in the regions of the towns of Belu, Kefamenanu, Soe and Kupang in West Timor.

83. District statement-takers interviewed subjects or deponents individually, although a family member, friend or victim support team member could also be

* Although the *Timor-Leste National Development Plan* mentions 67 sub-districts in the nation, at the time of the formation of the CAVR, prior to independence, there were 65 generally agreed upon sub-districts, which formed the basis of the operational strategies of the Commission. Commission teams collected a total of 7,824 statements, though some of these (155 statements) were not entered into the Human Rights Violation Database (HRVD) for quantitative analysis, because they either did not mention violations connected to the Commission's mandate or the violations which they mentioned were not within the Commission's reference period: a total of 7,669 statements were entered into the Commission's HRVD.

present. Deponents were usually victims of violations, although they often also provided information about violations against family members or acquaintances, many of whom had died or disappeared. Perpetrators also provided statements, although not surprisingly they were far fewer in number than those given by victims.

84. Deponents gave their statements in narrative form. They were thus able to tell their stories in their own words rather than be guided by a series of questions. This method was chosen because it encouraged deponents to provide a richness of detail and background information about violations and the circumstances surrounding them. This procedure also tended to be less intimidating for those unaccustomed to being questioned in official settings.

85. All recorded statements were gathered in the national office where they were checked and coded by statement readers, and entered into the database. The process of coding involved statement coders reading and identifying the human rights violations in each statement. It was common for a single statement to contain an account of more than one event in which violations were committed, or of several violations committed during one event. The coders would identify each one of these violations, together with important information, such as the identity of the victim and perpetrator, if known, the institutional affiliation of the perpetrator, and the date and place of the event.

86. The details of each violation contained in a statement were then entered into an electronic database, which had been designed to enable analysis of the data. For example, following the entry of all the violations identified by the coding team a search could be made to reveal the total number of violations of a particular type, how many different violations an individual perpetrator had been named as having committed, the number and proportion of violations committed by persons with particular affiliations, groups and fluctuations in the patterns of violations over time and in different regions. Other reliable secondary sources, such as the cases reported by Amnesty International between 1979 and 1999 were coded and entered into the database. The statistical methodology employed and the safeguards implemented to ensure the accuracy of the data are set out in detail in the Annexes to this Report.

87. Statement coders had received extensive training on the legal basis of specific human rights violations which it was their task to identify. This training included the elements of the violations, and how to determine whether a particular set of circumstances fulfilled the definitions. For example, the statement coders were trained on how to determine if a violation had been committed which legally amounted to torture rather than, say, the criminal offence of assault or inhuman or degrading treatment. Statement coders were also trained to determine whether a set of circumstances constituted rape or sexual slavery.

88. The coders were periodically tested for accuracy and consistency. During these tests coders were asked to read and code a hypothetical case to see whether they were identifying violations accurately, and that there was a high degree of

agreement among the team about how violations should be identified. The database categories were consolidated into a smaller number of violation types early in the process to help achieve greater consistency between coders. The statistical analysis of statements allowed the Commission to comply in a professional and objective manner with several of the objectives set out in the Regulation. These included:

- Clarification of the "antecedents, circumstances, factors, context, motives and perspectives" which led to large-scale violations [Section 13.1(a)(ii)]
- Establishing the "nature" of human rights violations (that is, the types of violations which were committed) [Section 13.1(a)(i)]
- Collecting and comparing reports of violations over time and across districts to determine the extent of human rights violations (that is, the number of violations which were committed) [Section 13.1(a)(i)]
- Gathering information on patterns of violations to be able to assess whether there had been "a systematic pattern of abuse" [Section 13.1(a)(i)]
- Establishing statistical profiles of "persons, authorities, institutions, and organisations involved in human rights violations" [Section 13.1(a)(iii)]
- Collating and comparing data on patterns of violations and perpetrators involved to provide evidence of whether "human rights violations were the result of deliberate planning, policy or authorisation on the part of specific parties to the conflict [Section 13.1(a)(iv)].

Research

89. The statement-taking programme allowed any individual who wished to do so to approach the Commission and to report information relating to the political conflict. The expectation was that by throwing such a wide information net across the districts, a significant amount of information about all aspects of the 25 years of political conflict would become available. Analysis would then allow a clear picture of what had occurred to emerge. This broad, untargeted approach meant that information was received about all aspects of the political conflict, including events or circumstances that had not been previously widely known.

90. The Commission also identified ten major themes of particular importance during the mandate as topics for detailed research. These themes were:

- Famine and forced displacement
- Structure, policies and practices of the Indonesian military and police
- Structure, policies and practices of Fretilin and Falintil
- Detention and torture
- Killings and enforced disappearances
- Children
- Women
- The internal political conflict of 1974-76

- The role of international actors in the self-determination process
- Massacres.

91. The Research Unit conducted over 1,000 interviews focusing on these themes. Subjects included individuals who had played significant roles in events and who had held leadership positions at various stages of the conflict, as well as perpetrators and victims. Commissioners and staff conducted these interviews in Dili, in the districts, in Portugal and in Indonesia. The research themes broadly corresponded with those of the national public hearings, and researchers also played an important role in identifying and contacting victims and witnesses to testify during these hearings. In mid-2003 the Commission began a series of interviews with key national figures, known as VIP interviews. In addition to personal testimony of direct experience, these interviews enabled the Commission to investigate the background and details of organisations and events. The Commission conducted 15 VIP interviews, in Timor-Leste and Indonesia, including West Timor (see Annexes to this Report).

92. A considerable amount of primary and secondary documentation relating to the research themes was also gathered. Information relating to the conflict had been forcefully suppressed during the military occupation, with the result that many individuals had hidden documents or had smuggled them out of the country. The Commission issued a general request for any information related to its mandate. This resulted in the forwarding of documents, video and audiotapes, photographs and film records to the Commission. These materials were used in writing the Final Report and will become part of the permanent archives.

Public hearings

93. Public hearings were a major feature of the Commission's programme. They contributed to the fulfilment of various aspects of the mandate, including truth-seeking, promoting reconciliation and restoring the dignity of victims. The Commission conducted public hearings involving participants from the grassroots level to the national leadership, as well as key international figures and expert witnesses. Witnesses and victims of human rights violations gave testimony about their experiences at sub-district victims' hearings, at national public hearings and at village-level community reconciliation hearings.

Victims' Hearings

94. A victims' hearing was held as the final activity in each sub-district programme, following the strategic plan. Victims of human rights violations were given the opportunity to share their experiences, in their own words and language, in an open public forum. This helped to inform members of their wider community of the suffering they had endured. It assisted in restoring some of the dignity they had lost by encouraging acknowledgment of their struggle and contribution. Victims' hearings also provided an opportunity for all community members to hear about

events during the conflict which had previously remained hidden to them. This fostered a feeling of solidarity among victims and their communities. It helped to clarify the local history of the conflict. It also reinforced the determination that these painful events of the past should never be repeated.

National Public Hearings

95. The Commission conducted eight national public hearings. These were broadcast on television in Dili and on radio nationally, and were covered extensively by the local press. Representatives of the international media were also present at a number of hearings.

96. The value of these thematic hearings was in presenting the views of a variety of witnesses and experts to the entire population. The national hearings were presided over by the seven National Commissioners. Although truth-seeking was one of the goals, it was also recognised that the programme should be organised in a manner which would assist national reconciliation and promote the rights of victims.

97. The Commissioners questioned witnesses following their testimonies, but the time available for clarification in this way was limited, and no determinations or findings were made at the conclusion of hearings. The Commission recognised that statement-taking and in-depth interviews were a more reliable way to collect information than public hearings. Nevertheless, the hearings did often add important information to data in the Commission's possession.

98. The public hearings provided a rare opportunity for the general population to learn about important aspects of the political conflict. The hearings also gave witnesses the chance to express their own views and recount their experiences in an official setting. The Commission took great care to ensure that evidence relating to different issues and parties to the conflict was presented in a balanced manner. Witness selection was undertaken on the principle of balance, bringing together testimonies from men and women, from different districts of Timor-Leste, about different periods of the conflict and relating to different perpetrator groups.

99. The hearings gave victims of the violence of the Indonesian security forces their first opportunity to speak openly about these events without fear of reprisal. In keeping with the objective of providing a balanced picture, the largest number of witnesses and victims gave evidence of violations by members of the Indonesian occupation forces. The statement-taking and research programmes had shown that perpetrators attached to the Indonesian occupation forces had committed the vast majority of violations during the mandate period.

100. Victims were given the opportunity to speak openly of their experiences, including by examining painful issues, the "old wounds" that had previously been hidden. The Commission believed that the risks of reopening the wounds were far outweighed by the value of publicly expressing the truth. To uncover events that had long been kept in obscurity, thereby encouraging national

debate, would help to resolve outstanding differences and residual anger. The hearings were an extremely emotional experience for those who testified and for members of the public who watched and listened to their evidence.

101. The first national public hearing was held on 11–12 November 2002, to coincide with the anniversary of the Santa Cruz massacre of 1991. It was known as a Victims' Hearing, titled "Hear Our Voices" (*Rona Ami Nia Lian*). Unlike later national hearings, it did not focus on a particular theme or type of violation, but rather brought together victims from all districts of Timor-Leste who testified about violations which had occurred throughout the 25-year mandate period. The seven national hearings which followed this were organised according to themes.

102. Thematic public hearings were held according to the following schedule:

- 17–18 February 2003 - Political Imprisonment, Detention and Torture
- 28–29 April 2003 - Women and Conflict
- 28–29 July 2003 - Forced Displacement and Famine
- 19–21 November 2003 - Massacres
- 15–18 December 2003 - Internal Political Conflict, 1974–1976
- 15–18 March 2004 - Self-Determination and the International Community
- 29–30 March 2004 - Children and the Conflict.

Death toll research

103. In June 2003 the Commission launched a statistical inquiry into the number of East Timorese people who died as a direct result of the conflict, whether as a result of deprivation, in armed combat, in crossfire or as victims of unlawful killing or enforced disappearance. Although several attempts have been made in the past to estimate the number of fatalities from these causes, this was the first opportunity for any organisation to undertake objective research into the death toll during the conflict.

104. This project was designed and implemented in cooperation with The Human Rights Data Analysis Group (HRDAG), an international organisation which specialises in human rights statistical analysis and has done work in this area with several other truth commissions.* The analysis was based on three sets of independent data:

- Information contained in the approximately 8,000 statements which had been collected, coded and entered into the Commission's data base
- A Graveyard Census based on a count of gravestones in a total of 492 graveyards across Timor-Leste

* The HRDAG conducted statistical analysis with, among others, truth commissions in South Africa, Guatemala and Peru. See Acknowledgements section in the Annexes to this Report for more details.

- A Retrospective Mortality Survey, which was designed by the Human Rights Data Analysis Group. An intensive survey of members of 1,322 randomly selected households in 121 hamlets across the territory was undertaken. The survey included a questionnaire designed to yield information related to the death toll, such as the date, circumstances and causes of deaths of family members during the period of the conflict.

105. The application of statistical techniques to these disparate sets of data, each of which had its own strengths and weaknesses, was able to yield an estimate of the death toll that was scientifically reliable.

106. The methodology and results of this statistical analysis of the death toll project, as well as statistical analysis of the non-fatal violations investigated by the Commission, is found in the Annexes of this Report.

Submissions

107. The Commission received a number of written submissions from Timor-Leste and foreign-based individuals and organisations. These included original documents, reports and analyses that threw light on events that had taken place during the mandate period, as well as photos and film footage from that period (see below, "Sources of Information", paragraphs 110-129).

108. The United Nations High Commissioner for Human Rights provided a significant submission to the Commission, in the form of a consultant's report into the human rights violations which had occurred in Timor-Leste during 1999. The author, Professor Geoffrey Robinson of the University of California, Los Angeles, had access to confidential materials held by the UNTAET and UNMISET (United Nations Mission of Support in East Timor) missions and by the Serious Crimes Investigations Unit. The report had not been made public by the Office of the High Commissioner of Human Rights (OHCHR) at the time of preparing the Commission's Report. A copy is included in the Annexes of this Report.

109. A full list of submissions received by the Commission appears in the Annexes of this Report.

Sources of Information

110. The Commission issued a call to all persons and organisations in possession of relevant records to forward these materials to the CAVR. These records could then be considered in the formulation of an accurate account of what had transpired. Consequently, it received materials and submissions from civil society and human rights activists previously involved in the international solidarity movement of Timor-Leste, from Portugal, Indonesia, Australia, the Asian region, the USA and Europe. International organisations, such as Catholic Relief Services of the USA and the Australian Council for Overseas Aid (ACFOA) also provided valuable material and in some cases submissions based on their long involvement with Timor-Leste during the mandate period.

111. Materials were also gratefully received from East Timorese victims and witnesses, national and local leaders, and non-government organisations, in particular Yayasan HAK (Asosiasi HAK) and Fokupers. The collection of the late Professor Herb Feith was donated to the Commission's archive after his death in 2003.

112. A number of Indonesians testified to CAVR National Public Hearings, and provided written submissions. Members of Komnas Perempuan (the Indonesian National Commission on Violence against Women) testified at the CAVR National Public Hearing on Women and Conflict. A group of NGOs from West Timor (Indonesia), The West Timor Humanitarian Team, made a submission to the Commission at this hearing. The Indonesian human rights NGO Elsam (Lembaga Advokasi Masyarakat, Public Policy Studies and Advocacy) made two submissions to the CAVR: one providing detailed research into Indonesian military structures and operations, and the other testimonies from Indonesian military officers and their families titled "Story from the Behind the Lines". In addition, the well-known Indonesian historian Dr Asvi Warman Adam of LIPI (Lembaga Ilmu Pengetahuan Indonesia, Indonesian Academy of Science) gave a paper titled "East Timorese History in the New Indonesia" to the CAVR National Public Hearing on Self-Determination and the International Community. A number of other human rights workers and activists also testified at hearings, and their testimonies have been used in relevant chapters of this Report.

113. The Commission was less successful in gathering material from governments, from which it received a mixed response. The Commission advised most of the governments and institutions referred to in Vol. II, Part 7.1: The Right to Self-Determination of its inquiry and sought their input. The Commission wrote to the Secretary-General of the United Nations, the President of Indonesia, the Prime Ministers of Portugal and Australia, and the Governments of Japan, the United States of America, France, the People's Republic of China, and the United Kingdom. No official replies were received but the Commission received considerable assistance from a number of the representatives of these governments based in Timor-Leste. The Commission also made inquiries in Moscow and the Vatican regarding access to documentation.

114. The Commission also wrote to individuals from past administrations, including President Jimmy Carter of the United States, Australian ex-ministers and officials including the former Australian Foreign Minister Gareth Evans and the former ambassador to Indonesia Richard Woolcott, and a number of former Indonesian officials. Responses were mixed, and some materials were received as a result of these inquiries.

115. In addition to writing to President Megawati Sukarnoputri seeking information, without response, the Commission also invited the following former Indonesian leaders and officials to testify at the National Public Hearing on Self-Determination and the International Community: President B.J. Habibie; Dr Mochtar Kusumaatmadja, former Foreign Minister in the Soeharto Government; Dr Dewi Fortuna Anwar, foreign affairs advisor to President B.J. Habibie; Dr Frans Seda, former Soeharto

Cabinet Minister; Mr Francisco Lopes da Cruz, former Ambassador-at-Large on Timor-Leste for President Soeharto; Dr Yusuf Wanandi, Centre for Strategic and International Studies. None was able to testify in person, but Dr Wanandi provided a statement which was delivered on his behalf.

116. A general problem faced by both the Commission and governments was the challenge of finding records dating back some 30 years. In most cases, a comprehensive search remains to be done and in cases where freedom of information legislation does not exist or access is heavily restricted, this may not succeed.

117. However, the decision of some governments to release at least some of their confidential records on Timor-Leste greatly assisted the Commission to fulfil its responsibility to establish the truth. The documentation released by the Australian Government for the period 1974–1976 was particularly valuable as was the two-volume *Relatórios da Descolonização de Timor* on 1974–1975 made available by the Government of Portugal. The Commission also benefited from declassified records released to The National Security Archive by the US Government and Ford and Carter Presidential Libraries, four volumes of declassified material from the Government of New Zealand, and documents released by the United Kingdom and provided to the Commission by Hugh Dowson. The Commission also drew extensively on the records of informative debates and hearings on Timor held by the UN, the US Congress and the Australian Parliament and the collection of basic documents on the Timor question edited by Heike Krieger and published by the University of Cambridge. These were enriched by written and oral testimony given to the Commission by former diplomats who served in the UN and the US and Australian Governments.

Community Reconciliation

118. All aspects of the Commission's work were designed and implemented as part of a coordinated and integrated approach aimed at promoting reconciliation.

119. Continuing disagreement about and denial of historical fact prevents different sides to a conflict from finding a common basis to begin the painful, difficult and slow process of reconciliation. The truth-seeking activities were aimed at providing a history of events which was based on objective information rather than rumour or propaganda. Such a solidly founded version of the truth could in turn open the way to the admission of responsibility, acceptance and forgiveness.

120. The victim support aspect of the Commission's work also laid the ground for reconciliation by aiming to redefine the relationship between victims, perpetrators and their communities. Restoration of the dignity that had been taken from victims reduced residual anger and enabled victims to move toward acceptance and forgiveness of those who had harmed them.

121. The main programme in support of the Commission's mandate of reconciliation was the Community Reconciliation Procedures (CRP) as set out in Part IV of the

Regulation. The objectives of the programme were to offer a legal resolution of "less serious" crimes committed during the conflict, help perpetrators reintegrate into their communities, and rebuild the relationship between victims, perpetrators and their communities.

122. There was no precedent for the CRP, in Timor-Leste or anywhere else. It drew heavily on traditional justice practices as well as the principles of arbitration and mediation, and aspects of both criminal and civil law. The views expressed during the community consultations conducted by the Steering Committee strongly influenced the design of the programme. This was evident in the decision to include such elements as local spiritual practices, confession and forgiveness, and participation by local leaders. Victims were also offered the opportunity to address perpetrators directly, while perpetrators were obliged to admit and apologise to victims and their community. Finally the design established a direct formal relationship with the Office of the General Prosecutor and the District Courts of Timor-Leste.

123. The Regulation provided that perpetrators of "less serious" crimes and "harmful acts" related to the political conflict were permitted to approach the Commission and provide a statement setting out a detailed account of their actions. Acts such as burning houses, looting and beatings were appropriate cases for CRP, but "serious crimes" such as murder, rape and torture were excluded. After helping the deponent to complete his or her statement, the Commission forwarded it to the Office of the General Prosecutor which would decide whether the case could proceed by CRP rather than by prosecution.

124. A panel of between three and five local leaders chaired by a Regional Commissioner was then chosen to preside over a hearing in the deponent's community. The format was flexible enough to allow the employment of spiritual and other traditional practices that were specific to the community. The perpetrator was required to admit his wrongs in public and victims were able directly to question and to inform the perpetrators of the impact of their acts. Community members were able to ask questions about and seek clarification of the perpetrator's statement. These exchanges were often heated, but never violent. The hearings were defining community events commonly running from morning until late into the night. Some hearings that involved a large number of perpetrators were held over several days.

125. When all relevant issues had been explored the panel brokered an agreement, according to which the perpetrator undertook to complete certain "acts of reconciliation" in order for him to be reaccepted into his community. These acts could include community service and the donation of money, animals or other objects to the victims. The agreement was registered with the appropriate District Court, and on completing all the required acts the perpetrator received immunity from criminal and civil liability for the transgressions admitted to.

126. The CRP programme began slowly, in part due to uncertainty at the local level concerning the nature of the process. As news of the first hearings spread, demand

increased. Ultimately 1,379 perpetrators successfully completed CRP hearings, well in excess of the initial target of 1,000. Because all cases in a given village were usually heard at the same time, the actual number of hearings totalled 216. An estimated 40,000 community members attended and participated in hearings.

127. Assessments conducted by the Commission indicate that the CRP programme made a significant contribution towards reconciliation. Perpetrators, victims and other participants stated that the hearings had provided an opportunity for the entire community to explore and to clarify local events related to the political conflict and their effect on the population. The CRP helped perpetrators be reaccepted. It enabled them to begin to work again and to interact with their neighbours rather than to hide, in fear and anticipation of hostility and possible violence.

128. Victims who responded to the survey said that the CRP helped to dissipate their anger by allowing them to express it directly to those who had harmed them. It allowed them to rise above the act and to forgive, provided there was a real expression of remorse and regret by the perpetrator. By providing a solution to individual cases that were likely to provoke payback violence in local settings, the CRP contributed significantly to maintaining peace and stability at a time when both were at their most fragile. Vol. IV, Part 9: Community Reconciliation provides a more complete description and analysis of the Community Reconciliation Procedures.

129. The Commission's weekly radio programme included coverage of many community reconciliation hearings, as well as discussion of issues arising from the national hearings and other matters relating to reconciliation.

Reception and victim support

130. The Reception (Acolhimento) and Victim Support Division was dedicated to the principle that victims of human rights violations must be at the centre of the Commission's work. It sought to develop and implement practical ways of supporting victims and increasing recognition of and respect for them.

131. The Commission implemented victim support programmes that were both public and private in nature. Public hearings and information programmes helped to repair relationships and promote understanding between victims and their communities by permitting victims to tell of their experiences. Healing workshops were more private, focusing on the personal needs of victims by working with groups of people who had experienced similar trauma.

132. Reception and Victim Support staff undertook the following activities:

- Monitoring the well-being of recent returnees to Timor-Leste. This included the identification and follow-up of cases through problem solving in liaison with refugee agencies, such as UNHCR
- Organising public meetings to inform communities of the Commission's work and to seek responses and recommendations
- Supporting victims of human rights violations who participated in the

Commission's programmes whether giving statements, testifying at public hearings, attending community reconciliation processes or participating in healing workshops

- Facilitating group discussions and recording local histories focusing on the impact of human rights violations on individual communities
- Helping victims with urgent needs by assessing their cases, referring them to appropriate agencies and providing modest financial assistance, as part of the Commission's Urgent Reparations scheme.

133. Part 10 of the Report (Vol. IV) provides a more extensive account of the work of this Division.

Final Report

134. Section 13.1(c) of the Regulation provides for the "preparing [of] a comprehensive report that sets out its activities and findings, based on factual and objective information and evidence collected or received by it or placed at its disposal". Section 21 specifically details the duties of the Commission in fulfilling this function. Section 21.1 provides that the Commission "shall present a final report on the basis of the information it has gathered to the President". Section 21.2 provides that the Commission shall "summarise the findings of the Commission and make recommendations concerning the reforms and other measures, whether legal, political, administrative or otherwise, which could be taken to achieve the objectives of the Commission, prevent the repetition of human rights violations and respond to the needs of victims of human rights violations". Section 21.3 states that the report produced by the Commission shall be made immediately available to the public and shall be published in the Official Gazette, and Section 21.4 provides that the President "shall consider all recommendations made by the Commission in its final report with a view to their implementation".

135. The preparation and dissemination of a comprehensive final report was a core objective of the Commission's mandate. Planning for it began shortly after the initial National Commissioners' retreat at Maubara in January 2002. During a subsequent retreat in Dare in May 2003, the structure of the Final Report was debated and provisional approval was given.

136. The completion of the Final Report was a very demanding task for all involved. The pressures to complete the work to deadlines took a heavy toll on many of the contributors to it. The completed work is a lasting tribute to their dedication and commitment.

137. The mandate of the Commission was very broad, including a wide range of human rights violations committed over a 25-and-a-half-year period: from 25 April 1974 to 25 October 1999, as stipulated in Regulation No. 10/2001. The process of writing involved a cooperative effort across the divisions. Research teams produced thematic summaries based on interviews and secondary sources. The rich

store of information in the human rights violations database yielded information to determine patterns, to identify a number of reported violations that involved particular perpetrators, to determine what institutions the perpetrators belonged to and to provide profiles of victims. It gave writers a practical means of identifying and accessing original statements relevant to the subjects on which they were writing. The death-toll survey produced information concerning the degree and manner of deaths that had occurred in the mandate period.

138. The complications of producing the Final Report in English, Indonesian and Portuguese, with popular versions in Tetum, were acute. These complications arose from the Commission policy to produce the Final Report in these languages. Because writing teams and editors worked in both English and Indonesian it was necessary to maintain current copies of draft parts and chapters in both languages. Writing teams, usually consisting of two East Timorese and one international staff member, were given responsibility for producing draft parts and chapters. These drafts were then translated and forwarded to the editorial team. Edited versions were translated again and forwarded to the National Commissioners for consideration. The parts and chapters were discussed, substantive political differences debated and changes recommended (see above, paragraphs 64-69, the challenge of languages).

139. The editorial team was then responsible for making the recommended changes. A smaller working group, which consisted of Commissioners and staff, worked on technical issues, such as whether the translation faithfully corresponded to the approved text. They also resolved inconsistencies within or between parts and chapters. A fact-checking team was responsible for checking the accuracy of factual information in the each part. A technical edit, during which the text was checked for consistency with house style and cross-references were inserted, was then undertaken across all language versions.

140. The Regulation stipulated that all decisions of the Commission should be taken by consensus or, if a consensus could not be achieved, by a simple majority of the seven National Commissioners. Achieving agreement on highly sensitive issues between seven individuals who had been chosen for their diversity of backgrounds was not straightforward. Demanding consensus on the use of particular terms could have been a block to the progress of the Report, particularly as a word or term which accurately reflects the will of the Commission in one language is often not able to be translated exactly into one of the other two languages in which the Report is published.

141. The Commission considered its mandate to deliver the Final Report in at least one of the official languages of the country. Given the lack of educational background in Tetum, Portuguese was chosen as this language. The translation of the Final Report into Portuguese required further time, and a process of review and verification by National Commissioners. The Portuguese Government assisted with a Portuguese language expert, Paula Pinto, to ensure the standard of this translation. The Commission hopes that the Final Report can be translated into the second official language, Tetum, when resources and technical capacity become available.

142. In addition to the detailed official Final Report, the Commission produced a range of more accessible related material. A two-and-a-half-hour documentary film version was produced in Tetum, with English, Portuguese and Indonesian sub-titles, as well as a Tetum radio version, a photographic exhibition and a series of books on the thematic national public hearings of the Commission in Tetum, Indonesian and English. A photographic exhibition of survivors of violations promoted their dignity and aspirations, together with the publication of a photographic book of survivors expressing their hopes for the future. The Commission believes that the report and the associated research material in the CAVR Archive provides a rich source of resources which can become the basis for the production of accessible educational materials about human rights, reconciliation and East Timorese history.

143. The Commission established a Final Report campaign team, who from mid-2004 travelled to districts sharing information about the process of writing the Final Report. The team showed videos and conducted discussion groups in all districts, as a forerunner to the dissemination of the Final Report.

Archives

144. The Commission was mandated to organise its archives and records for future reference, and to give consideration to the question of whether materials should be made available to the public of Timor-Leste, the measures necessary to provide protection for confidential information, and the measures necessary to provide for the continuing safety of individuals who had testified to the Commission (Section 43.2 of the Regulation). In April 2004, when the national office was restructured, an Archive and Comarca Division was established to order and protect the Commission's archives and library. It was also given responsibility for planning for the future use of the Comarca as a memorial centre for victims, human rights and reconciliation.

145. The Archives and Comarca team comprised four staff members assisted by volunteer librarians, with an international specialist archivist as advisor. In the absence in Timor-Leste of a trained cadre of information managers specialised in operating an archive, the Division's first priority was capacity building.

146. The archive comprises all the documentation from the truth-seeking, community reconciliation, and *acolhimento* and victim support programmes, as well as administrative records relating to financial, legal and strategic management. It includes 7,740 audio recordings of truth-seeking statements, over 1,000 research interviews, more than 1,541 community reconciliation statements, many hundreds of hours of digital and audio recordings of the public hearings and many thousands of research reports and related materials. An extensive collection of photographs and video recordings, as well as the full audio archive of the Commission's weekly radio programme are also stored in the archive.

147. The library comprises over 2,500 titles, mainly books and articles about Timor-Leste, Indonesia, human rights and peace studies in Tetum, Portuguese, Indonesian, English and other languages.

148. The archive is a founding member of the Library and Information Association of Timor-Leste (ABITL), whose inaugural meeting was held at the Comarca. The Government has agreed that the Commission's archive should continue to be kept at the Comarca. It has close ties with the state-run National Archives of Timor-Leste.

149. It is planned that a permanent exhibition of materials relating to the Commission's Final Report will be housed in the Comarca Archive and Documentation Centre.

The Commission's obligations to participants in its core programmes

Confidentiality

150. All individual statements were given confidentially. Each person who gave a statement was asked whether they agreed that material from the statement could be used in the Commission's Final Report. They were also asked if the people of Timor-Leste could have access to their statement after the Commission's mandate period ended. Witnesses could choose to provide information on a confidential basis; or anonymously, removing identifiers of themselves and of other persons mentioned in their statements; or in accordance with other preferences they might state concerning the statements' use. Statement givers were informed that the access that Commission staff would have to information contained in their statements would be limited, and that the Commission would take measures to ensure the security of records. The Regulation imposed a duty on all Commissioners, staff and other persons acting on behalf of the Commission to "preserve and assist" the confidentiality of all confidential matters. Those found to have disclosed confidential information in contravention of the duties specified in the Regulation could incur criminal sanctions.[4]

The rights of deponents in CRPs

151. It was the policy of the Commission to ensure that all applicants for Community Reconciliation Procedures understood the implications of supplying their statement. Accordingly, they were informed that the statement would be forwarded to the Office of the General Prosecutor and could be used in future legal proceedings. Where possible, this information was given to deponents in their local language.

Witness protection

152. All practicable steps were taken to ensure the safety of witnesses. There was a police presence at all public hearings and appropriate action was taken in cases where witnesses could have been under threat. Witnesses were informed of their right to provide information on a confidential basis. Police assistance could be requested when needed, but every witness was informed of the practical limits of this protection to enable them to decide whether or not to provide evidence either

publicly or in writing. The Commission also told witnesses that in reality the CAVR could not provide them with physical protection in their homes.

National and regional offices and staffing

National Office

153. In the early days of the Commission the National Office in Dili was temporarily housed in the Teachers' Training Building in Balide, the historic former UNAMET compound of 1999 which became the CNRT headquarters in 2000. At this time negotiations had begun with the Government of Timor-Leste and international donors to rehabilitate the former Comarca prison in Balide for use as the home of the Commission. Transforming this former gaol for political prisoners into the headquarters of the Commission had clear symbolic overtones, as well as serving the practical purpose of providing the Commission with a high-profile, publicly-accessible base.

From prison to memorial centre for victims, human rights and reconciliation

The Comarca in Balide, Dili, was built in the early 1960s by the Portuguese colonial administration. In late 1975 Fretilin used the Comarca to detain prisoners from the UDT and Apodeti political parties. It was used as an Indonesian prison continuously between January 1976 until 12 September 1999. It was damaged in the violence during September 1999.

The idea of rehabilitating the Comarca was first proposed by the Association of Ex-Political Prisoners (Assepol) in 2000 and was taken up by those responsible for establishing the Commission. The Steering Committee agreed that preservation of the former prison would make a positive contribution to national healing by serving as both a memorial to the denial of human rights and a symbol of the possibility of transformation. The idea became feasible in January 2002 when during a visit to Tokyo by Xanana Gusmão, the Japanese Prime Minister pledged a grant of USD1m to the Commission. Approximately half of this grant was to be used for capital works, including the rehabilitation of the Comarca.

In March 2002 the Minister of Justice, Dr Ana Pessoa Pinto, met the Commissioners and confirmed the allocation of the Comarca to the Commission. A Memorandum of Understanding was signed in April 2002 between the Commission and Assepol. It affirmed that the

heritage value of the building would be preserved and that Assepol would be consulted throughout the physical rehabilitation. The plan for the building included its use as the Commission's national office. It was also to house an archive containing documents and other materials relating to the history of human rights violations in Timor-Leste history which would be made accessible to the public after the end of the Commission's mandate.

Design work on the rehabilitation of the prison began in July 2002. Careful documentation of the use of the prison building was undertaken to preserve knowledge of its former use, including those sites of serious human rights violations. Sixty-five graffiti made by East Timorese prisoners, Indonesian prison personnel or militia members were preserved.

The company selected after public tender to carry out the construction work, P.T. Rosario, was headed by a former Comarca prisoner, Julio Alfaro. Reconstruction began in September 2002. A large traditional meeting house was built in the former exercise courtyard, for use in the Commission's national public hearings and other events. Gardens were planted by Maria José Franco Pereira, who was detained as a four-year old at the Comarca with her mother in 1976. A traditional cleansing ceremony, symbolising the removal of harmful spirits associated with the prison's history of abuse, was conducted on completion of construction work.

The National Office of the CAVR was inaugurated in a ceremony by President Kay Rala Xanana Gusmão and attended by Bishop Basilio do Nascimento. President Kay Rala Xanana Gusmão gave a speech. The ceremony was followed by the National Public Hearing on Political Imprisonment in Timor-Leste. Some of those who testified had been detained in the Comarca.

During the operational period of the Commission, the Comarca was used to host public hearings, healing workshops and other activities. Singing, traditional dancing, theatre, prayer and other individual and group activities brought the spirit of healing to a place which had been a centre of torture for many years. Fr Domingos (Maubere) Soares, one of the members of the Steering Committee which helped to establish the Commission, expressed the hope that a commission in Timor-Leste would show the East Timorese people that flowers could grow in a prison. His hopes have been realised in this transformation.

154. The first Executive Director, João de Jesus Baptista, was appointed in May 2002. After his resignation at the completion of a three-month probationary period the Commission appointed Lucio dos Santos to replace him.

155. Six Divisions were formed to implement and support the programmes which had been decided upon by the National Commissioners:

- Truth-Seeking
- Reception (Acolhimento) and Victim Support
- Community Reconciliation
- Programme Support
- Administration and Logistics
- Finance

156. Late in 2003 the Commission developed its Archive and Comarca team (see box on Comarca) to preserve the Commission's archives and to prepare plans for the conversion of the National Office into a human rights and reconciliation documentation and education centre.

157. The primary focus of each division was to support the district teams. Some divisions also organised major events from the National Office. National public hearings were organised by the Truth-Seeking Division, assisted by Victim Support, and the media and logistics sections of the Programme Support Division. The Urgent Reparations Programme was organised by the National Office's Acolhimento and Victim Support Division, as were the healing workshops. Research and data-management were also run by the Truth-Seeking Division from the National Office.

158. At the peak of its operations the National Office had 124 personnel.

The CAVR as a learning institution

159. Commissioners and senior staff recognised that the Commission had embarked on an enterprise significantly different from anything in almost all staff members' previous experience. It was vital therefore that staff training strategies should be dynamic, absorbing the lessons learned as the programme was implemented. The initial designs of the truth-seeking, victim support and community reconciliation programmes in the districts had been largely theoretical in that they had not had the benefit of extensive field trials. The practical experience gained by district teams as they put the programmes into practice was a valuable resource in moulding the programmes to fit local requirements. Three-monthly reviews were carried out to ensure that the lessons staff had learned in the field could be passed on to management and appropriate adjustments made to operating methods. Approximately halfway through the operational period an extensive institutional review was undertaken. It included an opportunity for all staff to provide ideas and suggestions relevant to the programmes.

Institutional development and capacity building

160. Institutional development and capacity building therefore accounted for a large part of the Commission's work in its first year. The Commission had to meet a demanding schedule of recruitment, programme development, training, monitoring and evaluation and trouble-shooting. Developing and implementing recruitment policies and procedures for 124 national and 154 district team positions was a major challenge, the more so as by the time the Commission was established, all government departments, UN and other international agencies and non-government organisations had already recruited staff and become operational.

161. By July 2002, the Commission had recruited and trained 220 personnel, including Regional Commissioners and District Team members. Approximately 1,900 people applied for 141 positions in the Regional Offices and District Teams.

162. Because there was no institutional precedent for the work of the Commission, the planning and implementation of staff training was a major challenge. It was conducted from July to September 2002. Benefiting from lessons learned in the pilot projects completed in August 2002, the Commission modified its training programmes (see box on pilot projects, above, par. 72). As with Regional Commissioners, district staff were trained in two large groups. Following initial training, staff would return to their districts for six weeks before the final segment of the course. This allowed for the phased development of understanding of the Commission's programmes. District teams could also think about what they had learned in training, test those practices and principles in the field and suggest alterations to operational plans.

163. A small team consisting of an international advisor and three East Timorese staff coordinated institutional development. The first year was difficult and demanding, requiring long work hours, resourcefulness and faith that the Commission could develop institutionally in ways that would allow it to achieve its goals. Funding was initially inadequate, as donors were willing to offer the level of support needed only once the value of the Commission's activities became apparent. In this environment it took a "leap of faith" by a few donors, mostly notably the British Government, to provide the vitally important "seed funding".

164. The Human Rights Unit of the UNTAET mission provided personnel on a short-term basis to assist the start-up of the Commission and assisted in many other ways. It helped the institution to take its first steps and progress to the point where a temporary office was established and core personnel recruited, and the organisation could move forward on its own feet.

165. Throughout the life of the Commission the Institutional Development and Capacity Building team worked with the broader Senior Management Team in identifying where further international short and long-term support was needed, and in recruiting and training qualified personnel.

Gender and staffing

166. The Commission followed a policy of encouraging work practices that would maximise the opportunities for women to contribute as staff members of the organisation and as participants in its programmes. It formally recognised the strong barriers which prevent women from participating equally in the work-place or political activities in Timor-Leste, as well as the duty of all institutions to try to redress this situation. The Commission's mandate therefore included specific requirements for gender representation. The Regulation required a minimum of 30% of National and Regional Commissioners be women. Two of the seven National Commissioners and ten of the 29 Regional Commissioners were women. Internal recruitment staff policies provided that a minimum of 30% of positions must be filled by women.

167. For programme objectives, it was important that women and men equally filled certain types of position. Examples included statement takers and victim support staff, each of whom worked directly with victims and witnesses in communities. The recruitment of a higher than normal proportion of female programme workers in these areas was aimed at ensuring that nationally women had equal access to all aspects of the Commission's work. This policy was designed to acknowledge women's experiences during the conflict. Certain sections of the Final Report, particularly the part on sexual violations, focus closely on the experience of women.

168. Despite this commitment the Commission did not succeed in reaching its recruitment targets for women. Only two of the eight members of the Senior Management Team were women. Just one of the six Regional Coordinators was a woman and all 13 District Team Coordinators were men. Cultural norms that were particularly strong in regional and rural Timor-Leste made it difficult to recruit the desired proportion of women into district teams. The need for staff members to live away from home during the three-month period of field activities in sub-districts other than their own posed particular difficulties for women who had family responsibilities. Cultural objections to them spending such an extended time away from their homes added to these difficulties.

Regional offices and district teams

169. The Commission established six Regional Offices in the district capitals of Baucau, Suai, Maliana, Aileu, Dili and Oecussi. All but one of these offices were established in buildings rehabilitated by the Commission using funding from the Japanese Government, and were transferred to the Government of Timor-Leste for local use after the Commission completed its work. Each Regional Office supported the work of two District Teams, except Oecussi which, because of its geographical isolation, was a Regional Office covering only one district, and Baucau which supported the work of four District Teams.

170. Each District Team consisted of two to three Regional Commissioners, one Coordinator, four Truth-Seeking Statement-Takers (two women and two men), two Victim Support/Community Outreach staff (one woman and one man), and two Community Reconciliation Officers* (generally one woman and one man), with support from one Logistics Officer.

171. The Regional Offices were staffed by a Regional Coordinator, and a Finance Officer and a Logistics Officer. The main function of the Regional Offices was to act as a link between the National Office and the District Teams. As communications and banking infrastructure was limited or non-existent during the height of the Commission's operations, the Regional Coordinator was given the responsibility for ensuring that there was regular communication with the National Office. Contact occurred at least once a week between the District Teams and the National Office. Due to lack of communications, this usually required travel between the offices.

172. At the height of the Commission's work, there were 278 staff members, including Regional Commissioners, of whom 154 worked in regional or district teams.

Gender in practice in district work

173. The UNTAET Regulation required that the Commission integrate gender considerations into all aspects of its work. It specifically provided that at least one of the CRP panel members at each hearing be a woman. Without this provision it is likely that many communities would not have chosen a woman to sit on the panel, but would have followed the more traditional practice of having male community leaders preside over such events. An interesting result of the gender provisions of the Regulation was that the women chosen to participate on the panels often played a leading role and were usually fully accepted by community members in that capacity.

174. The Commission took some initiatives to encourage women's participation in its field activities. Following an internal policy requirement, there were women in all district statement-taking teams. Women were also encouraged to provide statements and thereby contribute to the Commission's truth-seeking objective. At the close of field operations only 21.4% of deponents who provided statements were women. Many men came forward to give statements about human rights violations against female family members, but many women testified about what had happened to their fathers, brothers, husbands or sons during the conflict.

175. District teams experienced difficulties engaging women in the statement-taking process for a variety of social, cultural and economic reasons. In some communities, women did not participate in the Commission's community education meetings as they were expected to stay at home. Fewer women than men were organised in formal organisations with access to information about the Commission's work. Some women

* Initially District Teams had just one Community Reconciliation Officer, who worked with a Regional Commissioner in this area of work. In late 2003 a second Community Reconciliation Officer was appointed to each team.

were uncertain or shy about coming forward to give testimony, or felt that their experiences had already been recounted by male members of their family.

176. A team of six women was formed to conduct a six-month research project on the experiences of women during the conflict.* The team held interviews with more than 200 deponents, mostly women survivors of human rights violations. They were also responsible for identifying and supporting the victims who provided testimony at the National Public Hearing on Women in Conflict in April 2003. This public hearing was very important in raising further awareness among women about the need to participate in the Commission's work.

177. Healing workshops specifically for women victims were held to ensure that their specific circumstances were given due attention and to encourage confidence and open group discussions. Some Community Profile workshops involved only women. These focused on exploring and recording women's experiences and the impact of the conflict as perceived by female community members.

178. Women staff working in district teams often adopted informal ways of meeting rural women, visiting homes and gathering places to talk, hearing their concerns and together finding ways that would help them participate in the Commission's activities. Women district team members were themselves often leading members of the communities and role models for many rural women.

179. The principle of gender equality at times sat uncomfortably with other principles of the Commission such as respecting and working with community traditions and leaders, as traditional leadership and dispute resolution models in Timor-Leste tend to be male-dominated. Women Regional Commissioners, women community members sitting on panels at Community Reconciliation Hearings, and women staff members living away from home and working in rural communities provided a challenge to some of these values.

180. The Commission was careful not to implement these strategies in communities in a confrontational way. Male as well as female team members took a leading role in discussions with traditional leaders, thereby achieving at least a measure of successful gender balance.

181. The Commission would especially like to commend the work of its women district team members, who faced a number of extra challenges but who were critical in ensuring that the Commission was accessible to rural women across Timor-Leste.

The role of international staff in the Commission

182. It was decided that all international staff in the Commission, apart from the Deputy Director, would be advisors rather than line managers. International staff members were

* The team consisted of members of the women's human rights NGOs Fokupers and ET-Wave, East Timorese Young Women's Association (Grupo Feto Foinsae Timor-Leste, GFFTL) and staff members from the Commission. The work benefited significantly from the knowledge, skills and contacts of these organisations.

to implement capacity building within the divisions to which they were assigned by assisting and advising East Timorese counterparts to the extent possible, rather than taking charge of the work themselves. In addition to possessing the necessary technical and professional skills, international staff were expected to have an understanding of Timor-Leste and cross-cultural working skills, including Tetum or Indonesian language skills. Short-term consultants were brought in where specialised skills were needed.

Management and administration

Management structure

183. The day-to-day management of the Commission's executive body was coordinated by the Executive Director, Lucio dos Santos, with support from the Deputy Director and Programme Manager, Galuh Wandita. Together with the six Coordinators of the divisions of the national office executive, they formed the Senior Management Team. The team members were Hugo Maria Fernandes (Truth-Seeking), Jaimito Candido da Costa (Community Reconciliation), Rosário de Araújo (Acolhimento and Victim Support), José Caetano Guterres (Programme Support), Ligia da Costa (Finance) and Francisco João Amaral (Administration). In April 2003, in a process of restructuring to fully Timorese management, Galuh Wandita ceased her role as Deputy Director but continued in her role as Programme Manager.

184. The small Regional Offices operated as bridges between the National Office and District Teams. They were led by a Regional Coordinator. District teams were led by the two or three Regional Commissioners in each team, who were responsible for the day-to-day management of staff and the programme together with the District Team Coordinator.

185. In December 2002, a three-day workshop, in which Regional Commissioners, Regional Coordinators, District Team Coordinators, senior management and National Commissioners took part, resulted in a revision of the strategic plan and clarification of the division of tasks. In May 2003 the Commission facilitated an institution-wide review, to look at the performance of every District Team, Regional Office and division of the Commission. The review produced 92 specific recommendations on ways to improve performance, coordination, outreach, information sharing, and gender equality in all aspects of the Commission's work.

Administration

186. The Administration Division was responsible for providing all administrative support to the work of the Commission. This included logistics and procurement, human resources, and information and technology support.

187. The Coordinator of the Administration Division worked closely with the Executive Director to ensure all aspects of the Commission's work were supported.

Meeting the logistical demands of the large and dispersed operations of the Commission, with minimal supporting infrastructure, was a constant challenge.

Finance

188. The Finance Division was responsible for the management of all Commission's financial matters. These included producing monthly financial reports, monitoring management of the Regional Offices, providing all the required information for audits conducted by the Government's Office of the Inspector General, and donor reporting.

189. The Commission was responsible for raising its own funds. National Commissioners, senior staff and international advisors worked hard to secure resources for the operation of the Commission, and to maintain information exchange and reporting with all donors. Maintaining close relationships with donors was essential for the success of Commission's work. It was necessary to appeal to donors for additional funding, especially as programmes expanded in response to community wishes and the Commission required extensions of its operational period to complete this Report. The fact that donors had been kept informed, that financial reporting was comprehensive and up-to-date, and that transparent information on all aspects of the Commission's operations was available was significant in securing the required additional funding.

190. Three independent financial audits of the Commission were completed by the Office of the Inspector General. The Inspector General provided a positive report on the financial management of the Commission in these audits. Some specific recommendations were made with a view to improving the management of certain administrative areas. The Commission implemented these recommendations. The first audit covered the period 1 May 2002 to 31 December 2002. The second audit covered the period from 1 January to 31 December 2003 and the third audit covered the period from 1 January 2004 to 31 December 2004. In addition to the audits by the Office of the Inspector General, a special audit related to the funding by the Government of Japan was conducted in 2005 by the international auditors Merit Partners from Australia, producing a report of prudent financial management. A final audit will be conducted after the closing of the Commission on 31 October 2005.

Downsizing and restructuring

191. On the completion of the Commission's fieldwork, the executive undertook a downsizing and restructuring process. The strategic plan had been based on a 3-month operational period in each sub-district. As the number of sub-districts per district varied, some district teams completed their work before others. This enabled them to move to assist programmes in areas where there was still work to be done. District teams and regional offices closed when all field activities were finished, at the end of March 2004. At this time the Commission reduced its staff by two-thirds, with all remaining personnel concentrated at the National Office.

192. District team staff members who had completed their work in March 2004 were transferred to Comarca to help enter into the database the large amount of information which had been collected. Further downsizing took place when data-processing was completed in July 2004.

193. The nature of the Commission's work changed radically with the end of field operations. Different management structures were required as activities focused on writing and on producing the Final Report, and on preparation of the archives. Following a two-month transition, the National Office was reorganised. The new structure comprised six divisions: the Final Report (Editorial, Writing and Production including translation), Reparations, Recommendations and Campaign, Comarca and Archives, Administration, and Finance. As the process of writing, editing, translation and production of the Final Report progressed, teams were no longer required, or needed significantly less staff. A phased downsizing process continued to the end of the mandate period.

Building relationships for the future

Direct relationships

194. The primary focus of the work of the Commission was at the grassroots level, with East Timorese communities across the country, especially with victims of human rights violations and their families. It was essential that community leaders, institutions and organisations understood the Commission and its work. The Commission coordinated with village heads and other traditional leaders, women's and youth organisations, priests, nuns and lay leaders of the Catholic Church and other religious organisations, police, local government officials and other civil society representatives. In some communities victims and survivors support groups had been formed, such as the Rate Laek group in Liquiçá. These were important partners of the Commission.

195. National institutions including the Presidency, Parliament and the Cabinet were kept informed of the Commission's work. Representatives of the Commission appeared before both the full National Parliament and relevant committees when three extensions of the mandate were under discussion. On these occasions members of Parliament asked to be updated about the progress of the Commission's work. In each instance, the general view of the National Parliament was that the Commission's task was of such importance to the nation that it should be given the time it needed to complete it.

196. President Xanana Gusmão supported the work of the Commission in a host of practical ways, including by requesting funding for the Commission from donors, by appearing at the inauguration of the Commission's headquarters at the Comarca, and by backing the sensitive National Public Hearing on the Internal Political Conflict of 1974-76. The Prime Minister Dr Mari Alkatiri and his Cabinet, especially Dr José

Ramos-Horta, Senior Minister and Minister for Foreign Affairs and Cooperation, were also very supportive of the Commission. The Commission had cross-party support in the Parliament. The Minister for the Administration of State, Dr Ana Pessoa Pinto, was a member of the Advisory Council of the Commission as was Dr José Ramos-Horta.

197. The Catholic Church holds a position of esteem and influence in the everyday lives of most East Timorese, at least 90% of whom are Catholic. The church provided significant moral support for the work of the Commission. Individual priests encouraged their parishioners to assist and to participate in Commission activities. Lay Catholic leaders were frequently chosen to be Panel members for CRP hearings. The Protestant Church also supported the programmes of the Commission. One of the National Commissioners, Reverend Agustinho de Vasconselos is a Protestant minister, while the Deputy Chair, Father Jovito Rêgo de Jesus Araújo is a Catholic priest.

198. The Commission also coordinated with national NGOs whose works focused on justice and human rights issues. Many of the National and Regional Commissioners had backgrounds as human rights activists and were members of human rights organisations. The mere existence of the Commission clearly had an impact on other human rights organisations. There was some ambivalence among these organisations about the sudden emergence on the human rights scene of this relative colossus which enjoyed official backing and was able to attract a sizeable share of available funding. Understandably this was particularly true of NGOs, which had been operating during the incomparably more difficult period of the Indonesian occupation when their members ran considerable personal risk for that commitment and which will continue to work on reconciliation and human rights issues after the Commission has been dissolved.

199. Two national human rights organisations, Asosiasaun HAK (Human Rights Association) and Fokupers worked with the Commission in a range of ways, including on research projects, giving support to victims of violations and in documenting the work of the Commission national thematic hearings. The Justice System Monitoring Program (JSMP) and the NGO Lao Hamutuk (Walk Together) took a critical look at some aspects of the Commission's work.

200. The Commission sought ideas from various sectors in developing the recommendations contained in this Report. It held a series of six stakeholder workshops at the national level, which sought the opinions of prominent individuals and organisations active in fields relevant to the Commission's mandate. The topics covered were reconciliation, health, education, security, children and justice. The Commission also actively sought input from members of the Organising Committee of the Second National Women's Congress (July 2004). It wished to draw on the ideas and concerns of women delegates from across the country for the formulation of its recommendations.

Memorandum of Understanding with the Office of the Prosecutor General

On 4 June 2002 the chair of the Commission, Aniceto Guterres Lopes, and Timor-Leste's Prosecutor General Longuinhos Monteiro signed a Memorandum of Understanding on the working relationship between the Commission and Timor-Leste's Office of the General Prosecutor, whose responsibilities included the prosecution of serious crimes. The value of having such a memorandum was most evident during the operational phase of the Commission's truth-seeking and community reconciliation work.

The memorandum detailed the circumstances in which information might be exchanged between the Commission and the Office of the General Prosecutor. It noted that the Commission and the Prosecutor's office would protect the independence and integrity of both institutions. It would safeguard the confidentiality of information received by either institution. While the Commission and the Office of the General Prosecutor were independent institutions with different mandates, it acknowledged that "both organisations are committed to working together to the greatest extent possible within their mandates to assist the process of justice for past human rights abuses in Timor-Leste".

Media and information campaigns

201. The Commission's mass media strategy centred on the production of a weekly radio programme, *Dalan ba Dame* (The Road to Peace). Radio is the most far-reaching and effective media in Timor-Leste. Radio networks provide almost complete national coverage, and several community-based stations in the districts broadcast in local languages. Radio networks also broadcast to many East Timorese living in refugee camps and communities in West Timor. Television coverage is confined to Dili and to a lesser extent the country's second city, Baucau. The majority of the rural population are unable to read and write, which limits the impact of written materials.

202. By producing its own radio programme the Commission ensured that communities across the territory could gain a sense of the national dimension of what was taking place in their local area. National audiences were brought into contact with grassroots activities. The weekly one-hour radio programme was broadcast by the national broadcaster Radio Timor-Leste and the Catholic Church national station Radio Timor Kmanek. It broadcast its first programme on 4 December 2002 and

broadcast every week thereafter throughout the life of the Commission. In October 2004 it was reduced to a 30-minute programme. Community radio stations in some districts also carried it. The Commission worked with smaller stations such as Radio Falintil and Radio Rakambia to broadcast community reconciliation hearings live in some districts. *Dalan ba Dame* was produced in Tetum, though coverage of local hearings and other events was often in regional languages. In addition community radio stations frequently discussed the work of the Commission in the local language.

203. The Commission developed a partnership with the national television broadcaster Television Timor-Leste (TVTL). TVTL and Radio Timor-Leste both provided full coverage of the seven national thematic hearings. The Commission also produced two videos on its work for dissemination to communities. District teams carried televisions and generators to rural communities to show the videos, which proved a very effective way of bringing people together to share information. They were also shown in West Timor as part of the Commission's outreach programme. Videos were produced using Tetum as the narrative language, with Indonesian and English language voiceover editions.

204. A number of print publications were produced with the objective of explaining the Commission's mandate and work to communities. These publications were produced in Tetum, Indonesian and English. An update bulletin, reporting on the progress of the Commission's work in Portuguese, Indonesian and English, was published every two months. Its primary audience were institutional and organisational stakeholders.

205. This team also organised media releases and press conferences. Articles and written materials were published in *Cidadaun* and *Talitakum*, respected East Timorese journals with a readership in both Timor-Leste and West Timor. Popular items to promote the Commission included posters, booklets, brochures and T-shirts.

The international community

206. The Commission recognised that its work was of both national and international importance. Consequently, it encouraged links with the international human rights community. It was perhaps of greatest interest in Timor-Leste's own region, none of the countries of which had established their own truth and reconciliation commissions.

207. As the Commission's activities developed it received a steady stream of inquiries seeking information about its work, particularly about the innovative CRP programme. National Commissioners and senior staff attended international conferences, seminars and workshops on human rights, post-conflict reconciliation and transitional justice to share the experience of the Commission and to learn from others. In addition, the Commission hosted dozens of international delegations who visited to learn from the CAVR experience. These included senior officials and representatives of organisations from countries experiencing conflict or seeking to deal with its legacy, including: Burma, Afghanistan, Bougainville, Fiji, Philippines/Mindanao, Indonesia/Aceh and West Papua, and Sri Lanka.

208. The UN gave significant support to the Commission. The Human Rights Unit of UNTAET and UNMISET, the Office of the High Commissioner for Human Rights and the UNDP, both in Timor-Leste and from the New York headquarters, provided technical support and advice. The UNDP in Timor-Leste managed seven permanent international advisors provided to the Commission through funding from bilateral donors. The UNTAET and later UNMISET Human Rights Unit provided two permanent senior advisors to the Commission. UNOTIL (United Nations Office in East Timor), the successor mission to UNMISET, provided one permanent senior advisor. The then UN High Commissioner for Human Rights, Mary Robinson, met the National Commissioners in Dili on 23 April 2002 and attended the first community reconciliation hearing, in Liquiçá District. Ms Robinson became a member of the Advisory Council of the Commission.

209. The UN High Commissioner for Refugees (UNHCR) and the International Organisation of Migration (IOM) worked to assist returnees from West Timor as well as helping the Commission with logistics, such as by providing flights to the enclave of Oecussi. The Commission also worked closely with some international non-government organisations with offices in Timor-Leste. A number of NGOs made submissions, or provided the results of independent studies on aspects of the Commission's work. These included Catholic Relief Services and The Asia Foundation.

210. The International Center for Transitional Justice (ICTJ) in New York advised and supported the Commission from its inception to the completion of its work; it was an invaluable partner (see par. 212, Table 1 on Early milestones of the Commission). The Human Rights Data Analysis Group (HRDAG) provided technical assistance. They established and maintained the human rights database. They also conducted the death toll research and analysed the data collected. Part 6: Profile of Human Rights Violations (Vol. I), and the Annexe on Statistical Methodology (Vol. V), include a full account of the work of the HRDAG.

211. The Commission developed a website that gave it outreach to the international community. Documents, regular bulletins on the Commission's work and photos of events were put up on the website, which was frequently visited by members of the international media, human rights organisations, students, academics and donor agencies. This Report is published on the website (http://www.cavr-timorleste.org).

Community outreach and public information

212. The Public Information and Community Outreach Unit aimed to increase awareness among stakeholders and the public about the Commission and its work, through building direct relationships, public education and media campaigns. This involved developing mechanisms to provide information to all levels of the community, from national decision-makers and institutions and non-governmental organisations to district administrations and local community leaders and groups, as well as the wider public. It also reached a significant international audience, including UN agencies inside and outside Timor-Leste, donor and prospective

donor countries and organisations, and the wider international human rights and justice community.

Table 1: Milestones of the Commission
June 2000 Workshop on transitional justice for human rights campaigners.
August 2000 CNRT Congress calls for the establishment of a truth and reconciliation commission for Timor-Leste. A Steering Committee for the establishment of the Commission is set-up.
December 2000 Nationwide consultations occur and the drafting of a regulation by members of the Steering Committee.
December 2000 Policy approval from Cabinet of the Transitional Administration.
April 2001 Cabinet of the Transitional Administration approves draft regulation.
13 June 2001 National Council approves draft regulation.
13 July 2001 Promulgation of UNTAET Regulation 10/2001 by the Transitional Administrator; establishment of an Interim Office.
23–25 August 2001 Consultation with pro-autonomy leaders by the Steering Committee, with support from the Interim Office, in Kupang and Bali.
15–16 September 2001 Second consultation meeting with pro-autonomy leaders in Bali.

20 September 2001 Selection Panel established to select National Commissioners and gather nominations for Regional Commissioners.	
October 2001 Visits by the Selection Panel to 13 districts and to West Timor on nominations for National and Regional Commissioners.	
21 January 2002 Swearing-in of seven National Commissioners	
22–26 January 2002 Retreat of National Commissioners in Maubara; development of core principles of the Commission.	
4 February 2002 First National Commissioners meeting. Election of Chairperson and Deputy Chairperson of the Commission and appointment of portfolios.	
7 February 2002 Appointment of National Commissioners gazetted in the Government Gazette, formally commencing the two-month establishment period of the Commission.	
April–May 2002 Recruitment of senior executive staff; recognition of the Commission in Timor-Leste's Constitution.	
15 May 2002 Swearing-in of 29 Regional Commissioners by the Transitional Administrator.	
June–July 2002 Development of policy documents, including the Strategic Plan, Operations Manual and Finance Manual; policies on confidentiality, children, women and rights of deponents; development of basic tools such as statement-taking forms for truth-seeking and community-reconciliation.	

4 June 2002 Signing of MoU with the General Prosecutor.
June–August 2002 Recruitment and training of national, regional and district staff; start of the Commission's programme in 13 districts, including sub-district consultations; establishment of 6 divisions in the National Office; establishment of 6 Regional Offices overseeing the work of 13 District Teams.
23 August 2002 First Community Reconciliation Hearing in Maumeta Village, Liquiçá.
September 2002 Review and programme planning in Dare; Urgent Reparations Programme begins; statement-taking begins.
11–12 November 2002 First National Public Hearing, a victim's hearing titled "Hear Our Voices".
December 2002 Evaluation of first 3 monthly operational period.
January 2003 Revision of Strategic Plan and coordination mechanisms.
17–18 February 2003 Inauguration of Balide Comarca as the Commission national headquarters; Second National Public Hearing on Political Imprisonment; West Timor outreach programme begins.
21 April 2003 First Sub-district Victim's Hearing, in Ainaro Vila, Ainaro.
28–29 April 2003 Third National Public Hearing on Women and Conflict.

June 2003 Institutional review of Commission and its progress; start of Graveyard Census.	

June 2003
Institutional review of Commission and its progress; start of Graveyard Census.

23–27 June 2003
First Healing Workshop.

28–29 July 2003
Fourth National Public Hearing on Forced Displacement and Famine.

9–14 August 2003
Second Healing Workshop.

September 2003
Retrospective Mortality Survey begins.

19–21 November 2003
Fifth National Public Hearing on Massacres.

2–6 December 2003
Third Healing Workshop.

15–18 December 2003
Sixth National Public Hearing on The Internal Political Conflict of 1974-76.

December 2003
Evaluation workshop and prioritising of remaining field work.

27–30 January 2004
Fourth Healing Workshop (for women).

9–13 February 2004
Fifth Healing Workshop.

9–11 March 2004
Sixth Healing Workshop.

15–18 March 2004
Seventh National Public Hearing on Self-Determination and the International Community.

March 2004
Closing of district operations; district closing meeting and children's drawing competition in 13 districts; national evaluation workshop; restructuring and downsizing of the executive body.

29–30 March 2004
Eighth National Public Hearing on Children and Conflict; exhibition of children's drawing competition at the National Office.

April 2004
Establishment of Writing and Editorial Teams.

October 2004
National Parliament approves extension of Commission mandate to 39 months of operation, to deliver its Final Report and close by 7 July 2005.

July 2005
The National Parliament extends Commission mandate to 29 July and provides that the President shall present the Final Report to the National Parliament in Portuguese two months later.

29 July 2005
The National Parliament extends Commission mandate to 31 October.

31 October 2005
Delivery of the Final Report to the President of Timor-Leste.

End notes

1. Regulation 10/2001 Section 13.1(a)(iv).
2. *Outcomes of the CNRT National Congress*, 21–30 August 2000; United to Liberate, United to Construct.
3. Regulation 10/2001 Section 11.1.
4. Regulation 10/2001 Sections 39 and 44.



Chega!

Part 2.

The Mandate of the Commission

Part 2. The Mandate of the Commission

The Mandate of the Commission

2.

Introduction

1. UNTAET Regulation 10/2001 established the Commission as an independent authority with a requirement that it "not be subject to the control or direction" of any cabinet minister or other government official.* The establishment of the Commission was recognised in the Constitution of the RDTL, Article 162. It was granted an initial operational period of 24 months. Three later amendments by the National Parliament to the Regulation extended this period first to 30 months, then to 39 months, and finally an extension to 31 October 2005, constituting just over 42 months.†

2. Under its mandate the Commission's tasks included the following:

   1. Inquiring into and establishing the truth regarding human rights violations which took place in the context of the political conflicts in Timor-Leste between 25 April 1974 and 25 October 1999.[1] The inquiries were to include:
      - the context, causes, antecedents, motives and perspectives which led to the violations;[2]
      - whether they were part of a systematic pattern of abuse;[3]
      - the identity of persons, authorities, institutions and organisations involved in them;[4]

* Regulation 10/2001 on the Establishment of a Commission for Reception, Truth and Reconciliation in East Timor, Section 2.2.

† Although Section 2.4 of the Regulation allowed for a six-month extension without recourse to parliamentary consideration, both extensions were sanctioned by formal amendments to the Regulation. Democratic Republic of Timor-Leste National Parliament Law No. 7/2003, Section 1 extended the mandate to 30 months. Democratic Republic of Timor-Leste National Parliament Law No. 13/2004, Article 1 extended the mandate to 7 July 2005. Democratic Republic of Timor-Leste National Parliament Law No. 11/2005, Article 1 extended the mandate to 31 October 2005.

- whether they were the result of deliberate planning, policy or authorisation on the part of the state, political groups, militia groups, liberation movements or other groups or individuals;[5]
- the role of both internal and external factors;[6]
- accountability, "political or otherwise", for the violations.[7]

2. Preparing a "comprehensive report which sets out the Commission's activities and findings, based on factual and objective information and evidence collected or received by it or placed at its disposal".[8]
3. Formulating recommendations concerning reforms and initiatives designed to prevent the recurrence of human rights violations[9] and to respond to the needs of victims. The recommendations could also include proposals for legal, administrative and other measures which could contribute to the achievement of the objectives of the Commission;[10]
4. Recommending prosecutions, where appropriate, to the Office of the General Prosecutor.[11]
5. Promoting reconciliation.[12]
6. Implementing Community Reconciliation Procedures (CRPs), whose object was to support the reception and reintegration of individuals who had caused harm to their communities through the commission of minor criminal offences and other harmful acts.[13]
7. Assisting in restoring the dignity of victims.[14]
8. Promoting human rights.[15]

3. The Commission was given specific powers relating to its function of Truth-seeking and Community Reconciliation, which were set out in detail in the Regulation. In addition it was granted the broad power to conduct any activities that were consistent with its mandate.[16] It was thus empowered to implement a variety of programmes designed to promote reconciliation, restore the dignity of victims, and promote human rights.

Temporal boundaries

4. The mandate of the Commission, relating both to inquiring into the truth regarding human rights violations and also to "harmful acts" which might be dealt with by CRP, covered the 25-and-a-half-year period between 25 April 1974 and 25 October 1999. These two dates mark the beginning and end of the most intense period of the political conflict in Timor-Leste. The fall of the Marcello Caetano regime in Portugal in April 1974 gave the Portuguese colonial territories, including Timor-Leste, the opportunity to exercise their right to self-determination. In Timor-Leste the opening up of politics precipitated a struggle for political power between the main political parties, and led to the Indonesian invasion and occupation. After the descent into violence that followed the Popular Consultation of 30 August 1999, in which the overwhelming majority of East Timorese voted for independence,

the UN Security Council passed Resolution 1272, on 25 October 1999, which established UNTAET as the transitional administration with powers to exercise full administrative authority over the territory of Timor-Leste as it prepared it for independence.*

Issues of particular relevance

5. The Regulation obliged the Commission to "take into particular consideration" three major aspects of the political conflict in undertaking its truth-seeking functions:

1. The events before, during and after the Popular Consultation of 30 August 1999;
2. The events and experiences of all parties immediately preceding, during and after the entry of Indonesia into Timor-Leste on 7 December 1975; and
3. The effect of the policies and practices of Indonesia and its forces present in Timor-Leste between 7 December 1975 and 25 October 1999.[17]

The meaning of "related to the political conflict"

6. According to the Regulation, "political conflicts" means "armed and non-armed struggles and discord related to the sovereignty and political status of Timor-Leste, the organisation or governance of Timor-Leste, the illegal Indonesian invasion and occupation of Timor-Leste, or any combination of the foregoing".[18]

Human rights violations

7. National laws are designed to ensure that individual citizens comply with the duties imposed on them by the state. The duties to promote and respect human rights, however, are based on international agreements and obligations, and therefore apply only to sovereign states. Accordingly, individuals may commit crimes against national, and in some cases international criminal law, but the traditional view of human rights violations is that they can be committed only by states and their agents.[19]

8. This traditional definition presents difficulty in constructing a suitable mandate for the work of truth and reconciliation commissions. Often the context of massive violations, which is the object of a commission's inquiries or investigations, involves not only state actors, such as military and police officers and government officials, but also members of opposition groups, political parties, militias, corporations and other individuals. Any account of "the truth" relating to a conflict will be incomplete if it does not include the actions of all of these parties.

* Security Council Resolution 1272 (1999) established UNTAET on 25 October 1999, granting a mandate to "exercise all legislative and executive authority, including the administration of justice".

9. One example of the manner in which this problem has been overcome is that of the South African Truth and Reconciliation Commission, which interpreted its empowering legislation as including "modern developments within international human rights law",[20] which recognised the equal capacity of state or non-state actors to commit human rights violations.

10. The Regulation which established the Commission contained an unusually broad definition of the term "human rights violations", which included violations of human rights standards, international humanitarian law, and "criminal acts" which violated international or domestic law. The definition covered violations committed by both state and non-state actors.

The Commission's definition of "human rights violations"

11. According to Section 1(c) of the Regulation "human rights violations" means:

a. Violations of international human rights standards

b. Violations of international humanitarian law, and

c. Criminal acts;

committed within the context of the political conflicts in Timor-Leste between 25 April 1974 and 25 October 1999.[21]

12. The use of the term "violations of human rights *standards*" rather than "violations of human rights *law*" and inclusion of two broad categories of laws which are not limited to violations by state actors demonstrate clearly that the Commission's mandate was not intended to be limited to examination of the conduct of state actors alone.

13. The Commission has therefore interpreted its mandate to include any act committed within the context of the political conflicts, whether by individuals, members of a group, institutions or states, which is in violation of at least one of the relevant international human rights standards, a provision of international humanitarian law, or was a crime against domestic or international law.

14. The mandate therefore includes examination of violations committed by representatives and agents of the Indonesian government (including members of its security forces, the *Hansip* or other civilian defence forces and militia groups), the Portuguese government and its agents, members of Fretilin, Falintil and other pro-independence groups, and members of UDT, Apodeti, KOTA, Trabalhista and other political parties, members of other sovereign states, institutions, groups and individuals who played a role in the context of the political conflicts.

15. According to the definition in the Regulation the Commission must inquire into:

- Violations of a broad range of "human rights standards". These include, but are not limited to the fundamental rights and freedoms referred to in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (and its Protocols), the International Covenant on

Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Racial Discrimination, the Convention on the Elimination of all forms of Discrimination against Women, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment, and the International Convention on the Rights of the Child.*

- Violations of international humanitarian law, which regulates conduct in situations of armed conflict. According to the Regulation, the standards to be considered in this regard include the major relevant international conventions, including the Geneva Conventions, and "the laws and customs of war".[22]
- Violations of Portuguese or Indonesian criminal law, and international criminal law, such as crimes against humanity, war crimes and genocide.

Priority given to particular categories of violation

16. It was, of course, impossible for the Commission to inquire into and report on all violations of human rights that occurred during the mandate period. The Commission has chosen to examine the most serious violations of fundamental rights relevant to the mandate. In summary form, the categories of human rights standards on which the Commission focused its attention were the following:

1. The right to self determination
2. The right to life (unlawful killings and disappearances)
3. The range of rights relevant to displacement, resettlement and famine (the right to adequate food, freedom from hunger, water and adequate housing, freedom of movement, freedom to choose a residence)
4. The right not to be arbitrarily detained, and to satisfactory conditions of imprisonment
5. The right not to be subjected to torture or cruel, inhuman or degrading treatment
6. The right to a fair trial
7. The right to freedom of opinion, expression and association
8. Rights violated by acts of rape and other forms of sexual assault/harassment (in particular the prohibition on torture and cruel, inhuman or degrading treatment)
9. Rights violated by the practice of sexual slavery (including the prohibition on torture, the right to enter marriage through full and free consent, and the prohibition on slavery)

* Section 1(e) of the Regulation states that "International human rights standards" means the internationally recognised human rights standards outlined under Section 2 of UNTAET Regulation No. 1/1999. The relevant section of UNTAET Regulation 1/1999 refers to these international human rights instruments.

10. Children's rights (a range of rights, including entitlement to "special care")
11. Social and economic rights
12. Reproductive rights (right to found a family and to decide freely on the number and spacing of children).

17. In determining whether particular acts constituted human rights violations, and whether individuals or institutions were responsible and/or accountable for such violations the Commission has used definitions of the relevant violations, which are drawn from international law. Annexe A (Relevant legal principles) at the end of this part sets out the definitions in detail.

18. The Annexe includes definitions of the human rights standards listed above, and a brief summary of the relevant provisions of international humanitarian law, international criminal law, and Portuguese and Indonesian law.

Inquiry-related powers

19. The Regulation provided the Commission with substantial powers to make inquiries. These included the power to:

- Order individuals to attend hearings and answer questions,
- Order the production of specified documents or objects relevant to inquiries,
- Request an Investigating Judge of the District court to issue a search warrant which would enable police to search particular premises,
- Request information from government authorities both within and outside Timor-Leste,
- Gather information and hold meetings in other countries,
- Hold public and private hearings and protect the identity of certain witnesses in these hearings.[23]

20. The Regulation created criminal offences of knowingly misleading the Commission, failing to comply with an order of the Commission without reasonable excuse, hindering the Commission in its activities, attempting to influence the Commission improperly, threatening or intimidating witnesses, and disclosing confidential information.[24]

Liability of Commissioners and staff

21. In accordance with principles that generally apply to similar commissions, those working on behalf of the Commission, including the Commissioners, were granted immunity from legal liability "in respect of any finding, point of view or recommendation made in good faith in the course of the Commission's work or reflected in the Commission's final report."[25]

Confidential information provided to the Commission

22. Information could be provided on a confidential basis if considered necessary. The Commission could not be compelled to release information to anybody or individual, including government officials, with the sole exception of specific requests made by the Office of the General Prosecutor (OGP).[27]

23. The right of the OGP to access all information provided to the Commission meant that no guarantee could be given to potential witnesses that their evidence and confessions would not be used against them in future legal proceedings.

24. This provision may have prevented the Commission from gaining some important information that would have assisted its truth-seeking function. However the Commission also recognises that it was established as an institution whose work was in some respects to complement the Serious Crimes process. The provisions of the Regulation reflect a policy decision that the work of the prosecution service should not be compromised by the truth-seeking function of the Commission. This policy is based on recognition of the importance of establishing strong and clear mechanisms to achieve justice and promote respect for the rule of law in the context of a fragile new nation with a history dominated by injustice. The Commission is satisfied that, notwithstanding this limitation, the robust powers it was granted were sufficient to enable it to compile a Report that contains a strong, objective and comprehensive account of the violations that occurred during the period of the political conflicts.

25. In seeking to achieve its objectives the Commission was given the duty to inquire into "which persons, authorities, institutions and organisations were involved in human rights violations," whether violations were part of systematic patterns of abuse, issues of accountability arising from the violations, and to prepare a "comprehensive report which sets out its activities and findings, based on factual and objective information and evidence collected or received by it or placed at its disposal."[28]

26. The combined effect of these provisions was to establish a duty upon the Commission to publish findings in relation to the identity of persons, authorities and institutions which had been involved in human rights violations, where there was sufficient factual and objective information to support them.

27. The Commission adopted the "civil" standard of "on the balance of probabilities" to determine whether the available evidence was sufficient to establish that human rights violations had occurred, and whether particular individuals or institutions were responsible and accountable. This standard, which has also been adopted by a number of other similar commissions, requires a determination that it is more probable than not that the allegations under consideration are true.

The use of specific names in the Report

28. The CAVR was designed as part of a larger programme aimed to satisfy the needs of both justice in relation to past crimes and reconciliation in Timor-Leste. It was a created as a complementary mechanism to the United Nations

sponsored "Serious Crimes" process. Prior to the formation of the Commission, the Serious Crimes Investigations Unit and the Special Panels of the Dili District Court were established, in accordance with UN Security Council Resolution 1272,[*] with a mandate to investigate and prosecute those responsible for serious crimes committed between 1 January and 25 October, 1999.[†] Because of the principle of universal jurisdiction (not limited by time or place) the Serious Crimes Unit was also given the authority to investigate and prosecute those responsible for crimes against humanity, war crimes and genocide throughout the entire period of the Commission's mandate, from April 1974 to October 1999.[‡]

29. The Commission was therefore created in a strikingly different environment to a number of other "truth and reconciliation commissions" whose mandates recognised the importance of preparing as fully as possible, individual cases, in order to facilitate prosecutions in situations where the will and ability to try those most responsible was lacking. This was not a major issue within Timor-Leste when the Commission was established, because the investigation and prosecution of those most responsible who were inside Timor-Leste was clearly the responsibility of a section of the UNTAET mission, which was provided with significant funding and staffed by international investigators and prosecutors. The United Nations Commission of Inquiry into the violations committed in Timor-Leste had also recommended the establishment of an international tribunal,[29] and the Indonesian government established the ad hoc tribunal in Jakarta to try those within its jurisdiction who were most responsible.

30. Rather than duplicate the process of the Serious Crimes Investigations Unit, the mandate of the Commission provided it with a duty to focus on the broader patterns of violations which had taken place during the relevant twenty five year period.

31. The mandate specifically included the duty to report on the context, background and historical factors which had led to the violations and whether they were committed as part of a systematic pattern of abuse.[30]

32. The relevant period included a significant political conflict involving East Timorese factions, a full-scale military invasion, almost twenty-five years of large-scale violations during the military occupation and the explosion into uncontrolled violence and destruction in 1999. It would not have been possible for the Commission to fulfil its mandate of reporting on the patterns of violations over the entire period and whether they were part of a systematic programme of abuse if it had also attempted to conduct comprehensive investigations into a limited number of major incidents, focusing on the liability of particular individuals. The mandate recognised the importance of seeking and reporting on patterns which were evident

* Security Council Resolution 1272 (1999) established UNTAET on 25 October 1999, granting a mandate to "exercise all legislative and executive authority, including the administration of justice".

† UNTAET Regulation 16/2000 provided that Panels of judges sitting on 'Serious Crimes' cases, and on the Appeal Court, would be made up of two internationals and one East Timorese judge

‡ Universal jurisdiction is explicitly granted by UNTAET Regulation 15/2000 Section 2.

across many thousands of serious violations, providing an explanation of how and why these violations occurred, who was responsible for them, and what can be done to ensure that they are not repeated.[31]

33. Accordingly, the major focus of the work of the Commission's inquiries has been on establishing which states and institutions were involved in systematic patterns of violations. The Commission has focused on a goal of understanding and reporting on the totality of what occurred, as far as this could be achieved within the time and resource limits of the Commission's work.

34. The statements and interviews provided to the Commission included the names of thousands of individuals identified as perpetrators of violations. In making a decision whether to include these names in its Final Report the Commission discussed at length, over many months, the competing factors involved in the decision. Although there were many complex discussions held, they focused on a number of key issues, including the following:

- There has been only a limited degree of justice achieved in relation to the mass violations committed in Timor-Leste. The public shaming of individuals could make a contribution in this regard.
- Individuals who have committed serious violations should be named, as a contribution to the fight against impunity. This is particularly important where the perpetrator is in a position to commit further violations against future victims.
- The Commission does not have the authority to affect the freedom of individuals as does a court with criminal jurisdiction, or the authority to provide a remedy which affects their assets, as does a court with civil jurisdiction. However, the public naming of an individual as a perpetrator of a serious human rights violation has the potential to destroy their reputation, career and family life. It may also have serious consequences on the lives of spouses and children of those named. Naming must therefore be based on strong, reliable evidence which leaves relatively little room for error.
- It is a fundamental right of all persons accused of serious allegations that they be given an opportunity to respond to those allegations. This opportunity will fulfil the requirement of natural justice and ensure that the accuser's explanation in relation to the accusation is considered before a decision on his liability is reached. For example the accused may be able to explain that he was not in the same region at the time the violation was committed, that his accuser was motivated by personal reasons, and so on.
- The context of the Commission's work involved the challenge of investigating thousands of violations committed by citizens of a neighbouring country, Indonesia, in particular members of that country's military forces. The need to find and contact Indonesian military officers in order to provide them with an opportunity to respond to allegations, particularly when the allegations relate to events which took place up to 25 years ago presented a major logistical challenge for the Commission.

- Contacting alleged perpetrators inside Timor-Leste was also extremely problematic. Timor-Leste does not have a functioning postal system throughout the territory, nor landline telephones. Transport to many areas is impossible in the wet season and difficult in the dry. All public records were destroyed during the violence of 1999. There are therefore no records which could assist in identifying where alleged perpetrators might live, or even might have lived at the time of the alleged violation.
- In Timor-Leste there is an extraordinary amount of common naming. Thus, for example, there are thousands of individuals who share common names such as João, Tomás, José and surnames, such as Guterres and Alves. The potential for misidentification of an alleged perpetrator based only on the name is therefore extremely high. This was greatly increased again because in many cases the perpetrator was only known and identified by a single first name (for example, João, Tomás or Jacinto.)
- The fact that victims usually did not personally know the names of Indonesian military officers who committed violations, but more often did know the identity of East Timorese who were involved, resulted in a much greater percentage of East Timorese perpetrators being named, even though the witnesses reported many more violations committed by members of the Indonesian security forces. Witnesses were often able to identify the command level of the perpetrator, the battalion or unit to which they belonged but did not know their individual names.
- The unfortunate fact that at the fragile transitional stage of governance currently experienced by Timor-Leste it is unrealistic to believe that the safety of witnesses who have identified perpetrators can be guaranteed. In fact the Commission has experienced one situation in which a victim who named perpetrators in a public hearing held at the sub-district level suffered threats and violent attacks from the alleged perpetrator and his family, which resulted in the wounding of the victim's husband and their forced evacuation from their home. The potential that naming perpetrators would produce significant problems for victims could not simply be ignored in the East Timorese context.
- The mandate of the Commission specifically includes the power to provide names to the Prosecutor General of Timor-Leste, with a recommendation for prosecution where appropriate.[32]

35. In reaching its decision on which names are included in this Report the Commission has sought to balance all of these competing factors. The decision is based on a strong belief in the importance of naming those perpetrators who are most responsible, balanced against the fundamental requirement that the Commission, as an organisation mandated to recommend ways to ensure further human rights violations are not committed, should not in any way be involved itself in the violation of individual's fundamental rights.

36. In Vol. IV, Part 8 of this Report, Responsibility and Accountability, the Commission provides the following:

1. Findings in relation to the responsibility and accountability of the major institutions involved in human rights violations within the boundaries of the mandate – the Indonesian security forces, and the Fretilin and UDT and Apodeti political parties, as well as those States which the Commission finds most seriously violated their obligations to recognise and assist the rights of the East Timorese people to determine their own political, social and economic reality.
2. The names of those it considers to be most responsible for the most serious patterns of violations committed during the period of the mandate. These individuals were senior commanders in the Indonesian security forces and senior officials in the Indonesian government during the period of mass violations.
3. An analysis of the responsibility of various "micro-institutions" most often identified as affiliated with perpetrators of human rights violations. This includes the offices of government officials most often identified as perpetrators, particular battalions and auxiliary groups of the Indonesian security forces. Following a brief summary of the patterns of violations reported to CAVR a list of those persons who served in senior positions in these "micro-institutions" during the relevant periods has been provided.
4. A list of all those persons whom the Prosecutor General of Timor-Leste has indicted for crimes against humanity in relation to the mass violations committed during 1999. The list also identifies whether an indictee has already been tried and convicted by the Special Panels. It also identifies those suspects those who are believed to be outside Timor-Leste, within the jurisdiction of the Indonesian authorities. The Commission hopes the list will help to redress the problem of a lack of available information on the progress of legal proceedings which was a common complaint received from community members during the field operations of the Commission.

37. The Commission has also compiled a list of individual perpetrators who were identified by witnesses and victims as being involved in multiple serious human rights violations. As the Commission did not have sufficient time and resources to complete in-depth investigations into each of these matters, nor to provide notice to each of the individuals concerned, it has not included the list in this Report. However, it has, in accordance with its powers under Section 3(1)(e) of Regulation 10/2001,* provided the entire list to the Prosecutor General of Timor-Leste, with a recommendation that each individual named should be further investigated and, if warranted, prosecuted. The list has also been forwarded to the Office of the President of the Republic with a recommendation that all of those persons named should be prohibited from holding public office.

* Regulation 10/2001 Section 3.1: "The objectives of the *Commission* shall include:…(e) the referral of *human rights violations* to the *Office of the General Prosecutor* with recommendations for the prosecution of offences where appropriate."

38. The thousands of names of perpetrators which were identified to the Commission by victims and witnesses have been replaced in the text of the Report by a code which does not bear any relationship to the identified name of the perpetrator.

39. The Commission's decision to provide the list to the Prosecutor General and President and to replace names in the text is based on the existence of a well-funded and relatively effective system of prosecution of individuals in Timor-Leste, the impossibility of contacting each of the persons identified in order to provide their right of reply, the very common duplication of names in Timor-Leste and the potential this provides for erroneous identification of individuals, the inability of the Commission to guarantee the safety of victims who identified perpetrators, and the fact that because of the scale of its inquiries and the long period of its mandate the Commission was not able to conduct in-depth investigations into each case. In addition, for protection of the victims the Commission has not included the names of victims of sexual violations which were reported to the Commission.

Standards used in determining issues of responsibility and accountability

40. Although it is clearly not a court and is not competent to make findings at law, the Commission is required to make findings on responsibility and accountability for human rights violations. In fulfilling these duties the Commission accepts that there are many levels of responsibility relevant to the violations that were committed. These include political, historical, moral and legal responsibility.

41. In relation to its obligation to make findings on issues of accountability, the Commission has, as far as possible, assessed the conduct of individuals, states and institutions against rules of domestic and international law that were in existence and binding at the time of the conduct in question.

The Indonesian invasion of Timor-Leste

42. As already noted, the mandate of the Commission imposed on it a specific duty to examine the events and experiences of all parties around the time that Indonesia security forces entered Timor-Leste on 7 December 1975. The use of force to enter into another state's territory is governed by the obligations and duties of member states of the United Nations and the fundamental rules of international law.

43. Indonesia became a member of the United Nations on 28 September 1950.*
Portugal became a member state on 14 December 1955. All member states of the United Nations are bound by the UN Charter and the following obligations:

* Indonesia purported to withdraw its membership of the UN on 20 January 1965 but rejoined in September 1966.

1. They must comply with decisions of the UN Security Council.
   Under the UN Charter all member states agree to accept and carry out decisions of the Security Council.[33] On two occasions the Security Council adopted resolutions calling on Indonesia to withdraw its forces from the territory of Timor-Leste.[34]
2. They must not use force against any other state.
   The prohibition on the use of force is the most fundamental rule of the UN Charter.[35] It is also one of the most important rules of customary international law.[36] Force may only be used in self-defence or where authorised by the Security Council.[37] Using force to intervene in a civil war that is occurring in another state's territory is also prohibited, even if it is said to be at the invitation of one of the armed groups involved in the conflict.[38]

44. The United Nations Charter also imposes obligations on states that administer non-self-governing territories.[39] Under the UN system Portugal was the state responsible for the administration of the territory of Timor-Leste. Administering states have obligations to promote the well-being of the inhabitants of the non-self-governing territories they administer, including by ensuring their just treatment and their protection against abuses.[40]

Justice of war and justice in war

45. The mandate of the Commission spans a number of different periods of political conflict. It includes the low-level violence leading to the full-scale conflict known as "the civil war" between East Timorese factions, which was followed soon after by the Indonesian invasion and occupation of the territory, the resistance to this occupation, and the widespread destruction and violence surrounding the Popular Consultation in 1999. The Annexe at the end of this part sets out in detail the legal principles, in particular those drawn from international humanitarian law, which the Commission used in its consideration of violations committed during each of these periods.

46. The material before the Commission includes the claim made by various parties to the conflict that they were justified in deciding to wage war. This argument relies on a mistaken belief that if a party has a justified reason for waging war, it may use any means necessary to fight that war.

47. A related argument, which is also not supported by international law, is that because the invasion and subsequent occupation were illegal, all subsequent actions of the Indonesian government and its agents in the territory were also illegal, and that human rights violations committed while resisting this illegal situation were justified.

48. The principles of international humanitarian law have guided the Commission in its examination of these issues.* According to this body of law even those who are fighting a just war may only use just means to achieve their aims. The same

* Annexe A to this part has a more thorough analysis of international humanitarian law.

set of rules on how war may be waged applies equally to all parties to a conflict. Combatants who decide to take up arms to wage war become legitimate targets in that war. All non-combatants, including civilians and prisoners of war, are entitled to be protected. Although combatants from all sides may, for example, be killed legitimately in combat, they may not be killed if they are no longer taking an active part in the conflict, and may never be tortured or treated in an inhuman manner.*

49. Although a large, well-armed and professional force, fighting to extend its territorial boundaries illegally cannot be seen to hold the same degree of moral legitimacy as those forced to take up arms to defend their homes and families from invaders, the rules governing conduct during hostilities apply equally to both. The political goal, no matter how just, does not justify the means. The methods of warfare employed by all parties who have taken up arms in a conflict must comply with the provisions of international humanitarian law. The Commission has applied the relevant standards objectively and equally to all parties in determining whether human rights violations were committed, and in making findings on issues of responsibility and accountability.

Community Reconciliation Procedures

50. Part IV of the Regulation provided the Commission with a mandate to implement Community Reconciliation Procedures (CRPs). Part 9 of this Report details the Commission's CRP programme.

51. The broad objective of the CRPs was:

> "to assist the reception and reintegration of persons into their communities…in relation to criminal or non-criminal acts committed within the context of the political conflicts in Timor-Leste between 25 April 1974 and 25 October 1999."[41]

52. The Regulation set out in broad terms the procedures for CRPs, but it also allowed for some flexibility according to local conditions. The basic procedure was as follows:

53. Any person who has committed a "less serious" act or crime that harmed their community and was related to the political conflict could provide the Commission with a statement which set out the details of their actions.[42] The statement was then considered by a Committee within the Commission before being forwarded to the Office of the General Prosecutor (OGP) with an accompanying recommendation as to whether it was a suitable matter to be dealt with by CRP. Within two weeks the OGP had to provide written notification of whether it intended to exercise its exclusive jurisdiction over "serious criminal offences" in relation to the matter. If the OGP decided not to exercise jurisdiction, the case would be returned to the Commission to be processed.[43]

* Annexe A explains the rules governing conduct in armed conflicts.

54. Authority over the case was then delegated to a Regional Commissioner, who had to form a panel of between three to five local leaders from the community in which the relevant acts took place. The Regional Commissioner acted as chair of the panel. A hearing was arranged at which the deponent gave evidence and was questioned by the panel. Victims and community members were given an opportunity to speak at the hearing.[44]

55. At the completion of the hearing the panel deliberated and decided on "acts of reconciliation", such as community service, public apology or reparations, which the panel deemed appropriate for the deponent to complete in order to be accepted back into the community.[45] If the deponent agreed to undertake these acts, the panel would draft a Community Reconciliation Agreement that was signed by the Deponent and the Panel.[46] The agreement was then registered as an order of the appropriate District Court.[47] On completion of the required "Acts of Reconciliation" the deponent received immunity from future criminal prosecution or civil liability arising from the actions disclosed.[48]

56. The Regulation provided examples of cases which could appropriately be dealt with by CRP, among them theft, minor assault, arson and the killing of livestock or destruction of crops.[49] Authority to conduct Community Reconciliation Procedures did not extend to any action which would affect the exclusive authority of the Office of the General Prosecutor and the Special Panels of the Dili District Court over the "serious criminal offences" of murder, sexual offences, torture, crimes against humanity, genocide and war crimes.[50]

The community-based approach of the Commission

57. Most other truth commissions have been mandated to focus primarily on the task of establishing and reporting the truth in relation to human rights violations. A notable exception was the South African Truth and Reconciliation Commission, whose programme included amnesty hearings. In addition to the collection, evaluation and reporting of information, a number of more recent commissions have also held public hearings on themes relevant to their work.

58. In addition to seeking and reporting on historical violations and holding major thematic public hearings, the Commission also implemented a range of grassroots, community-based programmes whose objectives were reconciliation, restoration of the dignity of victims and the promotion of human rights.

59. These programmes included Community Reconciliation Procedures (CRPs), local public hearings for victims, participatory workshops on the history of human rights violations in communities, victims' healing workshops, a special reparations scheme for victims with urgent needs, radio programmes focusing on local reconciliation issues, and information programmes aimed at East Timorese people in West Timor, Indonesia.

60. The Commission attributes much of the widespread support and recognition it has received from the population of Timor-Leste to the community-based approach it followed in implementing its mandate. Formulating, organising and completing such a range of programmes were extremely demanding of staff and resources. However, it provided incalculable benefits by encouraging small communities across the territory to enter into partnerships with the Commission in the quest for local solutions to the challenge of reconciliation and of healing the wounds caused by historical violations.

Annexe A: relevant legal principles

Introduction – international law relevant to the mandate

61. Two types of law need to be considered in establishing the meaning of "human rights violations", according to the definition in the mandate. One is the domestic law that was applied in Timor-Leste at a particular time, whether Portuguese or Indonesian. The other is international law, which contains principles relating to human rights and the conduct of armed conflicts.

62. The two main sources of international law are treaties and "customary law".[*] Treaties bind only those states that are parties to them.

63. Customary international law is a more general body of law, made up of rules that have been accepted and practiced by a significant portion of the international community. Rules of customary international law are generally binding on all states.[†]

64. Resolutions of UN bodies are also relevant to international law. Members of the UN (including Indonesia and Portugal) are bound to accept and carry out decisions of the Security Council.[51] Although resolutions of the UN General Assembly are not binding on states, they are relevant to the creation of customary international law,[52] and they represent the views of the UN community, of which Indonesia is a member.

65. In considering which parts of international law are relevant to its mandate, the Commission has sometimes needed to consider the status of the territory of Timor-Leste during the mandate period. For this purpose, the Commission has adopted the view maintained by the United Nations[53] that Timor-Leste remained a non-self-governing territory under the administration of Portugal throughout that period. It is clear that Indonesia did not acquire sovereignty over the territory. Under international law territory cannot be acquired by the unlawful use of force.[54] The purported integration by Indonesia did not meet any of the requirements laid

* See Article 38(1) Statute of the International Court of Justice. Other sources include general principles that are recognised in the legal systems of many nations, the writings of respected legal writers, and the decisions of international tribunals.

† The only exception is where a state persistently objects to a non-fundamental customary rule: *Fisheries Case (United Kingdom v Norway)* (1951) ICJ Reports 116 at p131.

down by the General Assembly for the voluntary integration of a non-self-governing territory into another state.*

International human rights standards

66. The Commission is mandated to consider violations of "international human rights standards".[55] These are defined as "the internationally recognised human rights standards outlined under Section 2 of UNTAET Regulation No. 1/1999".[56] That section refers to "internationally recognised human rights standards", as reflected, in particular, in:

- The Universal Declaration of Human Rights of 10 December 1948;
- The International Covenant on Civil and Political Rights of 16 December 1996 and its Protocols;
- The International Covenant on Economic, Social and Cultural Rights of 16 December 1966;
- The Convention on the Elimination of All Forms of Racial Discrimination of 12 December 1965;
- The Convention on the Elimination of All Forms of Discrimination against Women of 17 December 1979;
- The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment of 17 December 1984;
- The International Convention on the Rights of the Child of 20 November 1989.

67. UNTAET Regulation 1/1999 refers to internationally recognised standards "as reflected in particular in" the above international instruments. As this reference is inclusive of, but not limited to, these instruments, the Commission's mandate includes other "internationally recognised standards" in international instruments that are not included in the above list.

68. During the mandate period Indonesia had ratified the following instruments:

- The Convention on the Elimination of All Forms of Discrimination against Women (on 13 September 1984)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (on 28 October 1998)
- The Convention on the Rights of the Child (on 5 September 1990) (However, the ratification of this treaty was qualified by a reservation to the effect that

* General Assembly Resolution 1541 (XV), 15 December 1960 recognises that this can happen when: 1) the integrating territory has attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes; and 2) the integration is the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage.

it would apply to Indonesia only to the extent consistent with the Indonesian Constitution and that it would not grant rights not granted under the Constitution).

69. During the mandate period Portugal had ratified or acceded to the following instruments:

- International Covenant on Civil and Political Rights (on 15 June 1978)
- Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at the abolition of the death penalty (on 17 October 1990)
- International Covenant on Economic, Social and Cultural Rights (on 31 July 1978)
- International Convention on the Elimination of all forms of Racial Discrimination (on 24 August 1982)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (on 9 February 1989)
- Convention on the Elimination of All forms of Discrimination against Women (on 30 July 1980)
- Convention on the Rights of the Child (on 21 September 1990).

70. It is important to note also that international human rights standards continue to be relevant even during an armed conflict. These standards run concurrently with international humanitarian law.[57] In addition, a state's human rights responsibilities apply to its conduct outside its own territory, including in any foreign territories it occupies.[58]

The right to self-determination

71. It is beyond doubt that a right of peoples to self-determination exists in international law. The right is guaranteed by Article 1 common to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and has been reaffirmed by the UN General Assembly.[59] It has been recognised repeatedly by the International Court of Justice as existing under customary law.[*] The obligation of states to respect this right is of such importance that it is said to be owed to the international community as a whole, or to all states (it is owed *erga omnes*).[60] The Human Rights Committee has said that:

* See, most recently, *Advisory Opinion on the legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004) ICJ where 14 of 15 judges referred to the right to self-determination: see judgment of the court at paragraphs 88 and 155-156; separate opinion of Judge Koroma at paragraph 5; separate opinion of Judge Higgins at paragraphs 18 and 28-31; separate opinion of Judge Kooijmans at paragraphs 6 and 31-33; separate opinion of Judge Al-Khasawneh at paragraph 9; separate opinion of Judge Buergenthal at paragraph 4; and the separate opinion of Judge Elaraby at paragraph 3.4; also in *Case Concerning East Timor (Portugal v Australia)* (1995) ICJ Reports 90 at 102, paragraph 29; and *Advisory Opinion of 16 October 1975 ("Western Sahara")* (1975) ICJ Reports 12 at paragraphs 55-59; see also *Advisory Opinion on the Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)* (1971) I.C.J. Reports 16, at paragraphs 52-53.

> The right of self-determination is of particular importance because its realisation is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights.[61]

72. The right is said to be held by "all peoples". It applies not only to the inhabitants of non-self-governing territories (that is, peoples under colonial rule) but also to those living under alien occupation.[62] The East Timorese are, and were throughout the mandate period, a people with a right to self-determination. Between December 1975 and 1982 the General Assembly passed eight resolutions,[63] and the Security Council a further two,[64] recognising the right of the East Timorese people to self-determination.

73. The essence of the right is the entitlement of a people to freely express its will. This involves, at a minimum, two central entitlements as set out in Article 1 common to the ICCPR and ICESCR. These are:

1. the right of a people to participate freely in a process whereby it is possible freely to determine its political status; and
2. the right of a people to partake in the pursuit of economic, social and cultural development and deal with its own natural wealth and resources.

74. Common Article 1(2) of the ICCPR and ICESCR provides:

> All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

75. States are required to respect and promote the right of peoples to self-determination[65] and to take positive action to facilitate its realisation.[66] The Human Rights Committee has said:

> [I]n particular, States must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination.[67]

76. Although there may be difficulties in some cases in determining whether a specific act impeding self-determination breaches that obligation,[68] there is no doubt that a breach occurs in the case of a military invasion and occupation. That position has been made clear by the International Court of Justice, which, citing a General Assembly resolution, observed that:

> Every State has the duty to refrain from any forcible action which deprives people...of their right to self-determination.[69]

77. Where a denial of the right to self-determination occurs, all other states in the international community are obliged to recognise the illegality of that situation (or obliged not to recognise it as lawful) and must not take any action that aids or assists in its maintenance.[70]

Unlawful killings

78. The right to life is protected under Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6 of the International Covenant on Civil and Political Rights (ICCPR). It is binding on all states as a rule of customary international law.[71] Even where an emergency threatens the life of a nation, obligations in respect of the right to life may not be limited in any way ("derogated from").[72]

79. Article 6(1) of the ICCPR provides that:

> Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

80. State authorities are permitted to take a life only in states where the death penalty is in force, where it has been imposed after a fair trial by a competent court according to law,[73] and where it is carried out in such a way as to minimise physical and mental suffering.[*]

81. Extrajudicial killings are a clear breach of the right to life. The Human Rights Committee, which oversees the implementation of the ICCPR, has commented:

> The protection against arbitrary deprivation of life which is explicitly required by the third sentence of Article 6 (1) is of paramount importance. The Committee considers that State parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.[74]

82. One circumstance in which a death will not violate the right to life is where it occurs in an armed conflict and in accordance with international humanitarian law. However this exception extends only to the killing of combatants and incidental deaths of civilians that result from proportionate and necessary military action. The intentional killing of civilians or prisoners remains a violation of international law. Furthermore, the Human Rights Committee has indicated in the context of the right to life that states have a "supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life."[75]

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* Death sentences may otherwise infringe the prohibition on torture and cruel, inhuman or degrading treatment or punishment: see for example Human Rights Committee, General Comment 20, para 61; *Ng v Canada* (1994) HRC Comm No. 469/1991, at para 16.2.

Disappearances

83. Causing the disappearance of individuals is a violation of a number of basic human rights. The Human Rights Committee has stated that states are required to take specific and effective measures to prevent the disappearance of individuals and should establish procedures to investigate cases of disappeared persons.[76] It has said that:

> Any act of such disappearance constitutes a violation of many of the rights enshrined in the Covenant, including the right to liberty and security of person (Article 9), the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 7), and the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person (Article 10). It also violates or constitutes a grave threat to the right to life (Article 6).[77]

84. Other rights, such as the right to recognition as a person before the law (Article 16 ICCPR), may also be violated.[78] In addition to violating the human rights of the victim, disappearances may cause mental anguish in the victim's relatives sufficient to amount to a violation of the prohibition on torture and cruel, inhuman or degrading treatment or punishment.[79] From the perspective of surviving relatives, a disappearance also constitutes a violation of the right to a family life, and where a family was dependent economically on a disappeared person may also violate various economic and social rights such as the right to an adequate standard of living (Article 11 ICESCR) and the right to education (Article 13 ICESCR).[80]

Displacement, resettlement and famine

85. Under the UDHR and ICCPR all persons have the right to liberty of movement and freedom to choose his or her residence.[81] Restrictions on these rights are only permitted when it is necessary in a democratic country to protect national security, public order, public health or morals, or the rights of others, and any restrictions must be provided by law and not be inconsistent with other human rights.[82]

86. Everyone has the right to adequate food[83] and to be free from hunger.[84] This right means that there should be food available of sufficient quality and quantity to satisfy the dietary needs of individuals.[85] States are obliged not only to take steps to achieve the full realisation of this right,[86] but also to ensure that everyone under its control has access to the minimum essential food to ensure their freedom from hunger.[87] States may violate this obligation either directly or indirectly, for example by pursuing policies that are manifestly incompatible with the right of people to food.[88]

87. All persons also have a right to water[89] and to adequate housing.[90] Most importantly, all persons have a right to life.[91] The Human Rights Committee has

indicated that this right should not be interpreted narrowly, and that it involves an obligation on states to take measures, for example, to reduce malnutrition.[92]

88. In addition to these principles of human rights law, international humanitarian law also includes important provisions relating to displacement and famine (see below).

Arbitrary detention

89. The right to liberty of person is protected under Article 3 of the UDHR and Article 9(1) of the ICCPR. That right is intended to ensure that a person's physical liberty is not restricted arbitrarily.[93] Article 9 of the UDHR and Article 9 of the ICCPR, more specifically, prohibit arbitrary arrest and detention. That prohibition is also contained in customary international law,[94] and is therefore binding on all states.

90. Article 9 of the ICCPR contains the following specific rights which apply to all deprivations of liberty:

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that a court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

91. Detention will be arbitrary, and therefore in breach of human rights standard in a number of circumstances. The clearest case is where the detention is not in conformity with national law. In addition, the UN Working Group on Arbitrary Detention has indicated that detention which violates other human rights standards is also arbitrary. It treats a detention as arbitrary:

1. Where there is no legal basis justifying the detention
2. Where the detention arises from the legitimate exercise of fundamental rights (for example, freedom of expression or opinion)

3. When the situation involves human rights violations of such severity that the detention may be regarded as arbitrary (for example, where due process or a fair trial is lacking).[95]

92. More generally still, the Human Rights Committee has indicated that an otherwise lawful detention may still be arbitrary and in breach of Article 9 of the ICCPR if it is not reasonable or necessary in all the circumstances.[96] Detention might also become arbitrary, if it continues past the point at which it is reasonable or necessary in the circumstances.[97]

93. In cases where a person is arrested or detained on a criminal charge that person must be brought promptly (within a few days)[98] before a judge, and must either be tried within a reasonable time or released.[99]

94. Pre-trial detention should be an exception and as short as possible.[100] Importantly, the Human Rights Committee also stressed that:

> [I]f so-called preventive detention is used, for reasons of public security, it must be controlled by these same provisions, i.e. it must not be arbitrary, and must be based on grounds and procedures established by law (Para 1), information of the reasons must be given (Para 2) and court control of the detention must be available (Para 4) as well as compensation in the case of a breach (Para 5). And if, in addition, criminal charges are brought in such cases, the full protection of Article 9 (2) and (3), as well as Article 14 [which covers the right to a fair trial], must also be granted.[101]

Conditions of imprisonment

95. Article 10(1) of the ICCPR provides that:

> All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.[102]

96. The Human Rights Committee has said that this provision reflects "a norm of general international law"[103] and that it is "not subject to derogation".[104] It has interpreted the provision as meaning, among other things, that persons in detention must not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty and must be allowed to enjoy all human rights subject to the restrictions that are unavoidable in a closed environment.[105]

97. Where treatment in detention fails to meet minimum standards, it may also amount to cruel, inhuman or degrading treatment or punishment.[*] In particular, prolonged periods of solitary confinement or incommunicado detention may violate these standards.[106] The Human Rights Committed has also observed that:

* In violation of Article 5 UDHR; Article 7 ICCPR, Article 16 CAT.

> [C]ertain minimum standards regarding the conditions of detention must be observed regardless of a State party's level of development. These include, in accordance with Rules 10, 12, 17, 19 and 20 of the U.N. Standard Minimum Rules for the Treatment of Prisoners, minimum floor space and cubic content of air for each prisoner, adequate sanitary facilities, clothing which shall be in no manner degrading or humiliating, provision of a separate bed, and provision of food of nutritional value adequate for health and strength. It should be noted that these are minimum requirements which the Committee considers should always be observed, even if economic or budgetary considerations may make compliance with these obligations difficult.[107]

Torture and other cruel, inhuman or degrading treatment

98. Article 5 of the UDHR and Article 7 of the ICCPR provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Torture is also prohibited under customary international law, which binds all states.[108] The prohibition is so significant that it "enjoys a higher rank in the international hierarchy than treaty law and even 'ordinary' customary rules" (that is, it is a "norm of *jus cogens*") and may not be circumvented ("derogated from") under any circumstances.[109]

99. The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) (ratified by Indonesia on 28 October 1998) sets out a more detailed regime for the prevention and punishment of torture and cruel, inhuman or degrading treatment or punishment, including the following:

- States must take measures to prevent torture in any territory under their jurisdiction;[110]
- States must also prevent cruel, inhuman or degrading treatment or punishment from being carried out with the involvement or acquiescence of officials;[111]
- No circumstances, such as a war or public emergency, are a justification for torture;[112]
- States must make torture an offence under their criminal laws;[113]
- Cases of alleged torture or cruel, inhuman or degrading treatment or punishment must be promptly and impartially investigated;[114]
- States must educate all civil and military law enforcement personnel and public officials about the prohibition on torture, and must systematically review rules and practices relating to the interrogation and custody of prisoners in order to prevent torture and cruel, inhuman and degrading treatment or punishment;[115]
- Statements made as a result of torture must not be used as evidence;[116]

100. The CAT defines torture as occurring where each of the following elements is present:

- An act is committed which, intentionally, inflicts severe pain or suffering
- The act is committed for the purpose of punishment, intimidation, coercion, or of obtaining information or a confession or on any discriminatory basis
- The act is committed by or at the instigation of a public official, or with the consent or acquiescence of a public official.*

101. This definition does not treat an act as torture if it is carried out by a non-governmental actor, such as a member of an opposition party or militia, unless it is done with the consent or acquiescence of the government.[117] However in cases where a country has no functioning government, factions or organisations that in fact exercise government-like functions may be treated as public officials.[118] (This exception may allow the definition to apply to acts committed by Fretilin/Falintil at least in areas and at times where they exercised governmental functions in the absence of other authorities). The CAT definition has been said to reflect customary international law.[119]

102. The definition of torture is similar under other human rights instruments. The Human Rights Committee has said that whether conduct amounts to torture depends on "the nature, purpose and severity of the treatment applied".[120] However, one distinction is that the concept of torture under the ICCPR does not require the involvement or acquiescence of a public official. According to the Human Rights Committee:

> It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.[121]

103. Although no treaty defines cruel, inhuman or degrading treatment or punishment, it is understood to include acts which fall short of torture because they are not carried out for a particular purpose or are not severe enough. It includes, for example, solitary confinement,[122] sleep deprivation,[123] restraining a person in painful positions,[124] keeping a person's head hooded,[125] and subjecting a person to death threats.[126]

* Article 1(1) CAT provides that torture means "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions." The definition is without prejudice to any definition in international instruments or national legislation that is of wider application: Article 1(2) CAT.

104. Under the CAT states are required to take steps to prevent cruel, inhuman or degrading treatment or punishment only where it involves or is acquiesced to by a public official.[127] Obligations under the ICCPR are wider, requiring states to take steps against such treatment even when carried out by non-government groups or private individuals.[128]

Unfair trials

105. Rights to due process and a fair trial under international human rights law are guaranteed by Articles 10 and 11 of the UDHR and Articles 14 and 15 of ICCPR.

106. Some provisions are also relevant to pre-trial procedures. A person who is arrested on a criminal charge must be informed promptly, in a language that he or she understands, of the criminal charges being brought,[129] and must as soon as possible be given access to a lawyer of his or her choosing.* He or she must be brought, within a few days,† before a judge, and must be either tried within a reasonable time or released.[130] Adequate time and facilities must be provided to the accused person for the preparation of his or her defence before the trial.[131] This includes allowing access by the accused person to the documents and other evidence which are needed for the preparation of his or her case, as well as opportunities to communicate with his or her lawyer.[132]

107. The accused person must be tried without undue delay.[133] The trial must be before a "competent, independent and impartial tribunal established by law".‡ The hearing must be fair.[134] According to the Human Rights Committee, "an indispensable aspect of the fair trial principle is the equality of arms between the prosecution and the defence".[135] This means that the defence must be allowed as many resources as the prosecution, and an equal opportunity to present its case. This principle will be violated, for example, where the prosecution detains witnesses without special circumstances justifying such action.[136] Prosecutors should also not be permitted to rely on evidence obtained through torture or cruel, inhuman or degrading treatment.[137]

108. The hearing must be public, except in very special circumstances.[138] The right to a public hearing may be violated even when a hearing is technically "public", if it

* Article 14(3)(b) ICCPR; see e.g. Kelly v Jamaica (1996) HRC Comm No. 537/1993, at para 9.2, where a 5 day delay in receiving access to a lawyer after being taken into custody was held to have breached Article 14(3)(b).

† Human Rights Committee General Comment 8 paragraph 2; See also *Jijon v Ecuador* (1992) HRC Comm. No. 227/88 where a delay of five days in bringing a prisoner before a judge was held to have breached Article 9(3).

‡ Article 14(1) ICCPR; see also *Basic Principles on the Independence of the Judiciary*, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985; see also *Guidelines on the Role of Prosecutors*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

is not in practice accessible to the public.[139] This may extend to situations where the public is effectively scared away from attendance at a hearing.

109. An accused person also has the following specific rights at trial:

- to be presumed innocent until proved guilty according to law;[140]
- to defend him or herself in person or through legal assistance of his or her choosing;[141]
- to examine (him or herself or through a lawyer) the prosecution witnesses and to call witnesses for him or herself;[142]
- to have assistance from an interpreter if he or she cannot understand or speak the language used in the court;[143]
- not to be compelled to testify against him or herself or to confess guilt.[144] The Human Rights Committee has said that compliance with this right involves:

> the absence of any direct or indirect physical or psychological pressure from the investigating authorities on the accused with a view to obtaining a confession of guilt. A *fortiori*, it is unacceptable to treat an accused person in a manner contrary to Article 7 of the Covenant in order to extract a confession.[145]

110. If found guilty, a person has the right to appeal his or her conviction and sentence to a higher court.[146] Written reasons for decisions must be provided within a reasonable time by appeal courts in order to facilitate further appeals.[147]

111. No person may be found guilty of a crime in relation to acts which were not illegal at the time they were committed.[148]

Rights to freedom of opinion, expression, assembly and association

112. In addition to these procedural rights, political trials often violate other human rights. These include, for example:

1. The right to freedom of opinion and expression.[149]
2. The right to peaceful assembly and association.[150]

113. No restrictions on or exceptions to the right to freedom of opinion are permitted.[151] Restrictions on the rights to freedom of expression, peaceful assembly and association are permitted only in narrowly defined circumstances. These are:

- the restriction must be provided by law;
- the restriction must be for a permissible purpose (to uphold the rights of others, or to protect national security, public order, public health or public morals);
- the restriction must be necessary in order to achieve the permissible purpose (and in the case of freedom of assembly and association, the measures are only permissible if they are necessary to achieve the purpose "in a democratic society").[152]

114. A mere assertion that measures are necessary for national security is insufficient unless it is shown why that is the case.[153] These requirements must be strictly complied with. For example the Human Rights Committee has said that:

> [Freedom of expression] is of paramount importance in any democratic society, and any restrictions to the exercise thereof must meet a strict test of justification."[154]

Rape and other forms of sexual assault/harassment

115. Although there is no human rights instrument that refers specifically to rape and sexual assault, these abuses amount to violations of a number of human rights standards. Most significantly, cases of rape or sexual assault will usually amount to torture or cruel, inhuman, or degrading treatment.[155] The ICTY Appeals Chamber has stated that:

> Sexual violence necessarily gives rise to severe pain or suffering, whether physical or mental, and in this way justifies its characterisation as an act of torture.[156]

116. In all cases rape violates the right to physical integrity, which is protected under customary international law.[157]

117. In addition, rape and sexual assaults violate the right to privacy.[158] When carried out against women, they violate the rights of women to be free from and protected against gender-based discrimination,[159] of which sexual crimes against women are one form. The Human Rights Committee has said that "women are particularly vulnerable in times of internal or international armed conflicts" and that states should take steps "to protect women from rape, abduction and other forms of gender-based violence".[160]

118. Many of these rights are protected under the Convention on the Elimination of all forms of Discrimination against Women, which Indonesia became a party too on 13 September 1984.

Sexual slavery

119. Incidents of sexual slavery are repetitive violations of all of the rights discussed above.

120. The UDHR and ICCPR both prohibit all forms of slavery,[161] reflecting a fundamental rule of customary international law.[162] The Human Rights Committee has discussed questions of sexual slavery in the context of that prohibition.[163] In the context of international humanitarian law, the crime against humanity of enslavement has been said to consist of the exercise of any or all of the powers attaching to the right

of ownership over a person,[164] and this can include cases where women are detained for long periods of time and repeatedly sexually assaulted.[*]

121. In addition, under the Convention on the Elimination of All Forms of Discrimination against Women, states are obliged to take measures to suppress all forms of traffic in women.[165]

Children's rights

122. As well as being protected by general human rights standards such as those relating to the rights to life, food, freedom from torture and arbitrary detention, and social and economic rights, children are protected by specific additional rules of international human rights law which reflect the requirement in Article 25 of the UDHR that childhood is "entitled to special care".[166] Most of these are contained in the Convention on the Rights of the Child (CRC), although some are also found in other international instruments. Indonesia ratified the CRC on 5 September 1990.[†]

123. An overarching obligation is to treat the best interests of the child as a primary consideration when taking any action concerning children.[167]

124. The CRC provides that children are entitled to many of the rights granted more generally under other instruments, including the right to life,[168] the right to be free from torture,[169] the right to be free from arbitrary detention,[170] and the right to enjoy the highest attainable standard of health and to have access to medical facilities.[171]

125. More specifically, the CRC requires states to protect children from all forms of physical or mental harm,[172] all forms of sexual exploitation and abuse,[173] and all other forms of exploitation.[174] It also provides that children have a right to a standard of living adequate for their physical, mental, spiritual and social development.[175] Capital punishment may not be imposed for offences committed by a person under the age of 18.[176]

126. In respect of the recruitment of children into military or paramilitary organisations the following standards are relevant:

- States must refrain from recruiting children under the age of 15 into their armed forces, and must take measures to prevent children under the age of 15 from directly participating in hostilities.[177]
- If recruiting children between the ages of 15 and 18 into their armed forces, states must give priority to older children.[178]

* In *Prosecutor v Kunarac* women were detained and were repeatedly raped and sexually assaulted and were forced to carry out work around the accused's home. This was held to constitute the crime against humanity of enslavement.

† Indonesia entered a reservation in respect of the CRC that it would implement the Convention in conformity with its Constitution and did not accept obligations going beyond those imposed by its Constitution.

- Children have a right to protection from economic exploitation and from performing work that is likely to be harmful or dangerous to the child.[179]

127. A number of further standards contained in the CRC are specifically relevant to the transfer of East Timorese children to Indonesia. For example:

- A child must not be separated from his or her parents against his or her will except where proper procedures establish that it is in the best interests of the child.[180]
- States are required to combat the illicit transfer of children abroad, and the abduction, sale or traffic of children.[181]
- States must regulate adoption processes and ensure that adoption is undertaken by competent authorities according to the law.[182]
- Where a child is separated from his or her family the state must provide special protection, the nature of which shall be determined with due regard to the desirability of continuity in a child's upbringing, and the child's ethnic, religious, cultural and linguistic background.[183]
- A child has the right to preserve his or her identity, including nationality, name and family relations.[184]

Social and economic rights

128. Economic, social and cultural rights are set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Some are also contained in the UDHR.

129. The most relevant of these to the Commission's mandate are the following rights granted to all individuals:

- The right to undertake work freely chosen[185] and to just and favourable conditions of work,[186] including a fair wage and safe and healthy working conditions.[187]
- The right to an adequate standard of living for every person and his or her family, including adequate food, clothing and housing, and the continuous improvement of living conditions.[188]
- The right to the enjoyment of the highest attainable standard of physical and mental health.[189]
- The right to an education, including free and compulsory primary education.[190]

130. It is recognised that economic, social and cultural rights are different from political and cultural rights because their attainment is more dependent on the resources available to a state. For this reason states' obligations in respect of the rights listed above are not obligations to guarantee those rights absolutely, but rather to take steps towards the maximisation of resources so as to achieve the rights set out.[191] However this should not be interpreted by states as an excuse for non-compliance with their obligations. The Committee on Economic, Social and Cultural Rights (CESC) has emphasised that the ICESCR does impose two specific obligations on states. These are:

1. The requirement that social and economic rights be exercised without discrimination (as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status)
2. The duty to take "deliberate, concrete and targeted" steps towards realising the rights in the Covenant.[192]

131. The Committee has also indicated that the Covenant imposes "a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights",[193] including for example the provision of "essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education".[194]

132. It is also important to recognise the link between economic and social rights and the right of a people to self-determination. Both the ICESCR and the ICCPR, in setting out the right to self-determination, provide that a people has the right to freely dispose of its natural wealth and resources for its own ends, and that "in no case may a people be deprived of its own means of subsistence."[195]

Reproductive rights

133. Several human rights provisions may be relevant to the Indonesian control of fertility and incidents of coerced birth control. The ICCPR guarantees the rights of men and women to found a family.[196] In respect of that right the Human Rights Committee has indicated that:

> When State parties adopt family planning policies, they should be compatible with the provisions of the Covenant and should, in particular, not be discriminatory or compulsory.[197]

134. CEDAW grants women the same rights as men in deciding freely on the number and spacing of their children.[198] This is said to involve a prohibition on compulsory sterilisation or abortion, and requires states to take measures to prevent the coercion of women in respect of their fertility.[199]

Human rights during national emergencies

135. Some international human rights instruments allow states to suspend or temporarily limit ("derogate from") their human rights obligations when a national emergency occurs.[200] However this may only occur in the most severe emergencies, and there are restrictions on the extent to which states may take measures in derogation.

136. Most significantly, some human rights may never be derogated from, even in the most serious emergency. These include:

- the right to life[201]
- the right to freedom from torture and cruel, inhuman, and degrading treatment and punishment[202]

- the right to freedom from slavery and servitude[203]
- the right of those in detention to be treated with humanity[204]
- the right to a fair trial[205]
- the right to bring legal proceedings to challenge the lawfulness of any detention.[206]

137. Even in areas were derogation is permitted, this should only happen temporarily and the special measures taken must be strictly necessary in the circumstances.[207]

International humanitarian law

Introduction

138. Under the Commission mandate, "human rights violations" are defined as including "violations of international humanitarian law".[208] International humanitarian law is the body of law setting out the rules applicable during an armed conflict. These rules apply to states, to armed groups,[209] and also to individuals.

139. International humanitarian law applies only where there is an "armed conflict". In addition, the rules that apply will differ depending on whether the conflict is "international" or "internal" in nature.

The existence of an armed conflict

Conclusion:

140. The Commission considers that there was an armed conflict in existence in Timor-Leste from 11 August 1975 until at least the end of the mandate on 25 October 1999. International humanitarian law therefore applied throughout this period.

Reasoning:

141. The existence of an armed conflict does not require a declaration of war or even recognition by parties themselves formally that a state of armed conflict exists. The test is whether there are actual hostilities on a level that goes beyond a mere "internal disturbance".[210] An armed conflict exists:

> Whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.[211]

142. Between April 1974 and August 1975 the sporadic, low level violence in Timor-Leste was not of sufficient intensity to trigger the application of international law. During August–September 1975 the hostility between Fretilin and UDT went beyond minor disturbances and tensions, and was more organised than riots or sporadic acts of violence. The Commission is satisfied that from 11 August, when UDT launched its attempted coup, the two parties and the armed forces under their control engaged in open armed confrontations. During September–November 1975 groups of armed combatants under the control of the Indonesian security forces entered the territory of Timor-Leste and engaged the armed forces under the control of Fretilin almost up until the full-scale invasion on 7 December 1975. The situation of international armed conflict which began when these armed groups crossed the border continued at least until the end of the Commission's mandate on 25 October 1999. Although the main body of Indonesian security forces and militias had left the territory by this date there was continued armed conflict between Indonesian-controlled militia groups and international peacekeepers after UNTAET's administration of the territory commenced on 25 October 1999.[212]

Status of the conflict in Timor-Leste: international or internal armed conflict?

Conclusions:

1. During the period from approximately 11 August 1975 until approximately 1 October 1975 the laws relating to internal armed conflicts were applicable in Timor-Leste.
2. The laws relating to international armed conflicts applied from approximately 1 October 1975 until 25 October 1999.

Reasoning:

143. An internal or non-international armed conflict occurs where an armed conflict takes place in the territory of one state, without the involvement of any other state.[213]

144. An international armed conflict occurs where:

- a conflict takes place between two or more states or;
- an internal armed conflict exists in one state and a second state intervenes in that conflict with its troops, or;
- an internal armed conflict exists in one state and some of the participants in that conflict, such as militia groups, in fact act on behalf of a second state.[214]

145. According to the theory of international humanitarian law, whenever an armed conflict exists it is either an international armed conflict or a non-international (internal) armed conflict. There is no third category. In practice, however, it is sometimes more difficult to categorise a conflict.

146. In the case of Timor-Leste the "civil war" between Fretilin and UDT amounted to an internal armed conflict, which took place in the territory of one state (Portugal). Although Indonesia began interfering in the affairs of Timor-Leste while it was still under Portuguese control, by supporting members of Apodeti, and even providing military training and weaponry to its members[215] this could not "internationalise" the conflict unless Indonesia exercised "effective control" of Apodeti's actions,[*] or had at least "overall control" of Apodeti.[†] The Commission is therefore of the view that the "civil war" had the status of an internal armed conflict.

147. However, from mid-September 1975 and possibly earlier, cross-border attacks were carried out by Indonesian forces, who were in command (and therefore held effective and overall control) of East Timorese groups known as Partisans. These cross-border attacks roughly overlapped with the end of the most intense period of the "civil war". The initial attacks were followed by the full-scale invasion by Indonesia on 7 December 1975.

148. The nature of the conflict in Timor-Leste is different from most international armed conflicts in which the armed forces of at least two states are clearly involved. The forces that resisted the Indonesian attack were not under the command and control of the Portuguese army (it had withdrawn to Ataúro). They included local Portuguese soldiers and reservists (*Segunda Linha*) acting independently, members of Falintil and Fretilin militia. During the occupation, Indonesian troops were not at war with the Portuguese army but against armed Falintil and organised resistance to the occupation.

149. The Commission considers that the conflict in Timor-Leste had the status of an international armed conflict from October 1975 for the following reasons:

1. There was an armed conflict sufficient to trigger the application of international humanitarian law. This conflict was clearly not internal, as it did not take place in the territory of one state without the involvement of any other state. Although different to the more common situations involving the armed forces of two sovereign states, the armed forces of one such state (Indonesia) were fighting in the territory of another (Portugal).
2. Indonesia's invasion constituted foreign interference in an existing internal armed conflict, which had the effect of "internationalising" that conflict.[216]
3. The Geneva Conventions of 1949 (which, aside from Common Article 3, deal with international armed conflicts) apply to "all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance."[217] Since Portugal was a party

* *Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v United States of America)* (1986) ICJ Reports 4 at p.65. The ICJ indicated that the supply of weaponry and training was insufficient without more for effective control by the state to be demonstrated: see at 64.

† *Prosecutor v Dusko Tadic*, ICTY Case Number IT-94-1, Appeals Chamber Judgment, 15 July 1999, paragraph 120. The ICTY in this decision rejected the "effective control" test that the ICJ had adopted in the *Nicaragua* case. Disagreement continues as to which the appropriate test is.

to the Geneva Conventions, they applied, on this basis, to any part of Timor-Leste that was occupied by Indonesia (see sections of this Annexe dealing with the law of belligerent occupation).

Relevant treaties

150. International humanitarian law, like other areas of international law, is made up primarily of treaties and rules of customary international law.* Customary law that applies to situations of armed conflict is referred to as "the laws and customs of war". While treaties bind only those states that are party to them, customary law binds all states.

151. The Commission's mandate defined "international humanitarian law" as including:

- the four Geneva Conventions of 12 August 1949;
- the two Protocols Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International and non-International Armed Conflict of 8 June 1977;
- the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects of 10 October 1980, and
- the laws and customs of war.[218]

152. The provisions included in these sources are relevant to the Commission's mandate to examine violations of the standards recognised by the international community that relate to the conduct of warfare, irrespective of whether they may have been legally binding on particular parties at the time of their actions.

153. However, it is also useful to consider which provisions were legally binding on parties to the conflict. These include the treaty obligations of each party and the provisions of customary international law known as the "laws and customs of war".

Indonesia's treaty obligations

154. From the beginning of the mandate period, Indonesia was a party to the following humanitarian law treaties:

- The Geneva Conventions of 12 August 1949 (which Indonesia became a party to on 30 September 1958)
- The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 (which Indonesia became a party to on 10 January 1967)

* Which includes, amongst other things, the content of the Hague Regulations of 1907: see *Advisory Opinion on the Treat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at pp257-258 (citing the judgment of the Nuremberg IMT); *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Palestinian Occupied Territories* (2004) ICJ in paragraph 89.

- The First Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 (which Indonesia became a party to on 26 July 1967) and
- The Geneva Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and Warfare of 17 June 1925 (which Indonesia became a party to on 21 January 1971).

155. Indonesia also became a party to the following conventions during the mandate period:

- The Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 10 April 1972 (which Indonesia became a party to on 19 February 1992), and
- The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects of 10 October 1980 (which Indonesia became a party to on 12 November 1998).

Portugal's treaty obligations

156. At the beginning of the mandate period Portugal was a party to the following relevant treaties:

- The Geneva Conventions of 12 August 1949 (which Portugal became a party to on 14 March 1961), and
- The Geneva Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and Warfare of 17 June 1925 (which Portugal became a party to on 1 July 1930).

157. During the mandate period Portugal became a party to a number of further humanitarian law treaties, including:

- The First Additional Protocol to the Geneva Conventions of 8 June 1977 (which Portugal became a party to on 27 May 1992)
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 10 April 1972 (which Portugal became a party to on 15 May 1975)
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious (CCW) of 10 October 1980 (which Portugal became a party to on 4 April 1997)
- Protocol I to the CCW on Non-Detectable Fragments (which Portugal became a party to on 4 April 1997)
- Protocol II to the CCW on Prohibitions or Restrictions on the Use of Mines, Booby Traps and other Devices (which Portugal became a party to on 4 April 1997)

- Protocol III to the CCW on Prohibitions or Restrictions on the Use of Incendiary Weapons (which Portugal became a party to on 4 April 1997)
- Convention on the Prohibitions of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 13 January 1993 (which Portugal became a party to on 10 September 1996)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction of 18 September 1997 (which Portugal became a party to on 19 February 1999)
- Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948 (which Portugal became a party to on 9 February 1999).

158. However, as Portugal was not a party to the conflict for most, if not all, of its duration, and as Indonesia was not also a party to most of these conventions, they are of only minimal relevance to the conflict.

Obligations on states and armed groups

International armed conflict: the Indonesian invasion and occupation

159. The Geneva Conventions of 1949 apply to "all cases of total or partial occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance".

160. The Conventions therefore applied to the international armed conflict involving Indonesian forces in the legal territory of Portugal, from the beginning of the international armed conflict and throughout the Indonesian occupation.*

161. In addition, the full range of the laws and customs of war applied to the conflict.

162. Some of the main principles contained in these sources are as follows:

1. Attacks on civilians and civilian objects are prohibited

163. One of the fundamental rules of international armed conflict is the principle of distinction. This states that a distinction must be drawn between civilians and civilian objects on the one hand, and combatants and military objectives on the other. Parties to the conflict must only attack other combatants and military objectives. The International Court of Justice has called this a cardinal principle of international humanitarian law.[219]

164. This principle involves a number of more specific rules:

* Article 2 common to the Geneva Conventions states that the conventions apply to "all cases of total or partial occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance." Portugal, which was the administering power for Timor-Leste, was a party to the Geneva Conventions throughout the mandate period.

165. Attacks must not be made directly on civilians, civilian objects or undefended towns or buildings.[220] It is not permitted to carry out acts for the purpose of intimidating or terrorising the civilian population, or to take civilian hostages.[221] Attacks on cultural objects, places of worship or objects necessary for the survival of the civilian population (such as those used in food production) are prohibited.[222] Even if one party to a conflict breaches these rules, the other side may not respond by targeting civilians.[223] The collective punishment of civilians is prohibited, meaning that where a person is suspected of criminal acts or of fighting for the opposing side in a conflict, it is not permitted to punish that person's friends, family or community.[224]

166. Using the starvation of civilians as a means of warfare is prohibited, as is the destruction or removal of objects necessary for the survival of the civilian population, such as food, crops, livestock, drinking water installations, or means of producing food.[225] Parties to a conflict must allow the free passage of aid, including medical supplies and food and clothing for children and expectant mothers.[226]

167. Attacks must not be carried out using methods or weapons that make it impossible to distinguish between civilian and military targets.[227]

168. Civilian casualties and damage to civilian objects resulting from an attack on a military objective are permissible only so long as they are not excessive in relation to the military necessity of the attack.[228] Attacks should be carried out in such a way as to minimise civilian casualties and damage to civilian objects.[229] Wherever possible, advance warning should be given to civilians of attacks that may harm the civilian population.[230]

169. Customary law also prohibits "perfidy". This means that combatants are prohibited from feigning civilian status (or the status of other protected persons, such as wounded combatants) in order to carry out attacks.[231]

170. Geneva Protocol I defines civilians and civilian objects as follows:[*]

171. A civilian includes all persons in the relevant area except members of:

- the armed forces, including militias and volunteer units forming part of the armed forces,
- militias or resistance movements, and
- the inhabitants of a territory who spontaneously take up arms to resist an invasion.[232]

172. Where it is not clear whether a person is a civilian, he or she must be treated as a civilian.[233] The presence within a civilian population of some individuals who are not civilians does not change the civilian nature of that population.[234] This means that even if a town contains some enemy combatants, it should not become a military target.

* Although this treaty did not itself apply to the conflict in Timor-Leste as Indonesia was not a party to it, the provisions dealing with the principle of distinction have been said to reflect customary law: see for example Christopher Greenwood, "The Customary Law Status of the 1977 Geneva Protocols" in Astrid J.M. Delissen and Gerrard J. Tanja (eds) *Humanitarian Law of Armed Conflict: Challenges Ahead.* Dordrecht, Martinus Nijhoff Publishers, 1991 in p.109.

173. All objects and buildings except "military objectives" are classed as civilian and therefore protected.[235] Military objectives are objects which make an effective contribution to military action and the destruction or capture of which provides a military advantage.[236]

174. Where guerrilla fighters take part in a conflict, they must distinguish themselves from civilians. Under the laws and customs of war and the Third Geneva Convention of 1949, the requirements are that such fighters must:

- be part of an organisation commanded by a person responsible for his subordinates;
- wear a fixed distinctive sign recognisable at a distance or otherwise distinguish themselves clearly from civilians;*
- carry weapons openly, and
- generally conduct their operations in accordance with the laws and customs of war.†

175. A more relaxed standard applies to persons who take up arms spontaneously against an invading army without sufficient time to organise into formal organised units. They are required only to carry arms openly and comply generally with the laws and customs of war.[237]

176. Those who do not comply with these requirements while participating in fighting are not entitled Prisoner of War status if captured,[238] and also forfeit their civilian status as a result of their participation, becoming a legitimate target. They are sometimes referred to as "unlawful" or "unprivileged combatants". They may be tried and punished for their participation in the fighting. However, importantly, although civilians are not permitted to join in the fighting without complying with these requirements, they are always permitted to act in self-defence.

177. The Commission has taken the view that, in general, the members of Falintil sufficiently complied with the above requirements. Falintil had relatively strict and enforced command structures and discipline, carried arms openly and generally conducted their operations in accordance with the laws and customs of war. From the commencement of the conflict members of Falintil wore the uniforms of the Portuguese army. By 1980 many of these uniforms had become worn and were at various times replaced with other military fatigues. However the combination of the available uniforms and insignias and other very distinctive features, such as Falintil members

* The purpose of the requirement in Article 1 of the Hague Regulations and Article 4A(2) of Geneva Convention III that combatants wear a fixed distinctive sign recognisable at a distance is to enable the enemy to distinguish members of the group (who are legitimate military targets) from civilians (who are not legitimate targets). For this reason it seems likely that under customary law it has been subsumed by the more liberal requirement under Article 43(3) First Additional Protocol to the Geneva Conventions 1977 that members of the group must distinguish themselves from civilians in some way. It seems likely that this broader requirement either reflected pre-existing custom in 1977 or became customary soon thereafter: see Christopher Greenwood, "Customary Law Status of the 1977 Geneva Protocols", in Astrid J.M. Delissen and Gerard J. Tanja (eds), *Humanitarian Law of Armed Conflict: Challenges Ahead*, Dordrecht, Martinus Nijhoff, 1991, at p.107.

† Article 1 Hague Regulations 1907 and Article 4A (2) Geneva Convention III. Although less onerous requirements are set down in Article 44(3) of the First Additional Protocol to the Geneva Conventions, that treaty was not applicable to the conflict in Timor-Leste, and in this respect does not reflect customary law.

adopting an exclusive and uniform policy of wearing extremely long hair, made them easily distinguishable from a distance.[239]

2. The mistreatment of enemy combatants is prohibited

178. Under the laws of war, special rules apply to combatants who have fallen into enemy hands.

179. Most combatants in enemy hands are entitled to Prisoner of War (POW) status. These include:

- members of the armed forces, including militias forming part of the armed forces,
- people who accompany the armed forces in support or logistical roles,
- members of militias or resistance movements who have complied with the requirement to distinguish themselves from civilians (including by wearing a distinctive uniform and carrying weapons openly), and
- inhabitants of a territory who spontaneously take up arms to resist an invasion, without having had time to organise themselves into a military structure, but who carry arms openly and obey the laws and customs of war.*

180. Where it is unclear whether a person is entitled to POW status, he must be treated as a POW until a competent tribunal determines his status.[240] Prisoners of war must be treated humanely.[241] They must not be tortured, killed or subjected to intimidation or insults.[242] They must be provided with food and water and any necessary medical treatment.[243] They must be held away from areas in danger of attack during military activities.[244]

181. Combatants who fall into enemy hands but are not entitled to POW status, such as resistance fighters who have not complied with the requirement to distinguish themselves from civilians, are still entitled to certain standards of treatment. Under Geneva Convention IV, persons in occupied territories who are suspected of acts hostile to the occupying power must be treated with humanity and are entitled to a fair trial.[245] In all cases unlawful combatants are entitled to humane treatment under general international law,† and the protection of human rights law which forbids extra-judicial killing, torture and arbitrary detention, and which guarantees rights to a fair trial (see sections of this Annexe on Unlawful Killings, Disappearance, Arbitrary Detention, Torture and Other Cruel and Inhuman or Degrading Treatment, and Unfair Trials, above).

* Article 4 Geneva Convention III; article 44 (1), (3) and (4) Geneva Protocol I. (This includes sick or wounded combatants: Article 14 Geneva Convention I).

† More specifically, by application of the Martens Clause (set out in the Hague Convention IV of 1907 and a number of other conventions), include "principles of humanity": see Report of the International Law Commission on the Work of its Forty-sixth Session, 2 May–22 July 1994, GAOR A/49/10, at p.317; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at pp257 and 259 and the Dissenting Opinion of Judge Shahabuddeen at pp.406-408.

3. Unlawful means of warfare

182. Under the laws of armed conflict, the weapons and techniques ("means of warfare") that may be used to cause harm to opposing forces are limited.[246] Two general principles apply:

1. It is forbidden to use means of warfare which cause superfluous injury or unnecessary suffering;[247]
2. It is forbidden to use means of warfare that do not allow the attacker to distinguish between military targets and civilians ("indiscriminate means").[248] This prohibition covers tactics such as poisoning of water supplies, and attempts to starve a population.[249]

4. Forced recruitment into military activities

183. Under the laws and customs of war it is prohibited to compel enemy nationals to take part in operations of war that are directed at their own country.[250] Geneva Convention IV also prohibits an occupying power from compelling civilians to serve in its armed or auxiliary forces.[251] This prohibition also covers pressure or propaganda directed at encouraging enlistment.[252]

5. Duties of an occupying power

184. It is important to note that an occupying power does not acquire sovereignty over the occupied area. Rather, occupation should be a temporary state, during which the occupying power has certain obligations towards the local population. These obligations are in addition to those set out above in respect of hostilities. Some of the most important and relevant rules are:

- Civilians are entitled to respect for their person, honour, family rights, religious convictions, customs and property, and to humane treatment generally[253]
- The occupying power must not cause physical suffering to civilians[254]
- The occupying power must ensure that the population receives adequate food, water and medical treatment, including by importing resources or accepting aid if local supplies are inadequate[255]
- The occupying power must protect children by ensuring that institutions for their care and education are functioning; and by refraining from enlisting them in its services.[256]

185. Although the occupying power is permitted,[257] and in fact obliged,[258] to restore public order, the means by which they may do this are not unlimited. It may not:

- require inhabitants in the occupied areas to swear allegiance to it,[259]
- deprive people of any rights to a fair trial[260]
- carry out individual or mass forcible transfers or deportations of the local population, or transfer its own citizens into the occupied territory,[261] or

- override the existing laws and legal institutions of the occupied territory, except as necessary to maintain government and security;[262] or carry out criminal trials outside the occupied territory.[263]

186. The occupying power may compel civilians to work (for a fair wage), but only where it is necessary for the needs of the occupying army, or to ensure the functioning of public utilities or the provision of food, shelter and medical services.[264] However the occupying power may not:

- Compel civilians to serve in the armed or auxiliary forces of the occupying power or subject them to pressure or propaganda encouraging enlistment[265]
- Compel children under the age of 18 years to do work,[266] or
- Force civilians to provide information about the resistance forces or its means of defence.[267]

187. The occupying power may use the resources of the occupied territory, but only to the extent necessary to cover the cost of the occupation. It may not use local resources to enrich its own population or support its general military operations.[268]

188. The occupying power is prohibited from confiscating private property,* except for the needs of the occupying army where the requisitions are in proportion to the resources of the country, and in return for compensation.[269]

Was Timor-Leste an occupied territory?

Territory is considered occupied when it comes under the actual authority of the invading army.[270] This may be seen to occur where:

- The occupying power is in a position to substitute its own authority for that of the occupied authorities who have become incapable of functioning properly;
- The enemy forces have been defeated or have withdrawn, although sporadic local resistance may continue;
- The occupying power has a sufficient force present to make its authority felt;
- A temporary administration has been established over the territory;
- The occupying power has issued and enforced directions to the civilian population.[271]

* Article 46 Hague Regulations; contrast the public property of the state, which may be used by the occupying army.

Indonesia's control over the territory of Timor-Leste increased gradually after the invasion in 1975. The Commission considers that from approximately December 1978 until September 1999 the above indicia were present in Timor-Leste and that Indonesia was in sufficient actual control of the territory to be considered an occupying power. Although resistance continued, it was not sufficient to nullify the state of occupation.

Internal armed conflicts: the civil war of August–September 1975

189. The main sources of humanitarian law applicable during an internal armed conflict are:

- common Article 3 of the Geneva Conventions of 1949, and
- parts of the laws and customs of war.

190. Common Article 3 requires parties to the conflict to provide humane treatment to persons who are taking no active part in the hostilities, including members of armed forces who have laid down their arms or are *hors de combat* due to sickness, wounds, detention or other cause. In respect of those persons it is prohibited to carry out the following acts:

- violence, especially murder, mutilation, cruel treatment, and torture
- the taking of hostages
- outrages upon personal dignity, in particular humiliating and degrading treatment
- the passing of sentences or the carrying out of executions without a fair trial.

191. Further general principles have become part of the laws and customs of war and are applicable during an internal armed conflict. Many of these rules are directed at the protection of civilians:[*]

- attacks must never be launched at civilians as such;[272]
- in conducting military operations, all possible precautions must be taken to protect civilians;[273]
- it is prohibited to attack civilian dwellings or other buildings, or to attack places or areas for the protection of civilians such as hospitals;[274]

* See UN General Assembly Resolution 2444 (XXIII), 19 December 1968 and UN General Assembly Resolution 2675 (XXV), 9 December 1970, both recognised as declaratory of customary law by the ICTY in *Prosecutor v Tadic* Appeals Chamber decision on Jurisdiction, paragraph 110-112; and see more generally *Prosecutor v Tadic* Appeals Chamber decision on Jurisdiction, paragraph 100-119.

- it is prohibited to make civilians the target of forcible transfers or of reprisals (acts of retribution for violations of humanitarian law carried out by opposing forces);[275]
- a distinction must always be maintained between civilians and those taking part in the conflict ("combatants").[276] This means that combatants must distinguish themselves visually from civilians, in order to make it possible for enemy combatants to restrict their attacks to combatants and military targets. "Perfidy" is also prohibited.*

192. The other fundamental rules of the laws and customs of war applicable during an internal armed conflict are those that limit the methods and weapons that it is permissible to use.[277] The basic rules governing permissible means of warfare are the same as those that apply to international armed conflicts.[278] These principles prohibit methods and weapons which:

- cause superfluous injury or unnecessary suffering,[279] or
- by their nature are incapable of distinguishing between civilian and military targets ("indiscriminate means").[280]

Obligations on individuals (individual criminal responsibility)

193. The mandate of the Commission specifically includes "criminal acts" committed in Timor-Leste during the relevant period.

194. Customary international law prohibits individuals from committing the following crimes:

Genocide

195. Genocide occurs where a person commits any of the following prohibited acts against a national, ethnic, racial or religious group with the specific intention of destroying the group in whole or in part:

1. Killing members of the group;
2. Causing serious bodily or mental harm to members of the group;
3. Inflicting certain conditions of life upon the group which are intended to bring about the destruction of the group in whole or in part;
4. Inflicting measures to prevent births;
5. Forcibly transferring children from one group to another.[281]

* *Prosecutor v Dusko Tadic*, ICTY Case Number IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, paragraph 125. See section on International law: obligations on states and armed groups, above.

Crimes against humanity

196. A crime against humanity occurs where any of the following prohibited acts are committed as part of a widespread or systematic attack against a civilian population:

1. Murder
2. Extermination (including by deprivation of food)[282]
3. Enslavement
4. Deportation or forcible transfer of population
5. Forced labour
6. Imprisonment
7. Torture
8. Rape
9. Persecutions on political, racial, or religious grounds
10. Other inhuman acts.[283]

Aggression

197. The crime of aggression was originally said to occur where a person plans, prepares, initiates or wages a war of aggression, or a war in violation of international treaties, agreements or assurances, or participates in a common plan for the accomplishment of those acts.[284]

198. However, recently the international community has been unable to agree on a current definition for this crime.[285]

War crimes

199. Two categories of war crimes exist in the context of an international armed conflict. The first are referred to as "grave breaches" of the Geneva Conventions. A "grave breach" occurs where any of the following acts is committed against vulnerable persons, namely those who are shipwrecked, sick or wounded, prisoners of war, and civilians:

1. Wilful killing
2. Torture or inhuman treatment, including biological experiments
3. Wilfully causing great suffering or serious injury to body or health
4. Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly
5. Compelling a prisoner of war or a civilian to serve in the forces of a hostile power
6. Wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial

7. Unlawful deportation or transfer or unlawful confinement of a civilian
8. Taking civilians as hostages.[286]

200. The second category consists of serious breaches of the laws and customs of war including, among others, the following:

1. Murder, ill-treatment or deportation of the civilian population of an occupied territory
2. Murder or ill-treatment of prisoners of war
3. Plunder of public or private property
4. Wanton destruction of towns or villages or devastation not justified by military necessity[287]
5. Employment of poisonous weapons or weapons calculated to cause unnecessary suffering
6. Attack, or bombardment of undefended towns, villages, dwellings, or buildings
7. Seizure, destruction or damage of institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science[288]
8. Intentionally directing attacks against the civilians or civilian objects[289]
9. Taking hostages[290]
10. Rape[291]
11. Torture (whether involving a public official or purely private individuals)[292]
12. Killing or wounding a combatant who has surrendered
13. Transfer by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of the population of the occupied territory
14. Compelling nationals of the hostile party to take part in operations of war directed against their own country
15. Using the presence of civilians or other protected persons to render areas immune from military operations
16. Employing weapons, or methods of warfare which cause superfluous injury or unnecessary suffering or which are inherently indiscriminate
17. Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies.*

201. In an internal armed conflict, war crimes consist only of the most serious violations of Common Article 3 of the Geneva Conventions or the laws and customs of war.[293] Serious violations of Common Article 3 include the following acts when

* Paragraphs (12) to (17) are examples from Article 8 of the ICC Statute which the Commission considers to reflect war crimes under customary law.

committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms or who are sick, wounded or in detention:

1. Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture
2. Committing outrages upon personal dignity, in particular humiliating and degrading treatment
3. Taking of hostages, and
4. The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognised as indispensable.[294]

202. Other violations of the laws and customs of war amounting to war crimes in internal armed conflict include:

1. Launching attacks on the civilian population;
2. Committing rape or other sexual violations.*

Command responsibility

203. Under international law it is not only the person who directly carries out a crime that is responsible, but also that person's superiors, especially in the military or government. A superior will be directly responsible where a crime is committed by a subordinate that was ordered by the superior. In addition, a person who is in the position of a superior (either in law or in fact) and who has effective control over his or her subordinates[295] will have command responsibility where a crime is committed by a subordinate and the superior knew or should have known of the crime but did nothing to prevent or punish it.[296]

"Criminal Acts": domestic law of Portugal and Indonesia

Introduction

204. The Commission's mandate includes reference to "criminal acts" which occurred in Timor-Leste during the relevant period. That term is not defined in the UNTAET regulations establishing the Commission. The Commission considers that it is intended to cover violations of domestic and international criminal laws that were applicable to the territory of Timor-Leste at the relevant times.

* See for example Article 8(2)(e)(i) and (vi) which the Commission considers to reflect customary international law.

Which laws applied in Timor-Leste?

There is no doubt that at the beginning of the Commission's mandate period the law in force in Timor-Leste was Portuguese law. This law remained in force at least until the Indonesian invasion.

It is more difficult to say which law applied during the Indonesian occupation. Although Indonesia may have been prohibited under international law from applying its laws in occupied Timor-Leste, it is clear that as a matter of fact it was Indonesian law that was applied and enforced.

The East Timorese Court of Appeal has held that because the Indonesian annexation was in violation of international law, Indonesian law was never in force in Timor-Leste and Portuguese law continued to apply.[297]

Conversely, the Special Panel for Serious Crimes has since held that the Court of Appeal was wrong to apply Portuguese law and that Indonesian law in fact applied.[298] The East Timorese Parliament has also legislated to indicate its understanding that the law that was in force before 25 October 1999, and which has been continued by legislation since then, is Indonesian law.[299]

An occupying power must leave in place all penal laws in existence in the occupied territory, the only exception being for those that constitute a threat to the security of the occupying power or an obstacle to the application of Geneva Conventions.[300] The wholesale importation of the occupying power's own domestic law and legal system is therefore prohibited.[301] Where this does occur the occupying power is in breach of its obligations under humanitarian law. However it is unclear whether the new or imported laws are invalid within the occupied territory.

It may therefore be that under international law Portuguese law remained applicable as a question of law. However Indonesian law was certainly applied in fact. For this reason the Commission considers that both bodies of law are relevant to its mandate in respect of the period of the Indonesian occupation.

Portuguese law

205. On 25 April 1974, at the beginning of the Commission mandate period, Portuguese law was the applicable domestic law in Timor-Leste. It is Portuguese law that governed the actions of those who participated in acts of violence leading up to and during the civil war of 1975.

206. The Portuguese Criminal Code as it existed in 1975 included prohibitions on the following conduct:

207. Crimes against personal liberty, including:

- detaining a free person[302]
- using physical violence to compel another person to do something[303]
- illegally detaining, arresting, imprisoning or restraining a person,[304] especially where violence or threats of death, torture or assault are used,[305] or where a person is held hostage[306]
- using violence against a person who is lawfully detained.[307]

208. Crimes against the person, including:

- murder and attempted murder, especially where the acts are premeditated or are accompanied by torture or acts of cruelty[308]
- assault, especially where it results in illness, injury, psychological harm, or death[309]
- using or threatening to use a firearm or projectile weapons.[310]

209. In cases involving provocation or self-defence, self-defence could reduce or excuse responsibility for these crimes.[311]

210. Crimes involving damage to property, including:

- housebreaking[312]
- arson[313]
- destroying part of or all of a building that belongs to another person or the state[314]
- damaging or destroying a public utility[315]
- damaging crops or livestock[316]
- damaging property by rioting.[317]

Indonesian law

211. Indonesian law was applied in Timor-Leste after it was annexed as Indonesia's 27th province pursuant to Indonesian Law 7/76 of 17 July 1976.[318] Although the Indonesian annexation of Timor-Leste was in breach of international law, the Commission considers that Indonesian law is relevant in any event because it regulated the actions of Indonesians in Timor-Leste, who in many cases violated not only international law,

but Indonesian law as well. In addition, whether validly or not, Indonesian law was in fact used to regulate the actions of East Timorese people.

212. The Commission has not included in its inquiries acts that were technically violations of Indonesian laws where the laws themselves constituted violations of human rights standards, such as the right to freedom of expression and opinion, and the right to self-determination. Indonesian law contained extensive provisions prohibiting political activities which were perceived to threaten the authority of the state. These were contained for example in the1963 Law on Eradication of Subversive Activities,[319] the Law on Political Activity,[320] as well as some of the provisions of the Indonesian criminal code.

213. Indonesia's Criminal Code (Kitab Undang-Undang Hukum Pidana, KUHP) governs criminal acts committed by civilians and officials, including the armed forces. The following types of conduct constitute crimes under the KUHP:

214. Crimes against the general security of persons, including:

- deliberately setting a fire, causing an explosion, damaging electrical works, or damaging or destroying buildings, especially if it endangers property or life or results in death;[321]
- poisoning public water sources.[322]

215. Sexual and related crimes, including:

- rape;[*]
- carnal knowledge of a girl under 15 years of age;[323]
- using force or the threat of force to compel someone to commit or tolerate an obscene act, or committing an obscene act with someone who is unconscious or helpless or a girl under 15 years of age;[324]
- trading in women or boys.[325]

216. Crimes against personal liberty, including:

- Participating in slavery;[326]
- Kidnapping;[327]
- Abducting a minor, especially if done with tricks, force, or the threat of force;[328]
- Depriving a person of his or her liberty, especially if serious physical injury or death results.[329]

217. Crimes against life and the person, including:

- manslaughter;[330]
- murder;[331]

* Article 285 KUHP (Rape is defined so as to only include sexual intercourse with a woman out of marriage by using force or the threat of force. Under Article 286 KUHP having carnal knowledge of a woman out of marriage who is unconscious or helpless is also prohibited).

- maltreatment, especially if it causes serious physical injury or death, or if done with premeditation;[332]
- deliberately causing serious physical injury to another person ("serious maltreatment"), especially if done with premeditation.[333]

218. Crimes against property, including:

- theft, especially if carried out during a fire, explosion, or distress caused by war, or if accompanied by force or the threat of force;[334]
- deliberately destroying or damaging property belonging to another, electricity or water works, or buildings.[335]

219. Crimes against public order and similar crimes, including:

- hindering a person from freely voting in an election by violence or the threat of violence;[336]
- hindering a lawful public meeting by violence or the threat of violence;[337]
- hindering a lawful public religious meeting or funeral ceremony by violence or the threat of violence;[338]
- burying or hiding a dead body with intent to conceal the death.[339]

220. The KUHP provides that where an official (including a member of the armed forces[340]) commits a crime by employing the power, opportunity or means conferred on him by his office, the punishment for that offence is to be increased by a third.[341] In addition, certain specific crimes by officials are prohibited, including:

- The misuse of power by an official to force someone to do, not to do, or to tolerate something;[342]
- The use of coercion by an official to procure a confession or statement in a criminal case.[343]

Indonesian military law

221. In addition to the general criminal provisions of the KUHP, Indonesian military personnel are regulated by the Indonesian Military Criminal Code (Kitab Undang-undang Hukum Pidana Militer, KUHPM) and other legislation specific to the military.[344]

222. Although Indonesia is a party to the Geneva Conventions of 1949, it has not incorporated the substance of those conventions into its military law. This means that the war crimes set out in the Geneva Conventions do not constitute crimes under Indonesian law. Similarly, during the CAVR's mandate period Indonesian law did not recognise the crimes of genocide, crimes against humanity, war crimes or torture (although it has since done so).*

* As part of Law 26/2000 on the Ad Hoc Human Rights Courts

End notes

1. Regulation 10/2001 Section 3.1(b)
2. Regulation 10/2001 Section 13.1(a)(ii)
3. Regulation 10/2001 Section 13.1(a)(i)
4. Regulation 10/2001 Section 13.1(a)(iii)
5. Regulation 10/2001 Section 13.1(a)(iv)
6. Regulation 10/2001 Section 13.1(a)(v)
7. Regulation 10/2001 Section 13.1(a)(vi)
8. Regulation 10/2001 Section 13.1(c)
9. Regulation 10/2001 Section 13.1(d)
10. Regulation 10/2001 Section 21
11. Regulation 10/2001 Section 3.1(e)
12. Regulation 10/2001 Section 3.1(g)
13. Regulation 10/2001 Section 3.1(h)
14. Regulation 10/2001 Section 3.1(f)
15. Regulation 10/2001 Section 3.1(i)
16. Regulation 10/2001 Section 3.3
17. Regulation 10/2001 Section 13.2
18. Regulation 10/2001 Section 1(j)
19. Report of the Meeting of Special Rapporteurs/Representatives Experts and Chairpersons of Working Groups of the Special Procedures of the Commission on Human Rights and the Advisory Services Programme, UN Commission on Human Rights, E/CN.4/1997/3, 30 September 1996, paragraph 46; Analytical report of the Secretary-General on Minimum Humanitarian Standards submitted pursuant to Commission on Human Rights Resolution 1997/21, E/CN.4/1998/87, 5 January 1998, paragraph 59-61.
20. Truth and Reconciliation Commission of South Africa Report, Vol. 1, Ch. 4 paras 77-81.
21. Regulation 10/2001 Section 1(c)
22. Regulation 10/2001 Section 1(d)
23. Regulation 10/2001 Section 14
24. Regulation 10/2001 Sections 20.1 and 39
25. Regulation 10/2001 Section 45
26. Regulation 10/2001 Section 44.2
27. Regulation 10/2001 Section 44.2
28. Regulation 10/2001 Sections 13.1(a)(i), (iii)and (iv) and 13.1(c).
29. *International Commission of Inquiry on East Timor to the Secretary-General*, UN Document A/54/726 – S/2000/59, 31 January 20
30. Regulation 10/2001 Sections 3 (c), 13 (1)
31. Regulation 10/2001 Section 3(1)(d)
32. Regulation 10/2001 Section 3(1)(e)
33. Article 25 UN Charter.
34. Security Council Resolution 384 (1975) of 22 December 1975, paragraph 2; SC Resolution 389 (1976) of 22 April 1976, paragraph 2.
35. Article 2(4) UN Charter.
36. *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v United States of America)* (1986) ICJ Reports 4 at p100.
37. Articles 51, 42 UN Charter.
38. Christine Gray, *International Law and the Use of Force*, Oxford, Oxford University Press, 2000, at p.52.
39. Article 73 UN Charter.
40. Article 73(a) UN Charter
41. Regulation 10/2001 Section 22.1
42. Regulation 10/2001 Section 23

43. Regulation 10/2001 Section 24
44. Regulation 10/2001 Sections 25, 26, and 27
45. Regulation 10/2001 Sub-section 27.7
46. Regulation 10/2001 Sub-section 27.8
47. Regulation 10/2001 Section 28
48. Regulation 10/2001 Section 32
49. Regulation 10/2001 Schedule 1, paragraph 1
50. Regulation 10/2001 Sub-section 22.2
51. Article 25 UN Charter.
52. *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at pp. 254-255.
53. Security Council Resolution 384, 22 December 1975; Security Council Resolution 389, 22 April 1976; General Assembly Resolution 3485 (XXX), 12 December 1975; General Assembly Resolution 36/50, 24 November 1981; General Assembly Resolution 37/30, 23 November 1982.
54. *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, (2004) ICJ at para 87.
55. Regulation 10/2001 Sections 3 and 1(c).
56. Regulation 10/2001 Section 1(e).
57. *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, (2004) ICJ at paragraph 102-106; see also Concluding Observations of the Human Rights Committee on Israel, of 18 August 1998 (CCPR/C/79/Add.93 at paragraph10), and of 21 August (2003CCPR/CO/78/ISR at paragraph 11); and Concluding Observations of the Committee on Economic, Social and Cultural Rights on Israel, of 23 May 2003, (E/C.12/1/Add.90 at paragraph 15 and 31).
58. *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, (2004) ICJ at paragraph 107-113.
59. Most importantly in the *Declaration on the Granting of Independence to Colonial Countries and Peoples*, GA Res 1514 (XV) 14 December 1960; the *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations*, GA Res 2625 (XXV) 24 October 1970; and the *Definition of Aggression*, GA Res 3314 (XXIX) 14 December 1974.
60. *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004) ICJ at paragraph 88 and 155-156; *Case Concerning East Timor (Portugal v Australia)* (1995) ICJ Reports 90 at paragraph 29.
61. Human Rights Committee General Comment 12, paragraph 1.
62. Antonio Cassesse, *Self-Determination of Peoples*, Cambridge, Cambridge University Press, 1995, p.90; *Yearbook of the International Law Commission* (1988) Vol II, pt.2, at p.64; see also *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, (2004) ICJ, Separate opinion of Judge Higgins at paragraph 29-30.
63. GA Res 3485 (XXX) 12 December 1975; GA Res 31/53, 1 December 1976; GA Res 32/34, 28 November 1977; GA Res 33/39, 13 December 1978; GA Res 34/40, 21 November 1979; GA Res 35/27, 11 November 1980; GA Res 36/50, 24 November 1981; GA Res 37/30, 23 November 1982.
64. SC Res 384, 22 December 1975; SC Res 389, 22 April 1976.
65. Article 1(3) ICCPR and art 1(3) ICESCR.
66. Human Rights Committee General Comment 12, paragraph 6.
67. Human Rights Committee General Comment 12, paragraph 6.
68. See for example the separate opinions of Judge Higgins (at paragraph 30) and Judge Kooijmans (at paragraph 32) in the *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004) ICJ Reports.
69. *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, (2004) ICJ Reports at paragraph 88.
70. *Advisory Opinion on the Legal Consequences for States of the Continued Presence of South Africa in Namibia (South-West Africa) Notwithstanding Security Council Resolution 276 (1970)* (1971) ICJ Reports 16 at paragraph 119; Separate opinion of Judge Weeramantry in the *Case Concerning East Timor (Portugal v Australia)* (1995) ICJ Reports 90, especially at 204; Article 41(2), ILC Draft Articles

on the Responsibility of States for Internationally Wrongful Acts, International Law Commission, Commentaries on the Draft Articles on the Responsibility of States for Internationally Wrongful Acts, at pp.287-291 especially p.290.

71. Human Rights Committee General Comment 24, para 8.
72. Article.4(2) of the ICCPR; Human Rights Committee, General Comment 6, para.1.
73. Human Rights Committee, General Comment 6, para 7.
74. Human Rights Committee, General Comment 6, para 3
75. Human Rights Committee, General Comment 6, para 2; Human Rights Committee, General Comment 14, para 2.
76. Human Rights Committee, General Comment 6, para.4.
77. *Jegatheeswara Sarma v Sri Lanka* (2003) HRC Communication No. 950/2000 at para 9.3.
78. See Article 1(2), Declaration on the Protection of All Persons from Enforced Disappearances, General Assembly Resolution 47/133 of 18 December 1992.
79. *Quinteros v. Uruguay* (1983) HRC Comm. No. 107/1981 at para 14; *Jegatheeswara Sarma v Sri Lanka* (2003) HRC Communication No. 950/2000 at para 9.5.
80. UN Working Group on Enforced or Involuntary Disappearances, Fact Sheet No. 6 (Rev.2).
81. Article 13(1) UDHR and Article 12(1) ICCPR.
82. Article 12(3) ICCPR; HRC General Comment 27, para 11
83. Article 25(1) UDHR and Article 11(1) ICESCR.
84. Article 11(2) ICESCR.
85. CESCR General Comment 12 para 8.
86. Article 2 ICESCR, CESCR General Comment No. 12, para 14.
87. Committee on Economic Social and Cultural Rights, General Comment 12, para 14.
88. Committee on Economic Social and Cultural Rights, General Comment 12, para 19.
89. Committee on Economic Social and Cultural Rights, General Comment 15, para 3; Article 11(1) ICESCR.
90. Article 25(1) UDHR; Article 11(1) ICESCR; CESCR General Comment 4.
91. Article 3 UDHR, Article 6 ICCPR.
92. Human Rights Committee General Comment 6, para 5.
93. See the decision of the European Court of Human Rights in *Engel v The Netherlands* (ECHR 1976 Applic No. 5100/71) at para 58.
94. Human Rights Committee General Comment 24, para 8.
95. See UN High Commissioner for Human Rights Fact Sheet No. 26 on the Working Group on Arbitrary Detention; see also for example the 2003 Opinions adopted by the Working Group on Arbitrary Detention, E/CN.4/2004/3/Add.1.
96. *Van Alphen v The Netherlands* (HRC Comm. No. 305/1998, 23 July 1990).
97. See for example the decision of the European Court of Human Rights in *Quinn v France* (1995) ECHR Application No. 18580/91.
98. Human Rights Committee, General Comment 8 para 2; See also *Jijon v Ecuador* (1992) HRC Comm. No. 227/88 where a delay of five days in bringing a prisoner before a judge was held to breach Article 9(3).
99. Article 9(3) ICCPR.
100. Human Rights Committee General Comment 8 para 3.
101. Human Rights Committee General Comment 8 para 4.
102. See also the Standard Minimum Rules for the Treatment of Prisoners; the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Basic Principles for the Treatment of Prisoners.
103. Human Rights Committee, General Comment 29, para 13(a).
104. Human Rights Committee, General Comment 29, para 13(a).
105. Human Rights Committee, General Comment 21, para. 3.
106. Human Rights Committee, General Comment 20, para 6; Human Rights Committee, General Comment 7, para 2, *El-Megreisi v Libyan Arab Jamahiriya* (1990) HRC Comm. No. 440/90, para 5.4; *Mukong v Cameroon* (1994) HRC Comm. No. 458/91 at para 9.3-9.4.

107. *Mukong v Cameroon* (1994) HRC Comm. No. 458/91 at para 9.3-9.4.
108. HRC in General Comment 24, para 8; *Prosecutor v Anto Furundzija* (1998) ICTY Case No. IT-95-17/1, Trial Chamber Judgment, 10 December 1998, at paragraphs 144-155.
109. *Prosecutor v Anto Furundzija* (1998) ICTY Case No. IT-95-17/1, Trial Chamber Judgment, 10 December 1998, at paragraphs 153-155; Human Rights Committee in General Comment 24, paragraph 10.
110. Article 2(1) CAT.
111. Article 16 CAT.
112. Article 2(2) CAT.
113. Article 4 CAT.
114. Articles 12 and 13 CAT; Article 16 CAT.
115. Article 10 CAT; Article 11 CAT; Article 16 CAT.
116. Article 15 CAT.
117. *GRB v Sweden* (1998) CAT Comm No. 83/1997, paragraph 6.5.
118. *Elmi v Australia* (1999) HRC Communication No. 120/1998, at para 6.5.
119. *Prosecutor v Kunarac* (2002) ICTY Appeals Chamber, at paras 146-147.
120. Human Rights Committee General Comment 20, para 4.
121. Human Rights Committee General Comment 20, para 2.
122. *Mukong v Cameroon* (1994) HRC Comm. No. 458/91 at para 9.4.
123. Concluding observations of the Committee against Torture on Israel, A/52/44, 9/5/97 at para 257; see also *Ireland v UK* (1978) ECHR Applic No. 5310/71, at paras 96 and 167.
124. Concluding observations of the Committee against Torture on Israel, A/52/44, 9/5/97 at para 257.
125. Concluding observations of the Committee against Torture on Israel, A/52/44, 9/5/97 at para 257; see also *Ireland v UK* (1978) ECHR Applic No. 5310/71, at paras 96 and 167.
126. Concluding observations of the Committee against Torture on Israel, A/52/44, 9/5/97 at para 257.
127. Article 16 CAT.
128. Human Rights Committee, General Comment 20, para 2.
129. Article 9(2) and 14(3)(a) ICCPR.
130. Article 9(3) ICCPR.
131. Article 14(3)(b) ICCPR.
132. Human Rights Committee General Comment 13, para 9.
133. Article 14(3)(c) ICCPR.
134. Article 14(1) ICCPR.
135. *Campbell v Jamaica* (1993) HRC Communication No. 307/1988, para 6.4.
136. *Campbell v Jamaica* (1993) HRC Communication No. 307/1988, para 6.4.
137. HRC General Comment No. 20, para 12; Article 15 CAT.
138. Article 14(1) ICCPR.
139. *Van Meurs v The Netherlands* (1990) Comm No. 215/1986, at para 6.2; see *Riepan v Austria* (2000) ECHR, Application No. 35115/97, at paras 28-31.
140. Article 14(2) ICCPR.
141. Article 14(3)(d) ICCPR.
142. Article 14(3)(e) ICCPR.
143. Article 14(3)(f) ICCPR.
144. Article 14(3)(g) ICCPR.
145. *Berry v Jamaica* (1994) HRC Communication No. 330/1988, para 11.7.
146. Article 14(5) ICCPR.
147. *Henry v Jamaica* (1991) HRC Communication No. 230/1987, para 8.4; *Little v Jamaica* (1991) HRC Communication No. 283/1988, para 8.5.
148. Article 15 ICCPR.
149. Article 19 UDHR; Article 19 ICCPR.
150. Article 20 UDHR; Articles 21 and 22 ICCPR.
151. Human Rights Committee, General Comment 10, para 1.

152. Article 19(3) ICCPR; Article 21 ICCPR; Article 22(2) ICCPR; Human Rights Committee, General Comment 10, para 4; *Kim v Republic of Korea*, (1999) HRC Communication No. 574/1994, para 12.2.

153. *Kim v Republic of Korea*, (1999) HRC Communication No. 574/1994, para 12.5; *Park v Korea* (1998) HRC Communication No. 628/1995, para 10.3.

154. *Park v Korea* (1998) HRC Communication No. 628/1995, para 10.3.

155. *Prosecutor v Anto Furundzija*, ICTY Case No. IT-95-17/1, Trial Chamber Judgment, 10 December 1998, at para 170-171; 1995 Report of the UN Special Rapporteur on Torture, E/CN.4/1995/34 Para 15-24; *Mejia v. Peru* (1996) Inter-American Commission on Human Rights, Report No. 5/96; *Aydin v. Turkey* (1997) ECHR Application No. 23178/94 at paras. 83 and 86.

156. *Prosecutor v Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, ICTY Case No. IT-96-23 and IT-96-23/1, Appeals Chamber Judgment, 12 June 2002, para 150.

157. *Prosecutor v Anto Furundzija*, ICTY Case No. IT-95-17/1, Trial Chamber Judgment, 10 December 1998, at para 170.

158. Article 12 UDHR and article 17 ICCPR; see for example *Mejia v. Peru* (1996) Inter-American Commission on HR, Report No. 5/96.

159. Under Article 2 CEDAW; Article 2(1) ICCPR, Article 2(2) ICESCR; See for example CEDAW General Recommendations 12 and 19.

160. Human Rights Committee, General Comment 28, para 8.

161. Article 4 UDHR, Article 8 ICCPR.

162. *Barcelona Traction, Light and Power Co Ltd (Belgium v Spain)* (1970) ICJ Reports 4 at p32.

163. See *Summary record of the 1359th meeting*: Nepal, 21/10/94, CCPR/C/SR.1359 at para 41.

164. *Prosecutor v Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, ICTY Case No. IT-96-23 and IT-96-23/1, Trial Chamber Judgment, 22 February 2001, at para 539; *Prosecutor v Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, ICTY Case No. IT-96-23 and IT-96-23/1, Appeals Chamber Judgment, 12 June 2002, at para 124.

165. Article 6 CEDAW.

166. See also Article 24 ICCPR.

167. Article 3(1) CRC.

168. Article 6 CRC.

169. Article 37(a) CRC.

170. Article 37(b) CRC.

171. Article 24 CRC; see also ICESCR Article 12(2)(a).

172. Article 19 CRC.

173. Article 34 CRC.

174. Article 36 CRC.

175. Article 27 CRC.

176. Article 37 CRC; see also ICCPR Article 6.

177. Articles 38(2)-(3) CRC.

178. Article 38(3) CRC.

179. Article 32; See also Article 10(3) ICESCR.

180. Article 9 CRC.

181. Articles 11 and 35 CRC.

182. Article 21 CRC.

183. Article 20 CRC.

184. Article 8 CRC.

185. Article 6 ICESCR and Article 23 UDHR, See also the prohibitions on forced labour in Article 8(3) of the ICCPR.

186. Article 7 ICESCR and Article 23 UDHR.

187. Article 7 ICESCR.

188. Article 11 ICESCR and Article 25(1) UDHR.

189. Article 12 ICESCR.

190. Article 13 ICESCR, Article 26 UDHR, Article 28 CRC. See also Article 29 CRC.

191. Article 2(1) ICESCR.
192. Committee on Economic, Social and Cultural Rights, General Comment 3, paras 1-2.
193. Committee on Economic, Social and Cultural Rights, General Comment 3 para 10.
194. Committee on Economic, Social and Cultural Rights, General Comment 3, para 10.
195. Article 1(2) ICESCR, Article 1(2) ICCPR.
196. Article 23 ICCPR.
197. Human Rights Committee, General Comment No. 19, para 5.
198. Article 16(e) CEDAW.
199. Committee on the Elimination of Discrimination Against Women, *General Comment* 19, paras 22 and 24(m); see also Committee on the Elimination of Discrimination Against Women, *General Recommendation* 21, para 22.
200. For example Article 4 ICCPR.
201. Article 4(2) ICCPR.
202. Article 4(2) ICCPR.
203. Article 4(2) ICCPR.
204. Human Rights Committee, General Comment 29, para 15(a),
205. Human Rights Committee, General Comment 29, para 16.
206. Human Rights Committee, General Comment 29, para 16.
207. Human Rights Committee, General Comment 29, paras 4-5.
208. Regulation 10/2001 Section 1(c.)
209. See Liesbeth Zegveld, *The Accountability of Armed Opposition Groups in International Law*, Cambridge University Press, 2002, at pp. 9-38.
210. Prosecutor v Akayesu, ICTR Trial Chamber, Case number ICTR-96-4-T, decision of 2 September 1998, para 601.
211. Prosecutor v Dusko Tadic, ICTY Case Number IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, paragraph 70.
212. See for example, references to continued fighting between militia groups and Interfet in *Report of the Secretary-General on the United Nations Transitional Administration in East Timor*, S/2000/53, 26 January 2000, para 18; *Report of the Security Council Mission to East Timor and Indonesia (9-17 November 2000)*, S/2000/1105, 21 November 2000, para 9.
213. See for example Article 1(1) Second Protocol to the Geneva Conventions 1977.
214. Prosecutor v Dusko Tadic, ICTY Case Number IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para 84.
215. Tomás Gonçalves, SCU Interview, 8 August 2000.
216. Prosecutor v Dusko Tadic, ICTY Case Number IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para 84.
217. Common Article 2, Geneva Conventions 1949.
218. Regulation 10/2001 Section 1(d).
219. Advisory Opinion on the Threat or Use of Nuclear Weapons (1996) ICJ Reports 226 at p257.
220. Article 25 Hague Regs; Article 27 Geneva Convention IV; Articles 51(2) and 57(1) and (2)(a) Geneva Protocol I; Article 52(1) Geneva Protocol I.
221. Articles 33-34 Geneva Convention IV; Article 51(2) Geneva Protocol I.
222. Articles 53 and 54(2) Geneva Protocol I.
223. Article 33 Geneva Convention IV; Articles 51(6) and 52(1) Geneva Protocol I.
224. Article 33 Geneva Convention IV;
225. Article 54 First Additional Protocol to the Geneva Conventions, which reflects customary international law.
226. Article 23 Geneva Convention IV.
227. Article 51(4) and (5) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at p257.
228. Articles 51(5)(b) and Article 57(2)(a)(iii) and (b) Geneva Protocol I.
229. Article 57(3) Geneva Protocol I

230. Article 26 Hague Regulations; Article 57(2)(c) Geneva Protocol I.
231. Prosecutor v Tadic, Appeals Chamber decision on Jurisdiction, para 125.
232. Article 50(1) and 43 Geneva Protocol I and Article 4A Geneva Convention III.
233. Article 50(1) Geneva Protocol I.
234. Article 50(3) Geneva Protocol I.
235. Article 52(1) Geneva Protocol I.
236. Article 52(2) Geneva Protocol I.
237. Article 4A(6) Geneva Convention III.
238. Article 4A Geneva Convention III.
239. CAVR Interview with Jacinto Alves, former assistant to the Falintil Chief of Staff, Dili, 3 May 2005.
240. Article 5 Geneva Convention III; Article 45(1) Geneva Protocol I.
241. Article 4, Hague Regulations, Article 13 Geneva Convention III.
242. Articles 13 and 17 Geneva Convention III;
243. Articles 15, 26, 30 Geneva Convention III;
244. Articles 19 and 23 Geneva Convention III;
245. Article 5 Geneva Convention IV.
246. Article.22 Hague Regulations; Article.35(1) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at p.256.
247. St Petersburg Declaration 1868; Article 23 Hague Regulations; art 35(2) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at p.257.
248. Article 51(4) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at p257.
249. See also Article 54(1)-(2) Geneva Protocol I.
250. Article 23 Hague Regulations.
251. Article 51 Geneva Convention IV.
252. Article 51 Geneva Convention IV.
253. Article 46 Hague Regulations, Article 27(1) and 53 of Geneva Convention IV.
254. Article 32, Geneva Convention IV.
255. Article 55, Geneva Convention IV; see also Article 56 Geneva Convention IV re medical treatment and Articles 59-62 regarding accepting aid.
256. Article 50 Geneva Convention IV.
257. Article 27 Geneva Convention IV.
258. Article 43 Hague Regulations.
259. Article 45 Hague Regulations.
260. Articles 65-75 Geneva Convention IV; see also Article 23(h) Hague Regulations.
261. Article 49 Geneva Convention IV.
262. Article 43 Hague Regulations and Article 64 Geneva Convention IV.
263. Article 66 Geneva Convention IV.
264. Article 51 Geneva Convention IV.
265. Article 51 Geneva Convention IV; see also generally Article 23 Hague Regulations.
266. Article 51 Geneva Convention IV
267. Article 44 Hague Regulations.
268. In re Krupp and Others (1948) 15 Annual Digest 620 at pp.622-623, *NV De Bataafsche Petroleum Maatschappij and others v The War Damage Commission* (1956) 23 ILR 810 at p.822.
269. Article 52 Hague Regulations; see also Article 55 Geneva Convention IV.
270. Article 42 Hague Regulations 1907; *Prosecutor v Naletilic and Martinovic* Trial Chamber Judgment, 31 March 2003, at para 216.
271. Prosecutor v Naletilic and Martinovic, Trial Chamber Judgement, 31 March 2003, at para 217.
272. UN General Assembly Resolution 2444 (XXIII), 19 December 1968, para 1(b) and UN General Assembly Resolution 2675 (XXV), 9 December 1970, para 4
273. UN General Assembly Resolution 2675 (XXV), 9 December 1970, para 3.

274. UN General Assembly Resolution 2675 (XXV), 9 December 1970, paras 5 and 6.

275. UN General Assembly Resolution 2675 (XXV), 9 December 1970, para 7.

276. UN General Assembly Resolution 2444 (XXIII), 19 December 1968, para 1(c) and UN General Assembly Resolution 2675 (XXV), 9 December 1970, para 4.

277. UN General Assembly Resolution 2444 (XXIII), 19 December 1968, para 1(a); *Prosecutor v Tadic*, Appeals Chamber decision on Jurisdiction, para 119.

278. Prosecutor v Dusko Tadic, ICTY Case Number IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para 119.

279. See for example Article 23 Hague Regulations 1907; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at p257.

280. See for example *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1996) ICJ Reports 226 at p.257.

281. Convention on the Prevention and Punishment of the Crime of Genocide 1948, Article 2.

282. See Article 7(2)(b) Rome Statute of the ICC.

283. Article 6(c) London Charter for the International Military Tribunal at Nuremberg, Article 5 Statute of the ICTY, Article 3 Statute of the ICTR, Article 7(1) Rome Statute of the ICC.

284. London Charter for the Nuremberg IMT.

285. Giorgio Gaja, "The Long Journey towards Repressing Aggression" in Antonio Cassese et al (eds), The *Rome Statute of the International Criminal Court: A Commentary*, Oxford, Oxford University Press, 2002, at pp435-438; Yoram Dinstein, *War, Aggression and Self-Defence* (Third edition), Cambridge, Cambridge University Press, 2001 at pp.114-116.

286. See Article 50 Geneva Convention I; Article 51 Geneva Convention II; Article 130 Geneva Convention III; and Article 147 Geneva Convention IV.

287. Paras (1)-(4) were contained in the London Charter for the Nuremberg IMT, Article 6(b).

288. Paras (5)-(7) are contained in the Statute of the ICTY, Article 3.

289. Prosecutor v Tihomir Blaskic, ICTY Case No. IT-95-14-T, Trial Chamber Judgment, 3 March 2000, paras 170, 180.

290. Prosecutor v Tihomir Blaskic, ICTY Case No. IT-95-14-T, Trial Chamber Judgment, 3 March 2000, para 187.

291. Prosecutor v Anto Furundzija, ICTY Case No. IT-95-17/1-T, Trial Chamber Judgment, 10 December 1998, para 168.

292. Prosecutor v Dragoljub Kunurac and others, ICTY Case No. IT-96-23&23/1, Appeals Chamber Judgement, 12 June 2002, para 148.

293. Prosecutor v Dusko Tadic, ICTY Case Number IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para 134.

294. Common Article 3, Geneva Conventions 1949.

295. See *Prosecutor v Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo*, ICTY Case No. IT-96-21, Appeals Chamber Judgment, 20 February 2001, paras 196-198.

296. See for example Article 7(3) Statute of the ICTY; Article 6(3) Statute of the ICTR; and Article 28 Rome Statute for the International Criminal Court 1998.

297. Armando dos Santos v The Prosecutor General, Case No. 16/2001, 15 July 2003; *Agustinho da Costa v The Prosecutor General*, Case No. 07/2000, 18 July 2003.

298. The Public Prosecutor v Joao Sarmento and Domingos Mendonca, Case No. 18a/2001, pp.10-13.

299. Article 1 Law 10/2003, 10 December 2003.

300. Article 64 Geneva Convention IV.

301. Myres S. McDougal and Florentino P. Feliciano, *The International Law of War*, New Haven, New Haven Press, 1994, at p.760.

302. Article 328 Portuguese Criminal Code ("Detainment").

303. Article 329 Portuguese Criminal Code ("Physical Coercion").

304. Article 330 Portuguese Criminal Code ("Private Detention").

305. Article 331 Portuguese Criminal Code ("Special enhancement in crimes of Private Detention").

306. Article 332 Portuguese Criminal Code.

307. Article 335 Portuguese Criminal Code ("Violence of persons against detainees").

308. Article 349 ("Simple wilful murder"), Article 350 ("Attempted murder and failed murder") and Article 351 ("Qualified murder").
309. Portuguese Criminal Code Article 359 ("Simple wilful corporal offences"), Article 360 ("Wilful corporal offences which result in illness or incapacity to work"), Article 361 ("Wilful corporal offences which result in loss of mental sanity, permanent incapacity to work or death") and Article 362 ("Corporal offences that result in death due to accidental circumstances").
310. Article 363 Portuguese Criminal Code ("Use and threats with firearms or projectile weapons").
311. Articles 370-375, 377, 378 Portuguese Criminal Code.
312. Article 380 Portuguese Criminal Code ("Intrusion into an alien house").
313. Articles 463-470 Portuguese Criminal Code.
314. Articles 472-473 Portuguese Criminal Code.
315. Articles 474 Portuguese Criminal Code.
316. Articles 477, 479 and 480 Portuguese Criminal Code.
317. Article 478 Portuguese Criminal Code.
318. Regulation No. 7 1976 on Ratification of East Timor's Unification into the Republic of Indonesia and the Formation of the Province Regional Level 1, of East Timor (LN No. 35/1976); PP No. 19 of 1976 on Legislation on the Unification of East Timor into the Republic of Indonesia (LN No. 39/1976); supplemented in 1978 with TAP MPR-RI No. VI/MPR/1978.
319. Presidential Decree No. 11/PNPS/1963, incorporated in 1969 as Law No. 5/1969.
320. Law No. 5/1963, incorporated into Law No. 5/1969.
321. Articles 187, 191 bis, 191 ter, 200 KUHP.
322. Article 202 KUHP.
323. Article 187 KUHP.
324. Article 289 and Article 290 KUHP.
325. Article 297 KUHP.
326. Article 324 KUHP.
327. Article 328 KUHP.
328. Article 330 KUHP.
329. Article 333 KUHP.
330. Article 338 and Article 339 KUHP.
331. Article 340 KUHP.
332. Articles 351-353 KUHP.
333. Articles 354 and355 KUHP.
334. Articles 362, 363 and 365 KUHP.
335. Articles 406, 407, 408 and 409 KUHP.
336. Article 148 KUHP.
337. Article 173 KUHP.
338. Article 175 KUHP.
339. Article 181 KUHP.
340. Article 92(3) KUHP.
341. Article 52 KUHP.
342. Article 421 KUHP.
343. Article 422 KUHP.
344. For example Law No. 40/1947 on Military Discipline Law; and Law No. 6/1950 on Criminal Procedure for the Military Judicial System and later Law No. 1/Drt/1958.



Photo/CAVR archives

Chega!

Part 3.

History of the Conflict

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Introduction

1. This part provides an historical context to events covered in the violations sections of the Report. It is based on primary sources of the Commission itself, from statements, interviews and testimonies delivered at public hearings; on documentary evidence available to the Commission; and on an analysis of relevant secondary sources. It is generally limited to a quick overview of the key events, moments and turning points in the period of the Commission's mandate relevant to the political conflicts, the efforts to resolve those conflicts and the human rights violations which occurred in those conflicts. Within the scope of this Report, it has not been possible to provide definitive accounts of some of the key issues which remain points of historical conjecture about this period and these events. Nor is it the role of the Commission to make such definitive judgements. The part does attempt at least to identify what some of these issues are, and the Commission encourages further research, writing and analysis of these important aspects of East Timorese history.

2. This analysis and writing of East Timorese history is a critical step in nation building, and how it is done will reflect what kind of society our new nation fosters. The Commission's Report is based largely upon the statements and interviews provided by ordinary East Timorese people from across the country, and seeks to bring their voice into the continuing dialogue for building our new nation. It does not seek to be an exclusive history, recording only the perspectives or achievements of national leaders, or of people from only one side or the other of the political divide. It is based on the idea that the recording and analysis of history must be open to new information and ideas, and to information and perspectives that are not necessarily politically popular. While history is critical for nation building, a simplistic history that seeks to sweep under the carpet unpleasant realities or to make invisible the contributions of people from all walks of life cannot help build a resilient and sustainable nation. History telling that acknowledges complexity, that makes space for the voice of those often silenced, and that opens the way for open-minded reflection can make a contribution to building

a nation where the idea of strength is based on respect for others, pluralism and democracy based upon the equality of all citizens.

3. The telling of East Timorese history is critical for the foundations of our relationship with our international neighbours, especially Indonesia. As the Indonesian historian Dr Asvi Warman Adam told the Commission at its hearing on Self-Determination and the International Community:

> *The collective memory of both nations will determine the nature and the strength or weakness of the relationship. This will be reflected in the writing of history of both countries.*[1]

4. This part begins with a brief overview of the colonial history of Timor-Leste under Portuguese control. It deliberately places the emphasis upon the period leading up to the internal conflict of August–September 1975 and the subsequent Indonesian invasion. This looks at events and relationships surrounding the decolonisation process in Portuguese Timor, within the territory, in Indonesia and in the regional and wider geopolitical context. They are vital to an understanding of the causes of the political conflicts in Timor-Leste, the lost opportunities to avoid war and seek peaceful solutions to political concerns based on the principles of international law, and involved Timorese, Indonesian and international actors.

5. Later sections deal with the major military campaigns by Indonesia in the 1970s and 1980s, and its political efforts to achieve international recognition for its takeover of Timor-Leste. They also deal with the plight of the people of Timor-Leste in the years of intense war, in the mountains and camps in the years of bombing and the famine that devastated the population. They trace the shift in strategy by Fretilin/Falintil after it was nearly destroyed in the campaigns of 1978, of the growth of a clandestine network in towns and villages across the country and of the Indonesian military territorial expansion and intensive surveillance network. The years of consolidation of both the Indonesian administration and the Resistance, through the 1980s, are described with a focus on efforts at developing a sense of national unity and the rise of the new generation of youth in resistance to the occupation.

6. Events such as the Santa Cruz Massacre, the capture of Xanana Gusmão and the Nobel Peace Prize in the 1990s are described as key turning points in the struggle of the East Timorese people to have their right to self-determination recognised. The later sections deal with the impact of the Asian financial crisis in Indonesia and in Timor-Leste, and the intensification of international efforts under new United Nations Secretary-General Kofi Annan to reach a solution to the question of Timor-Leste. With the fall of President Soeharto, the section traces the push inside Timor-Leste and internationally for a solution, and the rise of the militias in Timor-Leste when it became apparent that this could include a choice for the people of Timor-Leste for independence. It describes the rapid developments of 1999 leading to the 5

May Agreements, and the militia-TNI violence against civilian populations in the lead-up to their announcement. The UNAMET period and the conduct of the ballot are described. The part goes into some detail about the failure of Indonesia to guarantee security during and after the ballot, and the role of the TNI and the militia groups in the escalation of violence across the territory after the announcement of the results rejecting the special autonomy package. East Timorese and international efforts to ensure intervention to halt the violence and ensure the results of the ballot were respected by Indonesia are described. The part ends with the arrival of Interfet and the gradual return to Timor-Leste of East Timorese people from West Timor and other parts of Indonesia, Portugal, Australia and the many other countries of the world where they had been scattered by the years of conflict.

7. It is the hope of the Commission that this brief history will both assist the reader to understand the contents of other parts and sections of this Report, and that it will inspire current and future generations of East Timorese historians to work further on understanding our past as part of our constant efforts to build a future based on respect for each other, human rights and the love of peace.

Portuguese colonialism in Timor-Leste

Overview

8. Portuguese involvement in Timor began in the 1500s when it sought sandalwood. In the late 16th century the first Catholic Church was built in Lifau, Oecussi, which became the base for the first Portuguese administration of Timor. Portugal and the Netherlands had tense relations as the two main colonising powers of the archipelago, and in the 1700s Dutch military power gave it the balance of power over Portugal. Portugal moved its base to Dili in 1771 and increasingly focused its colonising efforts on the eastern half of the island. In the latter half of the 19th century, Portugal forcibly introduced cash crops such as coffee to Timor and sought to consolidate its colonial administration through the imposition of taxes and forced labour, resulting in a series of revolts by Timorese. The colonial tactic of divide and rule was used to divide and weaken the traditional leadership of the Timorese.

9. In 1913 the colonial boundaries between Portuguese and Dutch Timor were fixed in a decision at the international court in The Hague, known as a Sentenca Arbitral, with Portugal taking the eastern half of the island and the enclave of Oecussi. The 20th century saw Portugal dominated by the authoritarian regime of Prime Minister Salazar. Timor was the most remote of Portugal's colonies, and development, physical or political, was largely neglected.

10. The Second World War brought terrible violence to Timor, as Allied Forces landed in neutral Portuguese Timor followed by Japanese occupation forces. The death-toll of Timorese was between 40,000 to 60,000 people. After the

War, the Portuguese colonial administration returned. Timor remained a poor though relatively peaceful island until the Carnation Revolution of 25 April 1974 at last opened the way for decolonisation in Timor-Leste.

11. The Commission identified three important impacts of the Portuguese colonisation of Timor-Leste. First, the colonisers' tactics of playing off social groups against each other kept indigenous political alliances weak. This restricted development of the unity that is required for nation building. Second, no self-governing tradition was developed. Most East Timorese existed in subjugation to a feudal system. Third, the Portuguese colonial regime did not develop or institutionalise democratic and human rights values, though traditional cultural values already existed and the Church inculcated religious values. Thus the political activity that emerged in 1974-75 was subject to extensive distortion and manipulation. These factors all contributed to the disorder and internal conflict that emerged during the decolonisation process in 1975. During the civil war in August 1975 Portugal withdrew. The Fretilin political party emerged victorious from the civil war, and began a partially functional interim government. These factors all contributed to Indonesia being able to invade Timor-Leste in 1975 with minimal international protest.

The arrival of the Portuguese

12. The Portuguese first visited Timor in search of white sandalwood in the early 16th century. Following their conquest of Malacca in 1511, Portuguese missionaries built the first church on the island in 1590. This began a period of settlement in Lifau (Oecussi) on the north coast of the western part of Timor by Franciscan monks, sandalwood traders and Topasses, a mixed race group fathered by Portuguese sailors, traders and soldiers whose descendants remain in Timor to this day. Portugal had established colonies on other islands in the region, however these were not secure. The Dutch soon dislodged the Portuguese from Malacca, Makassar in Sulawesi, and in 1652, from their newly built fort in Kupang, western Timor, only five years after its completion.*

13. In 1702 the Portuguese government formally established a presence at Lifau, administering Timor from its colony at Goa. The governor's approach of conferring military rank on local kings (*liurai*) established a precedent for the governance of Timor that was to continue into the 20th century. However the Portuguese faced challenges from itinerant *liurai* as well as from the powerful Topasses, who by that time dominated the sandalwood trade and, despite their Portuguese heritage, only

* The battle of Penfui between the Portuguese and Netherlands colonial powers took part in the mid-17th century, and was a turning point for Portugal. Penfui is north of the town of Kupang, near the site of the modern-day airport. Portugal's defeat at the hands of Dutch military power meant that the Topasses backed by the Portuguese were effectively evicted from the major port of the island in Kupang, in what was a clear signal of Dutch military superiority. The site of the battle is also near the prison where 69 East Timorese political prisoners were taken in 1983 in the crackdown after the Kraras Massacre [see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment].

occasionally cooperated. Unable to establish a firm hold in Lifau, the Portuguese moved to Dili in 1769. This brought them into contact with the Belu people who inhabited the eastern part of the island.

Colonial consolidation

14. From their new base at Dili, the Portuguese had limited influence and geographic control over Timor-Leste. Local resistance and limited military capacity restricted Portugal to the north coast for some time. In 1851 Governor Lopes da Lima opened a series of complex land negotiations with the Dutch colonial authorities, involving *liurai* and patrimonies in the border areas such as Maucata, further inside Timor-Leste in Maubara, and over the Portuguese-controlled island of Flores. These negotiations established the principle of the exchange of territories between Portugal and the Netherlands with a view to a settled border on the basis of an east-west divide of the island between the rival colonial powers. This relieved Portugal of colonial wars with the Netherlands, allowing it to consolidate its power throughout the eastern part of the island. In 1895 Portugal established military/administrative units throughout Timor-Leste's ten districts. Oecussi was added to become the 11th district.[3] Portugal built military barracks, offices, some schools, hospitals and prisons in the districts before the end of the 19th century. The Catholic Church, which had been banned for 20 years since 1834, was rehabilitated and Bishop Medeiros was welcomed.

15. The territorial negotiations commenced by Governor Lopes da Lima in 1851 culminated in Portugal and the Netherlands agreeing to take the matter to the International Court in The Hague, where the final decision on the colonial boundaries was fixed in a Sentenca Arbitral in 1913. The final territorial exchange between the Netherlands and Portugal pursuant to this decision took place in 1917.[4] The result was that Timor-Leste remained Portugal's only colonial possession in the archipelago, leaving the Netherlands as the ascendant colonial power.

16. This formal finalisation of international boundaries between the Netherlands and Portugal became a critical reference point for the political future of Timor-Leste. When Indonesia struggled for and won independence after the Second World War, it based its national claim at the United Nations upon the former Dutch colonial boundaries. It was upon this principle that it continued to struggle and ultimately went to war for Irian/West Papua in the 1960s. While there had been some rhetoric expressed on the concept of a "greater Indonesia" during the nationalist struggle, taking in areas of British Malaya and Borneo, this was never seriously put forward to the United Nations. In submissions to the United Nations over its claim to Irian in the late 1950s, Indonesia explicitly denied any claim to Portuguese Timor.[5] Later, in 1974-75, and in the years that followed, the Indonesian government never seriously tried to claim that Indonesia had a territorial claim over the former Portuguese Timor.

17. Of equal importance and flowing from this colonial relationship, the Portuguese government never rescinded its position as the legal administering power of Timor-Leste throughout the mandate period of the Commission. This enabled the question of

Timor-Leste to remain alive on the agenda of the United Nations as a non-self-governing territory, and a factor that fundamentally distinguished it from other nationalist or separatist struggles within the Indonesian archipelago in the 20th century.

Portuguese governance and Timorese resistance

18. The Portuguese exerted indirect rule through the *liurai*, whose cooperation they obtained by permitting them to retain autonomy in their home territories. The Portuguese exploited existing rivalries between *liurai*. In so doing they gained access to the resource of their small armies or militia groups* which they used to augment their own limited military resources.[6] The colonists first used the militias of loyal *liurai* in 1642 during the campaign against the kingdom of Wehale,[7] and continued to do so until crushing the Viqueque rebellion in 1959. For the Portuguese, the price of this policy of divide and rule was persistent localised resistance to Portuguese authority. For the East Timorese, the price was perpetual weakness and disunity.

19. Portuguese power and prosperity declined over the 17th and 18th centuries. Of its colonies, Portuguese Timor was the most remote and least important. Portugal provided it with limited economic and political investment. The declining value of sandalwood prompted Portugal to introduce new crops in the 19th century in order to develop an export sector. However, Portuguese Timor's subsistence agriculture economy had little surplus labour, which such crops required. Around 1859 Governor Alfonso de Castro introduced forced-cultivation of new cash crops, predominately coffee but also wheat and other non-native species. Portugal still ruled Timor indirectly, which made governing difficult, particularly given resistance to its coercive economic policies. Governor Celestino da Silva extended this system of forced labour in the 1890s and 1900s, a special feature of which was road building. Heavy taxation and coercive labour policies, both of which were a consequence of Portugal's under-investment in the colony, were deeply unpopular.

20. *Liurai* resistance began shortly after the installation of a governor in Lifau. The imposition of an in-kind tribute, the *finta*, around 1710, provoked on-going rebellion and resentment that contributed to Portugal's relocation to Dili in 1769.[8] Portugal then faced limited resistance until Governor Castro used military force to impose coffee cultivation. The unpopular move provoked a revolt in 1861 that was succeeded by a series of localised *liurai*-led rebellions against colonial excesses. In response, the Portuguese administration imposed direct control of Timor-Leste in 1895 when Governor da Silva established an administrative and military presence throughout Timor-Leste, dividing the territory into eleven districts, including the enclave of Oecussi.[9]

21. Consequently, Portugal separated Timor from Goa, making it a separate administrative district in 1896. However the rebellions continued. The last and largest of these was led by Manufahi *liurai* Dom Boaventura who rebelled against the 1908 head tax. Dom Boaventura's resistance stemmed from his father's rebellion; the

* In Portuguese these were called *moradores* or *arraias*.

liurai Dom Duarte led rebellions at the end of the 19th century until Governor da Silva attacked the Same kingdom in 1895 and Dom Duarte was forced to surrender in 1900. After Governor da Silva replaced the *finta* with a head tax in 1908 Dom Duarte's son Dom Boaventura rebelled in 1911. The Portuguese assembled a vast *liurai* army of 12,000, and brought in troops from Mozambique, bloodily defeating the uprising in 1912. This action established stability, but at the cost of extensive loss of life and suffering. It is thought up to 25,000 died during this campaign.[10] Dom Boaventura was captured and exiled to Ataúro Island where he died. Subsequently the Portuguese directly empowered villages (*suco*) as the local government, thereby bypassing the *liurai*, reducing some of their influence and bringing more direct Portuguese control over the interior of the territory.

Portuguese Timor in the 20th century

22. During much of the 20th century Portugal itself faced domestic instability. In 1910 the kingdom was replaced by a republic, which was in turn replaced by a one-party state in 1928. During this period many Chinese entered the colony of Portuguese Timor, and developed their role as business intermediaries, exporters and traders. Complementing the Chinese economic activity, despite its preoccupations at home, Portugal established the SAPT (Sociedade Agricola Pátria e Trabalho), a trading conglomerate that brought new infrastructure to production and export.* Nonetheless Portuguese Timor remained a distant colonial outpost that functioned with minimal input of Portuguese personnel or investment. In 1929 Portuguese nationals numbered only 200, with a further 300 soldiers.[11] Lisbon continued to rule through local intermediaries. In 1930 Prime Minister Salazar's Colonial Act created representative but largely powerless local councils, and enabled some limited indigenous eligibility for Portuguese national status.

World War II

23. After Japan attacked Pearl Harbour in December 1941, Australia anticipated that Japan would occupy Timor and use it as a base to launch attacks against Australia. Australian, British and Dutch troops landed in Dili on 17 December 1941 in what was claimed as a pre-emptive action. Governor de Carvalho protested about the violation of Portuguese neutrality. Japan invaded Timor on 19 February 1942. It remains an issue of historical conjecture whether the Allied violation of Portuguese neutrality was necessary to counter an imminent Japanese attack, or whether the Australian presence in Portuguese Timor drew the Japanese military to an area it would otherwise not have invaded.[12]

24. The impact upon East Timorese society was devastating. Between 40,000 and 60,000 East Timorese are reported to have died.[13] Many were tortured and killed by Japanese troops on suspicion of assisting Australian guerrilla fighters. Sexual slavery

* SAPT was operated by a Brazilian contracting company named Moniz da Maia Serra e Fortunato.

of East Timorese women by Japanese troops was widespread. In addition the territory was impoverished by the war, and divisions were sown between those seen to have supported the Japanese and those who supported the small Australian guerrilla force. The Commission heard testimony of the long-lasting effects of this conflict on East Timorese society in its national public hearing on the Internal Political Conflict of 1974-76.[14] No international investigation was conducted for war crimes committed by either occupying country, and no war reparations have been paid to the East Timorese people.[15]

The international movement for decolonisation and Portugal's position

25. Article 73 of the 1945 UN Charter demanded that colonising countries heed the aspirations of colonised countries and gradually introduce autonomy. This international consensus continued to develop as most colonisers granted independence to their colonies after the Second World War, and was expressed through mechanisms such as the UN General Assembly that in 1960 recognised colonialism as a denial of human rights. In 1960 Portuguese Timor was listed as a Non-Self-Governing Territory with the United Nations Decolonisation Committee, affirming its people's right to self-determination, a listing which remained relevant up until the 1999 United Nations-organised Popular Consultation.

26. In response to this growing international consensus on the need for decolonisation, Portugal re-designated its colonies as "overseas provinces" in 1951. It was a paternalistic move designed to "civilise" its colonial subjects and placate its critics, but it changed little. This was particularly the case in Portuguese Timor, which remained extremely isolated. No independence movement developed along the lines of those in Portugal's African colonies. On the contrary, life for the East Timorese in the 1950s was far from civilised. Monsignor Martinho da Costa Lopes reflected that during 400 years of Portuguese colonisation not one lawyer, engineer or doctor had been born in Timor-Leste.[16] Few East Timorese enjoyed any significant equality with the colonists, and continued to be routinely maltreated and their rights to property abused by the Portuguese.[17] Bishop Carlos Filipe Ximenes Belo once addressed the issue:

> I often saw some of the Portuguese taking palm wine that was for sale by the indigenous people and not give them any money, although the people had walked for a long time to the market in the hope that they will return with some money. They were oppressed, and could not defend themselves. Every time I saw these things, my heart ached and I cried inside. But I could not do anything.[18]

27. Although the use of whips and of the cane was banned by the Portuguese in 1956, the practice of whipping continued.[19] Xanana Gusmão later recalled:

> I saw prisoners whipped in [government] posts. They groaned because they were forced to stand on coral stone, hot from the scorching sun,

> with their feet shackled. Sometimes during my adventures with school friends – *liurai* children – I also saw officials or locals being sent out in groups or returning with people covered in blood all over, because they had not turned up for their *corvee* work building roads, or for their work as *asu-lear* [sic] [indentured workers] on the properties of colonists, Chinese or assimilated Timorese. [20]

28. In 1959 a group of exiled Indonesians were involved in an uprising in Viqueque against the Portuguese colonial administration. The Portuguese discovered this plot and crushed it violently, resulting in significant bloodshed. The background to these events remains largely unexplained. A Portuguese official report of the time blamed this uprising on Indonesia but it is unclear whether this was the case. After these events, in 1959, the government opened a branch of the secret police (Polícia Internacional e de Defesa do Estado, PIDE) in Dili to monitor Indonesian movements and anti-Portuguese sentiment.

Portuguese development plans and growing anti-colonial sentiments

29. In 1953 the Portuguese central government began a series of development plans* aimed at invigorating its stagnant domestic economy. In Portuguese Timor this included increased coffee production and export, mining exploration, and tourism development. Infrastructural improvements included road construction, repair of the Dili port and Baucau airport, and electricity and a municipal water system in Dili.[22] By 1975, 17 or 18 doctors were working in the Dili hospital and regional clinics.[23]

30. East Timorese access to education, however, remained limited throughout the Portuguese era. The children of *liurai* gained some access to primary education from about 1860, and in 1904 the Jesuits opened a missionary school in Soibada that became an important place of learning for East Timorese from across the territory.† However, Western learning remained the almost exclusive preserve of Portuguese nationals. In 1964, only 10 East Timorese held degrees.[24] According to Portuguese statistics, between 1950 and 1970 primary enrolment increased tenfold, from 3,249 to 32,937. [25] The 1970 census indicated around 10% literacy in the colony,‡ by which time the administration had established a secondary school in Dili, the Liceu Dr Francisco Machado, with 767 students.[26] A reflection of this limited access to state education is the fact that prominent proponents of Timor-Leste's independence movement were mostly seminary-educated.

* *Plano de Fomento*.

† The school, Colégio Nuno Alveres Pereira (for boys) and Imaculada da Conceição (for girls), held its centenary celebrations in 2004.

‡ The percentage of illiteracy in Dili was 14% and it was 45% in the District towns.

31. Increasingly aware of inequality, an emerging generation of politicised East Timorese was also frustrated at the absence of political vehicles to channel East Timorese aspirations. East Timorese had little role in governing the affairs of the colony. The province's governor represented the Portuguese government, not the East Timorese people, and wielded broad executive powers. Although an 11-member Legislative Council existed, it had only three elected representatives. It could not possibly represent popular aspirations, and only had limited authority.[27] Despite UN resolutions urging Portugal to grant political freedom to its colonies,[28] the Salazar and later Caetano regime denied democracy to its own citizens, let alone its colonial peoples. This only changed with the accession of General Spínola after the 25 April 1974 Carnation Revolution.

Changes in Portugal and the decolonisation process

Overview

32. The 1960s national liberation movements in Portugal's African colonies turned to armed struggle to achieve their independence. Forced to engage simultaneously in separate wars on several far-flung fronts, the small, relatively poor nation of Portugal came under tremendous political and economic pressure at a time when it was increasingly looking to Europe for its economic future. In 1968, after 40 years in power, the authoritarian Prime Minister Salazar was replaced by Marcello Caetano, who failed to find a solution to these increasingly costly armed conflicts. Frustrated with these failures, an Armed Forces Movement (Movimento das Forças Armadas, MFA) emerged within the military and on 25 April 1974 led a successful but bloodless coup against the Caetano regime, known as the Carnation Revolution. While the MFA opened the way for decolonisation, it also ushered in several years of political turbulence in Portugal. This turmoil, coupled with Portugal's preoccupation with its larger African colonies, were critical factors in Portugal's failure to give adequate attention to the decolonisation of its remotest colony, Timor.

The MFA and the Carnation Revolution

33. In the early 1960s independence movements in Portugal's African colonies began to wage armed struggles. The MPLA (Movimento Popular de Libertação de Angola) in Angola took up arms in 1961, to be followed by PAIGC (Partido Africano da Independência da Guiné e Cabo Verde) in Guinea Bissau in 1963 and Frelimo (Frente de Libertação de Moçambique) in Mozambique in 1964. The Portuguese colony of Goa was "liberated" by the Indian armed forces in 1961.[29] Fighting three wars simultaneously placed a heavy financial and military burden on Portugal. At the same time, after joining the European Free Trade Association (EFTA) in 1961, Portugal was becoming increasingly intertwined economically with Europe at the expense of its African colonies. By the early 1970s the protectionist economic policies designed to

foster trade with and investment in the colonies no longer matched the interests of the Portuguese conglomerates whose focus was increasingly European.

34. Having lost faith in the ability first of Salazar and then of Caetano to find a political solution to the African wars, the armed forces turned to General António Spínola, who had been a close associate of Caetano's. Spínola had advocated a programme of reforms, which Caetano rejected. To disseminate his ideas Spínola published a book entitled *Portugal and its Future*, proposing a solution to the colonial wars through referenda on a federal relationship with Portugal. When the MFA established itself on 5 March 1974, it elected General Spínola as its leader, and when it launched the Carnation Revolution on 25 April 1974, Spínola became the Movement's choice for president.

Rapid decolonisation, turmoil in Portugal

35. While the Carnation Revolution initially went smoothly in Portugal, the months and years that followed saw a period of significant political instability, with successive minority governments formed, and falling, until the Socialist Party came to power in 1982. This instability limited Portugal's capacity to deal effectively with events occurring in Timor. Combined with the active destabilisation by Indonesia, they were unable to implement a decolonisation process.

36. In April 1974 the MFA immediately formed the National Salvation Council (Junta de Salvação Nacional, JSN), and appointed Spínola as its leader. The JSN manifesto advocated democratisation within Portugal, including dismantling the secret police, PIDE, and releasing political prisoners. On colonial issues it vaguely suggested a political solution[30] through a national debate leading to a peaceful solution, but avoided mention of self-determination and autonomy.[31] President Spínola installed a new provisional government on 15 May 1974, with Adelino de Palma Carlos as prime minister. On the same day it issued Decree No. 203/1974, setting out a policy for decolonisation. The decree committed the government to a political solution based on the principle of self-determination.[32]

37. Spínola's federal solution failed to gain significant support. In Portugal public opinion was increasingly in favour of withdrawal from the colonies. Aware of their military superiority against the beleaguered Portuguese, the colonies of Guinea-Bissau and Mozambique were in no mood to compromise on their demand for independence. Some influential members of the cabinet, including the minister of foreign affairs and leader of the Socialist Party, Mário Soares, also preferred independence as a solution.

38. By mid-1974 even within the MFA support for federation was waning, and a quick exit became the preferred military option. These pressures led to the resignation of Palma Carlos as prime minister, and his replacement by Vasco Gonçalves. On 27 July the new government issued Law No. 7/1974 recognising independence as an acceptable outcome of the process of self-determination in the colonies.[33] This policy shift led to the resignation of Spínola in September 1974. Within a year Portugal's five African colonies had all achieved independence.

39. After coming to power in April 1974, the MFA had conducted a purge of what it considered reactionary elements in the Portuguese civil administration. It immediately replaced all the governors in the African colonies, but was slower to take similar action in Portuguese Timor. Even though he had made a speech criticising the MFA for its radicalism, just two days before 25 April, the governor of Portuguese Timor, Alves Aldeia, retained his position for another three months. Portugal's preoccupations at the time and the consequent neglect of Timor were summed up by the last Portuguese governor of Timor, Major-General Mário Lemos Pires, in testimony he presented to the Commission:

> *The Portuguese nation that emerged from the revolution was very weak, without cohesion, with a lot of difficulties and with no credibility among its previous [Western] allies. The nation was very worried about its revolution and attempting to gain some political stability, caring for the citizens who were arriving from Africa and firmly deciding to finish the war in the African countries…What did the Portuguese people think about Timor-Leste in 1974, after the revolution? Nothing, not much, little. Nothing. Their thoughts were about the revolution and their relatives in the African territories.*[34]

The impact of the Carnation Revolution in Portuguese Timor

40. In Timor news of the Carnation Revolution was welcomed with a mixture of euphoria and concern. The Commission heard testimony from a range of leading East Timorese figures in its hearing on the Internal Political Conflict of 1974-76. They spoke of the excitement events in Lisbon and the other colonies generated among the mostly young people who had an interest in politics. But they also generally agreed that East Timorese society was ill-prepared by its history to engage in political activity.[35]

41. In early May 1974, when Governor Alves Aldeia asked the JSN in Lisbon for an explanation of the new colonial policy, he was instructed to act according to the principles of the MFA programme and, taking into account local conditions, to seek to avoid any deterioration of relations with Indonesia.

42. On 13 May Governor Alves Aldeia formed the Timor Commission for Self-Determination which, among other things, encouraged the establishment of civil associations.[36] At the end of May, Major Arnão Metello, chief-of-staff of the local military command, was named the MFA's delegate in the colony.[37]

43. In contrast to its attitude to its African colonies, the Portuguese government tended to view Portuguese Timor's independence as unrealistic. On 3 August 1974 Minister of Inter-Territory Co-ordination, António de Almeida Santos, objected to Portuguese Timor's full independence, and stated federation as the most realistic option.[38] This provoked a strong reaction from the newly formed East Timorese political

associations, UDT and Fretilin.* Yet on the same day the Portuguese government submitted a memorandum to the UN Secretary-General recognising the right to self-determination and independence of all territories under its administration, a position that was reaffirmed two months later before the UN General Assembly by the Portuguese foreign minister, Mário Soares.[39] The right to self-determination for all colonies was subsequently enshrined as an obligation of the Portuguese state in the constitution of 1975. This provision proved critical to sustaining official Portuguese commitment to the self-determination of the people of Timor-Leste in the difficult years that followed.

The formation of political parties in Portuguese Timor

44. The Commission heard testimony describing how the Carnation Revolution quickly galvanised East Timorese interest in the political future of the territory. Domingos Oliveira, who became the Secretary General of UDT, described the phenomenon:

> *Before 25 April in Timor, we used to talk about our girlfriends, football and things like that at the café and restaurant where we would go to drink a beer and meet friends. After 25 April, we only talked about the consequences of 25 April. What should we Timorese do? What is the right thing to do now in this new situation?*[40]

45. In Dili politically-inclined East Timorese started to consider forming political associations, and held meetings to discuss what their principles and platforms should be. Once formed, the associations effectively functioned as political parties, even though political parties were still technically barred from operating.[41]

46. The first association to be formed was the Timorese Democratic Union (União Democratica Timorense, UDT), founded on 11 May 1974. Its founders tended to be politically conservative and many had links to the Portuguese colonial administration, reflecting their privileged social status and function as intermediaries between East Timorese and the Portuguese colonists. UDT's first president was Francisco Lopes da Cruz. Its other founders included César Augusto da Costa Mouzinho who was vice-president, the brothers Manuel, Mário and João Carrascalão, and Domingos Oliveira, the association's secretary general. UDT's original manifesto advocated "progressive autonomy" under Portugal, although it also supported the right to self-determination. It announced a modification of its position on 1 August 1974 when it declared that its goal was eventual independence after a period of federation with Portugal. It also specifically rejected integration with other countries.[42] UDT's shift showed it to be malleable, on this occasion in response to changes in the political landscape in Portugal and to evidence that nationalism was a growing force in Timor itself.

* Domingos Oliveira, former Secretary General of UDT, testified to the offence taken by East Timorese at this statement, at the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.

47. Nine days after UDT's founding, on 20 May, the Timorese Social Democratic Association (Associação Social Democrata Timorense, ASDT) was established. ASDT's founders were mostly young intellectual East Timorese, from a range of backgrounds; some from within the Portuguese administration, others from the clandestine anti-colonial group of the early 1970s. Older and better known than the association's youthful founders, Francisco Xavier do Amaral was appointed president. Other key figures included Mari Alkatiri, José Ramos-Horta, Nicolau Lobato and Justino Mota. ASDT published its manifesto on 22 May, affirming the right to independence and an anti-colonial and nationalist stance. It also stated the association's commitment to a "good neighbour" policy towards the countries of the region without compromising the interests of the East Timorese people.

48. The third association to be established was the Timorese Popular Democratic Association (Associação Popular Democrática Timorense, Apodeti), founded on 27 May. The original plan had been to name the organisation the Association for the Integration of Timor into Indonesia, but although this name would have succinctly described Apodeti's chief goal, it was apparently regarded as too transparent. Its founding President was Arnaldo dos Reis Araújo, but its strategist was José Fernando Osorio Soares, who had quit ASDT to become Apodeti's Secretary General. Another key figure was plantation owner Hermenegildo Martins. The *liurai* of Atsabe, Guilherme Maria Gonçalves, joined Apodeti soon after its formation, bringing with him a degree of support from his regional power base. Indonesia's consul in Dili, Elias Tomodok, was an important conduit for advice and financial support to Apodeti during the 1974-75 period. [43] Apodeti's manifesto declared its goal of autonomous integration with Indonesia, in accordance with international law, although this was incompatible with Indonesia's Constitution. In common with the other two major parties it rejected a number of the perceived evils of the Portuguese administration such as corruption and discrimination, as well as pledging respect for human rights and individual freedoms.

49. Three smaller political parties were established some time after the initial three. José Martins defected from Apodeti, of which he had been one of the founders, and established a monarchist (*liurai*) party, the Association of Timorese Warrior Sons (Klibur Oan Timor Aswain, KOTA) on 20 November 1974.[44] Martins had a brief career as a propagandist for the Indonesian occupation, and was a key collaborator with Indonesian intelligence (Bakin) in 1975. The Labour Party (Trabalhista) was established in September 1974 and had the goal of independence through a transitional federation with Portugal.[45] A third party, Democratic Association for the Integration of East Timor into Australia (Aditla), proposed joining Australia but disappeared once Australia ruled it out in March 1975.[46]

50. It quickly became clear that UDT and ASDT were the only two parties with popular support across the country.

The international climate and Indonesia's policy on Portuguese Timor

Overview

51. Portuguese Timor's opportunity for decolonisation came at a crucial moment in the Cold War. The North Vietnamese victory in Vietnam in April 1975 and the almost simultaneous collapse of pro-US governments in the other Indo-Chinese states of Cambodia and Laos fuelled fears among Western policymakers and their Asian allies that other countries in South-East Asia were also vulnerable and that the line must be held at all costs against the spread of communism. In this setting the US and its allies looked to Indonesia as a vital component of its post-Vietnam strategy for preventing further communist advances. At this time the Carnation Revolution created a highly fluid political situation in Portugal, where the possible outcomes seemed to include another victory for the left and a defeat for the West.

52. Aside from the support it enjoyed as a result of its anti-communist credentials Indonesia was also in a position to capitalise on its status as a founding member of the Non-Aligned Movement, its links to other Muslim countries through the Organisation of Islamic Conference and as the largest nation in the Association of South-East Asian Nations (ASEAN). Indonesia's broad-based support, Portugal's reluctance to internationalise the issue and widespread indifference about the fate of what many saw as an obscure remnant of a minor colonial power, all weighed against an active UN role over the question of Timor-Leste. All of these factors worked to Indonesia's advantage in its campaign to win support for its policy on Timor-Leste.

The United Nations and Portuguese Timor

53. During 1975 the Cold War between East and West reached a critical juncture, largely because of developments in South-East Asia. In April 1975, two years after the withdrawal of US troops from Vietnam, Saigon fell to the communist North. This shift in the balance of power affected both large and small nations, and it had a profound impact on what occurred in Portuguese Timor. [47] The Cold War had a stifling effect on the United Nations during this period. The world's major power blocks often paralysed its key institutions, such as the Security Council. Partly as a result of this, a feature of the growing crisis of Portuguese Timor in 1974-75 was the failure to internationalise the issue within the framework of the United Nations. Portugal conducted a series of bilateral negotiations with Indonesia, and although in these negotiations it did use the threat of "internationalisation" as a bargaining chip, in practice it pursued this option only when it was too late and when it was in effect powerless to affect the situation. [48]

54. The United Nations body charged with overseeing decolonisation, the UN Special Committee on Decolonisation, was preoccupied by the situation in

Portugal's African colonies and paid little attention to Timor. In June 1975 the UN Special Committee on Decolonisation considered Portuguese Timor, and urged the attainment of the goals of the UN Charter on the Declaration of Independence to Colonial Countries and Peoples. Despite having been asked to assess the situation on the ground, the Committee did not do so.[49] This lack of attention to Portuguese Timor in 1974-75 meant that when the civil war broke out in August 1975, and when Indonesian covert activities evolved into major military operations in October–November 1975, the United Nations was relatively ignorant of the situation in the territory. This lack of United Nations involvement was a lost opportunity to avert violence and the ultimate military takeover of Portuguese Timor by Indonesia (see Vol. II, Part 7.1: The Right to Self-Determination).

Indonesia and the international community

55. With nearly 165 million people in the mid-1970s Indonesia was the most populous country in South-East Asia. Under President Soeharto Indonesia was committed to the development of its resource-rich economy. After the turmoil of the last years of President Sukarno both the Western powers and its immediate neighbours viewed this transformed Indonesia positively. In addition, Indonesia's status as a founding member of the Non-Aligned Movement* meant that it could rely on significant support from this group of nations. At the same time Indonesia was the largest country in the Organisation of the Islamic Conference (OIC), and could count on the support of most Islamic countries. This broad support for Indonesia contributed to the lack of serious effort to curb its aggressive actions in Portuguese Timor, including within United Nations fora.

56. Though formally non-aligned, the Soeharto regime's anti-communism meant that it gravitated to the Western camp, offering rich opportunities for trade and investment.[50] President Soeharto's New Order regime had proved its anti-communist credentials to the US through its eradication of the Communist Party of Indonesia (Partai Komunis Indonesia, PKI) during the turbulence of 1965–1966. In those years the Indonesian military led the repression of the PKI, killing up to one million of its members and followers, and imprisoning another million or more people.[51] The New Order banned communism, froze diplomatic relations with the People's Republic of China and placed itself firmly in the Western camp. It sought investment and economic assistance from its Western friends.

57. Aside from aligning itself with the Western Bloc, Indonesia also mended fences with the anti-Communist countries of South-East Asia like Thailand, Malaysia, Singapore and the Philippines. In 1967, it joined these four South-East Asian countries in forming the Association of South-East Asian Nations (ASEAN) with the aim of fighting against the spread of Communism in the region, particularly from North Vietnam and the People's

* The Non-Aligned Movement (NAM) is composed of over 100 states that consider themselves not aligned to a major power bloc, which in the cold war context of its inception meant the capitalist and communist blocs. Indonesia hosted its inaugural meeting in 1955.

Republic of China. Indonesia feared that communism would infiltrate the country and awaken dormant communist elements. For that reason, even in the face of mounting international pressure, Soeharto was not ready to free the hundreds of thousands of prisoners arrested in the wake of the 1965 coup.

58. In the decade since 1965 the New Order had not relented in its anti-communist fervour at home. During 1965–1966 between 250 thousand and one million Indonesian Communist Party (PKI) members and followers were killed, and another million or more were imprisoned. However, anti-communism was an important but not the only touchstone of loyalty to the regime. Under Soeharto's New Order the bounds of acceptable political debate became extremely narrow, being defined not just by the regime's anti-communism but by its distaste for pluralist politics in general. New rules were imposed by the military-dominated authoritarian structures.[52] At a time when Western perceptions of South-East Asia were characterised by the fear that other states in the region were a row of dominoes that were in danger of following the example of Indochina and falling into the Communist camp, the West was willing to overlook the repression on which the New Order relied, provided that Indonesia continued to be a bulwark against the spread of communism.

59. Many Western states and their Asian allies shared Soeharto's view that Portuguese Timor should be absorbed into Indonesia, either because they shared his strategic assumptions and the anti-communist mind-set that underlay it, or simply because they did not wish to alienate Jakarta. This frame of mind was summed up in the advice of the British ambassador, Sir John Archibald Ford, to London:

> Even without Soviet or Chinese intervention that territory could become the "problem child" [of the region]…Britain's interest is that Indonesia integrates that territory…If there is a crisis and a debate in the UN we shall all keep our heads down and avoid taking a position against Indonesia.[53]

60. Indonesia could also rely on the support of non-communist Asia. Although there were differences in the degree of support they were prepared to offer, as the largest nation in South-East Asia Indonesia had the broad support of the members of the Association of South-East Asian Nations, (ASEAN). Within ASEAN there was a spectrum of views on Indonesian policy towards Portuguese Timor, ranging from Singapore which as a small and culturally distinct island nation, saw itself as the Israel of South-east Asia and had reservations about Indonesia's intentions, to Malaysia, which was Jakarta's staunchest backer.

61. Cold War alignments were not the only reason why countries in the region supported Indonesia. Japan had a major economic interest in Indonesia, and was becoming increasingly reliant on its oil and natural gas to fuel its booming economy. Australian policy on Portuguese Timor was built on a desire to redefine its foreign policy in general by giving it a more regional slant and to improve its relations with Indonesia in particular. The Australian Prime Minister, Gough Whitlam, shared Indonesia's view that an independent Timor-Leste would not be viable and was advised

that the annexation of Portuguese Timor was "settled" Indonesian policy. Whatever his true intentions, in his two meetings with President Soeharto in 1974-75 Whitlam gave President Soeharto the firm impression that he saw merit in an Indonesian takeover, even while recognising that it was necessary to affirm the principle of self-determination.

Indonesian policy on Portuguese Timor

62. During the formative years of the Indonesian state some Indonesian nationalists dreamed of creating a Greater Indonesia based on a supposed golden age when the empires of Sriwijaya and Majapahit held sway over the archipelago. Though not grounded in historical reality, Greater Indonesia would have encompassed parts of Malaysia and the Philippines as well as Portuguese Timor. The Republic of Indonesia never sought to make Greater Indonesia a reality. Instead when seeking international recognition in the late 1940s and later in the 1950s and 1960s, when it was advancing its claim to West Irian (later Irian Jaya, now Papua), it stressed that its boundaries were those of the Dutch East Indies. Its reasons were pragmatic: claiming sovereignty over a Greater Indonesia would have smacked of expansionism in a world in which it was recognised that independent states should inherit the boundaries established by their colonisers.

63. Specifically with regard to Portuguese Timor, before 1975, at no point did Indonesia claim that it had the right to incorporate the territory. In 1961, when Indonesia was pursuing its claim to Irian Jaya the then foreign minister, Dr Subandrio, explicitly stated that Indonesia had no claims to Portuguese Timor because it was a Portuguese territory and therefore it did not belong to Indonesia.[54] In 1974, after meeting the ASDT foreign affairs representative, José Ramos-Horta, the then Indonesian foreign minister, Adam Malik, wrote to Ramos-Horta:

> The Government as well as the people of Indonesia have no intention to increase or expand their territory, or to occupy other territories other than what is stipulated in their Constitution. This reiteration is to give you a clear idea, so that there may be no doubt in the minds of the people of Timor in expressing their own wishes…For this reason, whoever will govern in Timor in the future after independence, can be assured that the Government of Indonesia will always strive to maintain good relations, friendship and cooperation for the benefit of both countries. [55]

64. While never part of mainstream thinking, the notion that Portuguese Timor belonged in Indonesia for historical, geographic and ethnic reasons existed as an undercurrent in Indonesian political discourse that could be invoked when occasion demanded. The spectre of Portuguese Timor's integration and unification also haunted relations between Indonesia and Portuguese Timor. Successive post-war governors of Portuguese Timor were suspicious of Indonesian motives, and

persistently sought to limit contact between the two halves of the island. Although the extent of official Indonesian involvement in the 1959 rebellion is still disputed (see 3.1 above), the heavy repression that followed it and the government of Portuguese Timor's analysis of its roots both indicate how seriously the Portuguese believed that Indonesia had designs on the territory. Indonesia was not above playing on those fears. In July 1961, for example, in a speech warning Portugal not to ignore international support for Angolan independence, the then Indonesian foreign minister, Dr Subandrio, reminded his audience ominously of Indonesia's proximity to Portuguese Timor.[56] In 1962 a report (of the UN Decolonisation Committee) noted that a "Republic of Timor Liberation Bureau" had been established in Jakarta. Around May–June 1963 the Bureau announced that it had formed a government with 12 ministers in Batugade.[57] In September 1963, the Indonesian information minister, Roeslan Abdulgani, declared:

> although we are not an expansionistic nation, we cannot allow people whose ancestors are the same as ours to be oppressed and imprisoned just because they wish to join the motherland of their ancestors.*

65. Nonetheless, the integration of Portuguese Timor never became an objective of official policy under President Sukarno. The occasional statements and infiltrations did not amount to a serious commitment to absorb Portuguese Timor because Indonesia never saw the colony as posing a threat to it. Indonesia maintained stable relations with the Salazar government: it opened a consulate in Dili and Sukarno himself visited Portugal in 1959.

66. Until 1974 Sukarno's successor, Soeharto, did not diverge from this position. However, in the wake of the Carnation Revolution, "irredentist" arguments for taking over Portuguese Timor began to surface. East Timorese political figures recalled to the Commission their alarm at a speech by John Naro, the deputy speaker of the Indonesian parliament, asserting that Indonesia had a historical claim to Portuguese Timor.[58] People whose approach to the question was fundamentally strategic noted the importance of these views. In interviews with the Commission, Yusuf Wanandi and Harry Tjan Silalahi, of the Centre for Strategic and International Studies (CSIS), who were deeply implicated in developing policy towards Portuguese Timor in 1974-75 on behalf of their mentor General Ali Moertopo, both mentioned the strength of such sentiments.†

* James Dunn, *East Timor: A Rough Passage to Independence, Longueville,* 2003, p. 87. Also note that CSIS researcher, Harry Tjan Silalahi mentioned that Indonesia conducted clandestine operations in Portuguese Timor during the time of the "confrontation", in a conversation with staff of the Australian Embassy in Jakarta on 2 July 1974. [Department of Foreign Affairs and Trade (DFAT), *Australia and the Indonesian Incorporation of Portuguese Timor 1974–1976,* 2000, p. 62, document 12].

† Yusuf Wanandi noted that "in certain circles" Timor-Leste was viewed as an "irredentist territory". Irredentism is a movement that strives to reunite territories that had been separated. [CAVR Interview with Yusuf Wanandi, Jakarta, CSIS, Jakarta, 24 July 2003]. Harry Tjan Silalahi observed: "I think the theory that Timor-Leste is an [integral] part of Nusantara has existed, without being explicitly articulated, since the times of Soekarno, following the liberation of Irian." [CAVR Interview with Harry Tjan Silalahi, Jakarta].

Colonel Aloysius Sugianto, an operative in General Ali Moertopo's special operations [Opsus] section of the intelligence agency, Bakin, who played a key role in early covert activities in Portuguese Timor in 1974-75, told the Commission that he saw himself as working to reunite people divided by colonialism:

> *The basis of Apodeti has always been, we are one people, one island. We were divided, we became two, Timor Dili and Timor Kupang. That's because of the colonisers. It's them, if we look at it, it's true, right? Because of colonialism, we were divided. Over there it became Portuguese territory, and here Dutch. In truth there is only one solution. That logic is right, the people's rationale is right.*[59]

67. After the invasion of Timor-Leste, Indonesian officials revived the historical (and ethnic) argument for integration. In an address to the United Nations General Assembly on 13 December 1975, six days after the invasion of Dili and 10 days after he had denied that Indonesia had any territorial ambitions in Portuguese Timor, the Indonesian representative to the UN, Anwar Sani stated:

> Let me first explain why Indonesia is so vitally interested in what happens in Portuguese Timor. Portuguese Timor is part of the island of Timor, the other part is Indonesian territory. Timor is situated at the heart of the Indonesian archipelago, one of the thousands of islands which constitute the archipelago. The population of Portuguese Timor…is of the same ethnic origin as the population in the Indonesian part. The 450 years of division because of colonial domination has not diminished the close ties of blood and culture between the population of the territory and their kin in Indonesian Timor. This geographical nearness and ethnical kinship are important reasons why Indonesia is vitally concerned about peace and stability in Portuguese Timor, not only in its own interest but also in the interest of the entire region of South East Asia.[60]

68. More powerful in Indonesian thinking than the historical case were the strategic arguments for incorporation. According to James Dunn, citing Indonesian sources, "a Bakin/OPSUS (Special Operations) group took a look at the position in late 1972 or 1973 and came out strongly against the idea of supporting independence of East Timor", which could "add a new dimension to Indonesia's security problems".[61] The semi-official book, *Integrasi*, claims that Indonesian interest in Portuguese Timor had long predated the Portuguese commitment to decolonisation. The book also asserts that Indonesia adopted an evolutionary approach, which in its early stages would arouse the East Timorese people's desire to be independent. Underlying Indonesian policy was the need to ensure that "that East Timor not become a potential 'trouble spot' and would therefore not be used as a *bargaining chip* against Indonesia."[62]

69. After the Portuguese Revolution of April 1974, the strategic approach, shaped by the deep anti-communism of the New Order regime, rapidly came to dominate thinking on the question of Portuguese Timor among the Indonesian elite. The approach was

grounded in fears that an independent Timor-Leste would become a base for the infiltration of Indonesia by communist countries. The view was expressed as early as 22 May 1974, when a Bakin operative outlined this view to the Australian Embassy staff in Jakarta: "Indonesia has taken care of China at its front door and may now need to take care of a threat at its back door."[63]

70. Soeharto himself adopted this strategic view. At his meeting with the Australian prime minister, Gough Whitlam, in Wonosobo near Yogyakarta in September 1974, he named China and the Soviet Union as countries that might attempt to intervene in Portuguese Timor.[64] In their second meeting in Townsville, Queensland, in April 1975, Soeharto told Whitlam that Indonesian intelligence had received information that communists from China were attempting to enter Portuguese Timor through Australia with the assistance of the Chinese Embassy in Canberra.[*] Indonesian officials were not unanimous about the nature of the communist threat. The chief of intelligence in the Ministry of Defence and Security and deputy chief of Bakin, Lieutenant-General Benny Moerdani, believed that the Soviet fleet was the main danger. He predicted that an independent Timor would give the Soviet Union a naval base that would enable the latter to divide Indonesian waters into two zones.[65] The CSIS executive director, Yusuf Wanandi, told the Commission that others were worried about Vietnamese intentions: they argued that if Cuba could dispatch its troops to Angola which was about 2,000 km away from its home base, why should Vietnam not send troops to Portuguese Timor which was only 1,500 km away?[66] Perhaps the variations in these assessments of the communist threat should have caused foreign governments to question their overall validity.

The decolonisation process and political parties

Overview

71. The Carnation Revolution immediately transformed the political landscape of Portuguese Timor, which until that time did not have active political parties and only a low level of organised anti-colonial activity. With new laws for political association, parties were quick to form. Two parties emerged as the dominant groups, ASDT and UDT. The platforms of both parties called for independence as the ultimate outcome of decolonisation. They differed over the pace of decolonisation, ASDT wanting immediate independence, the more conservative UDT a more gradual process. What really divided these two centrist parties, however, were the militant ideologues on their extremes who accused each other, and by extension each other's parties, of being "fascist" or "communist". A third party, Apodeti, had pockets of localised support, but its following was much less than that of the two leading parties, and it owed its significance to its pro-integrationist stance and the Indonesian backing that this attracted.

* See Document 123 in DFAT, *Australia and the Indonesian Incorporation of East Timor*, p. 248. Whitlam said that Indonesia had no evidence of it.

72. Political campaigning quickly descended into verbal and sometimes physical attacks, and the two main parties did too little to control this. Both parties used radio broadcasts to make propaganda and personal attacks on each other which heightened social tensions. This lack of political experience was manipulated by agents of the Indonesian state, including members of the intelligence services undertaking covert operations inside Portuguese Timor. They sought to divide the East Timorese with the aim of achieving integration with Indonesia. This played into the hands of militants of both major parties, and culminated in the failure of the parties to find a way to work together for the national interest. The result was the breakdown of the four-month-old coalition between UDT and Fretilin at the end of May 1975. From that point on tensions between the parties rose until UDT launched a coordinated armed action throughout the territory, which spiralled into a bloody internal armed conflict. Fretilin responded with force.

The dawning of political consciousness

73. The Portuguese colonial system denied the East Timorese a voice in their own affairs. However, the gradual spread of education after the Second World War began to foster critical thinking about a colonial system whose defining characteristics were economic underdevelopment, corruption, high unemployment, racial discrimination and brutality. The grievances of the East Timorese began to find expression among the educated.

74. Denied an institutional voice and having learned from the Viqueque uprising of 1959 the likely price of a direct confrontation with the colonial system, in the early 1970s the politically aware adopted an approach to politics that was tentative and secretive. In 1970 members of the young educated generation started an anti-colonial discussion group that included Mari Alkatiri, José Ramos-Horta, Nicolau Lobato, Justino Mota and Francisco Borja da Costa. A small anti-colonial political group founded around 1967 and functioning at the time of the Carnation Revolution was organised in small cells which largely operated in ignorance of each other. The group seems to have had little political impact.[67]

75. In the early 1970s East Timorese also began to be allowed to write on a restricted range of topics and with limited freedom of expression. *Seara*, a magazine published by the Dili Diocese, became an important outlet for their views after Father Martinho da Costa Lopes took over the editorship in September 1972. Mari Alkatiri, José Ramos-Horta, Nicolau Lobato, Abilio Araújo and Francisco Xavier do Amaral all wrote articles for *Seara* on social issues under Father da Costa Lopes's editorship.

76. The government did not hesitate to repress any sign of dissent. In 1970 José Ramos-Horta was exiled to Mozambique for two years after the DGS[*] reported that he had suggested to an American tourist that if Portugal was incapable of developing Timor, it would be better for America to take over the colony.[68] The articles of Amaral and

* The PIDE changed its name to DGS (Direcção Geral de Segurança) in 1968.

Ramos-Horta – in the latter's case an essay entitled "Maubere Meu Irmão" ("Maubere My Brother") was regarded as particularly inflammatory – attracted the government's attention. Under government pressure, *Seara* announced, with no explanation, in its issue of 24 March 1973 that it was closing.*

77. In 1973, in Dili, clashes broke out between young people and the Portuguese military.[69] There was tension, and soon the young generation's frustrations would be able to take a more tangible shape.

The composition of the political parties

78. Once the Carnation Revolution lifted the lid on political expression, educated East Timorese quickly took the opportunity to get involved in political activity. While the class, ethnic and regional make-up often defied simple generalisations, there were some patterns to the background of who joined which party. East Timorese leaders of the different parties tended to know each other well and were sometimes related. Domingos Oliveira, the UDT secretary general at the time, told the Commission of his close friendship with the Fretilin vice-president, Nicolau Lobato, and of how he talked regularly about politics with his cousin José Osorio Soares, the secretary general of Apodeti. Timor-Leste in 1975 was a very small world of political networks and alliances. [70]

79. A privileged background was common to leaders across the parties. To be privileged in late colonial Portuguese Timor could mean a number of things, for example: a *liurai* background, mixed-race (*mestizo*) ancestry, a family with landholdings, secondary education in church or state schools. Often those who had these marks of privilege gravitated to employment in the civil service. These characteristics united many of the leaders across parties. They were often distinguishable only by finer social gradations. Not surprisingly, in view of its federalist political platform, several UDT leaders were well-entrenched in the colonial system, whether through holding relatively senior positions in the civil service, through membership of the Salazarist Acção Nacional Popular (ANP), or through their closeness to the Portuguese Church.[71] Though often from similar backgrounds, Fretilin leaders did not have an emotional attachment to the Portuguese colonial regime. Apodeti attracted its leadership from specific areas that had ties with Indonesia that could be geographic (based on proximity to the Indonesian border) or political (linked to their involvement in the 1959 Viqueque rebellion).

80. Timor-Leste's traditional rulers provided an important channel for gathering support locally for all the parties. The small KOTA party sought to make the traditional system the basis of its programme. Apodeti also sought support from these traditional and regional leaders, with some success. Guilherme Gonçalves, the *liurai*

* Ramos-Horta wrote that he was called again by the governor because of "Maubere My Brother", but it wasn't clear what the Portuguese rulers thought of Xavier do Amaral's writing at the time. But it was widely accepted among nationalists that Seara was closed due to Xavier do Amaral's writing. [See Abílio Araújo, *Timor-Leste: Os Loricos Voltaram a Cantar*, 1977, Lisbon, p. 187].

of Atsabe, provided a significant regional power base for the party near the border with Indonesia. However, the *liurai* did not provide a single, solid base for any one party. Francisco Xavier do Amaral described to the Commission the different ways Fretilin and UDT sought popular support:

> *The ASDT party had this method. We could see that the first party to form was UDT, and I saw their tactics. UDT campaigned focussing on the Administrators, and went down to the Sub-district Administrators and the traditional kings (*liurai*). They did not go directly to the people. So I thought, we need the people, I don't need the* liurai, *they are with the Portuguese. I need the people. So they would go from the top down, and I would start at the bottom. I would start at the grassroots and go up. We would sometimes meet in the middle.* [72]

81. Political participation in the individualistic Western democratic tradition remained the privilege of the elite groups who developed the parties. The political process following the Carnation Revolution was rapid, and without civic or political education many ordinary East Timorese people made choices about party membership or affiliation based on local allegiance and conformity rather than party principles or policies.[73] Particular villages or regions often gave political allegiance to one party. Mario Carrascalão of UDT described how communities' political loyalties became fixed:

> *People in Maubisse, because they were close to the Portuguese soldiers, all of Maubisse was UDT. Virtually all of Maubisse was UDT. But if you looked at Uatolari, everyone was Fretilin, and in Uato Carbau everyone was Apodeti. This was the reality that emerged as we prepared for [village] elections [in 1975].* [74]

Internal developments and tensions

Competition between UDT and Fretilin

82. The two largest parties were without question UDT and ASDT. Apodeti was especially significant due to its links with and support from the Indonesian government. While UDT and ASDT had their differences, in their ultimate goal of independence they were united. Indeed during 1974-75 on the question of independence, UDT and Fretilin moved closer with both eventually accepting the timetable proposed by the Portuguese that was set out in Law 7/75 on 17 July 1975.[75] ASDT began talking about creating a broad-based front as early as July 1974, but rejected the idea of forming a coalition with UDT.[76] In August, UDT and ASDT supporters organised a series of meetings to form a coalition, but again failed to agree on a common platform.[77] The two parties quickly descended into public verbal attacks on each other and aggressive rhetoric which was socially divisive and helped prepare the ground for the violence that followed.[78]

Apodeti military training in West Timor

83. In the meantime Apodeti established contact with the Indonesian military with a view to securing weapons and military training. An Apodeti representative, Tomas Gonçalves, the son of the *liurai* of Atsabe, Guilherme Gonçalves, went to West Timor in August 1974 for military training. In September he went to Jakarta, where he met the Indonesian commander-in-chief of the armed forces, General Maraden Panggabean, who at that time perceived Apodeti to be a suitable vehicle for achieving the result of integration. These visits occurred with the involvement and help of the Indonesian consulate in Dili.[79]

The political parties prepare for armed confrontation

84. Apodeti was the first, but not the only party, to develop a paramilitary capacity. This was a strong tendency on the part of these three parties. UDT and Fretilin both actively competed for support among the East Timorese members of the Portuguese colonial army.[80] Beyond the question of their loyalty to Portugal, Governor Mário Lemos Pires was also concerned about the growing prospect of divisions among the East Timorese troops based on political party allegiance. The former middle-ranking officer (*aspirante*), Rogério Lobato, told the Commission:

> *I can say that UDT made a point of trying to get support from the non-commissioned officers, especially sergeants. But Fretilin also campaigned openly…among the forces to mobilise the soldiers.*[81]

85. This was a concern to the colonial administration. When Fretilin declared the East Timorese armed forces part of the UDT-Fretilin coalition, Major Francisco Mota, head of the governor's Political Affairs Office, forbade military involvement in politics, in keeping with the Portuguese military principle of standing apart from politics (*apartidarismo*).[82] However, in April 1974 the Portuguese army itself had provided a very recent example of a military becoming involved in politics. Many East Timorese soldiers in the Portuguese colonial army and police were also bemused by what they saw as a lack of discipline and attention to duty shown by Portuguese in the colonial army after the Carnation Revolution.[83] Although there were already rumblings before 11 August, East Timorese soldiers generally remained loyal to the principle of *apartidarismo* until the outbreak of civil war. Some refused to take sides even then.

Students from Portugal

86. A further source of tension at the time, and of historical conjecture ever since, was the role of seven East Timorese students who returned from Portugal in September 1974, days before ASDT renamed itself Fretilin. They

brought experience of radical politics from their Lisbon student groups* and a strong anti-colonial stance.[84] While some East Timorese politicians of the time believe the students were responsible for pushing the ASDT party into a more revolutionary stance,[85] the Commission heard from Fretilin Central Committee member Mari Alkatiri that when they arrived back in Timor, the students, unlike the Central Committee members, saw Portuguese colonialism as a greater threat than Indonesian neo-colonialism.[86] The students joined Fretilin, which calmed some of their more radical ideas,[87] and the party was in turn influenced by their enthusiasm and fresh ideas. These students became prominent members of Fretilin. While their role in the creation of Fretilin and the radicalisation of its policies remains disputed, UDT members remember their inflammatory influence through graffiti ("Death to the Fascists!")[88] and insults about UDT's alleged conservatism.[89] Such behaviour often led to the students being exclusively blamed for Fretilin's more radical policies.

ASDT becomes Fretilin

87. On 11 September 1974, ASDT renamed itself the Revolutionary Front for an Independent East Timor, Fretilin (Frente Revolucionário de Timor Leste Independente). From then on the party adopted a more radical stance. Its manifesto (Manual e Programa Politicos da Fretilin) referred to Fretilin as "a front that united nationalist and anti-colonial groups under one vision – the liberation of Timorese from colonialism".[90] It also asserted that Fretilin was the "sole legitimate representative" of the East Timorese people. There was no electoral legitimacy to this claim, which Fretilin based on its belief of the allegiance of Timor-Leste's indigenous-agrarian majority. Nonetheless on the basis of values that it claimed were common to "all East Timorese" Fretilin demanded Timor-Leste's *de jure* independence from Portugal. On the one hand, Fretilin was aiming to achieve independence from its colonial master Portugal. On the other, some of its leaders by this time were looking to what they saw as the greater threat of a neo-colonial power in Indonesia and aimed to build a broad national front to meet this challenge.[91]

88. Fretilin's self-proclaimed role as the sole legitimate representative of the people of Timor-Leste alarmed the leaders of other parties, who saw this as promoting political intolerance.

> *They did not accept other parties. Why?…They wanted to be the sole legitimate representative of the Timorese people. They did not recognise people in other parties...*[92]

* The five main students were Abilio Araújo, Guilhermina Araújo, António Carvarinho, Vicente Manuel Reis and Venâncio Gomes da Silva. See Relatório da CAEPDT, p. 54.

* These included MLTD or Movimento Libertação Timor Dili and FULINTIDI or Frente Unica de Libertação de Timor Dili.

The term *maubere*

89. Although it aspired to be the sole representative of the nation of Timor-Leste, Fretilin did not achieve this. What it did achieve was the development of an East Timorese nationalism through its use of ideas such as turning the name *maubere* into a symbol of the East Timorese common man, and the Tetum slogan *ukun rasik an*, meaning independence or self-government. When first used in 1974-75, the term *maubere* was considered by East Timorese linked to UDT as racially divisive, marking "pure-blooded" East Timorese against mixed-race *mestizos*. The Commission heard testimony from senior former members of the UDT party, who described the term *maubere* as a source of serious division in society.[93] José Ramos-Horta explained the genesis of the term as a political slogan at the Commission's National Public Hearing on The Internal Political Conflict of 1974-76:

> *I wrote an article in a journal in Timor [*Seara*], not in 1975 or in 1974, but in 1973…When we began ASDT, in a meeting of ASDT/Fretilin I explained that all political parties needed an image. That if we wanted to convince the electorate we could not do this with complicated philosophy…So I said it would be good if we could identify Fretilin with* maubere *like a slogan, a symbol of Fretilin's identity. It is clear that 90% of Timorese are barefoot, no papers, but they all called themselves* maubere…*It is important [to understand] that there was no other philosophy to this term, it was a party identity.*[94]

90. In later years, during the Indonesian occupation, these symbols grew to become a powerful assertion of the Timorese people's aspiration for independence, while at the same time continuing to divide Fretilin and UDT.

Fretilin and the spectre of communism

91. There has been much debate about the extent to which Fretilin was influenced by communism in 1974-75, and whether this was the real reason for UDT's armed action and Indonesia's intervention. The Commission heard much testimony on this issue at its national public hearing on The Internal Political Conflict of 1974-76. It is clear that some members of Fretilin were communists, but it would be incorrect to conclude on that basis that the party itself was communist in 1974-75. A more accurate summation would be that the mainstream of the Fretilin leadership was centre-left, although the party contained a spectrum of opinion that ranged from far-left to more conservative elements.

92. This was the view of João Carrascalão, the UDT leader who was one of the founders of the anti-communist movement after 11 August:

> *In Fretilin some leaders were communist, but Fretilin was not a communist party. In UDT some leaders were socialist, but UDT was not a socialist party. It was a social democrat party...*[95]

93. José Ramos-Horta, the only political figure to be present at the founding of both UDT and ASDT, also commented on the charge that Fretilin was a communist party:

> *When people say that Fretilin was communist in 1974-75 it is not true. It was a political front. Alarico Fernandes was a communist. [Sebastião] Montalvão was communist and there were some others whose names I forget. Nicolau Lobato was not a communist. You could call Nicolau Lobato a secular Christian Marxist, like the theology of Latin American priests. Priests in Brazil, the Bishop in Brazil, in Nicaragua, in El Salvador, they are Marxist and Catholic without contradiction…I can say that Nicolau Lobato was someone who believed in Marxism but was 100% Catholic. Xavier Amaral, you might try to call him communist or a social democrat, but I think don't think so, he is a little conservative.*[96]

94. During the period before the internal armed conflict, Fretilin's programme and rhetoric included elements that suggested communism. Its language, starting with its name, was social-revolutionary. Fretilin's *maubere* ideology aimed at a popular social revolution, working to build a grassroots national identity. Its policies were firmly left-wing, focusing on the radical overhaul of education, health and agricultural production. Its manifesto claimed that it was the "sole representative" of the East Timorese people. This rhetoric echoed that of many other Marxist social-revolutionary movements, particularly that of the liberation movements in the Portuguese African colonies.[97]

95. Members of Portugal's MFA were not immune to the political debate of the day, and the UDT party considered some Portuguese members of the MFA [Movimento das Forcas Armadas] to be propagating communist ideas in Timor. Mario Carrascalão testified to the Commission that right and left wing elements within the Portuguese administration had for some time been seeking to spread their views in Timor-Leste:

> *When the MFA came to Timor they had leftists who wanted to create conditions in Timor so that Timor could become, I'm not sure how to put it, communist or Marxist or Marxist-Leninist or Maoist... [Meanwhile] the Portuguese secret police [DGS] told UDT that Fretilin had organised military training in two places. Who were the trainers? [They said] these trainers were from [Communist] Vietnam.*[98]

96. Some leaders of UDT were especially susceptible to suggestions that Fretilin was communist. The Commission heard testimony that the UDT President, Francisco Lopes da Cruz, and its Vice-President, César da Costa Mouzinho, became increasingly extreme in their anti-communism during 1975 after visits to Australia and Jakarta.[99]

97. It was often difficult to tell whether Indonesia's anti-communist propaganda was the sincere, if misguided, expression of the regime's fervent anti-communism or an attempt to manipulate the issue to justify intervention. Once the coalition was dissolved in late May, the Indonesian radio broadcasts from Kupang began labelling

both UDT and Fretilin as communist, saying UDT leader João Carrascalão was a pro-Soviet communist and Fretilin pro-China. But, during this period, Indonesian officials were also meeting with UDT leaders and telling them that Fretilin represented the communist threat.[100] This indicated to some East Timorese political leaders that the issue of communism was used by Indonesia as an excuse to pressure UDT and later to intervene directly in Portuguese Timor.[101] In the context of the Cold War, as José Ramos-Horta told the Commission, communism was an easy allegation to make without necessarily holding substance.[102]

Lack of political tolerance

98. Although at a national level multiple parties existed, in many cases the political patterns that emerged at local levels were not pluralistic. Party militants aggressively defended political territory. Tomás Gonçalves of Apodeti told the Commission about his experiences trying to campaign in district communities:

> *UDT was already in Ermera, people were going to beat me…so I went to Letefoho and it was also full of UDT. My cousin was the sub-district head there, and he said to me: "It's better that you go back, there is no need to talk or campaign here."* [103]

99. The Commission heard many testimonies and statements about political intolerance at the community level in 1974-75. It manifested itself in many ways, and often turned to violence. A common practice referred to was that of political parties issuing identity cards to members, or simply forcing people to carry such cards even though they did not chose to be a member of the party. Party militants would randomly require people to produce their cards, and if they showed the card of the "wrong" party, detention or a beating could ensue.[104] The Commission also heard of teachers pressuring students to give their allegiance to a party, under threat of expulsion from school.[105]

100. Xanana Gusmão told the Commission how this intolerance resulted in violence:

> *Each party presented their views as the national interest, but didn't take into consideration that we are all people of Timor, nor what the nation as a whole was striving for. And because of this we noticed a lack of will on the part of the party leaders to reduce the level of violence, to address what was going on. Sometimes we noticed that the parties were quite happy when their supporters would come and say: "We beat up this person" or "We killed that person". It was regarded as a small victory…If a party had the most number of people in a sub-district, they didn't let other parties campaign in that area. And so when other parties would go to those places people would attack, block their way, boycott, throw rocks at each other and beat each other.*[106]

Governor Lemos Pires's "mission impossible"

101. A new phase of Timor's decolonisation began with the appointment of Colonel Mário Lemos Pires as governor in November 1974. He was to be the last governor of Portuguese Timor. Lemos Pires has written that before taking up his position, he had asked the Portuguese President, General Francisco da Costa Gomes, if the government intended to hand over Portuguese Timor to Indonesia. He told the President if rather than allowing the East Timorese to determine their own future, that was the policy, he would not accept the position of governor.[107] The President is reported to have replied that there was no such policy, although Indonesia was part of the reality in which they were operating.[108] In an interview with the Commission, Lemos Pires recalled his concerns as he left Portugal to take up his post as governor:

> *I left for Timor-Leste with the belief that the support that I would eventually receive from the Portuguese government would be very limited, and worse than that, the focus of the Portuguese politics on the East Timorese process would be minimal. I was right.*[109]

102. In the absence of a clear brief from his superiors in Lisbon, on his arrival in Timor Governor Lemos Pires hoped to carry through a programme to tackle what he saw as the most urgent problems facing the colony. These he defined as: the demoralised state of the military; the need for a decolonisation policy; the need to kick-start the stalled civil administration; and the need to prepare the East Timorese to administer the country themselves. He was able to address some of these issues, such as educational reform, speedily. Tackling the most urgent ones, such as military reform and finding a formula for decolonisation, proved less easy. Part of the problem was that he had little support from Lisbon. His requests for clear guidance were ignored. His own views on decolonisation were not shared by such key figures as the Minister for Inter-territorial Coordination, Antonio de Almeida Santos. Before his arrival in Timor, communication with Lisbon had been complicated by competition between the representative of the MFA in the colony, Major Arnão Metello, and the Governor for the government's attention. Mário Lemos Pires sought to create clearer lines of communication, but the team he assembled in the Governor's Office replicated the divisions on policy that existed in Lisbon. He could do little to raise the flagging morale of the Portuguese forces, most of whom wanted to go home to Portugal as soon as possible.[110]

103. Local conditions were not favourable either. The Governor's early efforts at creating mechanisms through which he could consult with the parties on decolonisation were continually frustrated. By the time such a mechanism, the Comissão de Descolonização de Timor (Decolonisation Commission in Timor, CDT), came into being in late April 1975, political differences between the parties were so entrenched that it was probably too late. This, as well as other initiatives such as the planned implementation of educational reforms that sought to better serve the East Timorese community, were interrupted by the civil war of August 1975.[111] From the beginning UDT and Fretilin refused to sit down with Apodeti; Apodeti refused to accept independence as an option and insisted on a short

transitional decolonisation period. The breakdown of the Fretilin/UDT coalition in late May destroyed the common ground between those two parties. It was telling that Governor Lemos Pires was in Lospalos for the announcement of the results of local elections, one of his reforms, on 10 August 1975, the day before UDT launched its armed movement.

104. Among East Timorese soldiers who formed the bulk of the army there was a growing perception that Portugal was in the process of turning its back on Timor.[112] Many East Timorese members of the armed forces were drawn to political involvement at what they saw as a critical moment in their country's history. Mário Lemos Pires recalled to the Commission:

> *All of them wanted to take a political side, but worse was that the political parties, mainly UDT and Fretilin, each tried to convince them to help and support their own parties. That being so, what I found was that the Army could not fulfil its mission.*[113]

105. Lisbon denied Lemos Pires's request for additional Portuguese troops, providing instead only two companies of elite paratroopers. As a result Portuguese control was reduced at a time of rising tensions inside the colony and when external pressure from Indonesia began. Lemos Pires was aware that his policy of Timorisation could easily lead to conflict that he would not be able to control. Mario Carrascalão told the Commission of a warning from Lemos Pires:

> *You need to be very careful with your politics. The parachutists that we have here in Timor are not here to protect you…They are here to take care of the foreigners here in Timor, the Portuguese.*[114]

The coalition between UDT and Fretilin

106. On 21 January 1975, encouraged and supported by the Governor, and after many attempts, Fretilin and UDT formed a coalition. The two parties united on the basis of their joint commitment to full independence, the rejection of Apodeti and of integration with Indonesia, and the establishment of a transitional government in which the two parties would take part. While Fretilin and UDT had much in common, the relationship was an uncomfortable one, and UDT in particular felt increasingly threatened by Fretilin's mass following and its continuing claim to be the sole representative of the people of Timor-Leste.[115] Both parties continued their verbal attacks on each other, and this discord reverberated in the districts. The coalition lacked political mechanisms to deal with these differences and to bring the parties together.[116]

107. While some elements of Fretilin continued to label UDT an ultra-conservative reactionary group, some members of UDT became increasingly concerned by what they saw as the radical influence in Fretilin. From late 1974 the Indonesians stepped up their anti-communist propaganda. Their broadcasts from Kupang included commentary on daily events, suggesting that they had a very effective intelligence

gathering network inside Portuguese Timor.[117] The Commission heard from the former governor, Lemos Pires, that the Indonesian government was alarmed at the evidence of East Timorese unity represented by the coalition, and took action to undermine it.[118]

108. Indonesian military representatives involved in Operasi Komodo visited Portuguese Timor during these months. In early April 1975 a delegation consisting of Colonel Sugianto, Colonel Soeharto and others met Governor Lemos Pires and the leaders of the three main political parties. In April 1975 General Ali Moertopo invited both Fretilin and UDT representatives for simultaneous but separate visits to Jakarta.[119] According to José Ramos-Horta, who, with Alarico Fernandes, represented Fretilin at the April Jakarta meetings:

> This visit…was perceived differently by us and by the Indonesians. We saw the visit as a chance to clear the air, they saw it as a chance to further divide us.[120]

109. Shortly after the return of its representatives from a visit to Jakarta, UDT convened a Central Committee meeting and voted in favour of withdrawing from the coalition. The Commission heard testimony that UDT came to this decision after a long, hard meeting, indicating that the party was deeply divided on the matter.[121] Domingos Oliveira told the Commission:

> *An absolute majority decided to cut from the coalition, to end the coalition. They said "This coalition was meant to help us, to help bring calm with peace, unite us as we moved towards independence, but we just attacked each other even more. So it is better to finish the coalition." But this was a mistake…because when we ended the coalition the situation got worse and worse.*[122]

110. The Commission was told that once the coalition broke apart, tensions and the threat of violence increased.[123]

111. One immediate result of the breakdown of the coalition was that the way was opened for Indonesia to play on UDT leaders' fears about the supposed communist threat. A long-term political outcome was that the two main East Timorese political parties were estranged from each other for many years.

Indonesia's growing involvement in Portuguese Timor: destabilisation and diplomacy

Overview

112. While the Portuguese administration in Timor-Leste began to implement a programme of decolonisation, and East Timorese political parties vied for support,

Indonesia was active on two fronts in pursuit of an outcome that would satisfy its interests in the territory.

113. Shortly after the Carnation Revolution in Portugal, Indonesia intensified its intelligence-gathering operations inside Portuguese Timor. It also sought to influence East Timorese politicians to support the integration option. From early 1975 it began to plan for a military solution. The increasingly militaristic cast that Indonesian policy towards Portuguese Timor took is traceable to its growing conviction that it would not be able to attain its goal of incorporation non-violently. Having initially sought assurances from Portugal that Timor would be no threat to its security, Indonesia soon concluded that its security needs would be met only if Timor did not become an independent state. Underlying this policy transformation was a perception of Indonesia's security interests that was heavily conditioned by the Cold War anti-communism of the time. Indonesia was able to find a receptive audience for its views on Timor among its Western and Asian allies, and to an extent in Portugal.

Operasi Komodo and increased covert military operations

114. By early 1975 Indonesia's interference in Portuguese Timor had reached a level where it could not really still be called covert. The Bakin agent, Luis Taolin, was a regular visitor to Dili from his base in West Timor. Indonesian Special Forces were known to be training Apodeti sympathisers in West Timor. Operasi Komodo's disinformation campaign was being stepped up, through strident radio broadcasts into Portuguese Timor from Kupang and through the planting of stories in the Indonesian and foreign media. The radio broadcasts claimed that Portugal was about to withdraw from its colony, spread unfounded stories of Vietnamese and Chinese infiltration into the territory and argued that integration was the only option. They fuelled distrust between the parties, and caused apprehension among East Timorese not committed to a particular political party.[124]

115. After UDT and Fretilin formed their coalition in late January 1975 the Indonesians increased military activity. There was a major inter-service military exercise in southern Sumatra in February, effectively a rehearsal for full-scale invasion,[125] as well as small troop increases along the border with Portuguese Timor.[126]

116. Some time between December 1974 and February 1975 an eight-man Special Forces (Kopassandha) team, led by Colonel Dading Kalbuadi, arrived in Atambua. The team prepared the ground for what was to become Operasi Flamboyan.[*] A tactical intelligence operation, Operasi Flamboyan was masterminded by Major-General Benny Moerdani on the orders of the Department of Defence and Security. It noted the modest cross-border agent network Komodo had been established,[127] and took over training of the 216 East Timorese recruits, known as Partisans, in

* According to *Korps Marinir TNI AL, 1970–2000,* p. 285, Operasi Flamboyan was conducted from 5 October to 5 December, 1975

Atambua, led by Tomás Gonçalves of Apodeti. The Commission heard testimony that the training of the Apodeti Partisans was stepped up with the arrival of the Kopassandha team led by Colonel Kalbuadi. According to Tomás Gonçalves, the Indonesians were also interested in gathering military and other intelligence about Portuguese Timor.[128]

> *There, they [the Indonesians] did not communicate with us. They called us the "Partisans", and the Partisans did not communicate with them…When they called me over they asked me, "More or less how many guns do they have in Timor? How many companies are there? Over there do many people know how to use guns? Do they know how to be guerrilla fighters?"*[129]

117. In January 1975 the Portuguese administration sent a delegation to Atambua to try to convince the Apodeti Partisans to return to Portuguese Timor, but they were unsuccessful.[130] Meanwhile Captain Yunus Yosfiah began recruiting and training more Kopassandha troops in West Java. In late April an 80-man Kopassandha team arrived in Atambua.[131]

Indonesian diplomacy

118. The Indonesian decision to step up its military activity through training, exercises and intelligence-gathering took place against a background of contacts with countries with a stake in the future of Portuguese Timor, primarily Portugal and Australia but also the US.

Lisbon meetings between Portugal and Indonesia, 14–15 October 1974

119. Before the resignation of President Spínola in September 1974, Indonesia had requested a meeting with the Portuguese government to discuss Timor. In mid-October 1974 President Soeharto sent an Indonesian delegation led by his close confidant, General Ali Moertopo, to Lisbon to discuss Portuguese Timor. They met President Costa Gomes, Prime Minister Vasco Gonçalves, Foreign Minister Mário Soares, and a senior official in the foreign ministry, the state secretary Jorgé Campinos.

120. The birth of Fretilin and the fall of the conservative Spínola in September 1974 had alarmed the Indonesians and convinced them of the need to sound out the new Portuguese government's thinking on the future of the territory. According to the Indonesian delegation's reports, there was a consensus among the Portuguese leadership that integration with Indonesia would be the best outcome. According to published versions of these reports, President Costa Gomes told the delegation that the only realistic options were a continued relationship with Portugal or integration with Indonesia. He is said to have intimated that Portugal was not in favour of maintaining

its ties to the colony. Again according to the Indonesian side, the state secretary and the prime minister were less guarded in stating their support for integration, though they too referred to the need to defer to the wishes of the East Timorese people.[132]

121. The Indonesian delegation told President Soeharto that the Portuguese leadership viewed integration with Indonesia as the best available option. Mário Lemos Pires wrote in his book:

> It could be that the Indonesian delegation found itself in a better position than it had bargained for - that Portugal did not oppose integration with Indonesia and Portugal also did not consider independence as an option. However, General Ali Moertopo forgot that, although no policy to that effect yet existed, nonetheless the Portuguese government supported the principle of self-determination for the Timorese people. He [Moertopo] jumped to conclusions, possibly because he was fascinated or because the tone of the conversation at the time made it possible for him to draw the conclusion that Portugal liked the idea of integration with Indonesia and would facilitate Indonesia's steps in that direction.[133]

122. This analysis of the meeting may give too much credit to the Portuguese government. The report of the Portuguese military commission of inquiry into the decolonisation of Timor took a less charitable view, concluding that "the Lisbon meeting did not pass a test set by Indonesia on the determination of Portugal to oppose the integration of Timor with Indonesia, from which it can be deduced that the Portuguese attitude did to some extent encourage the Indonesians in their intentions".[134]

123. This conclusion is partly confirmed by the actions of the Portuguese government after the meeting. The secretary of state for administration sent a telegram to the minister of inter-territorial co-ordination, Antonio de Almeida Santos, who was then visiting Timor. The telegram requested that in view of the outcome of the talks with General Moertopo, during his visit the minister not give equal weight to the independence option in his public statements. The minister duly complied with this request. In a speech at a reception at the Palácio das Repartições (now the Palácio do Governo), Almeida Santos, while stressing that the East Timorese should be free to choose their own destiny, spoke much more enthusiastically of the possibilities of continued association with Portugal or integration with Indonesia than of independence, which he suggested would not be realistic given that Timor was far from "economic independence".[135]

London meeting between Portugal and Indonesia, 9 March 1975

124. Disturbed by increasing Indonesian covert activity, Portugal asked Indonesia for a second meeting.[136] The meeting was held in London on 9 March 1975 with General Ali Moertopo again leading the Indonesian delegation. The Indonesians

took a firm line, ruling out the Portuguese plan for a transitional government and any moves to internationalise the problem, claiming that integration was the only solution and proposing that it have an advisory role in the government of the colony. Portugal reiterated the principle that the people of Timor-Leste should be consulted about the future status of the colony. Again, however, its stance did appear to concede some ground to Indonesia, when, for example, it said that Indonesia was entitled to give active support to Apodeti. Portugal thereby extended to Indonesia a privileged status beyond that of "interested observer".

125. As at the Lisbon talks five months earlier, Indonesia took the concessions as an indication that Portugal shared its view that integration with Indonesia was the most desirable outcome. President Soeharto gave his interpretation of what had transpired at the London meeting to the Australian Prime Minister Gough Whitlam, a month later at a meeting in Townsville. He depicted a very different Portuguese position from the one given in the official record of the Portuguese themselves, and a summary of Soeharto's version of the meeting, as told to Whitlam, reads as follows:

> At the London meeting the Portuguese had said that they believed that integration with Indonesia was the best outcome, provided, of course, that this was what the people of the territory wanted. The Portuguese had also agreed that there should be no "international interference" in Portuguese policy towards decolonisation in Timor. It would be for Indonesia to achieve the integration of the territory. To this end Indonesia had the approval of the Portuguese government to assist and to develop…Apodeti, and to make approaches to, and to influence the line of policy of the UDT and Fretilin parties.[137] *

The meetings between Soeharto and Whitlam, in Wonosobo, 6 September 1974, and Townsville, 4 April 1975

126. Soeharto met the Australian Prime Minister Gough Whitlam twice during the period 1974-75. First in Wonosobo, near Yogyakarta on 6 September 1974 and later in Townsville, Queensland on 4 April 1975. Portuguese Timor was discussed at both meetings, and at both Whitlam is believed to have given Soeharto the green light to take over the territory, as indicated by the Australian minutes which are now on the public record (see Vol. II, Part 7.1: The Right to Self-Determination). On both occasions Whitlam told Soeharto that his government believed that Portuguese Timor should become part of Indonesia for almost identical reasons to those stated by Soeharto, that it would be unviable as an independent state and would therefore become "the focus of attention" of more powerful countries.[138] At their Wonosobo meeting Soeharto explicitly

* The Portuguese delegation consisted of the minister for inter-territorial coordination Antonio de Almeida Santos, the minister without portfolio Vitor Alves, the secretary of state for foreign affairs Jorgé Campinos and the chief of the Office for Political Affairs in the Timor government Major Francisco Mota. The Indonesian delegation consisted of Ali Moertopo, the Indonesian ambassadors to the UK and France, and Captain Suharto of the intelligence agency Bakin.

suggested that Indonesia and Australia had identical strategic interests in Portuguese Timor - an independent Timor-Leste would be prey to China or the Soviet Union and thus "a thorn in the eye of Australia and a thorn in the back of Indonesia".[139]

127. At the same time they agreed that integration should take place through a process that recognised the people of Timor-Leste's right to self-determination, with the added caveat from Whitlam that it should be done "in a way that would not upset the Australian people" as he put it at Townsville.[140] Neither made it clear which objective would be the overriding one if it proved impossible to reconcile the East Timorese desire for self-determination with the Indonesian desire for integration. At Townsville in April 1975, though still abjuring the use of force, Soeharto seemed to be close to making up his mind on this question by implying that an act of self-determination could not be relied on to reflect the true wishes of the East Timorese people. Whitlam was sympathetic, expressing the view that the ordinary East Timorese "had no sense of politics" and would need time "to recognise their ethnic kinship with their Indonesian neighbours".[141]

128. For all his reservations, there is evidence that the views Whitlam expressed at the Wonosobo meeting do seem to have strongly influenced the Indonesian decision that there was no alternative to incorporation. On 14 October 1974 the Australian ambassador to Portugal reported to Canberra a conversation with Ali Moertopo during the latter's visit to Lisbon: "Ali (Moertopo) said that until Mr Whitlam's visit to Djakarta (sic) they had been undecided about Timor. However, the prime minister's support for the idea of incorporation into Indonesia had helped them to crystallise their own thinking and they were now firmly convinced of the wisdom of this course".[142]

129. There is also evidence that in resolving the dilemma between incorporation and self-determination, Whitlam was inclined to favour the former. He expressed his views on this matter frankly in a secret cable that he sent to his foreign minister on 24 September 1974, two weeks after the Wonosobo meeting: "I am in favour of incorporation but obeisance has to be made to self-determination."[143] Whitlam's ambassador in Jakarta, Richard Woolcott, also believed that it was the prime minister's view that incorporation was the overriding objective. It also seems to have been Woolcott's view that it should be the overriding objective of Australian policy simply because it was the overriding objective of Indonesian policy. In a cable to his foreign minister, Don Willesee, on 17 April 1975, shortly after the Townsville meeting, Woolcott contrasted his minister's thinking on the matter with the prime minister's:

> [You] tend to place the main emphasis on a proper act of self-determination for Portuguese Timor…[I]t was clear in Townsville that the prime minister continues to believe that the logic of the situation is that Timor should become part of Indonesia and we would "welcome" such an outcome to an act of choice. While we support the principle of self-determination and while we certainly could not condone the use of force, the prime minister still does not want to encourage the emergence of an independent East Timor and

> he believes that continuing public emphasis on self-determination, at this stage, is likely to strengthen pressures for independence.[144]

130. In his autobiography, Woolcott quotes from another cable to explain the thinking behind this position:

> Indonesia will proceed to incorporate Timor. While President Soeharto will want incorporation to be achieved in as presentionally [sic] acceptable a manner as possible, Indonesia will not be deterred from this fundamental policy objective. Indonesia regards this outcome as essential to its longer-term national interest and, indeed, as being in the interests of the region as a whole. Indonesia has held this attitude consistently since some months before I arrived at this post last March.[145]

The Macau Meeting, 26–28 June 1975

131. In April 1975, Governor Mário Lemos Pires formed the Commission for the Decolonisation of Timor (Comissão de Descolonização de Timor, CDT). Its May meetings with the UDT-Fretilin coalition, boycotted by Apodeti, discussed a decolonisation programme based on the right to independence, a transitional government and a local consultative assembly. However, on 27 May UDT broke its coalition with Fretilin, causing the talks to founder.[146] In response, Portugal planned higher-level talks on decolonisation in Macau.

132. On 26–28 June, Antonio de Almeida Santos, Portugal's minister for inter-territorial coordination, met UDT and Apodeti members and Indonesian diplomatic observers in Macau. Fretilin objected to the participation of Apodeti and Indonesia, and boycotted the meeting. Fretilin suspected that the meeting was part of a Portuguese strategy to hand Timor-Leste over to Indonesia:

> *They ruled us for 450 years and they were tired already, so they would give us to someone else saying "You go and govern there now." So how long would we be slaves? This is why I did not accept that we go there. The conference in Macau was a tactic of Portugal and Indonesia to integrate Timor into Indonesia.*[147]

133. Senior members of Fretilin attended Mozambique's independence ceremony instead.[148] The Macau summit advanced Indonesia's interests only to the extent that it recognised that both Apodeti and Jakarta had standing in the process. The result of the meeting was Decree 7/75, which set out: a structure for a provisional government with participation by all parties; a timetable for elections in 1976; and an end to Portuguese sovereignty in 1978. It also formed a legislative basis that blocked Indonesian efforts to secure integration as a directly agreed outcome of decolonisation. However, in a retreat from the CDT's May recognition of the right to independence, Decree 7/75 only recognised the right to self-determination.

The meeting designed a decolonisation process that would establish a transitional government, composed of both elected East Timorese and appointed Portuguese, and a government consultative council. These national institutions would be supported at the district level through local councils.

134. The political parties reacted differently to the decolonisation programme decided at Macau. Fretilin took an ambiguous position, neither stating its readiness to participate in the proposed transitional government, nor totally rejecting it, but saying that it would take part in the proposed 1976 elections.[149] UDT accepted the outcome. Apodeti, like Indonesia, rejected it on the grounds that independence was the only option and the proposed timeframe was too long. Following the meeting inter-party tensions increased - UDT angered by Fretilin's boycott, and Fretilin angered by Apodeti's involvement. Both major East Timorese parties also felt Portugal was being deceptive, and were aware of the bilateral meetings between Portugal and Indonesia. Mario Carrascalão recalled the impact of these bilateral meetings:

> *Indonesia…accompanied Apodeti to Macau and held a meeting in Hong Kong with the Portuguese Government delegation there. What did they put together? Until today they have not said what they did at this meeting. We don't know…What did they do? This was not Indonesia's problem. This was Timor's problem, but they [Indonesia] are the ones who had meetings. Secret meetings with them [the Portuguese]. Why? People took advantage of this, [and] because of this people became divided.*[150]

Meeting between President Soeharto and President Gerald Ford, 5 July 1975

135. On 5 July, in a meeting at Camp David with President Gerald Ford during his state visit to the US, President Soeharto outlined Indonesia's policy towards Timor-Leste. He concluded his remarks with the sentence:

> So the only way is to integrate into Indonesia.

136. Soeharto argued that an independent Portuguese Timor would not be viable and that it would be difficult for Portugal to continue to run the country because of its remoteness from the region.[151]

137. Earlier he had assured President Ford that Indonesia would not use force against the territory of another country. As in his meeting with Whitlam at Townsville, Soeharto made much of the argument that because of "heavy pressure" from the pro-independence party it would be difficult to ascertain the true wishes of the East Timorese people. Indonesia faced the problem of "how to manage the self-determination process with a majority wanting unity with Indonesia". During their exchange President Ford did not express a view on the US position on the issue.

138. Ford's silence was perhaps a fair reflection of US policy on Portuguese Timor. According to the former Australian ambassador, Richard Woolcott:

> The United States, involved in the Middle East, mired in the aftermath of Watergate and exhausted by its failure in Vietnam, was simply not interested in the fate of East Timor. The American ambassador in Jakarta was actually asked in 1975 to reduce the embassy's reporting on the subject.[152]

The armed movement of 11 August and the internal armed conflict

Overview

139. Less than two weeks after returning from Jakarta, UDT leaders launched the 11 August movement. Variously named a coup, an "attempted coup", a movement and an uprising, this armed action began in the capital Dili and quickly spread across the country. UDT captured some key installations, and delivered a list of demands to the Portuguese administration. They claimed that the armed movement was aimed at removing extremist elements from the territory to prevent Indonesian intervention.[153] Fretilin withdrew to its stronghold in the hills of Aileu, south of Dili. Because he could not guarantee security, the Portuguese governor's efforts to bring both parties to the negotiating table were ineffective. On 20 August Fretilin responded, with the backing of most East Timorese members of the Portuguese military. The conflict reached most parts of the country. Leaders of both major parties told the Commission that they lost control of the situation. The armed conflict was relatively short-lived and by early September a group of around 20,000, drawn mostly from UDT but also including members of other parties, had been driven towards the border with West Timor. They crossed into West Timor before the end of the month.

140. The Portuguese administration tried to bring the parties to the negotiating table. The Governor concluded that he was not in a position to bring the situation under control by military means.[154] Powerless to affect events and confined to a neutral zone in Farol, the Portuguese administration withdrew to the island of Ataúro on the night of 26 August.

141. In September 1975, Indonesia required UDT and its allies who had fled across the border to sign a pro-integration petition to President Soeharto. In exchange Indonesia offered them material and logistical support. Indonesia stepped up its own military operations by launching first a series of cross-border incursions and then, from early October, larger-scale military operations which gave it control of a number of strategic towns close to the border.[155]

UDT launches its 11 August armed movement

142. Since the breakdown of their coalition in May, tensions between UDT and Fretilin had been rising, both in Dili and in the districts.* In early August UDT decided to send its secretary general, Domingos Oliveira, and the Central Committee member with responsibility for foreign relations, João Carrascalão, to Jakarta. They hoped to meet President Soeharto. Instead they were received by General Ali Moertopo. Domingos Oliveira told the Commission that the decision to send the delegation to Jakarta was prompted by the need "to destroy all Indonesian pretexts for invading Timor". The mission of the two UDT envoys was therefore to assure Moertopo that Fretilin was essentially a nationalist movement and that UDT was capable of "cleaning up our own backyard" through the expulsion of those Portuguese officers and Fretilin leaders with communist sympathies. According to João Carrascalão's account of the meeting, Moertopo said that if they did clean up their backyard, Indonesian would respect the East Timorese right to self-determination. With the benefit of hindsight, João Carrascalão now considers that the two UDT envoys were naïve to believe Moertopo's assurances and that in fact "everything was already planned for the takeover of Timor-Leste", as he was told in a private conversation in Kupang with the governor of East Nusa Tenggara, El Tari, while en route back to Dili.[156]

143. Certainly it was the view of probably the best-informed diplomat in Jakarta, the Australian ambassador Richard Woolcott, that well before then it had become "settled Indonesia policy to incorporate Timor".[157] During the meeting Ali Moertopo also told the UDT leaders that Indonesia had received intelligence that Fretilin was planning a coup for 15 August.[158]

144. Members of UDT had been considering an anti-communist action for some weeks before 11 August.[159] The overriding objectives of the UDT armed movement were, its leaders now stress, not to take power but to redirect the decolonisation process which UDT believed had been hijacked by "ambitious, irresponsible and ill-intentioned" elements, and to pre-empt a coup by Fretilin, allegedly planned for 15 August.[160] However, there are many unanswered questions, in particular about the role of Indonesia in these events and precisely what the true objectives of the "attempted coup" leaders were. Some of the testimony received by the Commission throws some light on these questions, but it is not sufficient to provide definitive answers.

145. Although their list of targets was much longer and included all the main military facilities, the armed movement captured the police headquarters, along with its commander Lieutenant Colonel Rui Maggiolo Gouveia and its stock of weapons, and took control of key installations, including the port, the airport and the radio and telephone facilities in Dili.[161] Leader of the armed movement, João Carrascalão, met with Governor Lemos Pires at around 1.00am on 11 August, and expressed

* In his submission to CAVR the former UDT secretary general, Domingos Oliveira, presents a list of incidents that took place between June and early August indicating the breakdown in relations between the two parties. [Submission delivered in writing after testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003. CAVR Archive].

UDT's intention to remove communist elements from the colonial government and from Fretilin. The former governor wrote in later years that Carrascalão told him that the movement did not intend to replace the Portuguese government, and that it hoped for no military intervention. The following day UDT formally submitted its demands to Governor Lemos Pires. These included: replacement of certain military personnel, a faster decolonisation process, the handover of power to UDT, and acknowledgment of UDT's extra-judicial power as a liberation movement.[162]

146. UDT's show of force was purportedly not directed at Fretilin as such, but at "communist elements" within Fretilin. Any hopes UDT may have had that Fretilin would disavow its "extremists" and unite with UDT to jointly pursue independence were quickly dashed. Fretilin remained united and demanded that the Portuguese colonial government crack down on UDT.[163] UDT detained hundreds of Fretilin members, including several of the party's leaders at its headquarters in Palapaço, Dili, where ill-treatment was routine and where some died in circumstances that are disputed.[164]

147. The early momentum belonged to UDT. In the days immediately after the 11 August "attempted coup", UDT supporters detained hundreds of Fretilin leaders and supporters throughout the territory. Governor Lemos Pires decided not to oppose UDT with force. Several considerations persuaded him against such a course of action. He was uncertain whether the loyalty of the East Timorese troops to the colonial administration would outweigh their sympathies to one or the other of the contending parties. If they did not, there was a real risk that Portuguese soldiers would end up fighting East Timorese. A confrontation in which the battle lines pitted Portuguese against East Timorese would not only be politically disastrous; it might also end in military defeat for the Portuguese. The run-down of Portuguese troop strength in the previous months had not been offset by the recent arrival of 75 paratroops to reinforce the colonial army.[164]

148. Meanwhile, Fretilin leaders withdrew to Aileu, a Fretilin stronghold and the headquarters of the army training centre (Centro de Instrução). On 13 August in Dili, UDT and its sympathisers in the armed forces established a front, the Movement for the Unity and Independence of the Timorese People (Movimento para Unidade e Independência de Timor-Dili, MUITD), based on the principles of "unity, independence and anti-communism". They envisaged the self-liquidation of all pro-independence parties and the adherence of their members to the MUITD.[166] Over the following two days UDT won over the police chief, Maggiolo Gouveia, who was in UDT custody, and many of the East Timorese under his command, as well as sections of the military, including the companies based in Baucau and Lospalos.[167] On 16 August UDT issued a written statement calling for the expulsion of all communists from the territory, including those in the "Portuguese governor's office", the banning of Fretilin, the cancellation of Law 7/75 and the resumption of negotiations on Timor-Leste's independence. On 17 August, in an apparent concession to UDT, the two MFA delegates, Major Mota, the chief of the Office of Political Affairs and Major Jónatas, both of whom had been accused by UDT (and the Indonesians) of representing "the

communist wing" of the government, were sent to Lisbon, ostensibly to keep the central government abreast of developments in Timor-Leste.[168]

The failure to negotiate: internal armed conflict

149. On 11 August, from their base in Aileu, Fretilin submitted a list of 13 conditions for their participation in negotiations to the Portuguese administration. They included the disarming of UDT and entrusting security to East Timorese soldiers, on the grounds that the police had proved themselves to be unreliable.[169] The Portuguese then sent Rogério Lobato, one of the highest-ranking East Timorese soldiers in the Portuguese army, as an emissary to the Fretilin leadership. However this backfired, and he played a pivotal role on his return to Dili in convincing the majority of East Timorese soldiers to join the Fretilin side. Although supposedly pledged to political neutrality (*apartidarismo*),[170] the East Timorese troops were in fact as swept up by the new political freedoms as their civilian counterparts.[171] On 15 August the Fretilin Central Committee in Aileu announced what they called "the resumption of general armed struggle against all traitors and enemies of the people".[172] On 20 August, Fretilin attacked UDT.

150. By 18 August, the remaining Portuguese government personnel working in the administration had withdrawn to the neighbourhood of Farol where many of them lived and which formed the core of a zone in Dili that had been declared neutral. The Portuguese paratroops were deployed to the neutral zone to protect them.

151. At 1.00am on 20 August, Rogério Lobato and Hermenegildo Alves launched Fretilin's armed insurrection by taking control of the Quartel Geral (army headquarters) in Taibessi and detaining the Portuguese troops who were there, including the deputy chief of staff.[173] On 22 August Fretilin leaders returned to Dili. The front line of the conflict in Dili was initially in Colmera, but the fighting spread throughout the city during the two weeks that it lasted. The Commission received testimony that there were liberal supplies of weapons in Dili, and that both sides handed them out indiscriminately.[174] In the brief armed conflict that ensued political parties allied with each other in every possible permutation. Mario Carrascalão described this phenomenon during the National Public Hearing on The Internal Political Conflict:

> *We saw a different approach there [in the districts]…In Atsabe we saw Fretilin together with UDT against Apodeti. Apodeti in Same was different, it was with UDT against Fretilin. In Dili it was Fretilin and Apodeti against UDT.*[175]

152. The highest death toll was in the rural areas, where tensions based on long-standing clan feuds and personal grudges, intensified by more recent militant party ideological divisions, exploded into violence.[176] The violence was most intense in Liquiçá, Ermera, Ainaro, Manufahi and Manatuto, though it was not confined to these districts.

153. The Commission received testimonies and statements from across the country about the impact of the conflict on ordinary people. The brutality of East Timorese people against each other in this brief conflict has left deep wounds in East Timorese society which continue to be felt to this day. UDT members were responsible for the killing of Fretilin prisoners in a number of places in August, as it became clear that Fretilin forces were gaining control. 348 killings during the period of the internal conflict were reported to the Commission through its statement-taking process. Based on its research, the accounts given to it by contemporary accounts such as the ICRC who were based in Timor-Leste, the Commission estimates that between 1,500 and 3,000 were killed during the internal armed conflict (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; and Vol. I, Part 6: Profile of Human Rights Violations).[177] The Commission's data indicate that the majority of the killings were perpetrated by Fretilin, though mass killings were also committed by members of UDT (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).* A massacre occurred on around 27 August on the south coast at Wedauberek, Manufahi, where UDT members executed 11 members of the Fretilin youth organisation, Unetim.[178] On 28 August, as Fretilin forces neared the UDT stronghold of Ermera, 20 people whom UDT had taken prisoner after the armed movement were killed.[179]

154. In his testimony to the Commission Xanana Gusmão explained Fretilin's response as one of vengeance for the acts committed by UDT.[180] Rogério Lobato, who was in charge of the Fretilin armed forces at the time, told the Commission that there were various motivations for the violence:

> *Sometimes this wasn't because they had a problem with them about this [political] situation, but from an old problem. I know that sometimes it was because someone had taken someone else's girlfriend and so now he used it as a chance to beat him. I know this. People took advantage of this war to beat others and to take justice into their own hands. But some did beat others because they were angry at them due to the war…I want to say that in this process of war so many died…it is true that Fretilin killed many UDT prisoners…UDT also killed Fretilin prisoners.*[181]

155. In the Commission's National Public Hearing on The Internal Political Conflict, UDT and Fretilin political leaders both testified that their parties did not have a policy of killing prisoners, or of violence against civilians, but that they could not control their cadres across the country.[182] The Commission did, however, receive testimonies implicating senior members of both parties in the killing, although it was not presented with evidence to suggest that the parties had taken an institutional decision to commit these crimes (see Vol. IV, Part 8: Responsibility and Accountability).[183]

* CAVR conducted a Retrospective Mortality Survey, based on the experiences of 1,396 randomly selected households in Timor-Leste. From this it extrapolated estimated total violations for 1974–1999.

156. East Timorese, and some Portuguese, members of the military and police did not stand outside this conflict. While UDT gained the backing of East Timorese (and a few Portuguese) members of the police and some military units, the overwhelming majority of East Timorese troops supported Fretilin.[184] This military backing allowed Fretilin to gain the upper hand quickly once it had launched its "general armed insurrection". This breach of the principle of *apartidarismo* also resulted in guns being released into the hands of the political parties and their supporters, increasing the impact of the violence enormously. In Dili UDT withdrew to the airport, and by early September was retreating westwards through Liquiçá towards Indonesia.

UDT retreats to the border

157. As a result of the Fretilin counter-offensive, in September members and sympathisers of the UDT, Apodeti, Klibur Oan Timor Aswain (KOTA) and Trabalhista parties fled first to the border area of Batugade, and then across the border into West Timor.[185] The defeat of UDT and their allies drove the leadership, however reluctantly, to accept Indonesian demands that they sign petitions calling for the integration of Portuguese Timor into Indonesia as the price of safe passage into West Timor. The number of East Timorese displaced to West Timor has been disputed. Indonesian officials at the time put the figure at 40,000 to 50,000 people.[186] East Timorese who joined the exodus have put the figure far lower, at between 10,000 and 30,000, attributing the discrepancy between their estimates and the Indonesian estimates to an Indonesian desire to inflate the number of refugees, either with a view to exaggerating the scale and severity of the internal conflict or simply to attract larger amounts of international assistance.[187]

Portugal's response to the internal conflict

158. Portugal responded to the internal conflict by sending an envoy to the colony from Lisbon. Indonesia blocked Colonel José Gomes, the first envoy to attempt to reach Dili on 14 August. On 22 August a message from the President's Office in Lisbon reached Governor Lemos Pires, informing him that the minister for inter-territorial coordination, Antonio de Almeida Santos, would be arriving in Darwin on 27 August. Mário Lemos Pires tried to arrange a ceasefire to permit negotiations. UDT agreed to a limited ceasefire, but Fretilin rejected the proposal out of hand.[188] On the night of 26 August what remained of the Portuguese administration departed Dili for Ataúro Island, never to return.[189]

159. Having attempted to seek support at the UN and in Australia, Almeida Santos reached Ataúro on 28 August. Unable to contact UDT, whose leaders by that time were in Indonesia, Almeida Santos contacted Fretilin to request the release of Portuguese prisoners. Fretilin complied with this request. However, on 9 September Portugal directed Almeida Santos to avoid recognising Fretilin as the sole representative of the people of Timor-Leste, one of the conditions that Fretilin had set for entering into negotiations.[190] On 22 September Almeida Santos left Ataúro for Lisbon. There, he recommended negotiations with the three main

political parties. This was problematic. In control of most of Timor-Leste, Fretilin was willing to negotiate with Portugal – though not with UDT and Apodeti. Despite the pious declarations of the final bilateral meeting between the foreign ministers of Indonesia and Portugal, held in Rome on 1–2 November, that both governments would work to convince the parties of the need to resume talks with the Portuguese government, Indonesia showed no inclination to let its UDT or Apodeti clients engage in such talks. A belated attempt by Portugal to engage other nations in resolving the question of Portuguese Timor was equally fruitless. The final days before the invasion were marked by another political crisis in Lisbon, which left Portugal without a functioning government. In the end Portugal's fitful efforts were overtaken by the Indonesian decision to launch a full-scale military invasion.[191]

Indonesia's response

The East Timorese political parties come under Indonesian sway

160. As members of UDT and its allies – the Apodeti, Trabalhista and KOTA parties – fled to the border region, or across the border to West Timor, they fell more firmly under the control of the Indonesian military.

161. During the period of and shortly after the internal conflict, in early September, East Timorese groups in Maliana and Suai made two proclamations of integration with Indonesia.[192] On 7 September 1975, in Batugade, the leaders of UDT, KOTA and Trabalhista issued a joint petition addressed to President Soeharto, again asking for Portuguese Timor to be integrated into Indonesia.[193] Mario Carrascalão testified to the Commission about the background to the signing of the Batugade Petition:

> *We stayed there and every day people from Indonesia came. Louis Taolin [of Bakin], [Colonel Aloysius] Sugianto [of Opsus] were always coming and asking us what help we needed…What they wanted to do was manipulate us, to sign…a petition to ask Indonesia to enter Timor…Some signed while others held guns in front of them. Some went to Atambua, and they signed over there. The conditions were good there. This petition was sent to President Soeharto, and soon Governor El Tari gave a response to Mr Francisco Lopes da Cruz. He said that he had agreed to give us material, that there was no need to worry. This was not integration; I saw this as just facilities.*[194]

Operasi Flamboyan: Indonesian operations enter a new phase

162. On 31 August Indonesian operations were transferred from the intelligence agency, Bakin, to a specially-created military command called the Joint Task Force Command (Komando Tugas Gabungan, Kogasgab). The transfer marked a watershed in Indonesian operations in the territory, a shift from small-scale destabilisation to larger-scale military operations.[195]

163. In late August and September, Special Forces units recruited for the new operation, called Operasi Flamboyan, made frequent incursions into Portuguese Timor. High casualties soon forced a temporary lull in their activities.[196] The first, Tim Susi, led by Captain Yunus Yosfiah, entered through Atsabe.[197] East Timorese Partisans joined the Special Forces teams. These were troops trained by Indonesia including, for example, João Tavares's Halilintar unit (see Vol. I, Part 4: The Regime of Occupation). They were told to create "terror, [and] intimidation."[198] On 14 September, Fretilin forces clashed with the Indonesian military near the Atsabe border.[199] On the same day, the Indonesian military launched simultaneous attacks targeting Bobonaro, Atsabe and Suai.[200] The border town of Batugade fell on 8 October, and Fretilin troops retreated to Balibó.[201]

Portuguese Timor under Fretilin administration

Overview

164. With the end of fighting between Fretilin and UDT, by early September 1975, Fretilin found itself in *de facto* power in Portuguese Timor and facing an emergency. Fretilin continued to respect Portuguese sovereignty over the territory while the colonial administration remained in Ataúro. Lacking funds and administrative experience, and faced with a potential humanitarian crisis, Fretilin made a credible effort at food distribution and maintaining order in the community. However, it continued to hold large numbers of political prisoners from the brief internal armed conflict and faced difficulties restraining its own cadres from abuses. Moreover, Indonesia's response to Fretilin's victory in the internal armed conflict was to step up its military activities. Beginning in September 1975 it conducted armed incursions into Portuguese Timor. In October these incursions grew in scale and led to the Indonesian capture of several towns near the border. Aside from direct resistance to the Indonesian forces, Fretilin also tried to win support in the international community.

Fretilin fills the vacuum

165. To fill the void that had been left by the departing Portuguese, Fretilin established an interim administration. During this period Fretilin continued to recognise Portuguese sovereignty over Timor-Leste, and repeatedly called on the Portuguese administration to return from Ataúro to continue the interrupted decolonisation process. Fretilin kept the Portuguese flag flying in front of the governor's office and left the office unoccupied.[202] It made other gestures to show that it still regarded Portugal as the sovereign power, such as putting armed guards outside the Banco Nacional Ultramarino (BNU), the Portuguese-owned bank, which had functioned as the *de facto* central bank during Portuguese administration, and prohibiting the use of the governor's residence for official purposes.[203]

166. During September Fretilin attempted to encourage the Portuguese to return. On 13 September the Fretilin Central Committee issued a *communiqué*, affirming its recognition of Portuguese government authority, and calling for negotiations to put the decolonisation process back on track.[204] It stated that the negotiations should be conducted "within the national territory without foreign pressures", and should be with Fretilin alone as the victor in the internal conflict. Portugal did not accept Fretilin as the sole legitimate representative of the people of Portuguese Timor.[205] On 16 September, in response to the Indonesian incursion into Atsabe, Fretilin issued another statement, again recognising Portuguese sovereignty and calling for the resumption of talks on decolonisation.[206]

167. These statements also proposed internationalising the Timor-Leste issue by involving other countries in the region. Fretilin recommended that a fact-finding mission, comprising ASEAN countries, Australia and New Zealand together with observers from other countries, visit the country. The statement of 16 September also called for a conference to be attended by representatives of Portugal, Australia, Indonesia and Timor-Leste, to "clear rumours and misunderstandings". It also recommended a joint Indonesia-Timor-Leste peacekeeping force to conduct border patrols.

168. During October the Australian NGO ACFOA (Australian Council for Overseas Aid) sent a delegation, led by James Dunn, to attempt to bring Fretilin, UDT and the Portuguese administration together for talks. However these did not take place, partly due to Portuguese reluctance to engage with either Fretilin or UDT.[207] Fretilin's last attempt to engage the Portuguese was on 25 October, nine days after Balibó fell to Indonesian forces. Fretilin issued an invitation to the Portuguese government on Ataúro to send a delegation to Dili to observe the situation on the ground.[208] As before, the Portuguese were silent.[209]

Prisoners and political violence

Fretilin excesses in late August and into September

169. There were excesses during this early period of Fretilin control after the internal conflict, including instances of forced labour, torture and execution.[210] The majority of the killings that occurred outside combat were committed in rural areas, after Fretilin mounted its counter-offensive. Public anger often turned into lethal violence. During this period killings by people associated with Fretilin were sometimes the result of deep-seated local enmities rather than politics.[211] The then Fretilin President, Francisco Xavier do Amaral, testified to the Commission that at the time:

> *There was a lot of confusion. Everybody was fired up, their blood ran hot, and because of this people beat each other. Violence occurred. The victory of one side would lead to vengeance being taken against the other side. This is what happened in 1975…For example, some people were fired from their jobs. So they took out vengeance on their bosses*

> *when an opportunity presented itself…Each side beat and killed the other. And so the cycle of hatred continued.*[212]

170. A large number of revenge killings occurred in the district of Ermera, a UDT base. One account from Ermera recalled:

> *On 15 September 1975 [three] Fretilin militia commanders …arrested seven UDT people…in Katrai Kraik village, Letefoho, Ermera. The seven were taken to Germano, Katrai Leten village and killed. The village chief of Lauana witnessed the killings.*[213]

171. As Fretilin leaders testified to the Commission, the fact that weapons captured during the conflict were freely available exacerbated the violence.[214]

Fretilin prisons and Commission of Inquiry

172. During the internal conflict, Fretilin had captured and detained as many as 2,000 prisoners.[215] They were mostly UDT members, but included some Fretilin members, detained for what it called excesses during the conflict.[216] The official Fretilin position was that it was holding the prisoners until the Portuguese government returned to try them. However as the prospect of Portugal's return receded, Fretilin decided to deal with the situation itself. On 30 September it announced a Commission of Inquiry (Comissão de Inquêrito) aimed at separating leaders from uninvolved party members.[217] The Commission invited people to testify to determine the guilt of the accused in public "trials". This method of justice tended to produce arbitrary results. A former prisoner held by Fretilin, Monis da Maia, described his experience:

> *All the villagers were ordered to go to the military post and the prisoners were taken out one by one and "tried". Those prisoners accused of serious crimes were taken to Aileu. When it was my turn the people were quiet until H1 started provoking them. He told them to say that I had beaten them. The people refused except for one person who said: "He swore at my grandfather. " Because of this I was taken to Aileu, accused of swearing at someone's grandfather.*[218]

173. Fretilin moved UDT regional leaders in Dili or Aileu to be investigated by the commission.[219] In Aileu UDT leaders were detained at the Companhia building in Aissirimou, and ordinary party members were kept in a large warehouse.[220] The public was allowed to vent their anger on the newly arrived prisoners:

> *Major Lorenço was most severely beaten when he arrived in Aileu because he was a commander. They put him on the roof of the van [in which he had come] and drove him around Aileu and they yelled "Viva Fretilin". Someone stabbed him and he bled. His face was swollen and he could no longer speak.*[221]

174. Captured UDT leaders, including the party's vice president, César Mouzinho, were among the most harshly treated.[222] But former detainees testified that beatings and ill-treatment were routine, one example being a case reported to the Commission in which Fretilin guards forced detainees to fight each other in public, much like fighting cocks.[223]

175. Throughout its period of administration, Fretilin allowed members of the ICRC access to its prisons. Australian observers who visited Fretilin prisons in 1975 confirmed that some detainees had been beaten, including the former police chief, Lieutenant-Colonel Maggiolo Gouveia, although they concluded that overall, the detainees they saw were in good health and well treated.[224]

176. Senior Fretilin members testified before the Commission admitting that during this time Fretilin members committed abuses against prisoners. Rogério Lobato, then head of Fretilin's armed forces, told the Commission:

> *Sometimes they [Fretilin] entered the prison, called out for prisoners and beat them…People took advantage of the conflict to beat others and to take justice into their own hands. But some did beat them because they were angry with them due to the conflict.*[225]

177. In October 1975, as the Indonesian incursions resumed, Fretilin detained a number of Apodeti members. Mari Alkatiri told the Commission that he ordered their detention after he had received intelligence that Apodeti was planning a coup against Fretilin, which would begin with a hand grenade being thrown into a Fretilin Central Committee meeting.[226] This may also have been provoked by suspicions created by the initial Indonesian military incursions at the border.[227] Many of the Apodeti prisoners were killed after the Indonesian invasion.

178. There is no evidence that mistreatment of prisoners between September and early December was formal Fretilin policy. Although in some cases senior Fretilin members intervened to stop mistreatment,[228] it is clear the Fretilin Central Committee was aware of the situation and took insufficient measures to discourage malpractice or bring it under control.[229]

Restoring order

179. In early September, having gained control of most of the territory, Fretilin moved to restore order.[230] It took harsh measures to achieve this. Foreigners who visited Fretilin jails witnessed Fretilin soldiers in detention for violence against civilians.[231] By early September, Fretilin controlled all of Timor-Leste with the exception of Batugade on the border with Indonesia. Two Australian parliamentarians made the following assessment after visiting a number of towns:

> Our visit around the country confirmed Fretilin's claim that the situation is under control. In the regions we visited ourselves, we received

> information from aid workers and the International Committee of the Red Cross (ICRC) that they shared the same view.[232]

Administration

180. During the internal conflict 80% of the 3,000 professional East Timorese and expatriate staff of the Portuguese administration left the country. There was no chance of persuading them to return to work under a Fretilin administration. Fretilin broadened the membership of the Central Committee by appointing a larger number of regional representatives and serving members of the military, reflecting both the military's influence after the internal conflict and the need for broader geographic representation.[233] To address the administrative void outside Dili, Fretilin appointed Regional Committees to run each district. In mid-September, Fretilin formed an Executive Committee to run the caretaker administration.[234] This contained 13 departments including economics, health, and military affairs.[235] In October Fretilin established a range of commissions to facilitate the administration of the territory. A key commission was the Economic Management and Supervisory Commission, chaired by Dr José Gonçalves, perhaps the only trained economist still in the territory. Inaugurated on 11 October 1975, it acted as Fretilin's central management arm in charge of the country's economic recovery. This Commission also worked with Fretilin Regional Committees and international NGOs in the distribution of emergency food aid, using the assets of the quasi-governmental business and logistics enterprise SAPT (Sociedade Agrícola Pátria e Trabalho).[236]

181. The disruption to production and distribution systems caused by the internal conflict conspired with Timor-Leste's lack of self-sufficiency[237] to produce an urban economic crisis that Fretilin, with some support from international agencies, struggled to surmount. Although the fighting affected some larger towns in the central and western regions, and small-scale clashes were widespread, most rural areas escaped the armed conflict that engulfed Dili. Rural East Timorese generally depended on subsistence farming for their livelihood, and were thus not part of the cash economy on which urban East Timorese relied.[238] The ICRC reported the impact of the internal conflict:

> The damages from the war have affected only some regions: Maubisse, Ainaro, Ermera, Same… [food shortage] will affect essentially the population of the towns but will be without consequence for the inhabitants of the country where people…live under an economical system of auto-substance.[239]

182. One means by which Fretilin addressed food shortages was by compelling UDT detainees to perform forced labour.[240] One such location was a plantation at Aissirimou, in Aileu.[241]

183. After establishing control, Fretilin found that it did not have the means to import food. On 13 September it therefore issued an appeal for emergency food aid. The ICRC and the Australian Council for Overseas Aid (ACFOA) responded with limited deliveries of food, but no government provided aid during this time. Fretilin then encouraged people who had fled from the rural areas to the towns during the internal conflict to return to their villages. In addition to boosting agricultural production, this also reduced the number of people relying on limited urban food resources. Foreseeing impending shortages, Fretilin planned to impose food rationing in December, and began conducting a census in order to be able to operate a rationing system (see Vol. II, Part 7.3: Forced Displacement and Famine).

184. The closure of the BNU and the impossibility of setting up alternative banking arrangements, which Fretilin did not anyway have the expertise to run,[242] remained a problem throughout the Fretilin administration. The resulting lack of foreign exchange crippled the territory's capacity to revive the cash economy or to conduct international trade.* What remained of the Chinese business community continued to support the economy to a degree. However many had either left the countryside for Dili and other towns or had gone abroad, taking vital capital with them. The rapid run-down of currency forced Fretilin to pay the remaining civil servants and the military in kind rather than cash. Despite all these adverse factors, some degree of economic activity returned to Dili's markets and Chinese shops during October and November.[243]

185. Education was a key area of Fretilin policy. It had done a great deal of work before the internal conflict developing a literacy programme inspired by the Brazilian educationalist, Paulo Freire.† Following the internal conflict the existing education system came to a virtual standstill. As in other areas of the administration, most qualified personnel had left. Both government and Church-run schools had closed, the latter because many of the nuns and priests who taught there had also departed, prompting Francisco Xavier do Amaral to comment:

> It is deeply regrettable that "the shepherds" leave just at a time when the "lambs" need their guidance.[244]

186. Teachers that remained had been redeployed either as Falintil soldiers or as administrators, where their literacy skills were sorely needed.[245] Although there were plans to reopen the elementary schools in November, using high school students as teachers, nothing came of this and the schools remained closed.

187. The internal conflict left hundreds of people wounded, both military and civilian. Portuguese doctors had been withdrawn on 27 August, though most East Timorese health workers continued to work without disruption.[246] There were still plentiful

* The departing ACFOA aid barge took an export crop of coffee to Australia. However, the money earned had to be deposited in a bank account in Darwin.

† A system of popular education particularly aimed at addressing low literacy levels especially in rural communities, developed by Paulo Freire, a Brazilian educationalist.

supplies of medicines and drugs in Dili, and medical facilities were basic but adequate. On this foundation, helped by the arrival of doctors from the ICRC and an Australian medical NGO, ASIAT (Australian Society for Inter-Country Aid), on 1 September, Dili Hospital continued to function. Although ASIAT had planned setting up medical training schools – and during this period Fretilin opened a nursing school in Aileu in August 1975 – beyond Dili medical services were limited.[247]

188. It is clear that between September and December 1975, Fretilin undertook serious efforts to build a credible interim administration throughout Timor-Leste in the absence of Portugal, while at the same time seeking the return of Portugal to complete the decolonisation process. Hampered by a severe lack of financial and administrative capacity, and in the context of the political instability flowing from the August conflict and the intensifying cross-border military operations by the Indonesian armed forces, this fledgling administration faced insurmountable pressures.

Balibó: Indonesia increases intensity of military operations

189. On 15 October Tim Susi and battalions from the ABRI 2nd Infantry Brigade launched an attack against Balibó, in which five international journalists were killed. The journalists were covering the story of Indonesian military operation inside Portuguese Timor. Three Australians and two British journalists working for Australian television networks were shot or stabbed in circumstances that were covered up by Indonesian military officials at the time.* One possible reason for the execution of the journalists was that they had witnessed the scale of the Indonesian operations around Balibó, which were much larger than the incursions that had preceded it (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).[248]

190. On 16 October, as the Indonesian military secured Balibó and Maliana, Fretilin's frontline shifted to Atabae and Bobonaro.[249] The Commission secured film footage of these Indonesian military operations, showing the use of warships to bombard Fretilin positions and aircraft landing in Maliana, in what was clearly a major offensive.[250] Unlike the August attack on Atsabe that had used Partisan troops in support of the Special Forces units, the Balibó attack relied minimally on East Timorese.[251] Despite this, Indonesia attempted to blame their UDT/Apodeti allies for the journalists' deaths. More generally, the Indonesian authorities repeatedly denied that their troops were involved militarily in Portuguese Timor in the period from September to November. Instead they suggested that any clashes were the result of East Timorese Partisans repelling Fretilin incursions into Indonesian territory.

191. During October other Kopassandha-led forces launched an attack, hoping to strike further inland. They met heavy resistance and were repulsed. The US CIA's daily briefing, the *National Intelligence Daily,* reported on 20 October that the

* Though this was known to the Australian government almost immediately, there was no international protest or call for an investigation. Indeed, the Australian government does not seem to have protested even quietly to the Indonesian government over these killings. This remained a sensitive issue between Indonesia and Australia throughout the years of the Indonesian occupation.

Indonesian attack "stalled because of Jakarta's failure to secure the border town of Lebos".[252] Without the protection of naval artillery that it enjoyed nearer the coast, the Indonesian invading forces struggled in the interior where the two sides were better matched. In the words of Albino do Carmo, a Fretilin/Falintil commander, the attack took place:

> *...In Lela [Village], on the boundary with Lamaknen, called Bulubulu. It was about the middle of October. There were many people, they fired with mortars. They had machine guns, two of them. We saw many people from afar. There was information [they] were from Menpur. Over 100 [people]. We couldn't see behind [them]. They couldn't... advance because we shot at them. We also had machine guns and mortars. I had about 20 men at the time.* [253]

192. Fretilin forces provided unexpectedly stiff resistance to the Indonesian troops, who were plagued by problems with their weaponry and were slowed by the start of the rainy season. After a lull, the operation resumed on 20 November with an operation directed at Atabae. For the first time the Indonesian forces had both naval and air support. On 27 November Atabae, defended by a Portuguese cavalry company of East Timorese soldiers loyal to Fretilin, fell to the invaders.[254] The Indonesian military was now poised for a full-scale invasion of Dili.

Fretilin's unilateral declaration of independence, and the response

Overview

193. With Indonesian military operations intensifying and a full-scale invasion looking increasingly inevitable, Fretilin became desperate to find a way to engage the international community.

194. At the beginning of November 1975 Portugal held bilateral talks with Indonesia in Rome. In their joint press statement after the meeting the two sides reaffirmed their commitment to the orderly decolonisation of Portuguese Timor and agreed to work to convene discussions between Portugal and all the East Timorese political parties. With Indonesian forces already occupying significant parts of the territory and its government consistently blocking all-party talks, the Rome meeting failed to address the realities of the situation.

195. Fretilin decided to declare independence unilaterally soon after Indonesian forces occupied the western town of Atabae. It did so on 28 November 1975. Fretilin formed a government, and called on the international community to prevent the imminent full-scale invasion.

196. Members of the four other East Timorese political parties gathered in Bali. Under pressure from Indonesian intelligence forces, on 29 November, to counter

Fretilin's unilateral declaration, they signed the so-called Balibó Declaration, declaring "the independence and integration" of Portuguese Timor with Indonesia. Portugal recognised neither declaration. Indonesia prepared for full-scale invasion.

Background to Fretilin's unilateral declaration of independence

197. Former Fretilin President Francisco Xavier do Amaral told the Commission of the dilemma facing Fretilin as the Portuguese colonial authorities remained on island of Ataúro:

> *From Fretilin's point of view, its policy of continuing to recognise Portuguese sovereignty in the absence of any sign from Portugal that it was willing to exercise that authority was a dangerous course to follow. Despite being the* de facto *ruler, Fretilin had no international legitimacy as a ruling power. Fretilin was not an elected government and its fear was that the political vacuum would give Indonesia a pretext to launch a full-scale invasion of Timor-Leste.*[255]

198. Fretilin's 25 October invitation to the Portuguese administration on Ataúro to send a delegation to Dili to assess the political situation went unanswered. Fretilin's position hardened when it learned of the talks between the Portuguese foreign minister and his Indonesian counterpart in Rome on 1–2 November. The foreign ministers' joint press release called for the restoration of peace and order as a precondition for the process of decolonisation, but made no reference to the substantial inroads Indonesian forces had made into the territory of Portuguese Timor. By the time of the Rome talks, after the fall of Balibó and Maliana to Indonesian forces on 16 October, the Fretilin frontline had shifted to Atabae and Bobonaro.[256]

199. For some in Fretilin the unreality of the Rome talks was the final blow. Interviewed in 2004, Xavier do Amaral suggested the Portuguese government had betrayed the East Timorese people:

> *Portugal and Indonesia agreed that Indonesia would not interfere in the affairs of Timor-Leste. But in the end, who interfered? Indonesia. And what did Portugal say? Nothing. It just sat there. Not even a warning to Indonesia. For a while, Fretilin waited for a chance to start negotiations with the Portuguese, but they remained silent, they did not reply. What was the real reason for these continuous delays? Was it to defend us or to betray us?*[257]

200. Fretilin now had to face three painful realities: the massive external threat that its giant neighbour posed on and even within its borders, an economy without the administrative infrastructure necessary for it to carry out the day-to-day tasks of government, and Portuguese indifference. José Gonçalves, chair of Fretilin's

Economic and Supervisory Committee, had been charged with resurrecting the stalled economy. He stated in October 1975:

> Now that the Portuguese government is not here and negotiations are on-going, we must start planning for independence.[258]

201. José Gonçalves knew that domestic economic recovery and international trade would not be possible if the BNU, Portuguese Timor's only bank, did not reopen. On the other hand, if Fretilin continued to recognise the Portuguese government as the legitimate authority over Timor-Leste the bank could not reopen. Gonçalves stated:

> We can't wait forever for this bank to function. This bank has been nationalised and we intend to finish the process.[259]

202. In November Fretilin sent a delegation to Africa to sound out support for a unilateral declaration of independence.* The delegation comprised two important members of the Fretilin Central Committee, Mari Alkatiri and César Mau Laka. They returned to Dili in the third week of November and stated that 25 countries had promised recognition if Timor-Leste declared independence, among them China, the Soviet Union, Zambia, Mozambique, Tanzania, Guinea-Bissau, Angola, Cape Verde, São Tome and Principe, North Korea, North and South Vietnam, Cambodia, Romania, The Netherlands, East Germany, Sweden, Algeria, Cuba, Norway and Brazil (see Vol. II, Part 7.1: The Right to Self-Determination).[260]

203. Moreover the military threat posed by Indonesia was increasingly obvious, and Fretilin began storing arms and food in the interior in anticipation of a full-scale invasion.[261] It also moved to expand its armed forces. Although Falintil troops were fighting at the border and at that point successfully keeping the Indonesian army from advancing, the likelihood of being overwhelmed in the event of a full-scale invasion was great. In anticipation of this, Falintil began training and equipping militia groups (Milicia Popular de Libertação Nacional, Miplin).[262]

204. The silence from the international community and the failure of Portugal to communicate with Fretilin following the 16 October attack on Balibó began to convince Fretilin of its complete isolation. Though opinions were divided, in the third week of November 1975, shortly after Mari Alkatiri and César Mau Laka had returned from Africa, the Fretilin Central Committee decided to declare independence.[263] This decision scheduled the declaration for 1 December, the day Portugal celebrated its independence from Spanish occupation.[264]

* Previously, at the end of September a conference of African and Asian countries held in Maputo, the capital city of Mozambique. resolved to "fully support the national independence struggle led by the pioneering Fretilin." The resolution was proposed by Mozambique President Samora Machel and gained unanimous support from the participating countries

The declaration of independence

205. On 26 November, after two weeks of intensive sea and air bombardments, Atabae fell to the Indonesian armed forces. The Central Committee concluded that a full-scale Indonesian invasion was imminent. Interviewed by the Commission in 2004, Mari Alkatiri recalled the words of the Fretilin vice-president, Nicolau Lobato, to the Central Committee:

> *The Indonesian army have already entered Atabae… They have occupied Atabae! If we wait until 1 December we might not have time to declare independence in Dili. So we'd better proclaim independence today.*[265]

206. Although there was some opposition to the decision to declare independence, on the afternoon of Friday 28 November 1975, Fretilin made the declaration before a crowd of 2,000 people gathered in front of the Portuguese government building.[266] Falintil troops paraded in camouflage uniforms and bandanas in the colours of their units.[267] Francisco Xavier do Amaral arrived in a black Mercedes-Benz, the official car of the Portuguese governor. At 5:55pm the Portuguese flag, which had been flying for centuries over Timor-Leste, was lowered. Fretilin raised the new flag of the Democratic Republic of Timor-Leste – red, black and yellow with a white star – and a minute's silence was observed to commemorate "everyone who has died during these past few months and throughout Timor-Leste's anti-colonial wars".[268] A cannon was fired 20 times as a sign of respect for the dead. The Fretilin President, Francisco Xavier do Amaral, read the proclamation of independence:

> Stating the highest wish of the people of Timor-Leste and protecting the most legitimate national sovereignty, Fretilin Central Committee has unilaterally decided to proclaim the independence of Timor-Leste. As of midnight today, [we] declare the [birth of] the anti-colonial and anti-imperialistic nation of the Democratic Republic of Timor-Leste.
>
> Long live the Democratic Republic of Timor-Leste!
>
> Long live free and independent Timor-Leste!
>
> Long live Fretilin!

207. After the proclamation, those present sang "Pátria! Pátria!" (Fatherland! Fatherland!), and declared it the national anthem. Timor-Leste then broadcast the news of its declaration of independence to the world from the Marconi Communication Centre.[269]

208. Although Fretilin had planned the declaration of independence for 1 December, the unilateral declaration on 28 November was unexpected and sudden. Several circumstances confirm this, including the writing of the proclamation[270] and sewing of the flag[271] on the afternoon of 28 November. Nor were all Fretilin leaders present at the proclamation ceremony.[272] The Fretilin secretary general, Alarico Fernandes,

and the foreign affairs secretary, José Ramos-Horta, had been in Australia since 20 November to gather political support, while Juvenal Inácio (Sera Key) and Vicente Reis (Sa'he) were fighting the Indonesian army on the border.

209. The following day, 29 November, the Fretilin Central Committee appointed Francisco Xavier do Amaral President of the new republic. In his inauguration speech, Francisco Xavier do Amaral emphasised independence as the right of the people of Timor-Leste. He said independence was inseparable from the negligence and betrayal of that right during the Portuguese government's decolonisation process. He affirmed:

> After more than 400 years of suffering, hunger, deprivation, ignorance and massacres, what are we waiting for? Friends, for good or for bad, we have to be the first and the last to resolve our problems. So, from this day on, we all, yes we all, will build our nation, Timor-Leste.[273]

210. The minister of defence, Rogério Lobato, read out the Constitution of the Democratic Republic of Timor-Leste (RDTL). The Constitution, consisting of 55 articles, was written a few days before 28 November 1975.[274] On 1 December the Council of Ministers was inaugurated at the Portuguese Governor's residence in Lahane. The Fretilin Central Committee appointed Fretilin's vice-president, Nicolau Lobato, as Prime Minister.

211. The Constitution included articles committing Timor-Leste to the following:

- Removal of colonial structures and the creation of a new society free of all kinds of domination and exploitation (Article 2)
- Development policies to focus on agricultural development, and industry (Article 6)
- The pursuit of a policy of planned economic development (Article 10)
- To fight illiteracy and ignorance, and protect and develop its culture (Article 12)
- To develop and run a health system (Article 13)
- Guarantee of parity of rights to men and women (Article 14)
- Guarantee of the freedom of religion (Article 15)
- To develop "friendly and cooperative relations" with "democratic and progressive world powers, considered natural allies." (Article 16)
- Guarantee of the right to participate in the process of democratic consolidation (Article 23)
- Guarantee of freedom of thought, association, union, and speech (Article 24)
- Guarantee of the right to vote and to be voted for in general elections (Article 25).

212. The Constitution established a semi-presidential system of governance. The prime minister was the head of the Council of Ministers (Article 40) who had the task of running the government. The president was the head of state (Article 42) and commander-in-chief of the armed forces (Article 4). The president was authorised

to appoint and dismiss the prime minister, the chief justice of the Supreme Court and the governor of the Bank of Timor-Leste (Article 42). Nicolau Lobato, who was appointed prime minister, drew up a list of ministers and vice ministers, and submitted it to the president and Fretilin Central Committee for approval.[275]

Reactions to the declaration of independence

The Balibó Declaration

213. The day after the Fretilin unilateral declaration of independence of Timor-Leste, the four other East Timorese political parties – UDT, Apodeti, KOTA and Trabalhista – issued their "Proclamation of Integration" to counteract the move. The proclamation accused Fretilin of obstructing a peaceful solution to the conflict and the right of the people of Portuguese Timor to self-determination. It stated that "the whole former Portuguese Timor colony" would be integrated with Indonesia, and described this as "the strongest avowal of the feelings of the people of Portuguese Timor". It asked the Indonesian government and people to "take the necessary steps to protect the lives of the people who now considered themselves Indonesian but lived under Fretilin's reign of terror and fascist practices with the acquiescence of the Portuguese government".[276]

214. At the bottom of the declaration are the words "Done at Balibó" and the signatures of representatives of the four parties. The circumstances in which the so-called Balibó Declaration came to be made have been the subject of controversy for many years.[277] The Commission heard testimony from East Timorese political leaders present at the signing who said that it was drafted in Jakarta and signed in a hotel in Bali by the party leaders who, in the words of one of the signatories, were "under tight surveillance", but still argued strenuously for many hours against signing the document.[278] They testified to the pressure placed upon East Timorese politicians by members of the intelligence agency Bakin in the drafting of and decision to vote on the declaration.* The declaration was read from a powerful radio transmitter in Balibó.[279]

Portugal

215. Portugal rejected both Fretilin's unilateral declaration of independence and the "Balibó Declaration". The communiqué of Portugal's National Board for Decolonisation stated on 29 November that Portugal still considered itself the "administering power" of Timor.[280] The communiqué also condemned military intervention in the territory, clearly referring to Indonesian military attacks. The Portuguese government

* Three other documents, signed by East Timorese either declaring or petitioning for integration, the Suai and Bobonaro Declarations and the Batugade Petition, preceded the "Balibó Declaration". The Commission received testimony that in the cases of at least two of these documents, the Suai Declaration and the Batugade Petition, Indonesian agents were also involved in drafting and putting pressure on some of the signatories [see Submission of Domingos Oliveira, p.31, and CAVR Interview with Claudio Vieira, Kupang, 25 August 2004].

maintained that Timor-Leste must reach a negotiated settlement with the three political parties, agreeable to the people of Timor-Leste and with the proviso that "the legitimate interest of Indonesia's geopolitical territory" would be considered.[281]

Indonesia

216. Fretilin's declaration of independence became the trigger for President Soeharto to authorise Indonesia's full-scale invasion of Timor-Leste.[282] After meeting with President Soeharto on 29 November, Indonesia's minister of information, Mashuri, issued a statement regretting Fretilin's "unilateral action" and the Portuguese government's position that "clearly approved Fretilin's action".[283] Indonesia condemned Fretilin's unilateral action but "truly understood UDT, Apodeti, KOTA and Trabalhista's statement that, on behalf of the people of Portuguese Timor, declared their integration with Indonesia."[284]

217. When Indonesia's Foreign Minister Adam Malik accepted the Proclamation of Integration on 1 December, he said that "a hard struggle" lay ahead and that Indonesia would extend "total covert or open support". Adam Malik concluded by saying: "Diplomacy is over. Now Timor-Leste issues shall be resolved on the battlefield."[285]

Wider international response

218. Key actors in the international community had long been aware that an Indonesian military invasion of Portuguese Timor was likely. Australia had long accepted that incorporation was "settled" Indonesian policy (see Part 3.6: Indonesia's growing involvement in Portuguese Timor: destabilisation and diplomacy, paragraphs 112-138) and knew the extent of its military involvement in the territory.[286] Numerous documents also show that the US knew of Indonesia's plans to take over Timor-Leste by military means.[287] Australia refused to recognise the new nation and viewed Fretilin's action as "provocative and irresponsible".[288] The US confirmed its position of non-involvement.[289] The newly independent African nations of Angola, Cape Verde, Guinea-Bissau, Mozambique and San Tomé and Príncipe all recognised Timor-Leste's independence but these nations were too small to have an impact on international politics. China and Vietnam, Fretilin's most important supporters in Asia, extended their warm congratulations. China was the only permanent member of the UN Security Council to recognise the declaration of independence.

219. On 6 December, the day before the invasion, President Gerald Ford and his secretary of state, Henry Kissinger, were in Jakarta. CIA analysts predicted the invasion would occur after Ford's departure.[290] On 6 December Kissinger stated that the use of US weapons in such a military operation could become a problem, but added:

> [T]hat would depend on how one would construe it; whether it is in self-defence or is a foreign operation.[291]

220. Despite this knowledge, there was no attempt by any country to stop Indonesia, and no country made any approach to Fretilin, which soon realised its isolation.

Full-scale invasion imminent

221. After the declaration of independence the situation in Timor-Leste became increasingly tense. The Fretilin leadership were expecting the Indonesians to invade and every night members of the Central Committee went on patrol.[292] On 2 December the ICRC delegation in Dili received a telegram from the Australian government warning all Australians in Timor-Leste to leave the country for their own safety.[293] The ICRC's neutrality had been recognised by Fretilin but not by UDT, Apodeti and Indonesia. It was forced to move to Ataúro Island on 2 December, planning to operate a clinic from there servicing Dili. On the same day the Democratic Republic of Timor-Leste's minister of defence, Rogério Lobato, issued a statement:

> Based on information from Fretilin intelligence sources, we suspect a full-scale attack on Timor-Leste, especially to the capital city Dili, will take place…We urge the world to stop this criminal aggression, as it will be the cause of an endless bloodbath. The people of Timor-Leste will resist.[294]

222. On 4 December a delegation comprising minister of economic and political affairs, Mari Alkatiri, the minister of foreign relations and information, José Ramos-Horta, and the minister of national defence, Rogério Lobato, left Timor-Leste.[295] The government of the Democratic Republic of Timor-Leste had entrusted the delegation with the task of launching a diplomatic campaign abroad and to seek arms to defend the new republic.[296] On 6 December the last group of ICRC workers left Dili for Ataúro. That afternoon people began to flee to the mountains. That evening Roger East, the only remaining foreign reporter in Timor-Leste, wrote:

> With the deterioration of the security situation, people started quietly to leave for the hills. Tonight Dili is quiet and almost empty, abandoned by its people. A curfew was applied on the fourth day and armed soldiers guarded the beach and the streets.[297]

Full-scale invasion

Overview

223. Indonesia's intention to conduct a full-scale invasion of Timor-Leste was clear by early December. Australian intelligence was monitoring the situation, and on 2 December the Australian government advised its citizens to leave Timor-Leste. Most of the few remaining foreigners left the territory in the following days. Fretilin dispatched a delegation to conduct an international diplomatic campaign. The invading forces included a relatively small number of UDT and Apodeti members.

The Indonesian government attempted to foster the myth that they were assisted only by a number of Indonesian "volunteers". The military went so far as removing insignia from its landing craft and used weapons especially purchased for the attack that could not be traced to their major military sponsor, the United States. Nevertheless, it was a full-scale air and sea attack, involving large numbers of troops. Fretilin provided resistance to the invading forces as its political leaders withdrew to the hills of Aileu. The day of invasion saw widespread atrocities committed by Indonesian troops against East Timorese civilians, including summary executions and massacres.

224. The United Nations debated the invasion immediately and the Security Council unanimously passed a resolution on 22 December deploring the invasion, calling for immediate withdrawal of Indonesian troops and reaffirming the right of the people of Timor-Leste to self-determination. A UN envoy was sent to assess the situation in Timor-Leste, but his efforts were frustrated and the UN debate shifted to the General Assembly in the early months of 1976.

Indonesia's decision to invade and conduct open warfare

225. On 28 November 1975, Indonesian troops already occupied significant areas of Timor-Leste. The Indonesian government completed its final political preparations in the early days of December, making clear its intention to take over the territory. This was not news to Western powers. US and Australian intelligence had been monitoring Indonesia's troop build-up, and their governments had been in constant dialogue with Indonesia over the period of military operations under Operasi Flamboyan, particularly through Harry Tjan Silalahi and Yusuf Wanandi of CSIS, the think-tank established by intelligence chief General Ali Moertopo. With the warning from the Australian Government on 2 December, most remaining foreigners left Dili. Australian Roger East was the only remaining foreign journalist in the territory.

226. Australian Prime Minister Whitlam had already made clear in his Townsville and Wonosobo meetings with President Soeharto his preference for Indonesia to subsume Timor-Leste.[298] Aware of the upcoming visit to Jakarta of US President Ford and Secretary of State Kissinger, on 5 December Fretilin sent a desperate letter to President Ford:

> We have been charged in the UN General Assembly with being an aggressor state…We now hear that "Timor-Leste has committed acts of aggression" against Indonesia and that the people there are demanding full scale intervention. My government believes these baseless charges are a prelude to open warfare.[299]

227. The impending invasion of Timor-Leste was briefly discussed between Presidents Ford and Soeharto, and Secretary of State Kissinger. The US clearly expressed its acceptance of Indonesia's expected annexation of Timor-Leste:

> [Soeharto] We want your understanding if we deem it necessary to take rapid or drastic action.
>
> [Ford] We will understand and will not press you on the issue. We understand the problem you have and the intentions you have.[300]

228. With this key international support secured, Indonesia also sought to legitimise its decision domestically through its Parliament. On 6 December the Indonesian People's Consultative Assembly (MPR) stated that it:

> Supports the Government of Indonesia to take steps to resolve the problem of East Timor.
>
> Greatly regrets the Fretilin move to declare the independence of Portuguese Timor on 28 November 1975, that clearly contradicts… [the process of decolonisation]…in accordance with the Rome agreements.[301]

229. The MPR statement concluded by reiterating the anti-colonialist principles of Indonesia.* On the same day, the Indonesian People's Representative Council, (DPR), passed a resolution stating that:

> There is a desire from the people of Portuguese Timor to join the Republic of Indonesia that must be acknowledged by the DPR.[302]

Dili prepares its defence strategy

230. Fretilin could call on around 10,000 troops for the defence of Timor-Leste, composed of 2,500 professional East Timorese soldiers from the Portuguese army, and around 7,000 trained civilians.[303] The troops were well equipped with Mauser rifles and plentiful ammunition from Portuguese NATO stocks. Fretilin also had competent military leadership, led by Fernando do Carmo, a member of the Portuguese army. Throughout the period of Indonesian covert operations on the border from September 1975 until the December invasion of Dili, Fretilin troops maintained superiority in the areas where Indonesian forces did not have the advantage of naval artillery support and had gained valuable combat knowledge.

231. In October, Fretilin sent a telegram to the President of the United Nations Security Council, indicating its will to resist armed intervention by Indonesia:

* There were no formal agreements between Portugal and Indonesia from the Rome meeting in November 1975. At the time of the meeting Indonesian troops occupied parts of Portuguese Timor, the Portuguese colonial administration was on Ataúro and Fretilin's attempts to communicate with them went unanswered. The Commission heard a submission from CSIS member Yusuf Wanandi that the unilateral declaration of independence by Fretilin galvanised different factions within Indonesia "to support the military operation to intervene in Timor-Leste. Because of that, what previously had been characterised by intelligence operations and was secret, became combined military operations and was supported by all forces..." [See Submission to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 16 December 2003].

> We will fight back until the last man and will never give up arms while the democratic rights of our people are not respected. Indonesia is deeply involved in training of guerrilla forces in Indonesian Timor which is in violation of the principles of the UN charter and international law. We call upon your Excellency to stop Indonesian military aggression against our people.[304]

Indonesian military preparations: Operation Seroja (Lotus)

232. The resistance confronted by the Special Forces during their incursions in August and September prompted the establishment of the Operation Seroja Joint Task Force Command* in October 1975, and troop numbers were increased to 3,200.[305] These reinforcements included the Kopassandha† 2nd Combat Detachment, the Marine 5th Infantry Battalion‡ from Surabaya, the Ratulangi submarine, two air force transport planes, and three battalions from the 2nd Infantry Brigade (East Java).[306] While the border incursions continued, leading to control by the Indonesian military of the border towns of Balibó and Atsabe, the Seroja Command planned a full invasion of Timor-Leste. This was to be a two-pronged combined forces attack on Dili on 7 December. The plan called for marine and army infantry battalions brought by ship from the border town of Atabae in Bobonaro District, which the 2nd Infantry Brigade and Tim Susi already occupied. The intention was to conduct an amphibious landing in Dili at dawn, followed soon after by parachute drops of troops from the Secret Warfare Command and the Army Strategic Reserve into the centre of the town.[306]

Invasion of Dili and Baucau

The attack

233. On 7 December 1975 Indonesia mounted a full-scale attack upon Dili. This was a major military offensive involving troops with full sea and air support.[308] This attack was made without the formality of declaring war.§ The city of Dili had been on high alert for days, expecting an attack. In 1975, Dili's population was approximately 28,000. While some Fretilin armed units stayed behind to offer resistance to the invading forces, civilians and the Fretilin leadership ran to the hills toward Aileu.

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* Brig. Gen. Chamid Soeweno, then serving as Commander of the Secret Warfare Command (Kopassandha) Intelligence Centre, was appointed commander. Col. Dading Kalbuadi was retained as the Assistant for Intelligence.

† Secretl Warfare Command.

‡ Renamed Pasmar 1.

§ Total troop numbers of the invading forces are not precisely known. However in addition to the several thousand that landed on 7 and 10 December, 10-20,000 are thought to have landed during the following weeks, including a large number on Christmas day. See Carmel Budiardjo and Liem Soei Liong, The War Against East Timor, Zed Books, London, 1984, p. 15, 23; Dunn 2003, p. 244].

Many were unable to escape. The invading forces committed atrocities against the civilian population and made costly military errors resulting in a significant loss of life on their part.

234. On 6 December in the afternoon, several hundred East Timorese Partisans and Indonesian troops from the 1st Marine Unit boarded the naval warship Teluk Bone at Atabae and left for Dili. They were to carry out a preparatory landing under the cover of darkness in readiness for the full-scale invasion the following day.[309] At 2.00am on 7 December, five more Indonesian warships arrived off Dili. Alerted to their presence, Fretilin shut off the city's power supply at 3.00am, blanketing the city in darkness. The Indonesian command naval ships opened fire on Dili, [310] contrary to planning. Indonesian journalist Subroto accompanied the invading forces and reported:

> Because the surprise factor was lost, Task Force Commander Brig. Gen. TNI Soewono ordered KRI Ratulangi, KRI Barakuda, KRI Martadinata, and KRI Jayawijaya to open fire in the direction of the shore. This attack went well until the element of surprise was increasingly lost, which caused the 1st Marine Unit that had landed to be ineffective.[311]

235. At about 4.30am, 400 marines* together with light amphibious tanks and armed personnel carriers landed at Kampung Alor on the western outskirts of Dili.[312] Fretilin/Falintil resistance was light, and by 7.00am Indonesian Marines had secured the area. Following this the Indonesian Navy bombarded the eastern and western parts of Dili, which they wrongly understood to house Fretilin artillery, in preparation for the arrival of paratroopers.[313]

236. Earlier, just before 6.00am, nine C-130B Hercules airplanes had flown over Dili and dropped the first contingent of paratroopers from the Secret Warfare Command (Group 1) and Kostrad (Yonif 501).[314] Poor intelligence caused these to be dropped directly over the town, a landing ground full of hazards.[315] Most of these troops landed in the north-eastern part of Dili. Some of the paratroopers came under fire from Fretilin/Falintil forces while still in the air; others were injured or died as they landed among buildings and power lines. One aircraft dropped its load of paratroops into the sea, where they drowned, and another load landed behind Fretilin lines.[316] A second drop shortly before 8.00am resulted in ABRI units fighting each other in confusion. Because the morning drops had gone so badly, an afternoon sortie was cancelled by the Joint Task Force Command.[317]

237. Fretilin/Falintil forces defending the city enjoyed initial success. When two C-47 Dakota aircraft carrying 38 Special Forces troops attempted to land and take control of the Comoro airport west of Dili, Fretilin successfully repulsed one.[318] However, with its superior firepower ABRI soon gained the upper hand. In the words of Fretilin/Falintil soldier Carlos Maria Soares:

* From the 5th Landing Team Infantry Battalion (Yonif 5 Brigif 1 Pasrat Marinir, referred to as Pasmar 1).

...We were at Fretilin's post at Bidau Santana, resisting the TNI [ABRI] under commander Amandio. At the time we were 21 people... Our resistance...didn't last long because we didn't have enough soldiers or ammunition.[319]

238. By midday Indonesian troops had secured the Palácio das Repartições (now the Palácio do Governo) in the heart of Dili and posted teams along the key routes leading out of the centre of town. Fretilin/Falintil troops remained in control of Taibessi and Lahane at the base of the southern foothills of Dili, as well as the hills south of Fatuhada and those overlooking the Comoro airport.

Information control: seeking to conceal ABRI involvement

239. To maintain the fiction that none of its military personnel were involved, ABRI had removed the insignia from its landing craft.[320] Its troops used AK-47's and other non-Western light arms procured by General Benny Moerdani specifically for the invasion of Timor-Leste. The aim was to deny Indonesian military involvement, and avoid incriminating ABRI's major arms suppliers, particularly the US.[321] Most of its heavy weaponry - aircraft, ships and landing craft - as well as the training of many of its elite troops such as the airborne brigades, had been supplied by the US.[322]

240. The only foreign journalist remaining in Timor-Leste, Australian Roger East, was taken from the Hotel Turismo on the morning of the landings and executed later that day on the waterfront by Indonesian troops.[323] This brought to six the number of foreign journalists killed by the Indonesian military in less than two months, and ensured that the story of Indonesia's invasion and subsequent operations were not reported in detail by the international media.

241. The Indonesian military attempted to maintain the fiction that the invasion of Dili had been carried out by East Timorese Partisans from the four political parties that had signed the Balibó Declaration. One day after the invasion of Dili an official Indonesian press release referred to the "the fall of Dili on 7 December to the combined forces of Apodeti, UDT, KOTA and Trabalhista."[324] This statement made passing reference on the third page to Indonesian "volunteers" involved in the operation. Six days later the Indonesian minister of information stated that:

> The volunteers requested by Apodeti, UDT, Kota [sic] and Trabalhista who helped our brothers in Portuguese Timor aren't likely to be contained [any longer] by the Indonesian Government.[325]

242. Indonesian journalists repeated and disseminated this disinformation, contributing to the myth that Indonesia was not invading but rather it was the integrationist East Timorese parties who were regaining control of their territory with the assistance of a small number of Indonesian "volunteers".[326] Indonesian historian Dr Asvi Warman Adam, a Research Professor at the Indonesian Academy of Sciences

(LIPI), told the Commission that this myth had a long-lasting impact in Indonesia.[327] In assessing some of the key historical points he believes need to be reconsidered in Indonesia related to this period, Dr Adam told the Commission that:

> *The term "volunteer" is obviously incorrect because it has to be admitted that they were Indonesian forces.*

243. Noting the scale of the attack on Dili, Asvi Warman Adam told the Commission that it could be "compared to the attack to put down the PRRI/Permesta rebellion (in 1958), which was the biggest military operation in Indonesian war history."

Mass violence against civilians

244. In addition to arbitrary executions of civilians, a number of mass killings occurred during the first few days of the invasion. The Commission was told that members of Dili's Chinese community were targeted by Indonesian soldiers, as groups of civilians were killed in the downtown area of Colmera in the first two days.[328] On 8 December there were several group executions of civilians at Dili harbour. These included the executions of Isabel Lobato, the wife of Fretilin leader Nicolau Lobato, who was shot in the back in the morning, Fretilin member Rosa Muki Bonaparte and the Australian journalist Roger East in the afternoon.[329] The evidence suggests that Fretilin members were pointed out from the crowd of confused civilians that had assembled near the harbour. These were then taken to the harbour and executed. The Commission received evidence of an ABRI "hit list" of individuals to be targeted for execution, compiled during the months of covert intelligence operations preceding the full-scale invasion.[331]

245. On 8 December General Moerdani toured Dili in the company of Colonel Dading Kalbuadi, visiting the harbour:

> That afternoon Navy Captain R. Kasenda, Chief of Staff of the Joint Task Force Command, left the KRI Ratulangi to inspect the city of Dili. The inspection was done riding the BTR-50 amphibious APC (armoured personnel carrier). At Dili harbour, Navy Captain R. Kasenda met with Major General Benny Moerdani, then he walked with him towards the Governor's office. At that time on the roads there were still the bodies of Fretilin who had not been buried yet.[332]

246. Other groups of civilians were killed as Indonesian troops made their way towards Falintil's headquarters in the foothills south of Dili. The Commission heard a number of testimonies of the massacre of 21 civilians at the Assistência building, near a Fretilin base at the Matadouro building:

> *...[T]hey [ABRI] separated the men from the women. They took the men to the side of the building which was covered in tall grass...*

Soon after that we heard shooting and the sound of a grenade. The shooting went on for a very long time…the men who had been taken to the side of the building had all been killed.[333]

247. The execution of civilians by Indonesian troops seems to have been a recurrent pattern of the day of invasion.[334] An account to the Commission of another massacre of civilians, in the area of Caicoli in central Dili, stated:

On 7 December Indonesia invaded with paratroops early in the morning, landing in Dili. At that time a [Falintil] commander Sergeant Constancio Soares was shot dead directly in front of the Sang Tai Hoo shop in Colmera. At midday TNI attacked the military police headquarters in Caicoli and arrested around 50 people. They ordered them to line up and then shot them dead.[335]

Fretilin leadership escapes to the interior

248. The Commission heard many testimonies and statements of the escape to the interior as the invasion occurred.[336] The Fretilin plan was to evacuate to the south, providing sufficient resistance to hamper the advance of Indonesian troops. Large numbers of the civilian population of Dili fled with them towards Aileu.[337]

249. Despite the parting pleas from the ICRC in the days before the full-scale invasion, Fretilin took its UDT and Apodeti prisoners with them as they fled.

Invading forces occupy Baucau

250. On 9 December four Indonesian warships carrying Indonesian marines and 1,500 East Timorese Partisans, and two Soviet-made Indonesian frigates left Dili waters headed in the direction of Baucau. At around 6.00am on 10 December, under the cover of naval artillery, a marine landing team led by Manuel Carrascalão under the command of Colonel Dading Kalbuadi landed at a beach near Laga in Baucau District. The Commission heard testimony that the attack on Baucau met with virtually no armed resistance and that Indonesian forces were quickly in control of the town.[338]

The cost of full-scale invasion

251. The widespread atrocities committed against civilians in Dili on the initial days of the invasion constituted a grave violation of human rights. There were virtually no disciplinary consequences for Indonesian forces responsible for such actions. Tragically, this set the tone for the absolute impunity for violence against civilians that was the hallmark of the conflict for years to come. On the ninth day of the invasion, Fretilin sent yet another telegram to the United Nations Security Council. Fretilin's minister of information Alarico Fernandes reported extensive looting in Dili, and the presence of 19 ships in the harbour engaged in the pillage. [339]

252. The cost in terms of loss of life to Indonesian forces was also significant. ABRI's initial invasion succeeded in the military objective of taking the cities of Dili and Baucau, but poor planning and last minute changes resulted in confusion over the amphibious landing and a high death toll for the elite Kostrad and Kopassandha paratroopers. General Benny Moerdani, who had played a leading role in planning the invasion, gave this analysis of the Indonesian invading forces:

> [Our] troops did not display discipline, they fired on one another. It is embarrassing…From a military perspective, we can't take much pride in that operation. [340]

United Nations response to the full-scale invasion

253. The Commission heard testimony of the scene at the United Nations in New York at this time from David Scott, a respected senior Australian social justice worker who had been sent by civil society organisations to New York to support the work of José Ramos-Horta immediately after the invasion:

> *The Secretary of the Fourth Committee, that was debating the reported invasion by Indonesia, told me that very few people in New York and the United Nations knew anything about East Timor. The Indonesian delegation was saying that "we have gone into East Timor just as if we were putting out a fire in the kitchen of the house next door, and we will retire."*
>
> *The following day Ramos-Horta arrived with Araújo, and a key moment was the acceptance by the United Nations of Ramos-Horta as the representative of the East Timorese people…In the next two weeks, Ramos-Horta…campaigned strenuously to argue the case for recognition or the retention of East Timor on the United Nations agenda and supporting the resolutions, calling on Indonesia to withdraw and affirming the right of East Timor to self-determination.*[341]

254. On 12 December the General Assembly passed Resolution 3485, deploring the invasion and calling for the withdrawal of Indonesian troops from Portuguese Timor. The Security Council met three times in December to discuss the situation in Timor-Leste, and on 22 December unanimously passed Resolution 384 which called on Indonesia to withdraw its troops and reaffirmed the right to self-determination of the people of Timor-Leste.

255. The Security Council resolution instructed the UN Secretary-General to send a special representative to Timor-Leste. The representative, Winspeare Guicciardi, visited Indonesian controlled areas of Timor-Leste in late January 1976. However his efforts to meet with Fretilin leaders were foiled. The Commission heard testimony of efforts to coordinate safe landing places on the south coast, through Fretilin radio broadcasts to a radio-set in Darwin. However, the potential landing sites were bombed by the Indonesian military and the Australian government shut down the Darwin radio frustrating efforts

for further communication.[342] Indonesia also threatened to sink a Portuguese corvette that was to be used to land Guicciardi on the south coast of Timor-Leste for these meetings.[343]

256. The result was that the United Nations was poorly informed of the situation on the ground in Timor-Leste at this time, and it failed to hear the perspective of the Fretilin leadership inside the territory or to see for itself the conditions in Fretilin-controlled areas. After this initial response, the United Nations made no further meaningful efforts to immediately visit Timor-Leste. The debate returned to the General Assembly which, while it continued to condemn the invasion and affirm the right of the East Timorese people to self-determination, did little to place real pressure on Indonesia to reverse its actions. [344]

Timorese experience of early occupation and Indonesia's attempts to formalise integration

Overview

257. Indonesia moved to install a provisional government on 17 December 1975, comprised mostly of members of the Apodeti and UDT political parties that accompanied the full-scale invasion.[345] José Ramos-Horta was accepted at the United Nations as a spokesperson for the East Timorese people, and diplomatic activity was frantic.

258. Fretilin leadership had withdrawn to the interior, taking with them UDT and Apodeti prisoners held in their main Dili prison in Taibessi. As Indonesian forces advanced on the Fretilin headquarters in Aileu, members of Fretilin perpetrated a massacre of a large number of these prisoners. In the course of retreat from advancing troops, further massacres of prisoners took place in Maubisse and Same in late December and January 1976.

259. Large numbers of the Timorese civilian population had fled the towns and villages and lived in Fretilin-controlled areas. In May 1976, Fretilin held a national conference to consider its strategy. It decided on a national resistance strategy based on the civilian population living in the mountains with the fighters in a number of liberated zones. Civilians provided logistical support to the Fretilin fighters. Women and youth organisations conducted education and other social activities, and health networks were established. Generally, populations living in these zones were beyond the reach of the Indonesian military for most of 1976.

260. On 31 May 1976 Indonesia sought to legitimise its occupation of Timor-Leste. In a short ceremony in Dili, which it called the "Act of Integration," Indonesia formed a Popular Assembly of approximately 30 members from the districts. The Assembly endorsed a petition to President Soeharto asking for the integration of Timor-Leste into Indonesia. Members of the Assembly were flown to Jakarta to present the petition to President Soeharto, and on 17 July Soeharto signed a bill declaring Timor-Leste

part of Indonesia. The United Nations rejected this attempt in Resolution 31/53 on 1 December 1976, and called for an internationally acceptable act of self-determination in the territory.

ABRI consolidates; Indonesia installs "Provisional Government"

261. In response to Indonesia's 7 December invasion of Timor-Leste, the UN General Assembly passed Resolution 3485 on 12 December. This called for the withdrawal of Indonesian troops but was ignored by Indonesia. On 17 December Indonesia installed the Provisional Government of East Timor (Pemerintah Sementara Timor Timur, PSTT), with Arnaldo dos Reis Araújo, the president of Apodeti, as chairman, and Francisco Lopes da Cruz, the president of UDT, as deputy.[346] A total of 24 men were appointed to positions of responsibility in this Provisional Government and to a deliberative council. Sixteen of these were from UDT and Apodeti.[347]

262. On 18 December the Provisional Government sent a telegram to President Soeharto calling for military help:

> The Provisional Government of Eastern [sic] Timor kindly request[s] the Government of the Republic of Indonesia to render assistance in the military, social as well as economic assistance [sic] so that a condition of peace and order in the territory of Eastern Timor [sic] can be restored free from the disturbances and threats of the terrorists' [sic] remnants left by the Portuguese Government.[348]

263. The PSTT was a government in name only. It was established to expedite the process of integrating Timor-Leste with Indonesia. Mario Carrascalão confirmed the powerlessness of this government when he told the Commission that:

> *I could not say that the PSTT was an actual government.*[349]

264. Indonesia was fighting a diplomatic battle at the UN, where it sought to defuse international condemnation of its invasion. On 22 December 1975 Arnaldo dos Reis Araújo wrote to the Secretary-General of the United Nations rejecting on security grounds the proposed visit of a team of observers to the territory.[350] Disregarding the 22 December Security Council resolution, Indonesia landed approximately 10,000 further troops around the Christmas period.[351] While the international community made its limited overtures for peace, having established control of Dili and Baucau, ABRI combat units advanced along the major roads. Others landed at strategic points along the south coast. This was a slow process. ABRI units moved cautiously.[352] In early 1976 the first major advance was to the south of Dili in pursuit of Fretilin troops who had retreated to their bases in the interior.

Fretilin in retreat, the massacres of prisoners

265. Fretilin held large numbers* of UDT and Apodeti prisoners at its base in Aileu.[353] Under pressure from advancing Indonesian troops, it was preparing to retreat further into the interior. The Fretilin Central Committee was fragmented. In late December some were in Aileu, some in Maubisse.[354] It was in these circumstances that Fretilin members conducted several mass executions of prisoners in the Aileu area. The first took place on 26 December 1975 at Aissirimou in Aileu. The Commission was told that Fretilin members killed around 22 people. Amongst them was the former Portuguese police chief Maggiolo Gouveia, who sided with UDT during the civil war. [355] Subsequent executions occurred at Saboria and at Aituri.[356] Former Fretilin President Francisco Xavier do Amaral offered to the Commission an analysis of how these massacres occurred:

> *We were in the middle of war, in this war…we ran from our enemies, we ran, we took those we had imprisoned, our enemies who we had imprisoned, with us…*
>
> *So we had to look at this. Do we leave them here alive? Do we run alone and leave them? Or do we kill them and then run?*
>
> *Therefore, some of them [Fretilin members] took a decision that we kill them, so that the enemy could not endanger us. Perhaps this opinion was commonly held, more or less commonly, by leaders at all levels.*[357]

266. Indonesian troops overran Aileu on 31 December 1975.[358] Fretilin retreated further into the interior, first to Maubisse and then on to the south coast. Further massacres of prisoners took place as Fretilin retreated. The Commission heard testimony of a Fretilin massacre of five prisoners in Maubisse in late December, of 31 prisoners at the primary school in Same on the south coast on 29 January 1976,[359] and of 8 prisoners at Hat Nipah, near Holarua, on the south coast in late January or early February.[360] In addition to massacres in the central region, the Commission also received testimony about a Fretilin massacre of 37 people in the village of Kooleu in Lautém District, in early January 1976.[361]

ABRI advances, early 1976

267. Troops from Kostrad's 2nd Combat Command (Kopur II) advanced through Maubisse, and by the end of January were fighting for control of the strategic Fleixa Pass. By 23 February this force reached Ainaro where it joined with troops which had landed at Betano on the south coast, and so gained tentative control over the central north-south route. The second major front opened in the western regions near the Indonesian border. Troops of the 18th Infantry Brigade (East Java) advanced through Bobonaro in

* UDT member Antonio Serpa gave testimony to the Commission that he was held prisoner by Fretilin in a large coffee warehouse in Aileu with, he estimated, 3,000 prisoners. See testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.

late January, then through Atsabe and Letefoho, reaching Ermera on 27 March 1976. Meanwhile on 5 February another force parachuted into Suai on the western south coast, and advanced east towards Zumalai. The Indonesian military did not attempt the north coast west of Dili until mid-year. In June it attacked Liquiçá and Maubara, before proceeding to the Ermera area in a series of short operations beginning in July.[*] [362]

268. Operations in the east spread out from Baucau. Four thousand new troops were flown into Baucau in late December 1975 where they joined units already operating under Kostrad's Airborne Combat Command (Linud Kopur Kostrad).[363] These forces launched offensives along three key routes. From Baucau, several battalions advanced west along the coastal road and captured Manatuto on 31 December. From Manatuto these troops turned south towards Soibada. A second offensive struck southward from Baucau towards Viqueque, where it joined a Marine force that had landed at Uatolari on the south coast. A third force attacked well established Fretilin forces south of Laga in the foothills of Mount Matebian. The final attack targeted Lautém in the east, with a parachute attack on Lospalos on 2 February 1976 supported by infantry reinforcements.[364] Having established control of most of the major towns of Timor-Leste, in August 1976 ABRI established the East Timor Defence and Security Regional Command (Kodahankam), dividing the territory into four operational sectors – West, Central and East, as well as Dili and Oecussi.[†]

East Timorese experience of the early occupation

269. A large number[‡] of the civilian population had fled to the interior, temporarily safe from the Indonesian military. Many towns were virtually abandoned by the East Timorese population as they fled the invasion.[365] Displacement was a widespread experience, and many civilians were without adequate shelter, food or health facilities.[§]

270. The violence of the Indonesian military against civilians shocked some East Timorese political leaders who had assisted in the invasion. Indicating the extremity of the situation as well as the weakness of his position, the Chairman of the PSTT, Arnaldo dos Reis Araújo, wrote confidentially to President Soeharto of his concerns in June 1976:

> We concede that the looting of private businesses, government offices and the state treasury could be due to the emotions of war, but it is difficult to understand why it continues six months after, leaving

* Operasi Shinta against Fatubessi, Operasi Tulada 1 against Hatolia, Operasi Tulada 2 against Railaco and Operasi Tulada 3 against Leorema.

† Sector A (Dili and Oecussi), Sector B (West – Liquiçá, Bobonaro, Ermera and Covalima; about 10 Battalions), Sector C (Central – Aileu, Ainaro, Manufahi and Manatuto; about eight battalions), and Sector D (East – Baucau, Viqueque, and Lautém; about 12 battalions).

‡ Possibly as many as 300,000; See Vol. II, Part 7.3: Forced Displacement and Famine.

§ See for example, testimonies of Manuel Carceres da Costa about the town of Laclo in Manatuto District, and Francisco Soares Pinto about the town of Illiomar in Lautém District, both at the CAVR National Public Hearing on Forced Displacement and Famine, 28–29 December 2003.

> everybody in a cruel state of insecurity…Day and night, at my home and office, widows, orphans, children and cripples come begging for milk and clothing. I can do nothing but join my tears to theirs, because the Provisional Government owns nothing [366]

271. In Dili the Indonesian military began what became a pattern of detention and torture in this period, as they tried to control the civilian population who they suspected of having links to those in the mountains.[367] By mid-1976, the first East Timorese refugees from camps in West Timor managed to leave for Portugal. They provided the first eyewitness accounts of the extent of the violence of the invasion.

Fretilin regroups

272. From 15 May to 2 June 1976 Fretilin held a national conference at Soibada in the eastern interior to decide its strategy. Recognising the futility of continuing to fight ABRI on equal terms, the decision was made to mobilise a national resistance. The strategy involved presenting a semi-guerrilla resistance by Falintil. These would be supported logistically by the civilian population, who would remain in the mountains and forests with Fretilin.[368] Fretilin was not unanimous in reaching this decision. All were agreed on the need to fight a war of resistance, but not all supported the idea of conducting a social revolution with the civilian population. Francisco Xavier do Amaral expressed reservations about this latter policy, while others, such as members of Fretilin's military wing, took a neutral stance.[369]

273. To implement the new strategy, Fretilin established a resistance structure based on a number of "liberation zones" (*zonas libertadas*). Within these zones existed resistance bases (*bases de apoio*), in which civilians were encircled by a defensive ring composed of Falintil troops, helped by Fretilin militia companies (Miplin) and civil defence units (*arma branca or força popular*).[370] Behind the lines, civilians, particularly women, provided logistical support for the troops. Fretilin conducted political education for the civilian population in these bases with the aim of building widespread political commitment to national liberation (see Vol. I, Part 5: Resistance: Structure and Strategy).

274. In addition to operating schools and growing food, there were attempts at medicine production, although in most cases people had to rely on traditional knowledge of plant-based medicines.[371] Manuel Carceres da Costa told the Commission about life in these Fretilin-controlled areas in Laclo, Manatuto District in 1976:

> *In the forest we formed two organisations: Organização Popular da Mulher Timor (OPMT) which was a women's organisation affiliated with Fretilin, and Organização Popular Juventude de Timor (OPJT) which was a youth organisation. These organisations helped us to coordinate activities among the people. For example we worked together to plant gardens and rice paddies, and we planted maize around the town of Laclo. The Indonesian military had not yet reached Laclo.*[372]

275. Fretilin also ran prisons (Renal), where violations of human rights were common.[373]

Indonesia formalises the integration

276. Not long after Fretilin's Soibada meeting, Indonesia orchestrated what it called an Act of Integration. The Provisional Government convened a body called the Popular Assembly during May 1976, chaired by Guilherme Gonçalves. The Assembly purported to be a representative selection of East Timorese. Participants were selected by Indonesian-appointed administration officials. Clementino Amaral participated in the Assembly from Baucau, and told the Commission:

> *What was this process? They [the Indonesian authorities] wanted two people from each district to represent the district, to make the petition to ask Indonesia to allow us to enter Indonesia. In Baucau, how did this go? Hold an election? [No.] The functionaries that were close to them chose the two people…* [374]

277. The members of the Assembly endorsed a petition to President Soeharto requesting Indonesia to grant integration. Mario Carrascalão pointed out that this was the only function the Popular Assembly performed:

> *The Popular Assembly...met once in May 1976, here, just to go over one point of its "charter", that is, integration without referendum…its [only] purpose was to discuss the "integration petition" that would be sent to Soeharto.*[375]

278. This petition was signed by Arnaldo dos Reis Araújo as head of the PSTT, and Guilherme Gonçalves as head of the Regional Representative Assembly (DPRD), although this had yet to be established.[376] Claiming to represent the East Timorese people, and referring to the Balibó Declaration as the basis of its claim, the key point of the brief petition was that Timor-Leste be integrated into Indonesia without referendum. The entire group was then flown by a military aircraft to Jakarta to present the petition to Soeharto.[377] On 7 June Arnaldo dos Reis Araújo, Guilherme Gonçalves, Francisco Xavier Lopes da Cruz and Mario Carrascalão presented the petition to President Soeharto in Jakarta.

279. On 24 June a large fact-finding mission of Indonesian officials and a group of 10 international diplomats[*] visited Dili, accompanied by Indonesian and international journalists, supposedly to verify the legitimacy of the petition. The United Nations Special Decolonisation Committee Chairman had been invited, but declined to join the mission. Australia, the US and Japan also declined to participate, though New Zealand

* The international members of the mission were the South Korean, Malaysian, Iranian and Syrian ambassadors to Jakarta, the charge d'affaires of Afghanistan and Iraq, and officers representing Panama, South Yemen and India, and an observer from New Zealand.

sent a representative to observe (see Vol. II, Part 7.1: Self-Determination for excerpts of the report of the New Zealand representative and analysis of this process). The mission spent one day in Timor-Leste. It attended a ceremony where the head of the PSTT, Araújo, made a speech, and groups visited towns close to Dili. Their movements were strictly controlled and free interaction with East Timorese people, including members of the Popular Assembly, was not permitted.[378] Despite this, the mission reported that an effective government was functioning and that the People's Representative Council was performing as a "tool of democracy". It also found that there was a desire for integration without referendum, which it claimed was an unfamiliar mechanism to the East Timorese people. On 17 July 1976 President Soeharto signed the law passed by the Indonesian People's Representative Council (DPR-RI) formalising Indonesia's act of integrating Timor-Leste.*

280. Indonesia presented this as a legitimate act of self-determination. It was not recognised by Portugal or the United Nations, and on 1 December 1976 the United Nations General Assembly passed resolution 31/53 rejecting Indonesia's annexation of Timor-Leste and reiterated its call for an internationally acceptable act of self-determination.

Operation Seroja continues – US-supplied OV-10 Bronco aircraft introduced

281. Some time in mid- to late-1976, the first US-supplied OV-10 Bronco ground attack aircraft arrived in Indonesia.[380] Airpower became a key part of ABRI's strategy in Timor-Leste. Albino do Carmo, the Falintil commander in the mountains in the Bobonaro-Covalima area, recalled:

> *In about August [1976] ABRI tried to attack Mount Lakirin again. One company together with Hansip (civilian auxiliaries) came up. I went to see and chased them off. Two of my section commanders were killed. We fired at each other, only 10 to 20 metres apart. Then ABRI tried to take another mountain. From Suai they entered the area of Mount Fohorua. They entered the area three times. Each time we chased them away…They used airplanes with bombs in Lela, where I was based. The planes only fired big rockets…Every week they fired on our position, on civilians, on the school. They were looking for locations where there were a lot of people. Sometimes they even shot cattle. They did that with a machine gun.*[381]

282. Aerial strafing and bombing were primarily used to "soften up" targets prior to a ground attack by infantry troops. In Lolotoe José Pereira recalls a progression from use of helicopters to large bombers and finally to the use of the US-supplied OV-10 Bronco aircraft:

* Law No. 7, 1976, East Timor's Integration into the Republic of Indonesia and the Establishment of the East Timor Province.

In 1976 ABRI already used airplanes and bombs. In 1976–1977 often, two or three times a week. [The airplanes] flew quite low. First they used helicopters and shot. They also used large black aircraft. They used bombs. And third they used big aircraft with a hole in the back [OV-10 Bronco]. They were used since 1976, starting around about August.[382]

283. The use of aerial power placed Fretilin forces under intense pressure, as Falintil only had light arms. It was to be a key factor in bringing the civilian population in the mountains to surrender, and consequently in ABRI's military victory over Fretilin/Falintil in 1979.

Military stalemate, late 1976

284. By the end of 1976, the Indonesian military had established limited control of corridors along the major roads: running south from Dili to Ainaro and Betano; from Baucau to Viqueque; from Manatuto to Laclubar, and from Lautém to Tutuala. Although it had reasonable control of areas it could reach by road along the north coast, large areas of the interior remained beyond ABRI's control. Having expected a quick and easy campaign, ABRI met fierce and well-executed resistance from Fretilin. Progress was slow.

285. Despite added US-supplied airpower, the situation by the end of 1976 was essentially that of stalemate. An April 1976 an American embassy report suggests the difficulties faced by the Indonesian military:

> Gen Yogi [Soepardi, assistant for planning, Department of Defence]… estimated Fretilin strength to be around 3,000 with only 5,000 of 15,000 weapons so far captured by Indonesia. Indonesia is already encountering [a] serious drain on resources, with shortages of ammunition for small arms, artillery, tanks and naval guns.[383]

"Encirclement and annihilation": the final stages of Operation Seroja 1977–1979

Overview

286. Fretilin struggled with the issue of what to do with the large number of civilians with them in their bases in the interior. Some thought it was time to change strategy and allow civilians to surrender and resettle in the towns. Divisions over this issue led to a violent split in Fretilin and the overthrow of its President Francisco Xavier do Amaral in August 1977. Detention, torture and summary executions were carried out by Fretilin during this time.

287. In the second half of 1977, Indonesian military campaigns intensified, and included the destruction of food sources in the interior with the aim of separating

the civilian population from the armed resistance. These operations resulted in a high civilian death toll, from direct attacks and from the starvation and sickness that resulted from the destruction of Fretilin bases and food sources.

288. As Fretilin retreated to fewer and more confined areas, ABRI launched Operation Skylight, aimed at forcing the surrender of key Fretilin leaders and with them the remaining civilian population.[384] Mount Matebian in the east, as well as parts of Ermera and Suai in the west, were the scenes of the most intense bombardments by airplane, resulting in large-scale death and ultimately the surrender of tens of thousands of civilians. Key Fretilin leaders were captured, surrendered or were killed, leaving the armed resistance in disarray. Fretilin president Nicolau Lobato was killed in combat on 31 December 1978.[385] Xanana Gusmão escaped to the east. The Indonesian military continued mopping up exercises through early 1979, and in March 1979 it declared the territory pacified.

Civilian population in the mountains

289. In late 1976 life in the Fretilin-controlled *zonas libertadas* was difficult for civilians, but in general they were not directly involved in combat. The Indonesian military had not yet been able to establish a permanent presence in the interior regions where these zones were located. The civilians with Fretilin were able to organise a basic functional society that could provide for the people's essential needs.[386] Their focus was farming food crops and provision of very basic health care and education to children. The Commission heard expert testimony from Gilman dos Santos, a civil servant from the Indonesian provincial government working with displaced communities in the late 1970s and later a staff member of the US non-governmental organisation Catholic Relief Services:

> *According to my calculation, the food situation in the forest between 1975 and 1977 was not that bad. The people didn't experience many problems because at that time they still had the ability to move around and were free to plant according to the seasons. They could produce food. TNI had only gained control over the towns in the districts and sub-districts, though there were attacks by the TNI into the forests.*[387]

290. This changed dramatically in the second half of 1977.

ABRI capacity stretched and early Fretilin confidence

291. Following the situation of military stalemate between Indonesian and Fretilin troops in late 1976, ABRI found its resources over-committed across the archipelago in early 1977. It was forced to withdraw troops from Timor-Leste in order support operations that year in Irian Jaya, West Kalimantan and Aceh. The Indonesian military also had security responsibility for the May Indonesian legislative elections, to which it committed the equivalent of 100 battalions nationwide.[388] These external

influences seriously affected its ability to conduct combat operations in Timor-Leste. Indonesian military documents reported this reduction of troops:

> In the framework of implementing the 1977 elections the total strength of TNI in East Timor decreased until a third remained for duty as guards for the 1977 elections elsewhere in Indonesia.[389]

292. This evidence and Fretilin reports referred to below suggest that between March and June 1977 there was a significant reduction in ABRI presence and combat operations.

293. This provided a reprieve and opportunity for Fretilin. During the first half of 1977 Fretilin's Radio Maubere repeatedly issued announcements about low Indonesian morale and Falintil victories. On 20 May, for example, the Fretilin Minister for Information and Security Alarico Fernandes reported by radio that 1,500 Indonesian troops had been withdrawn from the territory.[390] On 4 June he reported:

> The last major Indonesian offensives occurred from last November [1975] to February [1976]. Despite deployment of thousands of troops, these attacks were all defeated at the cost of many lives to the Indonesian forces…Since February, Indonesian attacks have been small-scale, aimed with little success at eliminating Fretilin positions in mountains overlooking Indonesian-held towns.[391]

294. Although Fretilin's propaganda probably inflated its successes, the first half of 1977 was a relatively positive period for the Resistance. In May, Alarico Fernandes claimed that:

> Food production in Fretilin-controlled areas is another front to be developed along with the armed struggle. We have reached the maximum production reached in the Portuguese colonial domination [period], when there was hunger and sickness…People in Timor-Leste are working hard on national reconstruction. Hunger is less than before.[392]

US leads re-arming of the Indonesian military

295. During early 1977 a US Congressional Subcommittee delegation visited Timor-Leste. Their visit was highly orchestrated by the Indonesian military, which limited them to areas firmly under Indonesian control. They did not seek to meet with Fretilin or the large number of civilians in the interior. During the time of their visit there were only limited combat operations. The delegation drew "no firm conclusions" with regard to the war.[393] In 1978, US Secretary of State Zbigniew Brzezinski ordered that the human rights "heat" on Indonesia be turned down.[394] Subsequently during

1978 the US and other foreign governments provided extensive military support to Indonesia. In January the US announced the sale of 16 F-5 fighter aircraft, an A-4 fighter aircraft squadron, and an M-16 rifle manufacturing facility.[395] Also that year the UK announced its intention to supply Hawk ground attack jets,[396] and Australia supplied helicopters and transport aircraft.[397] This was a very clear signal to Indonesia that the West did not oppose its military operations in Timor-Leste.

296. In 1979, the US sought to justify its silence on the use of US arms in Timor-Leste on the basis that the war was virtually over. Its source for this conclusion was the Indonesian military:

> Some items of US supplied military equipment are currently present in East Timor. The status of hostilities in East Timor is, however, so reduced in scale and frequency that, according to best information the equipment is only infrequently used in combat. [398]

Fretilin: internal divisions and violent purge

297. Despite the optimism of early 1977 Fretilin faced internal problems and divisions which resulted in violence. In 1976* the party executed Aquiles Soares, the *liurai* of Quelicai, for the offence of putting local interests above national interests.[399] Later that year another breakaway unit, led by Francisco Hornai in Illiomar, was similarly arrested and executed.[400] These events were an early indication of the difference in views among Fretilin leaders about how to engage in the struggle, and a precursor of the violence Fretilin would use to bring its cadres into line.[401]

298. By late 1977 treating the sick and wounded and feeding the civilian population was an increasing strain on Fretilin. Then Fretilin President Francisco Xavier do Amaral told the Commission that the lack of medicines to treat even basic ailments was taking an increasing toll on civilian lives.[402]

299. Members of the Fretilin Central Committee disagreed on several issues, as political and military cadres were divided over who controlled the struggle. The basic controversy was the role of the civilian population. For Falintil leaders, the need to defend the large civilian population limited their capacity to mount effective offensives. Francisco Xavier do Amaral supported this view, and thought action was necessary to avoid annihilation, and that the bulk of the population should be allowed to surrender and continue resistance from the towns and villages. Other Central Committee members believed that the people were a vital component of a popular struggle, in particular to enable the party to undertake a social revolution based on political education of the masses.[403]

300. In August 1977 the Fretilin Central Committee met in Laline (Lacluta, Viqueque) and agreed on the principle of self-reliance. With no prospect of external support,

* Sources vary on the month; Taylor, *Indonesia's Forgotten War*, p. 95 states November, while Chamberlain, *The Struggle in Illiomar*, citing Gusmão, *To Resist is to Win*, states March.

the Resistance decided it had to stand alone against the Indonesian military. There was dissent on this matter. The minister for Information Alarico Fernandes thought independence was impossible without external support.[404] His opposition already known, Francisco Xavier do Amaral did not attend the meeting at Laline. Shortly afterwards, in September 1977, Fretilin arrested and deposed him as president. Amaral described the events to the Commission:

> *So this was my idea. We should send the population to surrender. Only those men who were strong and could struggle in the war would stay with the Central Committee. Because we didn't know how many years until this war would be over…(In 1976) there began to be divergence within Fretilin…Some said that the doctrine (of Fretilin) was not right. Some said that the doctrine was right but people weren't following it properly. Some said it was good. We began to lose our trust in each other…From this they arrested me, put me in prison and accused me… that I had sent the people to surrender so that in the future when I surrendered to Indonesia they would give me a position as a general or a minister. This was the argument of those who were against me...*[405]

301. An order signed by Vice-President Nicolau Lobato accused Francisco Xavier do Amaral of being a defeatist and a traitor, as well as other "crimes" such as corruption, polygamy, sabotage, iron fisted-ness, feudalism and murder.[406] He was also accused of starting a parallel movement that would undermine Fretilin. He was imprisoned in a hole, beaten and ill-treated. [407] As a result of an ABRI offensive he escaped in 1978, and was later captured by the Indonesian military.

302. On 16 October Nicolau Lobato was elected as the new president. The pressures of this period drove Fretilin to adopt a more radical ideological stance. Marxism was declared,[408] and with it came intolerance of dissent. Amaral's arrest was the start of a purge within Fretilin.[409] There were public executions,[410] and many people were detained, ill-treated and forced to inform on others.[411] Anyone thought to have close links to Amaral or to have collaborated with the Indonesian military was arrested and detained (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances, and Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).

ABRI intensifies military operations: encirclement and annihilation, August 1977 to August 1978

303. Military operations between mid-1977 and early 1979 are often referred to as a campaign of "encirclement and annihilation". The campaign had two objectives, to destroy the Fretilin leadership and to force the civilian population living in the mountainous interior to surrender into ABRI control in the lowlands.[412]

304. In August 1977 ABRI launched a major new military offensive,[413] which was preceded by a substantial troop build-up.[414] The Commission's data show an increase from between three to five battalions in July to 17 in August. The initial focus of

the offensive was the western sector, where it was code-named Operation Comb (Operasi Sisir).*[415] As in previous engagements, naval artillery and air support was crucial to ABRI victory. In Fatumean, for example, aerial bombing was the primary reason for the surrender of Fretilin/Falintil troops and civilians in November.[416] In the eastern sector marines conducted Marine 77 Surgical Operation (Operasi Bedah Marinir 77) which aimed to gain control over the route between Quelicai and Uato Carbau.[417]

Destruction of food sources, Fretilin retreats higher into mountains with civilian population

305. The Indonesian military was moving beyond the towns and road corridors over which it had established control in the first part of Operation Seroja. Fretilin was forced to retreat, and rather than promote civilian surrender it decided to take the population with it. The Commission was told of the destruction of livestock and other food sources by the Indonesian military during these operations. Manuel Carceres da Costa of Laclo in Manatuto District testified:

> *While we were cutting down a sago tree, soldiers came and attacked us…When the military shot a Falintil member by the name of Hermenegildo we were forced to leave the food behind and run. After that the military occupied that area so that we couldn't return any more. Our water buffalos and domestic animals were all shot dead or chased away, and our gardens and rice paddies were destroyed.*[418]

306. Aerial bombardment also targeted agricultural areas, forcing Fretilin and the population further into the mountains, and making survival increasingly difficult. With food crops destroyed, and civilians no longer able to live in settled areas where they could plant crops, but forced to keep on the move, many people died. The Commission heard many testimonies of the terrible suffering and helplessness of civilians in the mountains during these campaigns. The elderly and children in particular died in great numbers.[419] The Indonesian military overpowered Fretilin's resistance bases (*bases de apoio*) one after another, and the remaining population retreated into increasingly confined areas. The presence of so many civilians required Falintil to focus on protecting them, reducing its ability to mount counter-offensive action against ABRI.

Attacks in the central region

307. The Indonesian military continued the offensive during the rainy season and throughout the first half of 1978. Troop presence in the central region, which had previously been low, was increased to a similar level as the west. Operating under

* This involved the 131, 511, 527, 612, 621, 733, and 741 Infantry Battalions.

the command of Combat Regiment Team (RTP) 11, these troops launched an attack on the Same-Kablaki-Fatuberliu area.[420] In the east, however, troop levels remained much lower, with only four to five battalions.[*] During the rainy season troops in the east attacked Fretilin strongholds on the Baucau-Viqueque border between Mount Osso-Ala and Mount Mundo Perdido, and also continued the assault on the northern foothills of Mount Matebian.[421] During this period air power[†] was used in the western and central sectors:[422]

> *After the bombing smashed Kablaki they went to Dululau and Mamelau… Four airplanes bombed Dululau, and…rockets and…cannons.*[423]

308. The Commission heard first-hand testimony from survivors of these encirclement campaigns, in which many civilians lost their lives. Maria José da Costa told the Commission of her experiences in the central mountain region:

> *In 1978 the enemy surrounded us in Dolok and many people died due to starvation. All the food supplies…were burnt. They surrounded us by attacking from the sea with warships, from the air with warplanes and on land by burning the dry grass and sending in the army. At that time it was August, which is the dry season. The army made big fast-burning fires by spraying gasoline over the tall grass. Many died because they could not escape the fire surrounding us.*[424]

309. The pressure of encirclement and constant attacks led to a steady flow of people surrendering to the Indonesian military.

Operation (or Movement) Skylight: targeting the Fretilin leadership

310. On 6 April 1978 Lieutenant General Mohammad Yusuf was appointed Commander-in-chief of ABRI. He took personal control of the operations in Timor-Leste, outranking Moerdani and Kalbuadi.[425] In the dry season in May 1978 he prepared for Operation Skylight.[426] This new operation specifically targeted Fretilin leaders. It aimed to achieve the surrender of influential leaders in order to attain mass popular surrender and so separate the civilian population from the Falintil fighters. The Commission was told by Xanana Gusmão that Skylight was better described as a "movement", and that the Fretilin Minister for Information and Security Alarico Fernandes was a key ally of the Indonesian military after his surrender in September 1978:

> *In October or November 1978 those of us who were within the encirclement heard that Alarico had already implemented Skylight… We heard on the radio that Alarico had made a movement…He could*

*Including Kostrads 502 and 503 Infantry Battalions, the 408 Infantry Battalion and a single Marine Infantry Battalion.

†US-supplied OV-10 Bronco aircraft

> *see that Indonesia was very strong and so he followed Indonesia and proclaimed Skylight.*[427]

311. Although the geography of the conflict remained fluid in early 1978, as time passed and the Resistance was squeezed into increasingly smaller areas, it took on the nature of a siege. Under increasing pressure, the leadership of Fretilin desperately tried to maintain a unified resistance. The text of Nicolau Lobato's speech of 20 May 1978 indicates the pressures Fretilin faced:

> However, those who are not convinced of the unquestionable facts, that our struggle is fair and victorious and who, in opposition, cooperate with fanaticism with the enemy, try to put an end to our struggle, those few who have failed in their lives are those who are not members of Fretilin, who are not part of the Maubere people, who are enemies of the People, who are traitors to our Motherland. Proclaimed ideological unity will only be authentic when we put it into practice.*

Indonesian military operations against the centre and east, late 1978: the fall of Matebian

312. The major turning point in operations occurred in the middle of 1978. Between August and December 1977 combat troops had been concentrated in the western sector, and during the first half of 1978 combat troops were evenly distributed across the western and central sectors; while troop deployments in the eastern sector had been significantly lower. In mid-1978 the balance of power finally shifted eastwards, with 13 combat battalions deployed in the east under the command of Kostrad's RTP 18.[428] This deployment continued the encirclement of the population and culminated in the assault on Mount Matebian. This was carefully coordinated, involving battalions from Kostrad, non-organic (external) territorial infantry battalions, combat support battalions, marines, and the air force. A former Kostrad officer interviewed in Indonesia recalled the tactics employed during the assault on Mount Matebian:

> All units had their own routes and attacked from numerous directions. Before doing that they coordinated to avoid shooting at each other. We

* In Nicolau dos Reis Lobato, Fretilin é a Liberdade do Povo em Marcha, Discursos, Edições Comité 28 de Novembro, Lisbon, undated, (probably 1979, after official Fretilin Communiqué announcing Nicolau Lobato's death, 6 May 1979), p. 59. This speech was relayed by radio and a summary of it was sent to the US mission to the United Nations, which read: "Lobato appealed, inter alia, for the unity of the people of East Timor, of all patriots around the Fretilin Central Committee and a call for ideological unity. 'Proclaimed ideological unity will only be authentic when we (Fretilin) put it into practice.' Also, that those who don't belong to Fretilin are enemies of the people – (they are) 'traitors to our motherland [sic]'." [Telegram, US Mission UN New York to Secretary of State, Washington, East Timor Question, 7 July 1978].

> planned to attack at the same time using an L formation. [This was] all done considering security in order to avoid killing our comrades.[429]

313. This constituted the final push in the encirclement and annihilation campaign. Fretilin had prepared Matebian as a fall-back area, with reserves of food. As the campaign started, Fretilin took people onto the mountain, which was strongly defended. It finally fell on 22 November, the last *zona libertada* to be overrun.

314. The key to the assault on Mount Matebian was aerial bombardment by OV-10 Broncos, F-5s and Skyhawk A-4 airplanes. Most informants recall that the aerial bombing of Mount Matebian began in September or October 1978 and lasted until mid-November. Accounts describe indiscriminate bombing against civilians and devastating carnage. Tomás Soares da Silva, aged 16 at the time, described the bombing:

> *On Mount Matebian, the bombing started in October and November. One (type) of bomb was gas. If the bombers dropped those bombs in the morning, many people became casualties. We could see when there was an explosion that the grass was burnt…and in the area everything was destroyed. If there was an explosion the smell was like diesel or petrol.*[* 432]

Surrender: coming down from Matebian

315. By mid-November the bombing forced Fretilin leaders to order civilians to surrender to the enemy. In his autobiography Xanana Gusmão wrote:

> Soon the enemy advanced and I was sent to the west of Matebian. Explosions, death, bombardments, cries and retreats. But the people were calm: maybe resigned, maybe truly prepared for us all to die there. Our forces retreated and the enemy infiltrated. One dawn I was awakened by loudspeakers from the Indonesian forces, calling my name: "Adjunto Xanana, there is no need to continue fighting. Tell the people to surrender!" They had moved in from Uato Carbau during the night and occupied a strategic point.[433]

316. On 22 November, the decision to surrender on Matebian was taken. As civilians descended from the mountain peaks and long valley separating Matebian Mane and Matebian Feto, they were received by the waiting troops. Some were simply corralled into temporary holding camps, others were interrogated, and still others were told to return to their home areas, either under escort or on their own.

* Testimony such as this strongly suggests the use of napalm against civilian targets by the Indonesian Air Force. The Commission holds documentary footage of OV-10 Bronco aircraft being loaded with bombs labelled "Opalm" (a Soviet version of napalm) at Baucau airport sometime in the late 1970s.

317. Although some Falintil commanders such as Xanana Gusmão escaped, this left the Fretilin/Falintil resistance in disarray. The destructive impact of this loss on Fretilin was substantial, and the Skylight movement finally achieved some of its most prominent successes. After the earlier surrender of Alarico Fernandes in September, four other Central Committee members surrendered in late 1978 in the North Central Sector at Remexio. With Alarico Fernandes' surrender Fretilin lost its only radio, a crucial coordination tool. The Indonesian military's major success came on 31 December 1978 when a Kopassus team located and fatally wounded Fretilin President Nicolau Lobato by a river near Maubisse. [434]

318. The Commission heard expert testimony from Pat Walsh on the results of this intensification of military campaigns:

> *From a military point of view, the offensive was extremely successful resulting in the virtual, though temporary, annihilation of the Resistance. From a humanitarian point, it was a disaster.*[435]

After Matebian: ABRI attacks in central region and the east

319. With the fall of Fretilin's base on Mount Matebian and the surrender of tens of thousands of civilians, in early 1979 the Indonesian military turned its attention to the remaining Fretilin forces and civilians in Fatubessi, in Ermera District, and Mount Kablaki, straddling the Ainaro-Manufahi border, and in the Dilor river valley. The ABRI attack on Fatubessi led to a split in the local Fretilin leadership, and in early February one faction surrendered, while those who refused were hunted down. On Mount Kablaki, infantry operations forced the remaining clusters of civilians down to lower ground where they surrendered or were captured by waiting troops.[436]

320. In southern Manatuto, Marines, supported by aircraft, conducted follow up operations, named Operation Clean Up (Pembersihan).[437] Meanwhile, military units that had taken part in the assault on Mount Matebian moved from Baucau into Lautém in pursuit of the small band of Fretilin leaders and Falintil troops who had escaped encirclement.[438] In February Mau Lear, leader of the Eastern region, was captured and killed.[439] The people caught in this operation were herded into resettlement camps. On 26 March 1979 Operation Seroja was disbanded, and the Indonesian military declared Timor-Leste "pacified".

Surrender, resettlement and famine

Overview

321. The period from late 1977 to 1979 saw the greatest humanitarian tragedy in Timor-Leste's history. Widespread famine was a consequence of massive Indonesian military operations aimed at destroying the Fretilin Resistance. This military

objective was allowed to override the cost in humanitarian terms. Outside observers were kept away until the crisis was full-blown and the cost in lives immense.

322. The civilian population in the mountains surrendered in large numbers from late 1978. After many months of life constantly on the move to evade attack, and with food sources destroyed by the Indonesian military, people were in a very vulnerable condition when they surrendered. They were held in transit camps, with inadequate food and medical relief. Their suffering was exacerbated by military control over Indonesian domestic relief operations, and by a ban preventing international agencies from entering the territory. International media were also banned. Following the relocation of the population to resettlement camps, the Indonesian military priority of security placed tight controls on civilians' movement and so limited their capacity to farm and to grow food, resulting in further starvation, death and misery on a large scale. The preoccupation with separating a sympathetic civilian population from Fretilin/Falintil reached its zenith with the exile of civilians to the island of Ataúro commencing in 1980. Thousands were held on this island prison, suffering illness and starvation.

323. After long delay, the International Red Cross (ICRC) and the US-based non-governmental organisation Catholic Relief Services (CRS) were allowed to enter the territory in late 1979. Working under great pressure, their efforts brought some relief to the suffering population and saved many lives.

Surrender and execution of prisoners

324. The major surrenders occurred during 1978 as the encirclement campaign closed in on Resistance positions. The intense bombing and encirclement campaigns, combined with the renewal of President Soeharto's 1977 offer of amnesty to combatants and the pressure of the Skylight movement resulted in a number of important Fretilin surrenders. Of these, many who were initially granted amnesty subsequently disappeared. Among these were prominent leaders such as Sera Key,[440] as well as cadres, such as those executed upon surrender by ABRI at Quelicai in early 1979.[441] As they came down from the mountains people were interrogated by the Indonesian military in order to identify and separate Fretilin and Falintil members. Luis da Costa was a priest in the mountains during this time. He survived, and in 1988 he testified in Lisbon about the surrender of a small group of survivors, most of whom were executed:

> People began to die of hunger, and we had many wounded people with us, as well as children and entire families. The worst memory I have is of the corpses I saw when I passed through Natarbora in December 1978 - there were bodies every ten metres, desiccated corpses of those who had died of starvation, some embracing, others propped under trees. I surrendered in Barique on 13 March 1979, with six people. For a month we'd only eaten leaves. Our surrender was negotiated through an intermediary. I was the only one who was not executed.[442]

325. In 1981 the Apostolic Administrator of Timor-Leste, Monsignor Martinho da Costa Lopes, challenged President Soeharto himself with evidence of these disappearances.[443]

Transit camps

326. Those not taken away by the military were interned. During the late 1970s and early to mid-1980s a variety of camps were used to accommodate the surrendered population. These went by various names. Indonesia called them resettlement camps, while some international observers and many Timorese survivors who testified to the Commission, used the term "concentration camp." All camps shared common elements of deprivation and restrictions on freedom of movement. The aim of internment was to break the linkages between those who had surrendered to ABRI and Falintil, in order to cut off civilian support to the guerrilla fighters and thus to destroy the tattered remnants of the armed resistance still in the mountains and forests.

327. In the early stages of the surrenders people were accommodated wherever possible, including in schools, old shops, military barracks or simply in the open. Initially there was no infrastructure in place to receive them. The Commission heard expert testimony from Gilman dos Santos, who in 1977 worked for the provincial government:

> *The people who fled to the mountains came down in 1977, 1978 and 1979. Those who surrendered or those who were captured by the Indonesian military, everyone was placed in concentration camps, which were not suitable for any human being. People were placed in large emergency tents, made from palm leaves or grass and they held everyone, without limiting numbers.* [444]

328. People were generally in poor physical condition. Often they had surrendered after harrowing experiences in the mountains during which many people had died. People arriving in the camps were already survivors not only of war, but of lack of food and medicine. The experience of hunger and starvation continued in camps that had neither facilities such as sanitation nor supplies such as adequate food and medicine to meet their urgent needs.

329. By 1978, many camps had been established. The purported objective of these camps was to process those who had surrendered before their resettlement elsewhere. Theoretically this process was to take three months. Security was high and camps were ringed by military and Hansip (civil guards) posts. People's movements were typically restricted to a radius of 300 metres, greatly limiting their ability to plant or gather food. People survived on whatever foods they could gather nearby, cassava or sago if they were lucky, or toxic roots and tubers (see Vol. II, Part 7.3: Forced Displacement and Famine).

330. The time people spent in these camps varied according to how volatile an area was, and according to the individual interned and the perception by ABRI of his or her security risk.[445]

Longer-term detention camps and ABRI's security strategy

331. Some transit camps were simply maintained as longer-term holding camps. Other resettlement villages were developed in order to assist the Indonesian military aim of enforcing the separation of civilians and Fretilin and Falintil. By late 1979 the population in internment camps exceeded 300,000,[446] and if various ABRI-reported figures from the time are accurate the population possibly exceeded 370,000.[447] The military needed to control this overwhelming number of people, while staying focused on its task of eliminating the armed guerrilla resistance. In some cases these camps were constructed where previously there had been no settlement at all. Entire villages were uprooted and forced to move, particularly if they were in volatile areas. Movement was tightly controlled. An Indonesian military document from the time explained how to implement this policy:

> Every time anyone goes out of the village, he/she must have a travel pass (*surat jalan*), and every person who comes into the village from another village must report.
>
> There should be no gardens or fields of the people located far from the settlement or village.[448]

332. This resulted in such tight control of civilians in camps that they were not able to maintain normal farming patterns and grow sufficient food to sustain themselves and their families. These controls resulted in great hardship for the huge number of civilians held in these camps, and contributed significantly to the famine.[449]

333. The Indonesian military remained highly suspicious of links between the interned population and the Fretilin guerrilla fighters. ABRI used East Timorese members of its Hansip forces to monitor civilian behaviour. This created conditions of distrust and tension in camp communities. In Dili and towns where the civilian population had returned there were also many detention centres. Arbitrary arrest by the military was rife, and no formal trials of political prisoners were held until December 1983 (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment, and Part 7.6: Political Trials). During 1979-80 many people who had been arrested disappeared. The Indonesian military used certain places as killing grounds, such as at Quelicai after the mass surrenders from Matebian,[450] and on the outskirts of Dili at Areia Branca and Tacitolu.[451]

A closed land

334. Throughout this period Timor-Leste was closed to the outside world. While Indonesia had declared Timor-Leste pacified, it remained in many senses a war zone. Preventing the truth of this situation reaching the Indonesian public, or the wider international public, was an important component of the Indonesian strategy to bring Timor-Leste under control. Indonesian media access to Timor-Leste was tightly controlled, and international media was virtually banned. International aid agencies were not allowed to enter Timor-Leste, and official delegations were only allowed on the most tightly controlled visits.

335. The Commission heard testimony from Gilman dos Santos about this isolation:

> *Timor-Leste at that time was closed off to everyone. Even Indonesian journalists were not permitted to enter here. Regarding telecommunication, no permission was given for a long-distance network or international connection. With these conditions, no information could get out. With Timor-Leste being so closed off by the Indonesian government, especially by ABRI, it was clear that the policy of Indonesia was to hinder assistance from other countries.*[452]

336. The Catholic Church was the only independent organisation remaining in Timor-Leste with an extensive international network. The Church gradually leaked news of the crisis in Timor-Leste, usually through letters smuggled out of the territory.

337. In July 1979, Pat Walsh prepared a report on the humanitarian crisis in Timor-Leste for Action for World Development, an Australian Church-based NGO. He testified to the Commission that the report concluded that at this time:

> *Indonesia's efforts at humanitarian relief were a much lower priority than its military operations and that independent agencies would not be permitted until Indonesia had achieved its military objectives.*[453]

338. Although Australian non-governmental organisations tried to internationalise the humanitarian crisis in Timor-Leste, the Australian government has defined this period as marking the commencement of its *de jure* recognition of Indonesian sovereignty over the territory. This position put it out of step with most member states of the United Nations.* Meanwhile, East Timorese people outside the territory were also trying to raise international awareness about the humanitarian crisis. At the United Nations, submissions were made to the UN Decolonisation Committee in New York, and UN General Assembly resolutions at this time began to make reference to the famine and the humanitarian needs of the East Timorese people. This reinforced the work of José Ramos-Horta and his colleagues at the United Nations. [454]

339. The Indonesian civil administration and the Indonesian Red Cross (PMI) were the only agencies providing relief until 1979. Under-resourced, and moreover under the strict control of the Indonesian military in terms of how they operated, these agencies were unable to meet the urgent needs of the people. Medicine was rarely provided and aid channelled through PMI frequently found its way on to the black market, and was beyond the capacity of East Timorese people to purchase. [455]

340. After reports about the humanitarian disaster were publicised, in September 1978 eleven foreign ambassadors and some journalists visited Timor-Leste escorted

* The Australian government places 14 February 1979 as the date of the beginning of the process of Australia granting *de jure* recognition of Indonesian sovereignty over Timor-Leste. This date marked the commencement of negotiations between Australia and Indonesia over the Timor Sea oil reserves [see Vol. II, Part 7.1: The Right to Self-Determination].

by the Indonesian Foreign Minister Dr Mochtar Kusumaatmaja.* They represented the governments of Canada, USA, Australia, Japan, New Zealand, India, South Korea, Bangladesh, Egypt, Syria and Iraq. They were told that some 125,000 people had come down from the mountains with 20-30,000 of these in appalling, desperate condition. Four ambassadors (from Australia, Canada, Japan and USA) called for the urgent implementation of an international relief operation.[456] Despite this urgency, a full year passed before the ICRC and the American non-governmental organisation CRS arrived in Timor-Leste to provide emergency relief. This was after ABRI had completed Operation Seroja, as noted above.

ICRC and CRS relief

341. The US non-governmental organisation CRS conducted its initial survey mission in May 1979. The Commission received a submission from CRS, including documents from this time, providing valuable insight into the extent of the crisis and the limited means to address it. In October 1979, CRS and the ICRC commenced emergency relief operations. One of those involved was Gilman dos Santos, who left his civil service position and joined the CRS emergency team. He testified to the Commission that their office was operating 18 to 20 hours per day, seven days a week. He told the Commission that while many in the Indonesian civil administration supported the emergency work of the CRS and ICRC, the Indonesian military and police were unsupportive and created many obstacles for aid workers.[457]

342. It is clear that Indonesia did not utilise its resources adequately to prevent or to respond to the famine. On two occasions CRS ran short of supplies and borrowed rice from the Indonesian government rice distribution agency (Bulog), which held excess stock in Dili at a time when large numbers of people were dying of starvation and related illnesses in the military-controlled camps.[458]

343. The Commission heard testimony from Pat Walsh that CRS and the ICRC worked with vigour and efficiency. He told the Commission that over the next 18 months the ICRC, with the Indonesian Red Cross, assisted 80,000 displaced people in 15 villages and saved many lives. He said that during this period, CRS spent US$4 million distributing 17,000 tons of food as well as medicine, clothing, soap, seeds, agricultural equipment and water buffalo.[459] Given the extent of the crisis, and compared to the number of international aid agencies and level of assistance provided in the emergency in Timor-Leste in late-1999, this aid package was relatively small and its delayed delivery was too late for many people. Indonesian military control over aid distribution was also a major obstacle to relief efforts. While the Commission received many testimonies about how important this limited aid was, neither CRS nor the ICRC addressed the fundamental issue of the international conflict which was the cause of the famine.

* A number of humanitarian organisations reported on the situation, including the Australia Council for Overseas Aid (ACFOA); a representative of World Vision Indonesia; and the Indonesian Red Cross [see testimony of Pat Walsh to the CAVR to its National Public Hearing on Forced Displacement and Famine, 28–29 July 2003].

Ataúro as a prison island

344. Ataúro has had a history of being used as a prison island by successive regimes in Timor-Leste. The Portuguese colonial administration did so over a long period, as did the Japanese occupying forces in World War II. The Indonesian regime of occupation initiated a similar policy commencing in 1980. The Commission received expert testimony that this was an extension of the policy of separating civilians who were considered a possible future support base for the armed Resistance. Gilman dos Santos testified:

> *In 1980, ABRI and the local government again forcibly displaced people whom they suspected had relatives who were freedom fighters in the forests, to the island of Ataúro.*[460]

345. Survivors also testified to the Commission that this policy was jointly implemented by the military and the civil administration.[461]

346. Some of the first people to be sent to Ataúro were those who participated in the popular uprisings (*levantamentos*) during this period. Suspected supporters of the 10 June 1980 attack on the TV station in Dili were taken to Ataúro after detention and torture in Dili. Later arrivals included the families of Resistance fighters, many of whom came from the districts after the 1981 'fence of legs' operation. The Commission received testimony of the people of Mau Chiga in the central mountains being taken to exile on Ataúro in August 1982, after an attempted uprising.[464]

347. The Commission heard expert testimony from Ceu Lopes Federer, an East Timorese aid worker with the ICRC on Ataúro between 1980 and 1982. She told the Commission that boats arriving with prisoners at Ataúro were predominantly full of women, children and the elderly. She told the Commission that many had been tricked into believing that they were only leaving their homes for one or two days, and that they arrived virtually empty-handed.[465]

348. Mortality rates were high. Ceu Lopes Federer recalled an outbreak of a cholera epidemic due to the poor conditions of the camps, and of the high mortality rate amongst children.[466] Although security on Ataúro was more relaxed than on the mainland, the island is known for its limited food and water resources, and the thousands of prisoners that arrived faced great difficulties.

349. ICRC reports at the time confirm that the population transfer to Ataúro had "strained" the island's food resources, and that it implemented an emergency food programme.[467] Testimony to the Commission from survivors tells of the life-saving importance of this aid.[468] Estimates of the total prisoner population vary, and are likely to have exceeded 4,000.[469] Ceu Lopes Federer told the Commission that she had kept a list until 1982, when she left the island, which contained 6,400 names of people imprisoned on Ataúro.[470] The Commission was also told that the Indonesian military sexually abused many women held on the island.[471]

350. By the mid-1980s prisoners were removed from the island, although in many cases it appears they were transferred to mainland camps called "guidance camps" (*desa*

binaan), rather than returned to their home areas, where they underwent a process of indoctrination in the Indonesian national ideology of Pancasila.[472]

Detention camps close

351. By 1982-83 most people were allowed to leave the detention camps. Some returned to their original villages, where this was possible. Others established new villages, often giving these the name of the original village, now abandoned. Others were settled in a new kind of village, called resettlement areas (*desa pemukiman*).[473]

352. The population of the capital city of Dili had grown significantly by the early 1980s. The population had been approximately 28,000 in 1975, but the Indonesian statistical office put the population of Dili district at 67,039 in 1980.[474] This new pattern of urbanisation enabled the Indonesian military apparatus to monitor the population more easily. Informer networks, identity cards and limited freedom of movement and arbitrary arrest were all features of this tightly controlled society. [475]

353. During this period, between 1978 and the early 1980s, the Indonesian military had implemented a resettlement programme that had radically and permanently altered settlement patterns in Timor-Leste. Timorese society traditionally lived in small hamlets consisting of several houses in which lived several nuclear families, known in Tetum as *knua*. The previous pattern of dispersed mountain settlement was forcibly changed to a predominately coastal population concentrated at towns along major roads. The strategic aim of separating the civilian population from Resistance fighters in the mountains, and to hold them in areas where they could be monitored, was a fundamental shift in the East Timorese way of life. Although this internment situation eased in the mid-1980s as people were allowed to leave their camps, these fundamental changes in the patterns of settlement remain today.

Operation Security (Operasi Keamanan)

Overview

354. With Timor-Leste declared pacified in March 1979, the Indonesian military focused on smaller mopping-up operations and clamping down on the population in all areas. Remnants of the armed Resistance existed in isolated pockets.

355. In June 1980, one of these surviving groups staged an attack on Dili, taking ABRI by surprise and demonstrating that the Resistance was still active. The Indonesian military responded with hundreds of detentions and over 100 killings. Many prisoners detained at this time were sent to Ataúro (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

356. In 1981 the Indonesian military launched a huge offensive aimed at destroying the remnant groups of the Resistance. It utilised a well-known tactic of *kikis*, or "fence of legs". Large numbers of civilians, still suffering from the devastation of the conflict in the mountains and the deprivation of ABRI detention camps, were pressed into service to

march across the territory in "fences," with the aim of trapping the remaining members of the armed Resistance. Women, men, children and the elderly were forced into this operation. Hunger, sickness and ill-treatment by the military were common experiences. Many died. This forced service also took many people away from their fields during the planting season, increasing their vulnerability to famine, especially given the disruption to farming in the previous years of massive military operations.

357. In military terms the operation failed to crush the armed Resistance, whose members often escaped the "fence". Over 4,000 people regarded as "Fretilin sympathisers" were detained and imprisoned either on Ataúro Island or in other ABRI-controlled resettlement camps.

The situation in Dili and across Timor-Leste, 1979–1980

358. With key Resistance leaders captured or killed, the armed Resistance crushed and the majority of East Timorese civilians in the mountains captured or surrendered into their control, the Indonesian military at the beginning of 1980 were confident that major military operations were over in Timor-Leste. The Operation Seroja Joint Task Force Command was disbanded, and military operational command was passed from Dili to Bali, meaning that Timor-Leste was now within ABRI's standard regional command structure. At the same time control of the civil administration was formally transferred from the Ministry of Defence and Security (Hankam) to the Ministry of the Interior (Depdagri). Militarily, ABRI continued mopping-up operations to secure its authority, but in general the period after the closure of Operation Seroja was comparatively quiet in military operational terms.

359. The Indonesian military retained a dominant role within and over the developing civil administration. Life for most civilians was tense and fearful.[476] In a submission from the Association of Ex-Political Prisoners (Associação dos Ex-Prisoneiros e Detidos Políticos de Timor Leste, Assepol) the Commission heard that during this time, with the increased population in Dili, Indonesian intelligence agents were prevalent. Assepol told the Commission that there were no judicial processes in these late years of the 1970s and early 1980s, and that the military had unrestricted power of arbitrary arrest and torture.[477] Many individual testimonies to the Commission support this point, and report being taken away from their homes at night, or being rounded up by the military for interrogation and torture.[478] The Commission produced maps of the detention and interrogation centres in Dili and Baucau during these years, many of them unofficial but operated by the Indonesian military. The number of these centres far outweighs the reasonable needs of a democratic country governed under the rule of law (see Annexes to this Report).

360. Across Timor-Leste the Indonesian military developed its territorial structure in tandem with population movements and demographic changes consequent to the major displacements of the period. In every village in Timor-Leste ABRI posted a military Guidance Officer (Babinsa), and in areas considered particularly disruptive (*rawan*) there was a team of these men, called a village guidance team (Tim Pembina

Desa, TPD). These military posts worked closely with East Timorese civilian defence auxiliaries (Hansip), and provided the Indonesian military with a firm hold at all levels of East Timorese society. Thus in many areas of the country, people lived in the new resettlement villages under close military scrutiny.

361. The situation of acute famine associated with the military campaigns of the 1977-78 and the detention camps of the military had been stabilised by the efforts of the international aid agencies CRS and ICRC. However, in 1980 communities had not yet had the chance to recover from these traumatic years of conflict. The painful legacy included vulnerability to hunger and sickness due to the deprivation of the conflict and the loss of years of normal crop planting and harvesting.

The first uprising: Dili, June 1980

362. On 10 June 1980 Falintil mounted an attack in Dili, on the new television transmitter at Marabia.[479] This took ABRI completely by surprise. It was the first major uprising (*levantamentos*), following the seemingly crushing defeat of Fretilin in late 1978. The name *levantamento* was used by the Resistance to lend a sense of common purpose to what were in effect militarily limited attacks achieved by small surviving groups of Falintil that had regrouped in the preceding months. The Dili attack proved the survival of the Resistance, and its continued armed opposition to Indonesian military rule. The attack went as far as Lahane and Becora, on the outskirts of Dili. One member of the attacking force told the Commission that the objective of the attack was "to show the world that Fretilin still exists." [480]

363. A US embassy communiqué noted the severe response the attack would probably generate:

> This rebel strike on the outskirts of the provincial capital has caused distress and embarrassment to security officials, and they can be expected to take steps to avoid a repeat of the attack.[481]

364. The Indonesian military was both shocked and humiliated at the boldness of this attack from a resistance it considered defeated. Hundreds were detained in a military sweep of the capital. The Commission received evidence that over 100 of these were killed, and that torture and other cruel treatment of those detained was common (see Vol. II, Part 7.2: Unlawful Killings and Enforced Displacement). Many of those detained were exiled to Ataúro.[482]

"Fence of legs": Operasi Kikis

365. Almost a year later, in mid-1981, ABRI mounted a massive operation combining military personnel with tens of thousands of civilians who formed a human "fence of legs". This "fence" marched across large areas of the territory to search for and capture remaining Falintil troops, with a primary goal being to capture or eliminate Xanana

Gusmão. This tactic, known as Operasi Kikis,* had been successfully used against uprisings in Indonesia, where the local population supported the military's intention to destroy rebellions. It had also been used a number of times in Timor-Leste in previous years.[483] However in Timor-Leste, unlike in Indonesia, the military lacked the crucial element of popular support. Although the fence caught many Timorese, both civilians and combatants, it did not succeed in substantially damaging Falintil.

366. Before the operation was launched the ICRC ceased operations on the mainland of Timor-Leste, and the CRS left in November 1980 after completing its emergency programme. The Indonesian military was free to implement the *kikis* virtually free of international scrutiny.

Mass mobilisation of civilians

367. The 1981 operation, the largest *kikis* ever conducted in Timor-Leste, was code-named Operasi Keamanan (Operation Security).[484] The Indonesian military deployed at least 15 territorial battalions, around 12,000 soldiers, from outside Timor-Leste and an unknown number of additional troops in a combat role.[485] East Timorese have claimed many more than 15 battalions were involved.[486] The major operations appear to have occurred in Sector D,† the area of Baucau, Lautém and Viqueque.[487] Civilians were forcibly recruited as operational support personnel (TBO). Officially ABRI recruited civilian males aged between 12 and 35, however in reality boys much younger and men much older were involved, as well as women.[488] Groups of these people were attached to a particular military unit for the operation. The total number of civilians involved was enormous. A 1982 military document states that the operation included "60,000 civilians in addition to the Wanra and Ratih".‡[489] Marine sources indicate even more were involved, mentioning eight battalions and 120,000 guided militia (*milisi binaan*) moving east to west, and seven battalions with 25,000 guided militia moving west to east, aiming to "overwhelm the enemy at Aitana".[490]

368. The human fence started walking in mid-1981 from Tutuala at the most eastern point of Timor-Leste. From there, military units and civilian TBOs marched westward to a line linking Com-Raca-Lospalos-Illiomar. They formed a human fence along a north-south axis, and swept the ground for Falintil. It appears the fence functioned in two ways, both as a front line advancing ahead of ABRI troops and sweeping for Falintil, as well as serving as a blocking wall into which ABRI units attempted to drive Falintil. Either way, it failed to capture sufficient Falintil groups to end the resistance, and many participants did not encounter Falintil at all. However, the Commission received

* *Kikis* means scraped or eroded. Budiardjo and Liem translate *kikis* as "chipping-away" [*The War Against East Timor*, p. 223].

† Although the focus of the operation was in the east, in the west, the Indonesian military recruited TBO to participate in a smaller *kikis* campaign in the region between Cassa and Ainaro. There is no record of any captures of Fretilin in that sector.

‡ Wanra (People's Resistance) and Ratih (Trained People) were two of the four main types of military auxiliaries used by ABRI. The other two were Hansip (Civil Defence) and Kamra (People's Security). See Vol. I, Part 4: The Regime of Occupation.

testimony of captives being summarily executed. One TBO told the Commission that five people caught by the military unit he was attached to, near Cacavem in Illiomar, were executed immediately.[491]

369. In July 1981 another fence began marching from the Venilale-Ossu-Viqueque corridor toward the northeast.[492] These two fences converged on the Matebian mountain range with the aim of encircling Falintil and driving them to lower terrain. To this point in time the operation had not succeeded in making any significant captures. Following the encirclement of Mount Matebian, the final stage of the *kikis* began. Troops and TBOs again fanned out from the central range down to the south coast and continued the westward advance. This fence approached the area of Lacluta, Viqueque, while from the east another line advanced to meet them.

The Lacluta massacre

370. When the advance reached the area of Lacluta in September a massacre occurred that by most accounts killed hundreds of people. A definitive account does not exist. Monsignor Costa Lopes claimed 500 killed.[493] Indonesian authorities admitted 70.[494] Others place the toll somewhere in between.[495] The Commission received evidence of a large massacre of civilians, including women and children at this time.[*] It has also heard of a second massacre of at least 20 people.[†] Indonesia claimed a military victory in the area during this time, citing the capture of 450 Fretilin and 150 weapons, but not stating casualties.[496] Most other sources say this was a brutal massacre of civilians.[496] The massacre is believed to have occurred near the Rock of St Anthony on the slopes of Mt Aitana. A Falintil fighter recalled Indonesian military killings of civilians in the area:

> *I witnessed with my own eyes how the Indonesian military, Battalion 744, killed civilians in front of me. They captured those unarmed people, tied them up then stabbed them to death. There was a pregnant woman captured and killed just like that. I saw it from a close distance, just 100 metres from where it happened.*[498]

Consequences of the operation

Military outcomes

371. The "fence"' had much greater success in capturing people still hiding in the bush than it did in capturing Falintil fighters, although there are accounts of Falintil units being destroyed.[499] In explaining its failure to capture many Falintil, it seems likely that

* CAVR Interview with José de Jesus dos Santos, Dili, 28 June 2004. He says that contact was between 1 and 10 September 1981.

† CAVR Interviews with Anacleto Ximenes, Cairui, Manatuto, 12 March 2004 and Sebastião da Cunha, Manatuto, 12 May 2004. See also Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances.

in many cases, the "fence" allowed Falintil to pass through the lines. The Commission was told of one escape through the "fence":

> *When we passed, many people knew, but they saw us not as humans but as animals passing through their post. I can still clearly remember how I stepped on an enemy (Timorese member of the fence) but they looked at me as if I was a dog then told me to go away.*[500]

372. There may also have been collaboration between Falintil and East Timorese TBOs:

> *...when we arrived at [the current location of the] Telkom transmitter, there were a lot of Fretilin [members] there. But because there had already been contact [with TBOs] Fretilin passed through the troops of [ABRI] Platoon Commander Falo Chai.*[501]

373. Just as likely was the possibility for Falintil to escape through the lines:

> *We split into small groups, 3 to 4 people, then at night we looked for a way to pass through, behind them.*[502]

Humanitarian consequences

374. The military operation had very serious humanitarian consequences at a time when the East Timorese population had not yet recovered from the traumatic famine and hardship from Operation Seroja and the conditions of detention camps. Prior to the military commencing this operation, they required the limited international aid presence to leave the territory.[503] In itself this was a bad result for a very fragile and isolated community. Forcing such huge numbers of rural civilians into military operations in the second half of 1981 subjected them to extremely harsh conditions. TBOs, many of them children, were taken into combat areas and as a result often became casualties.[504] Other civilians forced to participate were recruited as Ratih[505] rather than Wanra, which meant that they were not paid, but only received some "reward" for their participation. Nor were they well fed. Many died during the arduous march across rugged terrain.[506]

375. The operation took place over the planting season of 1981, and with large numbers of subsistence farmers forced to participate they were unable to plant their crops. In November 1981 Monsignor Lopes wrote to Australia with news of another impending famine, leading to international concern.[507] In March 1982 former Australian Prime Minister Gough Whitlam visited Timor-Leste, meeting with Monsignor Lopes. Whitlam later publicly disputed Lopes's claims.[508] A visit several months later by a delegation from the World Council of Churches found differently:

> It was clear that a large number of people have been resettled and there are still many malnourished children. Everywhere we went, people

> named food and housing as their major problems…our impression is that many people would like to return to their traditional homes and land in the hills.[509]

376. Indonesia claimed to capture 4,500 "Fretilin sympathisers" during the operation, and to have sent 3,000 of these to Ataúro, and another 1,500 were relocated to other areas.[510] However, the Commission received many testimonies to the effect that these were civilians and that very few combatants were captured in the *kikis* operation, and that most of those exiled to Ataúro were women, children and the elderly. [511]

Rebuilding the Resistance

Overview

377. The Fretilin-led Resistance was almost crushed by the encirclement and annihilation campaigns of 1978-79. Most of the Fretilin and Falintil senior leadership were either killed, captured or surrendered during this period. The survivors, in isolated groups, undertook a desperate attempt to regroup. Three Central Committee members survived and fled to the east, among them Xanana Gusmão. Taking the lead, Xanana Gusmão conducted a National Reorganisation Conference in March 1981 which began a process of widening the Resistance to a broader front for national unity, and changed the tactical direction of armed resistance to guerrilla warfare. A secret meeting with the head of the Catholic Church in Timor-Leste, Monsignor da Costa Lopes, was an important step toward the goal of national unity between the main rivals of 1975, UDT and Fretilin.

378. In the early years of war and occupation, the Church was a unique and vital link to the outside world. In these years it had undergone a transformation from a bastion of the Portuguese colonial system to become a voice for ordinary East Timorese people.

Fretilin survivors of the 1978–1979 offensives

379. The Indonesian military offensives in 1978-79 destroyed Fretilin's strategy of "popular resistance", under which large numbers of the civilian population lived under the protection or control of Fretilin, provided logistical support to Falintil and were mobilised politically to support the Resistance. The Indonesian military's technological and numerical superiority was overwhelming in a conventional position-based war. Moreover, with tens of thousands of civilians in its bases, Fretilin was forced into a strategy of protection rather than attack against Indonesian forces. This period of combined civilian-military resistance ended with the fall of Fretilin's *zonas libertadas* in 1978.

380. The surviving population surrendered and came down from the mountains, devastated by the bombing and encirclement campaigns and generally in very poor condition.[512] They numbered up to 300,000 people.[513] The Indonesian military

screened those surrendering and separated those they believed to be Falintil or Fretilin cadres. Many disappeared or were summarily executed (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). The remaining civilians were held under military control in transit and later longer-term detention camps, as detailed in above (see also Vol. II, Part 7.3: Forced Displacement and Famine).

381. Fretilin had lost most of its mid-level and senior leaders. Falintil was in disarray, having lost most of its personnel, leadership and weaponry. Surviving personnel were isolated and without means to contact each other. The first phase of the Resistance was over. Organised resistance survived for two reasons. Firstly, the survival of several key Fretilin leaders who were able to rebuild the Resistance. Secondly the survival of the population who, although no longer physically separate from the Indonesian occupation forces, were eventually able to build a new form of clandestine resistance in support of what became a classic guerrilla war fought by Falintil.

Regrouping

382. Shortly before the fall of Matebian, on 22 November 1978, a number of political leaders and military commanders* managed to break through the siege and escape to the east. Leading the group was Xanana Gusmão. At the same time, other Falintil units were sent west to join up with Falintil troops in the Central Eastern (Centro Leste) Sector. Most of these units never made it through the Baucau-Viqueque cordon controlled by the Indonesian military, and only one company arrived in the Central Eastern Sector.[514]

383. The small group that escaped from Matebian regrouped in the Legumau mountain range east of Baguia, which was beyond the reach of the Indonesian military. They tried a new strategy of underground resistance, abandoning their military appearance, dressing as civilians and hiding their weapons.[515] Their goal was to find and contact surviving members of the Central Committee, Falintil members and civilians, and to assess the situation. Xanana Gusmão recalled his actions after escaping Matebian:

> *We went straight [to the east]. When we got there, we started building a strategy and each one of us learned what guerrilla [warfare] was about. Because I already had contacts with the underground [from] when [we were in the]* bases de apoio, *I went straight to Mehara on 7 December… We searched [for resistance members]. From Dili they [clandestine members] told us that there's a small number of [Falintil] troops but they couldn't contact them, many had surrendered. I sent two groups to Centro [central region] to search, [but] they said they didn't find any troops and didn't meet any civilians there.*[516]

* This small group included José Alexander Gusmão, Mau Hodu, Taur Matan Ruak and Nino Konis Santana.

384. The three surviving members of the Fretilin Central Committee in the east, Xanana Gusmão, Txay and Mau Hunu, discussed the need to regroup and develop a new resistance strategy in early 1979. A number of search parties set out to the central and western region to attempt to contact other survivors, particularly senior leaders from the Fretilin Central Committee.[517] This was a dangerous and difficult task. A number of the search parties were attacked, and some disappeared completely. The group led by Xanana Gusmão was attacked by the Indonesian military near Remexio in March, but a few members escaped and returned to Mehara in the east. In the same month, three companies of Falintil were eliminated near Lore, in the district of Lautém.[517] Xanana Gusmão described the search:

> *We didn't know who [of Fretilin's Central Committee] was still alive. We looked in other places, [but] we couldn't decide, we knew that some were dead…Clandestine members looked for surviving members of the Central Committee in the forests from Centro to Fronteira Central … We decided in 1980 to cross the Baucau-Viqueque road to look, gather information, come to in villages, ask all the way to the border…From Henrique Belmiro and friends, we found out that there were no more [Central Committee members].*[519]

385. Despite this, the searches had some success. They found some small pockets of the Resistance and Falintil troops that had survived. There were small groups in Laline and Uaimori, David Alex's group in Matebian, some in Manatuto, as well as others.[520] In another search in May 1980 Xanana Gusmão contacted Resistance members in the central zone, in Same and Ainaro, and found survivors near Dili.[521] In the western zone they found only one group.[522] In addition to locating surviving Resistance members, the guerrillas contacted civilians to establish clandestine groups within Indonesian military-controlled territory.

386. The Commission heard testimony from Francisco Guterres "Lú-Olo", who in the late 1970s was a Fretilin cadre in the mountains. He told of the relief he felt when Xanana Gusmão arrived in his camp:

> *When we heard that our older brother Xanana Gusmão had come we felt our hearts at ease…when he came back we all ran up to him and embraced him…Then we heard that Mau Hunu was still alive, and in Lospalos an* ajudante *member of the Central Committee. Only these three were alive.*
>
> *How could we continue this war? Our older brother Xanana was like the architect, or the builder. He said "we can build a boat, and all of us can carry this boat and then row forward. Though it will be difficult, we can do it." We all agreed with our older brother…we believed so strongly in him…*[523]

National Re-organisation Conference in March 1981

387. The surviving Resistance lacked leadership, coordination and structure.* Having failed to find other Central Committee members, and with the Indonesian military's capture of Txay, Sera Key and Solan, in 1980 Xanana Gusmão decided to take charge and organise a Fretilin national meeting:

> *I decided [this] in September…because I knew that all the Central Committee were dead...none were more senior than me except for Mau Hunu. But I knew him, so I decided to take this into my hands so we could re-organise.*[524]

388. Xanana Gusmão aimed to consolidate and restructure the Resistance as a guerrilla war, based on lessons learned from experience, as well as theory:

> *Since 1979 we tried to learn guerrilla warfare and how to apply it in Timor. We studied in the forest, [we] studied the war in Vietnam, the war in Cuba, any kind of guerrilla [warfare]. We didn't think they would be suitable because the conditions were different. That is why in 1979 we spent a year studying how guerrilla warfare [should be done]. From here we reorganised, what we could do with small guerrilla [groups], to plan political activities, military activities, and how the two related to each other.*[525]

389. Based on the contacts during 1979-80, the Resistance held a "National Re-organisation Conference" in March 1981 at Maubai in Lacluta.[526] The political and military structure and leadership of the Resistance was reorganised, and the Revolutionary Council of National Resistance (CRRN) was formed to take overall charge of the Resistance.[527] The CRRN was to be an umbrella forum for all pro-independence elements, not only Fretilin, and was a significant step away from the hard-line policies of 1977 when Fretilin had been declared a Marxist-Leninist party (Partido Marxista-Leninista Fretilin, PMLF), and toward national unity.[528]

390. Xanana Gusmão was elected to all leadership positions – National Political Commissar of the PMLF, Commander-in-Chief of Falintil, and President of the CRRN.[529] A new Central Committee was formed,† composed of leaders both inside Timor-Leste and overseas.[530] Falintil's structure was redefined and new leaders appointed.[531] A guerrilla warfare strategy was officially decided, by which Falintil's several hundred surviving troops would spread out across the country. [532] Having

* For example, the Falintil attack on the Marabia television transmitter in June 1980, described above, was conducted by a group from the north-central region independently of the surviving eastern-based group.

† Central Committee members appointed inside Timor-Leste were Xanana Gusmão (Comissario Política Nacional), Mau Hunu, Mau Hodu, Bere Malae Laka, Kilik Wae Gae (Reinaldo Correia), Nelo (Dinis Carvalho), Sakinere, Holy Natxa, Lere Anan Timor (Tito da Costa), Harin, Mauk Moruk (Paulino Gama). Members appointed overseas were Abílio Araújo (Secretary General), Mari Alkatiri, Roque Rodrigues, José Luís Guterres, Guilhermina Araújo, José Ramos-Horta and Rogério Lobato.

been defeated as a conventional military force, Falintil would work in small, mobile guerrilla groups, and no longer attempt to concentrate its forces against the Indonesian military. The guerrillas were to be supported by a clandestine structure in urban areas. The idea was that a clandestine structure under the CRRN would operate through district level national Resistance centres (*cernak*) and small village level cells composed of four to seven people (*nurep*). To administer the new Resistance the country was divided into three regions – the eastern region, Funu Sei Nafatin ("the struggle continues"); central region, Nakroma ("light"); and the border region, Haksolok ("joy").[533]

Growth of the Resistance

391. After the political and military reorganisation the capacity of the Resistance slowly grew. The clandestine structure aimed to support the guerrillas, as well as build linkages with other groups, including those close to the Indonesians. A cell-based clandestine network began to develop, including inside Dili. Seeking to control this clandestine network, the Indonesian military developed extensive intelligence networks of its own to the village level. All villages had a military presence. Some had a Babinsa (village guidance non-commissioned officer), while others had a TPD, a "village guidance team", depending on how restive a village or area was.[534] Indonesian military documents from 1983 indicate extensive surveillance of the population with the goal of "protecting" the people from the influence of GPK (guerrilla) propaganda:

> Appoint reliable people such as *katuas* (elders) to help neighbourhood chiefs…Each *katuas* must be able to know exactly the activities of the families under his guidance; for example, when they go to their field, go to collect wood, get permission to go to another village, to tend flocks, go to market, and so on.
>
> Appoint an "informer" in each of these groups of 10-15 families led by one *katuas*. This informer should be able to follow, secretly, all the activities of these 10-15 families.[535]

392. The Commission heard testimony about the consequences of being suspected of being an active clandestine Resistance member, with arbitrary detention, torture and disappearance a constant threat. In the district of Ainaro the cliffs at Builico were known by the Indonesian military as Jakarta II. When people in Ainaro disappeared after being detained, the military explained to families and communities that they had been taken to Jakarta, when they had in fact been taken to, and thrown from, these cliffs. Unknown numbers were thrown to their deaths between 1981 and 1983.[536]

393. This military presence to the village level, accompanied by stifling surveillance presence, often resulted in tensions which led to violence. The defection to Falintil in 1983 of several hundred East Timorese members of Indonesian military auxiliary units in Viqueque was a striking example.[537] This defection was part of

the larger pattern of uprisings by the Resistance that occurred in 1982 to 1983. The effectiveness of linkages between the clandestine network and the guerrillas is indicated by military documents from 1982, which show the military's focus on eliminating clandestine structures.[538] The clearest sign of Fretilin's regeneration and ABRI's failure to destroy Falintil was the ceasefire agreed in May 1983 (see section 1983 Ceasefire and its aftermath, paragraphs 411-413 below).

The Resistance under Xanana Gusmão: towards national unity

394. Since the 1975 invasion, Fretilin had defined itself as the embodiment of the Resistance. This began to change in the years following the 1981 reorganisation. In September 1982 Xanana Gusmão and Monsignor Martinho da Costa Lopes met secretly in the village of Mehara, in the district of Lautém.[539] At this meeting Monsignor Lopes highlighted the need for national unity between Fretilin and UDT. This meeting and the call for political unity was especially important given that during the internal conflict of 1975 UDT had claimed to be defending the principles of the Catholic Church against a communist threat.[540] For the head of the Catholic Church in Timor-Leste to meet the head of Fretilin and the Resistance was a clear sign that the Church did not see Fretilin as communist, and Monsignor Lopes's call for unity indicated his understanding of the Resistance more as a nationalist struggle than one dedicated to the ideological left.

395. In 1983 the Fretilin Central Committee declared national unity as its official political line.[541] This was a clear reference to the UDT-Fretilin enmity. In order to promote the possibility of multi-party cooperation Fretilin changed several of its earlier radical policies. For example, in 1983 Fretilin participated in a ceasefire and negotiations with the Indonesian military. This had previously been inadmissible under its avowed policy of "negotiations – no and never".[542] In 1984 it denounced the Marxist-Leninist ideology that had been declared in 1977 and incorporated into the party's name in 1981. By this action Fretilin drew back from the social-revolutionary basis of its earlier stance in favour of a more inclusive nationalist platform.

396. This process of change undertaken by Fretilin was not unopposed. Party hardliners such as Kilik Wae Gae (Falintil chief of staff) and Mauk Moruk (commander of the Red Brigade) perceived this political shift towards a more moderate stance as an unacceptable compromise.[543] An attempted coup by this faction failed, and in time opposition to the new policies faded.[543] The new direction under the umbrella of the CRRN enlarged the political platform of the Resistance and eventually led to a broader-based opposition to Indonesian occupation.

The Catholic Church

397. The Catholic Church, under the courageous leadership of Monsignor Martinho da Costa Lopes, had played a critical role inside Timor-Leste during the early years of

the occupation. Previously an adjunct of the ultra-conservative Portuguese colonial administration, the Church's composition changed during the Indonesian era. Due to the departure of many Portuguese clergy and nuns following the Indonesian invasion and occupation it became more "Timorese". In addition to East Timorese clergy there were also Indonesian and international priests and nuns. The three groups played different roles. Many Indonesian clergy tended to support the Indonesian government, while international clergy, subject to visa approval by the Indonesian government, took a more openly apolitical position.[545] Most significantly, many of the East Timorese clergy were mobilised as a result of the enormous suffering they witnessed in these early years.[*]

398. Members of the Church in Timor-Leste were often at odds with the Vatican, which did not encourage clergy to become involved in issues such as human rights or the politics of resistance. Nonetheless because the formal policy of the Vatican did not recognise Indonesian sovereignty over Timor-Leste, the Catholic Church within the territory remained directly ruled by the Vatican rather than being subsumed within the Indonesian Church. The international Catholic network provided a unique link between Timor and the outside world in the years when the territory was virtually closed. Nuns and priests wrote letters abroad at a time when almost no international media observed events inside the territory and when, apart from the occasional presence of the ICRC, there was no other international organisation allowed in the territory. José Ramos-Horta told the Commission that between 1975 and 1979 Church sources played a unique and critical role in getting information about conditions in Timor-Leste to the outside world.[546]

399. In 1983, the Church made a decision that proved vital for the cultural survival of the Timorese people. The Church in Timor-Leste decided that the official language of the liturgy would be Tetum. As a result the Dili Diocese requested the Vatican's permission to use Tetum as the language of the Mass. The Vatican agreed, and this was implemented during Bishop Belo's administration.[547] This increased the East Timorese identity of the Catholic Church and added to the sense of sanctuary it offered to ordinary people in very difficult times.

400. This sense of sanctuary offered by the Church was a major factor in large numbers of people formally converting to Catholicism during the occupation. In 1973 approximately 28% of the population described themselves as Catholic.[548] By 1980, the Indonesian statistics office listed as many as 80% of the population as Catholic.[549] The Indonesian state ideology requiring citizens to subscribe to one of five official religions may have also been an influence on this widespread adherence to Catholicism.

401. The outspokenness of Monsignor da Costa Lopes led to his forced resignation in 1983. A year later he addressed the US Bishop's Committee for Social Development and World Peace, drawing attention to the Church's pivotal role as protector of the East Timorese people:

* Some East Timorese clergy supported and were used by the Indonesian regime, being assigned to positions of responsibility in the provincial government. See Smythe, The Heaviest Blow, p. 37.

> In the face of the cultural and psychological genocide that the Indonesian army has imposed on us the Catholic Church has emerged as the only organisation that the East Timorese people trust… Everything the people know they tell to the priests. The East Timorese church has listened intently for nearly nine years since the Indonesian invasion. With the highest authority the East Timorese church can say that it knows the plight as well as the deepest aspirations of the people.[550]

1983 Ceasefire and its aftermath

Introduction

402. In 1982, Indonesia implemented its national elections in Timor-Leste for the first time. With Operasi Keamanan completed, once again the Indonesian military judged the territory to be pacified. In Timor-Leste a huge majority, 99% of the electorate, were reported to have voted for Golkar, President Soeharto's political vehicle. The elections were followed by a shake-up of civilian and military personnel in the Indonesian administration. Former senior UDT member Mario Carrascalão was appointed Governor, and Colonel Purwanto took over as head of the military in the territory. Faced with a growing clandestine movement supporting a regrouped Falintil, the Indonesian military sought a different route to overcome the Resistance, negotiations. Falintil Commander Xanana Gusmão held talks with Colonel Purwanto, and for a short time a tentative ceasefire was in place.

403. However, when Soeharto was sworn in as President he quickly appointed General Benny Moerdani as commander-in-chief of the Indonesian military. General Moerdani was one of the architects of the Indonesian military takeover of Timor-Leste, and had less time for a peaceful solution to problems in the territory. Very soon after Moerdani's appointment, Monsignor Lopes was pressured to stand down from his position as head of the Catholic Church, and he left the territory. The ceasefire broke in the eastern town of Kraras in August 1983, after a unit of East Timorese Hansip (civilian auxiliary) members, together with Falintil fighters, killed 12 Indonesian soldiers. The Indonesian military responded with a series of massacres of local civilians and a crackdown in the eastern region with new operations.

Indonesian national elections in Timor-Leste: 1982

404. With the completion of Operasi Keamanan, the Indonesian military seem once again to have concluded that they had pacified the territory. When Indonesian national elections were held in 1982, they were conducted for the first time in Timor-Leste. The military was responsible for providing security for these elections across the archipelago, and this demand on troop numbers, combined with increased Indonesian military confidence, may have contributed

to a sharp reduction in troop numbers in the territory at this time. The Indonesian press reported that the election proceeded in Timor-Leste without incident; however East Timorese informants noted that there had been a wave of arrests prior to the vote:[553]

> In Viqueque the military were constantly on patrol during the pre-election and election period. Every evening [the military was] going in and out of houses checking to see if anyone was coming or going. Also on the 4 May, the day before the elections, there were Fretilin attacks in some villages. All the election centres around Viqueque were moved into the town of Viqueque itself.[554]

405. Election results in Timor-Leste returned over 99% of the vote for Golkar, President Soeharto's ruling party. This, coupled with a very quick vote count, strongly suggests a manipulated result. A possible motive for vote manipulation was indicated the following year, when Governor Mario Carrascalão claimed that:

> [T]he people had been told that by voting for Golkar they would be indicating their views about integration with Indonesia.[555]

406. In the event, Indonesia used the vote as evidence of support for Indonesia. Xanana Gusmão did not restrain his sarcasm in his 1982 message to the UN:

> ...Suharto's party won the elections again. In Timor-Leste under the threat of weapons, all the population voted in favour of Golkar. East Timor and Irian Jaya, by a curious paradox, were the "most dear provinces" of Suharto and the best supporters of Golkar![556]

Shake-up of Indonesian civilian and military personnel, and Resistance actions

407. Following the elections there was a shake-up of key Indonesian civilian and military personnel in Timor-Leste. In September 1982 Mário Viegas Carrascalão, a former senior member of UDT who had worked for the Indonesian Ministry of Foreign Affairs in New York from 1977 until 1981, was installed as Governor. At about the same time Korem 164 Commander Colonel Adolf Sahala Radjagukguk was replaced by Colonel Purwanto.*

408. During this period the Resistance made two key moves. Firstly, in August 1982, Falintil troops carried out a major attack on an Indonesian military post in Mau Chiga, Ainaro, often referred to as the 1982 *levantamento*. The Commission heard testimony of the consequences of this for the civilian population of the

* The Commission cannot give exact dates of Purwanto's appointment. Radjagukguk was Commander as of 8 July 1982, and Purwanto was already Korem 164 Commander by late 1982.

village. Many were rounded up and exiled to Ataúro,[557] while many women were subjected to repeated and on-going sexual violation (see Vol. III, Part 7.7: Rape, Sexual Slavery and Other Forms of Sexual Violence). Secondly, in September 1982, there was the secret meeting between Xanana Gusmão and Monsignor Lopes, as described above. This was a signal to the military that Fretilin's support was indeed widespread, and which thus threatened its depiction of Fretilin as an isolated communist guerrilla force.

New approach by the Indonesian military: negotiations

409. In 1983 the Indonesian military attempted a new tactic of negotiation with the Resistance. ABRI had resolved secessionist rebellions during the 1950s by this means, and a key player in negotiations in that period was then commander-in-chief of ABRI, General M. Yusuf, who was involved in negotiations in Sulawesi to resolve the Permesta revolt in the late 1950s.[558] It is likely that Yusuf condoned the initiative, which may have come from new East Timor Military Commander Colonel Purwanto who had the authority to initiate the local level contacts that led to a formal ceasefire. In late 1982 and early 1983 the Indonesian military began making local level agreements. Initial contacts for local ceasefires in Lautém were made at Pupuru and Pasikenu, outside Lospalos, and by February 1983 were occurring weekly.[559] Among the Fretilin leaders involved in these early contacts and tour of Jakarta, intended to convince them of the merits of Indonesia, were Falo Chai[560] (Fernando Teles) and José da Conceição, who was a key mediator in this process.[561] The Indonesian military pursued similar contacts with Fretilin/Falintil in the Venilale-Ossu corridor, in which David Alex (Daitula) was a key Falintil commander involved.[562] A former Hansip member recalls:

> *My brother in-law and I went to Venilale, met with Major Iswanto, [and] conducted a peaceful contact. He wanted to meet people from the forest, to know their politics. Did they want independence or integration? I was assigned to find people in the forest and make peaceful contact. I succeeded. First I found them in Ossulari. There [I] met with platoon commander Makikit. I asked him: "Do you want independence or integration?" I asked him that. He answered: "[The people of] Timor-Leste [want] independence more than integration".*[563]

410. The local meetings between Indonesian officers and Falintil paved the way for higher-level contacts. On 20 March, two Indonesian majors and several lower ranking military officers met with Xanana Gusmão in Liaruka, in the village of Buburaka, in the sub-district of Ossu (Viqueque). At this meeting Fretilin made four demands: (1) the unconditional withdrawal of Indonesian troops from Timor-Leste; (2) a United Nations peacekeeping mission; (3) a free and fair referendum; and (4) the continued presence of Fretilin/Falintil for security during this process.[564] Colonel Purwanto then flew to Bali for Kodam-level

discussions. Three days later, on 23 March, Colonel Purwanto himself met with Xanana Gusmão near Larigutu, in the sub-district of Venilale (Baucau).* Governor Mario Carrascalão was also present. This apparently resulted in the signing of a ceasefire agreement between the Indonesian military and Fretilin/Falintil.[565] Others followed, and the ceasefire spread across the territory.

Ceasefire

411. The Indonesian military refused to concede it was holding "negotiations," instead calling them "talks". It did not want international publicity on the issue. However the status of the conflict during this period was in effect a ceasefire.[566] As late as July 1983 the ceasefire was still in place.[567] The cessation of hostilities allowed Resistance leaders to freely visit villages, towns, and even some of the urban centres. There were a number of local meetings between ABRI and Fretilin/Falintil including those in Lore, Beaco, Uaitame, Macadiqui, Ossu, Laissorolai, and Hato Builico. At these meetings recreational games such as volleyball were played, and supplies were even provided to Fretilin/Falintil.[568]

412. For the general population the respite was significant. According to Monsignor Lopes:

> ...in June, as part of the ceasefire agreement, Indonesian helicopters were taking food and medicines to guerrillas in the mountains and bringing their sick and wounded in to Dili hospital…The people were very happy with the respite from the war and for the first time in years were able to plant decent crops.[569]

413. Fretilin and Falintil used the ceasefire to their advantage, both for internal consolidation as well as building linkages with East Timorese working with the Indonesian regime.[570] Falintil entered the ceasefire from a perspective of distrust. Its experience was of the fraudulent "amnesties" in the late 1970s, after which many surrendered Fretilin leaders disappeared. The CRRN document released in July 1983 made clear this perspective of distrust. It detailed murders and atrocities, cited names and provided case studies of killings, and gave an account of military promotions for those responsible for atrocities.[571]

Appointment of Benny Moerdani as ABRI commander-in-chief: 1983

414. During March 1983 Indonesia's MPR (People's Consultative Assembly) appointed Soeharto to serve a fourth term as President. This led to a key change within the Indonesian military that affected the fragile ceasefire in Timor-Leste. On 28 March President Soeharto installed General Benny Moerdani as

* This meeting was also attended by Aleixo Ximenes, Verissimo Quintão, José da Conceição and Okan.

commander-in-chief (Panglima) of ABRI.* Moerdani, one of the key architects of the invasion of Timor-Leste, brought a far less conciliatory influence to the course of events.

Monsignor Lopes removed

415. One of Moerdani's first actions as Commander-in-Chief was to pressure the Papal Envoy to Indonesia, Monsignor Pablo Puente, to remove Monsignor Lopes as head of the Catholic Church in Timor-Leste. Moerdani, himself a Catholic, saw Monsignor Lopes's September 1982 meeting with Xanana Gusmão as traitorous. Weeks later Lopes offered his resignation, though he subsequently stated that he had been forced to resign.[572] His replacement, the relatively young Carlos Filipe Ximenes Belo, was appointed directly by the Vatican rather than chosen by East Timorese clergy through election.[573]

416. On 13 May, in one of his last public appearances before leaving Timor-Leste forever, on the Catholic holy day of the Feast of Our Lady of Fatima, Monsignor Lopes condemned the abuses perpetrated by the occupying forces. This was the first time he had done so publicly.[574] He left secretly carrying detailed evidence that a general ceasefire had been agreed, in the event that Indonesia did not publicise it.

Ceasefire undermined

417. From the outset, the new Commander-in-Chief, General Benny Moerdani, was unconvinced of the merits of a ceasefire. On April 12 General Moerdani visited Baucau to meet with his staff responsible for Timor-Leste. The next day he summoned Governor Mario Carrascalão to Baucau. In an interview in 2003, Mario Carrascalão recalled this meeting:

> *Actually the questions all revolved around guarantees. Moerdani asked:*
>
> *"If it is resolved peacefully, is it guaranteed that East Timor will remain part of Indonesia? How do the people feel? That's [what] we want to know."*
>
> *I [Carrascalão] said: "How would I know, sir?"*
>
> *It went on for about an hour, these questions, then Benny Moerdani cut short the meeting…Benny Moerdani gave three months. He said:*
>
> *"I will give Soetarto [Commander of Kodam Udayana] and Purwanto [time], assisted by the Governor, to help East Timor peacefully."* [575]

418. Governor Mario Carrascalão played a prominent role in pushing forward the talks held during the ceasefire. In late May Xanana Gusmão sent a message

* Also in March, Commander of Kodam XVI/Udayana Brigadier General Dading Kalbuadi was replaced by Brigadier General Damianus Soetarto.

asking to meet with him, which led to a private meeting at Ariana, a few kilometres from Venilale (Baucau). However Carrascalão's room for manoeuvre was limited. Jakarta released news of the ceasefire on 10 June, but did not publicise the details such as Falintil's demand for a referendum, as had been agreed. Shortly after, Moerdani sent a letter to Xanana Gusmão:

> Do not think you can receive assistance from other countries. There is no country on this globe that can help you. Our own army is prepared to destroy you if you are not willing to be co-operative with our republic. We are preparing an operation – Operasi Persatuan – which will come into force in August.[576]

419. Moerdani's three-month ceasefire deadline was to expire in July. He planned the new operation for August to allow an Australian parliamentary delegation to visit at the end of July. Moerdani's insistence on a new offensive disregarded Indonesian Foreign Ministry concerns that renewed operations would have a negative influence on the discussion of Timor-Leste scheduled at the United Nations General Assembly in September.[*] [577]

420. It is possible that the ceasefire was undermined from within the Indonesian military, with the intention of continuing the war. The military had in the past stated that it considered operations in Timor-Leste a valuable training tool for its troops.[578] One figure possibly concerned in such undermining was Captain Prabowo Subianto, who at the time was the deputy commander of Detachment 81, Kopassandha.[579] A week after Moerdani approved the ceasefire in April, Colonel Purwanto asked to meet with Governor Mario Carrascalão on the beach in Dili. According to Carrascalão, Purwanto told him:

> What I've been worried about is happening. He came back to Timor-Leste, Prabowo. Under these conditions, no one, civil or military, can enter or leave Timor-Leste without my knowledge. It turns out he came and he went into the interior – to Viqueque, around Bibileo. I don't know what he's doing, I just don't know anymore.[580]

421. The Commission received evidence that Prabowo was stationed in the eastern sector of Timor-Leste at this time. Several sources have told the Commission that he was involved in the operation to bring the civilian population down from Mount Bibileo, shortly after which several hundred were killed by ABRI. The Commission also received evidence of Kopassus being involved in these killings. (See Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

422. Both the Indonesian military and Falintil used the ceasefire for their own military advantage, as reported by US Embassy visitors to Dili in May 1983:

> Fretilin has the opportunity to organise its forces and develop its leadership. At the same time Indonesian security units know how many

* In 1983 for the first time since 1975 discussion at the UN General Assembly was postponed. It was delayed until the 39th General Assembly the following year.

> Fretilin there are, where they are and who they are, since names have been listed and photographs taken. The gathering of Fretilin also makes it possible for Indonesian forces to strike, if the talks fail...[581]

423. On 28 July an Australian parliamentary delegation arrived in Dili. It spent four days in Timor-Leste, out of a total of 10 in Indonesia. It did not seek to meet with Fretilin. However near Baucau the delegation was stopped by four Falintil members. A short discussion ensued and the Falintil members gave the Parliamentarians a letter.[582] This letter noted that:

> Even now during the [peace] talks…they [ABRI] continued [sic] to kill the FRETILIN [sic] guerrillas who wanted to come close to the camps so as to be able to get in touch with their people.

424. Commission data supports this allegation. During the period of the ceasefire the Indonesian military perpetrated a range of violations, including torture and killings, and arbitrary arrests of suspected clandestine members.[583]

The end of the ceasefire

425. After efforts to undermine the ceasefire had emerged from within the Indonesian military itself, on 8 August, East Timorese in Kraras (Lacluta, Viqueque) attacked and killed a group of ABRI combat engineers. They then fled into the forest. Indonesia explained this as an unprovoked attack on "unarmed soldiers".[584] Falintil members describe it as a *levantamento*, a combined Hansip-Falintil attack on the Indonesian military intended to dispel Indonesia's claim that it had defeated Falintil.[585] East Timorese people explain that Indonesian soldiers had killed a number of civilians in the area during the ceasefire.[586] Members of the engineering battalion then molested an East Timorese woman. This prompted a combined Falintil-Hansip attack that killed at least 12 soldiers.[587]

426. The Indonesian military's response was overwhelming violence against the civilian population. The Hansip involved in killing Indonesian soldiers had defected to Falintil.* Civilians from the village had fled – some, mostly able-bodied men, to the forest and others to Viqueque. Troops of Battalion 501 hunted them down. The men were gathered and shot in the area of Tahuben. A smaller group, mostly old men, women and children were arrested in Viqueque and were shot in a location near Buicaren. Reports of the death toll at the time exceeded 200.[588] The Indonesian military privately conceded 80.[589] In 1985, Bishop Belo later listed the names of 84 of the dead.[590] Survivors were forcibly resettled in Lalerek Mutin, where it is thought a greater total died of starvation and disease.[591] To this day, Kraras is known as the "village of widows".[592]

* An additional influence on the defecting Hansip may have been the military's policy at the time to downgrade Hansip/Wanra to Ratih. Ratih had both lower status and were not paid. See Korem 164 Insop/03/II/1982 tentang Perlawanan Rakyat Terlatih pp, 16-18.

427. The ceasefire was over. His "peaceful solution" having failed, Colonel Purwanto was replaced by Colonel Rudito.[593] On 17 August, Indonesia's Independence Day, General Moerdani announced his new plans for crushing the resistance:

> This time we're going to hit them without mercy.[594]

428. Operation Unity (Persatuan) began in September 1983.* It focused on the east where Falintil remained strong, and featured Kopassandha as front line troops for the first time, amply supported by air power.[595] One reason for this may have been the mass defections of Hansip to Falintil after Kraras.[596] The Indonesian military would have both lacked sufficient manpower and seriously mistrusted its East Timorese soldiers. The operation provoked large displacements of people to towns.

429. ICRC operations ceased on the mainland, restricted to the island of Ataúro. Military hardliners were once again in the ascendancy.[597] The Catholic Church was the only independent institution remaining in Timor-Leste. But the Church in Timor-Leste was very isolated from the Church in Indonesia and the Vatican, who were generally silent on the human rights situation in the territory. In 1983, for the first time the Indonesian Bishop's Conference expressed support for the suffering East Timorese and called for understanding and honesty from decision-makers.[598] Although this might have been a significant start, the Bishops' Conference subsequently distanced itself from this position of support.

Consolidation and the beginnings of change: 1984–1991

Overview

430. Throughout most of the 1980s Timor-Leste remained closed to the world. Falintil continued a guerrilla armed resistance and ABRI/TNI presence in the territory remained high. However, major military operations lessened in the latter half of the decade, and the Indonesian Government attempted to "normalise" the territory by implementing a number of key national policies and programmes, including transmigration policies and education policies.

431. The Resistance process of restructuring which had commenced in 1981 continued throughout the decade. In 1983 national unity was declared Resistance policy, and in 1988 the National Council of Maubere Resistance (Conselho Nacional da Resistência Maubere, CNRM) became the supreme body of the Resistance, with the aim of building a nationalist base. Falintil was separated from Fretilin, and its commander-in-chief Xanana Gusmão resigned from the party, in further efforts to signal this inclusive approach.

432. Dom Carlos Filipe Ximenes Belo replaced Monsignor Martinho da Costa Lopes as Apostolic Administrator of the Diocese of Dili, and in 1988 was ordained as Bishop.

* Also known as Operasi Sapu Bersih – Operation Clean Sweep.

Throughout the decade, he became more outspoken in defence of the people of Timor-Leste, and his letter in early 1989 to the UN Secretary-General calling for the UN to fulfil decolonisation in Timor-Leste had a significant international impact.

433. The youth movement of the Resistance began to develop from the mid-1980s, particularly in a number of schools in Dili. As East Timorese went to study in Indonesia this widened to university student organisations toward the end of the decade. Youth activism was prominent during the visit of Pope John Paul II in late 1989. Both the Indonesian government and the Resistance sought to gain political mileage from the Pontiff's presence in Timor-Leste, an event of immense spiritual importance to the largely Catholic community. Students from the growing clandestine movement grasped the opportunity to make their desire for self-determination known to the Pope and the international media contingent travelling with him, in the first major public demonstration since the Indonesian invasion in 1975. This commenced what became a cycle of demonstrations and crackdowns in the 1990s.

434. The UN was largely ineffective during this period in terms of seeking a lasting political solution to the question of Timor-Leste. East Timorese in the diaspora and international civil society turned to the Decolonisation Committee and the Human Rights Commission as ways to keep the issue alive on the UN agenda. When on 9 November 1989 the Berlin Wall fell, signalling the end of the Cold War context that had prevailed throughout the invasion and occupation of Timor-Leste, it brought new hope for a peaceful and principled settlement of the conflict.

Development of the Resistance

435. By the early 1980s the majority of the civilian population was urbanised, living in towns and villages rather than with Falintil in the mountains. Towards the mid-1980s the period of mass detention passed. Indonesia embarked on a degree of normalisation in Timor-Leste. State institutions such as the provincial government, the regional parliament, and departments of public service had been established and were staffed and functioning. This provided Indonesia with the capacity to implement its national development programmes in Timor-Leste, and there is merit to the claim that Indonesia implemented programmes that led to development in the territory in this period. However, a close assessment of these programmes indicates that there was an emphasis on the infrastructure of occupation, particularly road construction and administration buildings. Another area of key government expenditure was in school construction (see Vol. III, Part 7.9: Economic and Social Rights and Vol. I, Part 4: The Regime of Occupation). Indonesia had high hopes of winning the hearts and minds of younger East Timorese people.

436. The changes in 1981 and 1983 to the Resistance vision and structure took time to mature. Xanana Gusmão in the meantime sought to make practical steps for the long-term future of the Resistance. On 7 September 1985, Catholic youth wrote secretly to Xanana Gusmão, seeking clarification of the position of the Resistance on the future of the struggle and the many challenges it faced. Xanana Gusmão wrote a detailed response

in a message dated 20 May 1986 to the Catholic Youth in Timor-Leste and Students in Indonesia.[599] He called on the youth to remain steadfast in their East Timorese identity and to struggle for their rights. This message showed the importance he placed on the young generation in his repositioning of the Resistance.

437. In December 1988 Xanana Gusmão made fundamental changes to the Resistance, in what was known as the Structural Readjustment of the Resistance, or RER. These changes aimed to further efforts at building the widest possible national basis for the Resistance. The CRRN was dissolved, and replaced by the National Council for Maubere Resistance (Concelho Nacional da Resistência Maubere, CNRM), which was aimed at being an umbrella organisation to accommodate all political parties supporting independence. Falintil was declared a neutral and nationalist army, no longer part of Fretilin. Xanana Gusmão himself resigned from Fretilin, to become the President of the CNRM, while he remained commander-in-chief of Falintil.[600] The formation of the CNRM was a major step toward consolidating and giving practical political mechanisms to the idea of national unity. During the 1980s clandestine groups began to proliferate, particularly in urban areas. The number of these increased in the late 1980s, but due to the dangers of clandestine activity most groups were small and isolated, with few broad-based linkages. Recognising this, the CNRM established the Comité Executivo da CNRM da Frente Clandestina (Executive Committee of the CNRM for the Clandestine Front, better known as Comité Executivo, CE) in 1990.[601] The CE's task was to coordinate, direct, and observe underground activities. It built relations with underground groups throughout Timor-Leste and abroad, including Indonesia.[602]

438. These changes to the Resistance movement also strengthened the external diplomatic front, the international diaspora of East Timorese and international civil society. In 1983, following a ban by the Australian government since the time of the Indonesian invasion, a delegation of Fretilin leaders made a successful visit to Australia and addressed a gathering of 1,500 people from all walks of life in Melbourne. This greatly encouraged East Timorese in exile in Australia, who until this time had struggled to make an impact with the Australian public without the direct support of key leaders.[603] By the 1980s, East Timorese who had escaped Timor-Leste in the 1970s were more settled and able to manage conditions in new lands such as Portugal and Australia, and became more effective in the struggle for international recognition (see Vol. II, Part 7.1: The Right to Self-Determination).

439. José Ramos-Horta continued to travel frequently and widely, stimulating support in each country he visited. He worked hard to mobilise international civil society support as well as through formal diplomatic channels. For example, his visit to Japan in March 1985 was at the invitation of Japanese citizen's groups and he was able to introduce the issue of Timor-Leste directly to the Japanese public.[604] Supported and sometimes mentored by civil society groups, other East Timorese also increased wider international lobbying during the 1980s.[*]

* Some examples are visits to Nuclear Free and Independent Pacific Conference in Vanuatu in 1983 by Abilío Araújo and Roque Rodrigues, and to the World Conference of Women in Nairobi by Emilia Pires and Ines de Almeida in 1985.

Repression and imprisonment

440. The Indonesian response to the growing strength of the clandestine resistance during the 1980s was to increase focus on the Resistance and on finding ways to dismantle it. One way it did this was by taking East Timorese political prisoners out of the territory. In 1983, 69 prisoners suspected of involvement in the Kraras uprising were taken from the Balide Prison to Kupang in West Timor, Indonesia. Only 14 of them returned to Timor-Leste.[605] Prisoners, usually suspected members of the clandestine resistance, were often handed from one arm of the security apparatus to another, with torture and mistreatment standard practice. In this period prisoners were sometimes taken to places such as Bali for interrogation.[606] As a concession to normalising administrative procedures during the 1980s, political prisoners were sometimes taken to court for trial. However, such trials were generally a mere shadow of justice and gave scant regard to the rights of the accused.

441. The high security Cipinang Prison in Jakarta was used to hold East Timorese prisoners in this period. The Commission received testimony from Indonesian human rights activist Ade Rostina Sitompul, who became a regular visitor to East Timorese in Cipinang prison from 1987. She told the Commission that in 1987, there were 47 East Timorese political prisoners in Cipinang, and that security conditions were far stricter for them than for other prisoners.[607] The isolation from families was a particular hardship for East Timorese prisoners taken away to prisons in Java and other parts of Indonesia (see Vol. III, Part 7.6: Political Trials).

The rise of the clandestine youth movement

442. In the mid-1980s a number of student clandestine cells were established in middle schools in Dili. Around 1986 OJECTIL (Organização de Juventude Católica de Timor-Leste, Timor-Leste Catholic Youth Organisation)* was formed by student activists based in the Externato de São José,[608] and went on to become a national-based organisation. These students had often been children in the forest during the invasion and full-scale war period. Many had family connections to the Resistance in the interior.[609] They were forming what was to be the foundation of a new generation of resistance that would continue throughout the 1990s.

443. In 1986 the first university in Timor-Leste was opened in Dili, named Universitas Timor Timur, Untim. Previously, in 1985, Governor Mario Carrascalão had implemented an education policy to allow East Timorese students to study in the universities of Indonesia. This was an important development for the educational opportunities of East Timorese young people, and one which had a profound impact on relations between East Timorese nationalists and human rights activists and their Indonesian counterparts (see Vol. II, Part 7.1: The Right to Self-Determination, section on Civil Society).

* After 1991 OJECTIL changed its name to OJETIL (Organização de Juventude de Timor Leste), removing the word Católica to emphasise its nationalist nature.

444. The clandestine student group Renetil (Resistência Nacional dos Estudantes de Timor-Leste, Timor-Leste Students' National Resistance) was established in 1988 in Bali, and operated in Bali and Java.[610] In the tightly controlled student politics of the New Order regime, East Timorese students also established a more moderate organisation, Impettu (Ikatan Mahasiswa, Pemuda, dan Pelajar Timor Timur, The East Timorese Students and Youth Association), to operate as the acceptable face of East Timorese students in Indonesia. These became important vehicles for student activism throughout the 1990s.[611]

The Catholic Church

445. In 1983, Carlos Filipe Ximenes Belo became the Apostolic Administrator of the Dili diocese, replacing Monsignor Martinho da Costa Lopes as head of the Church in Timor-Leste. Despite pressure from Indonesia, the Vatican continued its refusal to recognise Timor-Leste as part of Indonesia. On 19 June 1988 Belo was ordained as the titular bishop of Lorium, a diocese in Italy no longer functioning.[612]

446. Little was known of Monsignor Belo inside Timor-Leste when he took up the position as head of the Church. He had been out of the territory studying in Portugal from 1968 to 1974, and then again from August 1975 until 1981, when he returned to Fatumaca College in Baucau. Like his predecessor Martinho Lopes, Belo soon proved to be an independent thinker and would not remain silent about the violence he witnessed. Only 40 years old himself at the time of his ordination as Bishop, Belo centred his ministry on the youth of Timor-Leste. In the late 1980s and into the 1990s, this ministry brought him into daily contact with the rising tension between young East Timorese people seeking more freedom and the Indonesian military apparatus which cracked down on any sign of youth resistance. In the years to come Bishop Belo's residence was to become a place of refuge for many young people seeking shelter from the military and its agents.

447. In February 1984, deeply troubled by the impact of the Indonesian military's "Fence of Legs" campaign, he wrote to Lopes, telling of the abject condition of the people encircled in this campaign and others imprisoned, and of the military targeting of Catholic schools for searches and their students for interrogation.[613] In 1985 he spoke out strongly against the Indonesian government's birth control programme, which he saw as being forced on the people of Timor-Leste.[614]

448. In 1988, when security forces had undertaken a repressive crackdown prior to a brief visit to the territory by President Soeharto, Bishop Belo responded by preparing a statement to be read in churches across the territory on 5 December:

> We disagree with this barbaric system and condemn the lying propaganda according to which human rights abuses do not exist in Timor-Leste.[615]

449. This letter was picked up by the international press, and quoted in the *New York Times* on 22 January 1989.

450. On 6 February 1989 Bishop Belo wrote an even more significant letter, to the Secretary-General of the United Nations Javier Perez de Cuellar. In it he asked the Secretary-General "to initiate a genuine and democratic process of decolonisation in East Timor to be realised through a referendum."[616] He denied Indonesia's claim that the people of Timor-Leste had made a choice for integration, observed that Portugal saw the passing of time as the solution, and noted that "in the meantime we are dying as a people and a nation." This letter was posted from outside Timor-Leste for security reasons. Although it received no response from the United Nations for years, it had a significant impact. For Bishop Belo it brought great pressure from both Indonesian and Vatican authorities.[617]

The situation at the United Nations

451. In 1982 political events in Portugal took an important turn, which in time had an impact on the struggle for self-determination in Timor-Leste. The Socialist Party of Mário Soares was elected to government and effectively ended the period of crippling instability that had plagued Portuguese politics since the Carnation Revolution in 1974. In time, the Soares Government reactivated support for the East Timorese cause of self-determination, and its successor utilised its new position within the European Union to further this cause (see Vol. II, Part 7.1: The Right to Self-Determination).

452. In 1982, what had become an annual General Assembly resolution calling for self-determination for Timor-Leste came very close to being defeated; it was carried 50 in favour, 46 against, with 50 abstentions. The motion also called on the Secretary-General to initiate consultations with all concerned parties in order to "achieve a comprehensive settlement of the East Timor issue."[618]

453. This appeared to be a significant diplomatic victory for Indonesia. The Commission heard from former senior United Nations official Francesc Vendrell that this was a period when in the international community:

> *No-one believed that the Timorese…could possibly resist and…everyone believed it was just a matter of time before Timor-Leste was acknowledged by everybody to be part of Indonesia.*[619]

454. A number of East Timorese exiles testified to the UN during this period. This diplomatic effort was headed by José Ramos-Horta. Ian Martin, Secretary General of Amnesty International from 1986 to 1992, recalled José Ramos-Horta at the United Nations during this period:

> *I remember how lonely José Ramos-Horta looked in the Delegates' Lounge of the United Nations in New York, at a time when almost all diplomats believed that it was just a matter of time before Indonesia's incorporation of East Timor was accepted by the international community as a whole.*[620]

455. In 1983 the debate on Timor-Leste was deferred in order to give the Secretary-General time to show progress in his consultations for a comprehensive solution. In reality Portugal was afraid to bring it before the General Assembly after the near defeat of 1982. The Secretary-General at the time, Javier Perez de Cuellar, interpreted the parties involved in the dispute narrowly to mean only Portugal and Indonesia. East Timorese leadership was not consulted. The first of the so-called tripartite talks between Portugal, Indonesia and a UN representative was held in 1983. They made little progress during these talks, with neither side willing to compromise.

456. Although the issue of Timor-Leste passed from the agenda of the General Assembly after 1983, during the 1980s there were two main mechanisms for international consideration of the issue, the Human Rights Commission and the United Nations Special Committee on Decolonisation. In 1985 it was removed from the agenda of the Human Rights Commission. The Commission heard from Francesc Vendrell of his initiative to open the UN Special Committee on Decolonisation to submissions from non-governmental organisations as well as governments.[621] This enabled 20 to 25 international NGOs to make an annual pilgrimage to New York to petition the UN Special Committee on Decolonisation in support of self-determination for Timor-Leste. Large international NGOs often gave up their speaking time to East Timorese delegates (See Vol. II, Part 7.1: The Right to Self-Determination, section on Civil Society). This made Timor-Leste perhaps the most debated topic by the Decolonisation Committee. On 14 September 1989 United Nations Secretary-General Javier Perez de Cuellar released a report on the state of progress, and concluded that a proposed visit to Timor-Leste by a Portuguese Parliamentary mission would contribute to the effort to seek an internationally acceptable solution.

The visit of Pope John Paul II

457. Pope John Paul II's visit to Timor-Leste on 12 October 1989 was a moment of great relief and joy for many in the beleaguered territory. It was also an historic moment, in that it was the only visit to Timor-Leste in the entire period of Indonesian occupation by a head of state. The large international media entourage which travelled with the Pope gave opportunities for publicity unprecedented in the 14 years of occupation. Expectations were high. Independence supporters expected the denunciation of Indonesia's occupation. Indonesia expected recognition of integration and incorporation of the Church in Timor-Leste into the Indonesian Bishops' Conference. The Pontiff's sympathy for the pressures faced by East Timorese clergy was demonstrated during a meeting with them attended by Indonesian authorities; the question was raised as to what language should be used for the meeting, and as a way of establishing confidentiality between the Pope and East Timorese priests, Italian was chosen. Most East Timorese clergy had spent time studying in Rome.[622]

458. The Pontiff walked a delicate diplomatic line while in Timor-Leste, providing no clear-cut position on the political status of the territory. He did openly recognise

the suffering of the East Timorese people, and brought spiritual and moral comfort to many. In his homily Pope John Paul II reflected:

> What does it mean to be the salt of the earth and the light of the world in East Timor today? For many years now, you have experienced destruction and death as a result of conflict; you have known what it means to be the victims of hatred and struggle. Many innocent people have died, while others have been prey to retaliation and revenge…Respect for the rights which render life more human must be firmly ensured; the rights of individuals and the rights of families.[623]

459. Before the visit Indonesian authorities had detained a number of youth activists in order to prevent any possibility of demonstration during the Pontiff's time in the territory.[624] These efforts proved futile, and the subsequent demonstration was a watershed in the activities of the youth clandestine movement.

460. When Pope John Paul II completed his Mass at Tacitolu west of Dili, at which an estimated 100,000 were in attendance, a small group of young people unfurled banners and chanted slogans calling for independence and human rights. Scuffles broke out with Indonesian security agents and police in what was a highly embarrassing turn of events for Indonesia.

461. This was the first public demonstration at an international visit since the Indonesian invasion. It emboldened young people and led to the growth of new groups and encouraged cooperation between them. Clandestine youth leader Constancio Pinto later wrote:

> The year 1989 signalled the beginning of non-violent actions in cities and villages. Previously, even though people were organized [sic] in small groups, their awareness was limited to their own cells. Sometimes they felt, "Are we the only ones fighting for this? What about the others?" When the protest movements began, people suddenly opened their minds and perception: "We are not the only ones fighting for self-determination! There are others!" So subsequently it became easier for us. When we began to approach them, we could say we did this, so let's do it together.[625]

462. Indonesian authorities detained many people in the days following the demonstration in an attempt to break this new sign of resistance. The Commission heard many testimonies about the interrogations and torture.[626]

463. When US Ambassador John Monjo came to Timor-Leste in January 1991 on a fact-finding mission into the alleged detentions and torture following the demonstration during the Pope's visit, demonstrations took place outside the Turismo Hotel where he was staying. Dozens of young people shouted out slogans against the Indonesian occupation and handed over a written statement asking the

UN to conduct a referendum on the political status of Timor-Leste. Then youth leader Gregorio Saldanha told the Commission:

> *The US Ambassador demonstration went on for three days. There were only a few people on the first day, it increased on the second day, and on the third day not only young people but also the elderly, including mothers, who prayed with rosaries, were on the street.*[627]

464. Further arrests and torture followed these demonstrations, as Indonesian intelligence agencies redoubled their efforts to control the youth clandestine movement.[628]

Jakarta opens Timor-Leste

465. When President Soeharto signed a decree in December 1988 allowing Timor-Leste "equal status" with the other 26 provinces of Indonesia, the territory which had been essentially closed to international visitors was opened.[629] This presented a new opportunity for East Timorese people to make contact with the world. Although far from the Asian tourist trail, between 1989 and 1991 over 3,000 international visitors came to Timor-Leste. These included journalists, NGO workers and activists traveling on tourist visas, who carried information both ways and who often became outspoken advocates after witnessing the situation inside Timor-Leste (see Vol. II, Part 7.1: The Right to Self-Determination).

466. In September 1990, Australian lawyer and trade unionist Robert Domm travelled into Timor-Leste and with the help of clandestine networks interviewed Xanana Gusmão in his mountain hideout. The interview was the first ever direct interview with the guerrilla leader. It was broadcast by the Australian Broadcasting Commission and significantly increased Xanana Gusmão's international profile and status.[630] Indonesian military reprisals against those suspected of helping to organise this interview were harsh.

467. The number of East Timorese studying and working in Indonesia also increased as a consequence of the opening up. This enabled East Timorese nationalists in their ranks to build links with both Indonesian civil society and with internationals whether working in or visiting Jakarta, including media representatives. This was to have a profound impact on both East Timorese and Indonesian human rights and pro-democracy activist movements in the 1990s.[631]

International developments toward the end of the decade

The Timor Gap treaty

468. On 11 December 1989, the Australian and Indonesian governments signed a treaty on the exploitation of the Timor Gap natural resources. This was not a surprise to Xanana Gusmão, who had previously been roundly critical of the

Australian government in messages since 1986, when he suggested that Australia was seeking a solution to the Timor-Leste question in order to secure the resources of the Timor Sea.[632] Human Rights organisations, journalists and activists around the world criticised the treaty, and it became the source of a running dispute. The signing ceremony was conducted in an airplane over the Timor Sea, and the photo of the respective Foreign Ministers Gareth Evans and Ali Alatas became a favourite tool of the international solidarity movement in its efforts to highlight the injustices of the issue of Timor-Leste.*

End of the Cold War

469. The fall of the Berlin Wall on 9 November 1989 dramatically signalled the end of the Cold War. This also brought to an end the geopolitical context that prevailed from the time of the invasion in 1975. The social movements for freedom across the world excited many East Timorese people. The dogma adopted by many in the international community that the Indonesian occupation and integration of Timor-Leste was irreversible, despite its illegality, seemed less defensible. The world was changing.

Turning Points

Overview

470. The East Timorese independence movement was transformed in the 1990s. The focus moved from the guerrilla campaign to a diplomatic campaign, with strong support from student groups in Timor-Leste and Indonesia and growing international support. This shift was aided by three pivotal events: the Santa Cruz Massacre, the capture of Xanana Gusmão, and the award of the Nobel Peace Prize to Bishop Belo and José Ramos-Horta.

471. The Santa Cruz Massacre of 12 November 1991 changed permanently the way the world perceived the Indonesian occupation of Timor-Leste. Filmed by foreign media who were present for the planned visit by the Portuguese Parliamentary delegation, the images of the cold-blooded mass killing of young people mobilised a new era of the international solidarity movement and made it impossible for governments to simply ignore the violent oppression in Timor-Leste. It showed too the disaffection of East Timorese young people with the Indonesian regime which claimed to be winning their hearts and minds.

472. Xanana Gusmão was captured in November 1992. Tried and sentenced to life imprisonment, he continued to lead the Resistance from Cipinang Prison in Jakarta. The Resistance widened diplomatic moves based on an unconditional willingness

* The treaty was replaced by the Timor Sea Arrangement between Australia and the newly independent Timor-Leste on 20 May 2002.

to dialogue with Indonesia. The CNRM Peace Plan was launched in 1993 to further these efforts. Xanana Gusmão was increasingly accepted by the international community as an important figure in the search for a peaceful solution. After Santa Cruz, UN-sponsored tripartite talks between Portugal and Indonesia were revived.

473. Throughout the 1990s, the student movement in Timor-Leste and Indonesia strengthened and became more central to the independence struggle. Inside Timor-Leste activists continued to face repression, but struggled to have their voice heard. In Indonesia, East Timorese students built lasting relationships with Indonesian human rights and pro-democracy activists and conducted a range of effective campaigns to raise international awareness of the continuing struggle for self-determination.

474. In October 1996, the Nobel Committee announced the award of the Peace Prize to Bishop Belo and José Ramos-Horta in what proved to be a huge boost for the struggle for self-determination. Kofi Annan took up his post as Secretary-General of the UN in January 1997, and brought a reinvigorated approach to resolving the issue of Timor-Leste.

The Santa Cruz Massacre, 12 November 1991

475. The massacre of East Timorese young people at the Santa Cruz cemetery by Indonesian soldiers on 12 November 1991 was a turning point in the Timorese struggle for international recognition. For the first time since the invasion of 1975, Indonesian military brutality against civilians was captured on film by international media. Smuggled out of the territory in the days after the initial massacre, this footage was shown on televisions around the world and revealed a truth about the Indonesian occupation that Jakarta had suppressed. The violent oppression by the Indonesia military of ordinary East Timorese could no longer be credibly denied.

476. The Commission heard from former senior UN official Francesc Vendrell on the impact this had at the United Nations:

> *The Santa Cruz incident was a major historical event for East Timor and brought the whole issue of East Timor back to the political scene at the United Nations. Therefore we should think of those who died in the Santa Cruz Cemetery as heroes of the independence struggle for East Timor.*[633]

477. Events at the Santa Cruz cemetery on 12 November 1991, and the days that followed are covered in specific parts of this report (See Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment; and Vol. III, Part 7.7: Rape, Sexual Slavery and Other Forms of Sexual Violence). José Ramos-Horta told the Commission that the film footage shot by Max Stahl of this event was critical evidence, after which people could no longer accuse him of fabricating stories of the violent suppression of East Timorese expressing their hopes for self-determination and independence.[634]

478. In the weeks before the massacre, activists in Timor-Leste were preparing for a visit from a delegation from the Portuguese Parliament.[635] There were rumours of a possible meeting between the delegation and Xanana Gusmão, and expectations were high. The clandestine movement prepared for protests. One group of young people painted banners in the grounds of the Motael Church on Dili's waterfront. The group was monitored by Indonesian intelligence and an altercation with Indonesian military took place on 28 October and one of the members, Sebastião Gomes, was shot and killed. Although the visit of the Portuguese delegation was cancelled, on 11 November the UN Special Rapporteur on Torture, Pieter Kooijmans was in Dili. The clandestine movement decided to proceed with a demonstration to commemorate the killing of Sebastião Gomes following the funeral service at the Motael Church on the morning of 12 November 1991. There were strict efforts to ensure the demonstration remained peaceful and disciplined.[636]

479. Indonesian soldiers, police and intelligence agents lined the streets of Dili for the march from Motael Church, along the waterfront and south to the Santa Cruz cemetery. Some demonstrators marched all the way from Motael, others joined along the way and still more at the cemetery itself. Banners were unfurled calling for the UN's involvement in Timor-Leste, supporting Xanana Gusmão and self-determination. Tensions were high, as this outspokenness was unprecedented. Accounts differ, but along the route an Indonesian soldier was stabbed and taken away injured. The Indonesian official account of events explains that this provoked the fury of the military in the massacre that followed. However, the evidence does not support this conclusion. Shooting started once students arrived at the Santa Cruz cemetery. Soldiers opened fire with automatic weapons into the unarmed and peaceful crowd, many of whom fled into the grounds of the cemetery. The Commission heard testimony about soldiers then surrounding the cemetery, entering and killing previously unharmed or lightly injured people by bayoneting them.[637] Simplicio Celestino de Deus, a survivor of the massacre, told the Commission:

> *Many were killed in the cemetery but many more were killed outside the cemetery while they were running away or were taken from their hiding places in homes and other places, and murdered.*[638]

480. Many young people were taken away in trucks, to the Wirahusada military hospital in Lahane, Dili, to interrogation centres, or simply to be killed. Hundreds of young people ran to Bishop Belo's residence seeking refuge. Bishop Belo contacted Governor Mario Carrascalão and went to Santa Cruz where he saw the bodies of the killed and wounded, and later visited the Wirahusada military hospital where he saw the results of severe beatings.[639] The Commission heard testimony of what was referred to as a series of killings over the days that followed as Indonesian security forces hunted down those they suspected of involvement in the protest.[640] It was also told about disappearances not yet resolved, and of sexual violence against young women at Santa Cruz.[641]

481. After the Santa Cruz Massacre, Renetil (Resistência Nacional dos Estudantes de Timor-Leste, Timor-Leste Students' National Resistance) and Felectil (Frente Estudantil

Clandestina de Timor-Leste, Clandestine Student Front of Timor-Leste) conducted a protest outside the office of the UN representative office in Jakarta. [642]

482. In the days and months that followed hundreds were detained. The Commission headquarters in the former Balide Prison was used to hold many people, and the room where this took place has been commemorated as the Santa Cruz room. Some were brought to trial and sentenced to long terms of imprisonment.[643] The Commission heard testimony from Indonesian lawyer Luhut Pangaribuan and activist Ade Rostina Sitompul, who travelled to Dili after the massacre, about the efforts of Indonesian human rights lawyers to defend these detainees and of the unfairness of these proceedings.[644]

483. Independent estimates put the number killed as high as 271, with 250 listed as missing.[645] Hundreds were arrested and detained in the aftermath. An Indonesian enquiry (Komisi Penyelidikan Nasional, KPN) established to investigate the massacre failed to meet expectations. It initially determined that 19 people were killed at Santa Cruz, and in the face of international outcry at this cover-up increased its figure to 50. Further evidence that senior members of the Indonesian military leadership condoned the massacre came on 14 November when the Indonesian Armed Forces Commander Try Sutrisno was quoted as telling graduates at the Indonesian military academy that:

> Delinquents like these have to be shot, and we will shoot them.[646]

484. The Commission conducted a survey of neighbourhoods in Dili and generally recorded information about the Santa Cruz Massacre through its statement-taking process. Through this process the Commission also received testimony about further killings and disappearances by the Indonesian military against those suspected of involvement in the demonstration, including in the districts. For example, in Sorolau (Ainaro, Ainaro) four clandestine activists were killed by soldiers identified as members of Kopassus and East Timorese Milsas.[647] On the basis of its research, while the Commission has no way of judging exactly how many people are still missing, it believes that a figure of 200 is not an unreasonable estimate. The Commission noted in its hearings and other activities that the Santa Cruz Massacre remains an unresolved matter of great significance to many individuals and families, and to the nation as a whole, and believes that a more comprehensive investigation than its own is required (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

The international impact of Santa Cruz

485. News of the massacre at Santa Cruz circulated around the world quickly, and led to a dramatic rise in solidarity action. Many foreign journalists and NGO workers had travelled to Timor-Leste expecting the Portuguese mission. A number of these had witnessed the massacre and played a critical role in telling the world in the months and years that followed, including testifying at the UN Human Rights Commission. José Ramos-Horta told the Commission that the massacre galvanised Portugal, where there were mass protests and calls for action by the United Nations (see Vol. II, Part 7.1: The Right to Self-Determination, section on Civil Society).

486. Some governments, notably Australia, worked to support the Indonesian explanation that this was an uncharacteristic action by "rogue elements" within the military. Despite this, the massacre and the focus it brought to the wider issue of Indonesia's occupation of Timor-Leste was a public relations disaster for Indonesia. The 12th of November became a rallying day for East Timorese in the diaspora and human rights activists in countries throughout the world right up to 1999, with anniversaries being marked by demonstrations and vigils.*

The capture of Xanana Gusmão

487. Xanana Gusmão was captured by the Indonesian military on 20 November 1992, in a house in Lahane, Dili.† News spread rapidly across Timor-Leste and throughout the world. He was initially taken to Bali, and the first concerns of supporters were for his physical safety. In Dili, those suspected of sheltering him were detained and subject to severe torture.[648] An international campaign to pressure Indonesia to secure his well-being moved into action. Xanana Gusmão was shown in an interview on Indonesian television on 25 November apparently recanting the Resistance struggle. He was returned to Dili for his trial in May 1993, and on 17 May he stood to deliver his defence. The trial judge interrupted him only minutes after he began, declaring that his defence was "irrelevant". He was sentenced to life imprisonment and taken to the high security Cipinang prison in Jakarta (see Vol. III, Part 7.6: Political Trials). However, Xanana Gusmão's 27-page defence statement was smuggled out of the territory and disseminated internationally. He rejected Indonesia's claim over Timor-Leste and reiterated the struggle for self-determination of the East Timorese people.

488. The capture of Xanana Gusmão was a major blow to the Resistance, and Indonesian authorities were confident it would spell the end of the independence struggle. However, it ultimately created the conditions for him to emerge as a world statesman. After 17 years in the mountains and forests of Timor-Leste, he continued to lead the Resistance from his prison cell. Xanana Gusmão told the Commission that he learned much in his time in Cipinang Prison, where he was held with Indonesian political prisoners from across the archipelago. He told the Commission that this experience gave him:

> *The opportunity to gain a better knowledge of the Indonesian people's struggle for democracy and freedom. This helped me start to reduce and then eliminate the hatred that had accumulated in my heart while in the jungle for 17 years. I came to understand the common objectives that unite us with the Indonesian people…This understanding enabled me even to talk with former enemies and Indonesian generals.*[649]

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* On 9 April 2005, Indonesian President Susilo Bambang Yudhoyono became the first Indonesian head of state to visit Santa Cruz Cemetery, in a gesture of recognition and reconciliation.

† Xanana Gusmão was captured in the house of Aliança Araújo. Over the years he had travelled secretly to Dili for meetings on many occasions.

The student clandestine network

Inside Timor-Leste and the rise of paramilitary forces

489. Throughout the 1990s the urban youth clandestine movement grew, taking great risks to deliver information and to hold demonstrations when foreign visitors were present in Timor-Leste. The Indonesian security apparatus continued its heavy-handed approach to youth resistance, and in the 1990s shifted its strategy in an effort to combat this growing movement. From the mid-1990s, a new focus was brought to paramilitary and intelligence operations in the territory. Armed groups which became known as "Ninja" squads roamed the streets of Dili after dark, creating a sense of terror among the population as people disappeared in these covert operations.[650] The riot police, Brimob, became a ubiquitous and violent presence, especially in Dili where student demonstrations were most common.

490. During these years there were a number of pressure points which could spark confrontation between East Timorese young people and the Indonesian security forces. Religion was sometimes used to provoke violence. In Remexio (Aileu) in June 1994, an Indonesian soldier attended a Mass and desecrated the Eucharist. Two weeks later at the University of East Timor (Untim), hundreds of students protested, calling for independence.[651] Rivalry between East Timorese and migrants from Indonesia could prompt violent clashes. In Baucau in January 1995, tensions between migrants from Sulawesi and local people erupted in the central market. In trying to quell the riot, the Indonesian military shot several people, and later conceded three died.[652] Days later, on 9 January 1995, students at Untim marked the day of tripartite talks in Geneva with a protest calling for the release of Xanana Gusmão and for the UN to implement its resolutions on Timor-Leste. Visiting foreigners witnessed this demonstration and the subsequent crackdown, in which 16 demonstrators were detained and later tortured.[653]

The student movement in Indonesia

491. Links between East Timorese nationalists and Indonesian human rights activists were initially fostered in the 1980s when Timorese political prisoners were held in prisons in Java.[654] The student organisations Renetil and Impettu played an increasingly important role in the 1990s in developing and widening these relationships. Initially East Timorese student activists became involved in Indonesian protest movements on such issues as the Kedungombo dam land struggle in central Java in 1990. Indonesian human rights activist Nugroho Katjasungkana told the Commission of the preoccupation of Indonesian activists with bringing down the corrupt and unjust Soeharto regime in the 1980s. He recalled East Timorese involvement in these actions, noting that:

> *Timorese involvement in the fight for democracy in Indonesia preceded Indonesians' involvement in the fight for Timor-Leste's self-determination.*[655]

492. Renetil developed a strategy of what it called the "Indonesianisation" of the conflict.[656] East Timorese students became active in the emerging Indonesian pro-democracy* movement,[657] and the East Timorese flag was often seen at protests for change in Indonesia during the 1990s.[658] Indonesian groups, previously preoccupied with their own pro-democracy agenda and unaware of the situation in Timor-Leste gradually came to identify the problem of Timor-Leste with the root cause of their own problems, Soeharto's New Order regime.[659]

493. Indonesian groups supporting self-determination for Timor-Leste formed in a number of cities across Java, especially after the Santa Cruz massacre.[660] In Jakarta in 1991, several non-government organisations formed the Joint Committee for the Defence of East Timor, which in 1998 was replaced by Fortilos (Forum Solidaritas Rakyat Timor Lorosae). In 1995 in Jakarta, SPRIM (Solidaritas Perjuangan Rakyat Indonesia untuk Maubere, People's Solidarity Struggle for Maubere) was formed and then in 1997 Solidamor (Solidaritas untuk Penyelesaian Damai Timor Timur, Solidarity for Peaceful Resolution for East Timor). In Kupang in 1998, university student activists and NGOs formed Forsolidareste (Forum Solidaritas Timor Leste, East Timor Solidarity Forum). Indonesian and many Timorese activists linked Indonesian democratisation as a precondition to East Timorese self-determination. Wilson B. Nurtias of the Indonesian solidarity group SPRIM said that the Indonesia and Timor-Leste people were "passengers of a ship, who were facing the same pirates."[661]

494. In the mid-1990s East Timorese students used a tactic that was to turn many foreign embassies in Jakarta into virtual fortresses. As early as 1989, young East Timorese people had sought political asylum in embassies in Jakarta in fear of violence by Indonesian security forces.[662] In the 1990s, the tactic was used as part of a strategy to bring media attention to the continuing struggle to internationalise the issue of self-determination. The most spectacular of what became known as the fence-jumping actions took place in 1994, during the Asia Pacific Economic Cooperation (APEC) summit of regional leaders. With the APEC meeting taking place in Bogor, near Jakarta, and world media assembled to cover the story, 29 East Timorese students jumped the fence into the US Embassy in Jakarta on 12 November and demanded to meet the visiting President Clinton. For days besieged East Timorese students took the front pages of the press, in Jakarta and around the world, with their calls for the release of Xanana Gusmão and for self-determination for Timor-Leste. Although they did not meet President Clinton, negotiations were completed and they were granted political asylum in Portugal. This was a stunning public relations success organised by Renetil.[663]

495. Other embassy fence-jumping actions took place in following years, until the embassies of Jakarta took security measures to prevent East Timorese students

* Prominent university-based pro democracy groups included FKMJ, (Forum Komunikasi Mahasiswa Jember, Jember Students Communication Forum), SMID (Solidaritas Mahasiswa Indonesia untuk Demokrasi, Indonesian Students Solidarity for Democracy), and KPRP (Komite Perjuangan Rakyat untuk Perubahan, People's Committee of Struggle for Change).

entering their premises. In November 1995, five men entered the French Embassy and were granted asylum in Portugal.[664] And on 7 December 1995, a number of young men jumped the fence into the Dutch and Russian embassies to draw attention to the anniversary of the Indonesian invasion of Timor-Leste. Interviews conducted by the Commission indicate that these were part of a well-coordinated strategy by Renetil, which was operating with direct links to the leadership of Xanana Gusmão in Cipinang Prison.[666]

496. During the 1990s members of Renetil moved to occupy controlling positions in the state-sanctioned East Timorese student organisation Impettu, membership of which was compulsory for East Timorese students. This move enabled Renetil members to organise openly as Impettu members and by the mid-1990s Renetil members effectively controlled Impettu.[667] As the call for regime change grew louder towards the late 1990s, the Impettu branches united under a single leadership, the DPP Impettu (Dewan Pimpinan Pusat Ikatan Mahasiswa, Pemuda, dan Pelajar Timor Timur, Impettu Central Leadership Council), which was headed by the Renetil Deputy Secretary-General.[668]

CNRM Peace Plan and diplomatic initiatives

497. In the early 1990s the CNRM actively sought dialogue with Indonesia. With the support of international NGOs and civil society groups, the Timor Talks Campaign was launched (see Vol. II, Part 7.1: The Right to Self-Determination). In 1993 the CNRM proposed a three-phase plan for peace, based upon demilitarisation of Timor-Leste, a period of transitional autonomy, and ultimately an act of self-determination to determine the permanent political status of the territory. It presented the Peace Plan first to the European Union and then the United Nations, demonstrating the significant rise in active support by Portugal. The Indonesian government rejected the plan. Nevertheless it remained on the table throughout the 1990s as a focus of the CNRM's diplomatic efforts and as a mark of its willingness to seek a solution through dialogue.[669] Meanwhile Portugal resumed talks with Indonesia in 1992, after having broken off relations after the Santa Cruz Massacre in November 1991.

498. José Ramos-Horta continued his diplomatic campaign based on the Peace Plan. While Indonesia was under increasing pressure following the revelation of the Santa Cruz massacre, and there was some international interest in achieving a solution on Timor-Leste, it remained in a relatively strong position in the early 1990s. Portugal and Indonesia resumed the tripartite talks under the auspices of the UN Secretary-General. However, the Commission heard from former senior UN official Francesc Vendrell that these early and mid-1990s were years in which Ramos-Horta had to struggle to avoid a bad diplomatic solution for Timor-Leste.[670] With the support of East Timorese in the diaspora, and the increasingly broad-based international solidarity movement, he worked hard to increase the international profile of CNRM leader Xanana Gusmão and to convince world leaders that a political solution was possible.

The International Court of Justice case: Portugal v Australia, 1991–1995

499. In 1991 Portugal took Australia to the International Court of Justice over the so-called Timor Gap treaty signed with Indonesia in 1989. It could not take Indonesia to this court, as Indonesia had not accepted the Court's jurisdiction. The decision was handed down in 1995, and although while the case did not result in overturning of the treaty, it provided an important statement in support of Timor-Leste's continuing right to self-determination.[671]

500. Portugal argued that Australia was violating international law by contracting with Indonesia to divide up the natural wealth belonging to the people of Timor-Leste. Portugal said that this violated its right as the administering power of the non-self-governing territory, and also the right of the people of Timor-Leste.

501. Due to a technicality most judges said that they could not hear the case. The issues of the case all revolved around the legality of what Indonesia had done and was continuing to do in Timor-Leste, and so they said they could not hear the case if Indonesia was not a party. However, two judges did not agree with this view and they gave strong dissenting opinions. They examined the merits of the case and gave important findings on the obligations of States in relation to the right of self-determination in the Timor-Leste context. Judge Weeramantry and Judge Skubiszewksi both recognised the East Timorese people's continuing right to self-determination. They also cautioned that States entering such a treaty had a duty to consult the peoples of Timor-Leste and the administering power (Judge Skubiszewksi), and that such a treaty may be in breach of obligations imposed upon them by general principles of international law (Judge Weeramantry).[672]

The Nobel Peace Prize, 1996

502. The award of the 1996 Nobel Peace Prize jointly to Bishop Belo and José Ramos-Horta was a seminal moment in the struggle of the East Timorese people for international recognition. It validated the struggles of both men, whose experience in the years of Indonesian occupation was very different but who shared a vision of East Timorese identity and human dignity. It also countered years of efforts by Indonesian authorities to undermine the credibility of both men, and opened the doors of world leaders to them and to the cause of Timor-Leste.

503. The 1996 presentation speech to the two recipients spoke of the conflict:

> The conflict in East Timor has been called "the forgotten conflict"… Rarely has the cynicism of world politics been more clearly demonstrated…This year's two Peace Prize Laureates, Carlos Filipe Ximenes Belo and José Ramos-Horta, have laboured tirelessly, and with great personal sacrifice, for their oppressed people. Under extremely difficult conditions, they have preserved their humanity and faith in the future.[673]

504. In his acceptance speech Bishop Belo spoke of his hopes that the prize would advance the cause of Timor-Leste:

> I firmly believe that I am here essentially as the voice of the voiceless people of East Timor who are with me today in spirit, if not in person. And what the people want is peace, an end to violence and the respect for their human rights. It is my fervent hope that the 1996 Nobel Prize for Peace will advance these goals. [674]

505. With the Nobel Peace Prize behind him, José Ramos-Horta embarked on an ambitious diplomatic campaign. In early 1997 he travelled to South Africa. In July that year when President Mandela met with President Soeharto in Jakarta, he asked to meet with the imprisoned Xanana Gusmão. President Soeharto initially refused the request, saying that Gusmão was a common criminal. When the South African President reminded Soeharto that others used to say that of him, he relented. News of the private meeting reached the world press, and raised Xanana Gusmão's international profile as a statesman for peace.

506. Inside Timor-Leste the Nobel Peace Prize demonstrated to the East Timorese people that they had not been forgotten by the international community, and raised hopes for international assistance in seeking a solution to the conflict.

The United Nations

507. In the mid-1990s there was a change of personnel working on the Timor-Leste issue at the UN New York headquarters. Francesc Vendrell became Director first for South East Asia and the Pacific and subsequently for Asia and the Pacific. The officer in charge of the Timor-Leste dossier was Tamrat Samuel. Vendrell and Samuel remained the key Secretariat officers working on Timor-Leste until the Popular Consultation in 1999. Francesc Vendrell told the Commission of the resumption of the tripartite talks and of his and Tamrat Samuel's efforts to involve the East Timorese in discussions about the future of the territory.[675] In January 1994, Tamrat Samuel met with Xanana Gusmão in Cipinang prison, as did Vendrell in December that year. In 1994, they also travelled to Timor-Leste to meet directly with East Timorese from all political backgrounds, as well as Catholic priests and nuns. Vendrell reflected:

> *One of the most moving things was the enormous faith that everybody had in the United Nations…the feeling of responsibility that I think both Tamrat and I had, that we had to do our best on behalf of a people who could rely only on the UN for support.*[676]

508. Francesc Vendrell told the Commission of the difficulty for the United Nations when the people of Timor-Leste themselves were outside the discussion process of the tripartite talks. This obstacle prompted the initiative for the All-Inclusive Intra-East Timorese Dialogue (AIIETD). The idea, as Vendrell explained to the Commission, was that:

[If] they [East Timorese] came together and they were left on their own, they might find that they had a great deal in common and might reach a joint proposal on East Timor.[677]

509. Indonesia agreed to this mechanism, though it insisted that the AIIETD not be allowed to discuss the political status of Timor-Leste. The first AIIETD was held in Austria in June 1995, with participants from all political backgrounds. Bishop Belo also attended the meeting, though Xanana Gusmão remained in prison in Jakarta. Three subsequent meetings of the AIIETD were held, in March 1996, October 1997 and October 1998. Although the meetings did not result in practical plans or formal outcomes, for the first time since 1975 the United Nations was involved in bringing East Timorese from all backgrounds together to discuss their differences and seek some common ground.

510. Kofi Annan took up his post as the new UN Secretary-General in January 1997, and brought renewed focus to the issue of Timor-Leste. In February 1997 he appointed Pakistani diplomat Ambassador Jamsheed Marker as his Personal Representative on East Timor (PRSG). This greatly enhanced the work of Francesc Vendrell and Tamrat Samuel in the UN Secretariat, and this team visited Portugal, Indonesia and Timor-Leste in the increasingly turbulent times of 1997 to 1998.

From Reformasi to announcement of the Popular Consultation

Overview

511. Events in 1997 moved fast. The Asian financial crisis had engulfed Indonesia by late 1997. This crisis exposed the corruption and mismanagement of the Soeharto regime. Jakarta and other cities in Indonesia were rocked with popular protests calling for his downfall and for widespread reforms in what became known as Reformasi. East Timorese students played an active part in these demonstrations. On 21 May 1998 Soeharto resigned, and his Vice-President B.J. Habibie took over as President.

512. In the meantime, diplomatic activity was hectic after the 1996 Nobel Peace Prize and Xanana Gusmão enjoyed a regular flow of visitors representing world leaders and key organisations in his Jakarta prison cell. The Resistance reorganised and held a landmark conference in Peniche, Portugal in April 1998 where the CNRM was transformed to become the Conselho Nacional da Resistência Timorense (National Council of Timorese Resistance, CNRT). This aimed to broaden the base of the movement for independence.

513. In Timor-Leste, the atmosphere of Reformasi and the apparent lightening of military control encouraged open discussion of the political status of the territory

for the first time in the years of Indonesian occupation. Calls for a referendum to allow the people of Timor-Leste to determine their future gained momentum throughout the latter half of 1998. However, by end of the year the Indonesian military had repositioned themselves. Apparent troop withdrawals were shown to be bogus, and by late 1998 there was mounting evidence of a TNI strategy to form, arm and fund pro-integration militias across the country to foil any attempt at genuine self-determination.

514. With Soeharto replaced, the UN and the international community stepped up its pressure on Indonesia for a solution to the issue of Timor-Leste. Discussions between Portugal and Indonesia initially centred on a special autonomy package for Timor-Leste, with differing views as to whether this was a solution in itself or a phase in a process of genuine self-determination. In January 1999, President Habibie surprised many in his own administration when he declared that Indonesia would allow the people of Timor-Leste to choose their own future, including independence if it was their wish. Negotiations between Portugal and Indonesia were turned to finalising a mechanism to bring about this choice.

515. In the early months of 1999, while these negotiations were under way, the TNI strategy of developing the armed militia was accelerated. The relative political openness of mid-1998 had disappeared and violence was a constant threat against pro-independence supporters. Massacres in Dili and Liquiçá by the TNI-backed militia shocked the international community, as large numbers of East Timorese people became displaced due to fear of violence.

516. Negotiations between Portugal and Indonesia culminated in what were known as the 5 May Agreements, which set out the modalities for a popular consultation to allow the people of Timor-Leste to accept or reject the special autonomy package; rejection would lead to independence. Indonesia refused to hand over responsibility for security during the ballot and this responsibility was given to the Indonesian police. The international community judged that they could not push Indonesia further on this issue, despite the mounting evidence of Indonesian military and police involvement in the violence against pro-independence supporters.

517. The ballot was set for August 1999, to allow the Indonesian Parliament to ratify the results in its September sitting.

The fall of Soeharto

518. In May 1997 the electoral vehicle of the New Order government, Golkar, was re-elected in national parliamentary elections, winning 74% of the vote.[678] Shortly after this the Asian financial crisis erupted in Thailand in July 1997 and quickly engulfed Indonesia. In the wake of the Rupiah's crash to 18,000 to the US dollar by January 1998 and an IMF bailout, Soeharto was re-appointed as President by the MPR (People's Consultative Council) in March 1998. When he formed a cabinet regarded by many as dominated by cronies of the regime, popular protest was

inflamed. The pro-democracy movement's calls for regime change gained some support from members of the Indonesian elite. In May, MPR leader Harmoko responded positively to reformist demands, while military chief General Wiranto expressed military support for reform. Two of Indonesia's emergent opposition leaders, Megawati Soekarnoputri and Amien Rais, indicated their readiness to assume power.

519. Popular pressure exploded during May, resulting in Soeharto's downfall. The Indonesian Human Rights Commission subsequently found the violence of this period to have been orchestrated, identifying 20 military officers and civilians as being behind the riots.[679] By 18 May, with the DPR (People's Representative Council) occupied by students, Soeharto had lost most of his support. The DPR called for his resignation. By the evening of 20 May General Wiranto also urged his resignation, and on 21 May Soeharto stepped down from the presidency.

520. These events gave Indonesia a new head of state, President B.J. Habibie, who quickly implemented a remarkable array of reforms. The pre-eminent slogan of the period was "Corruption, Collusion and Nepotism", known colloquially in Indonesia as KKN (Kolusi, Korupsi, Nepotisme), and which summed up what were perceived as the most pervasive ills of the Soeharto regime. Civil society also raised other issues such as the need to oppose militarism and for an end to impunity of the military. The agenda of reform affected Indonesia in many ways. The composition of Indonesia's political elite changed, and although many politicians with connections to Soeharto's regime survived his fall a number of new politicians came to prominence. This brought a level of pluralism to political debate that had long been suppressed during Soeharto's reign. In addition, media freedoms and a vigorous public debate ensured that a wide range of issues were openly considered and that many of these received political attention that led to change.

521. President Habibie was considered by many to be a caretaker President. As Soeharto's vice-president he was closely associated with the New Order regime, though he had no major constituency or power base within that regime. As President, he had to step carefully between the powerful military and major religious groups such as the Islamic organisations as well as negotiate the movement for reform. In his Cabinet he maintained Wiranto as both head of the military and the minister of defence.

522. Many in the international community had considered the idea of Timor-Leste's political status a closed issue as long as President Soeharto was in power. With his departure and in the climate of reform within Indonesia suddenly there was room for discussion.

523. The idea of a special autonomous status for Timor-Leste was not new, but under Soeharto was never considered seriously. Perhaps no one knew better than long-serving Foreign Minister Ali Alatas the problems Indonesia's position on and actions in Timor-Leste caused for his country in the international arena. He had previously argued for a change in Timor-Leste's status within Indonesia, proposing

special autonomy for East Timor as one possible solution. Soeharto had rejected his ideas.[680] On 6 June 1998, the Cabinet's Political and Security Committee supported a proposal for "wide-ranging autonomy" for Timor-Leste, provided the international community continued to recognise Indonesia's sovereignty. Foreign Minister Alatas took this proposal to President Habibie on 8 June and to the Cabinet on 9 June. President Habibie unexpectedly announced it to international media on 9 June.

524. Within nine months, this idea of offering a special autonomy package to Timor-Leste was to be transformed into formal Indonesian acceptance of a full act of self-determination by the East Timorese people.

The CNRT and the diplomatic campaign

525. Doors opened for José Ramos-Horta around the world after he was awarded the Nobel Peace Prize, and he worked hard to use this to build support for the diplomatic campaign for independence. It also lent an international dimension to Bishop Belo's outspoken defence of East Timorese human rights, and greatly raised international attention to Timor-Leste.

526. After the 1997 meeting with South African President Nelson Mandela, Xanana Gusmão's international credentials were raised and this led to a procession of high profile visitors to his Cipinang gaol cell throughout 1998 and into 1999.

527. In April 1998, the Resistance achieved a milestone in its development, when leaders from all major East Timorese political parties and non-political organisations, including the Catholic Church, met at Peniche in Portugal and formed the CNRT. Xanana Gusmão was elected President, with Ramos-Horta Vice-President and his personal representative. The formation of the CNRT completed the gradual transformation of the Resistance from a single party entity based on Fretilin into a genuinely broad-based organisation including students, NGOs and members of the Catholic Church.

528. The establishment of the CNRT positioned the Resistance well to deal with events as they rapidly unfolded in the South-East Asian region and Indonesia in particular (see Vol. II, Part 7.1: The Right to Self-Determination).

The impact of Reformasi in Timor-Leste

529. President Habibie's public announcement of the proposed new status for Timor-Leste, combined with the optimistic air of calls for reform, released profound public support for independence in the territory.

530. On 9 June 1998 in Dili, a public meeting to discuss the territory's future was attended by a wide range of representatives of East Timorese aspirations, including both guerrilla commanders and staunch integrationists, CNRT leaders, members of civil society and the clandestine movement. Also in attendance was the pro-integration governor, Abilio Soares, whose presentation of the proposed special

status for Timor-Leste was not well received. Many perceived this to be a half-measure, and the meeting resolved to call for a referendum to allow the people to choose their future.

531. On 23 June, a large demonstration in Dili publicly called for independence. Concerned at the possible consequences of such open behaviour, Bishop Belo and the CNRT leadership quickly urged moderation, and reiterated their desire for a transitional period prior to any question of independence.

532. From June, student groups* boldly fronted the emerging public debate, leading large demonstrations in both Timor-Leste and Indonesia. In July, the newly formed East Timor Student Solidarity Council (Dewan Solidaritas Mahasiswa Timor Timur, ETSSC) directed groups of students to travel across Timor-Leste to conduct village-level dialogues, explaining recent developments and canvassing popular opinion. Defying military opposition to the process in some areas, they heard strong calls for withdrawal of the TNI and for a referendum.[681]

533. In September, Timor-Leste's two bishops convened a meeting in Dare to promote reconciliation between leading East Timorese figures who supported integration with Indonesia and those who sought independence. The CNRT openly declared itself as a public legal entity in September, moving into an office in south Dili. Student demonstrations protesting the military and demanding a referendum occurred regularly throughout this period. This openness was unprecedented in all the years of the Indonesian occupation. The TNI in Timor-Leste remained watchful, but was restrained and did not act directly against these demonstrations.

Emergence of the militias

534. Towards the end of 1998, tensions began to rise and the openness of the previous months came under pressure. In early October, a Timorese pro-autonomy group pressured the Governor to force the resignation of civil servants who had joined Forsarepetil, (Forum Sarjana Pro-Referendum dan Pembangunan Timor-Leste), a pro-referendum group of academics and civil servants. This provoked two days of huge demonstrations in Dili in opposition to the Governor's move. Basilio Araújo, a pro-integrationist spokesman, later described to the Commission the background to this decision:

> *We were around 20 people, those of us from that group, and we called ourselves pro-integration…We went to Mr Abilio [Soares, the governor] and pressed him to make a decree regarding people that had already sided for independence: "Enough, take off your shirt as a freedom fighter, and don't work for the government, don't be two-faced." Mr Abilio made the decree, but was pressured by the central government and subsequently retracted it.*[682]

* Renetil and Impettu in Indonesia; ETSSC in Timor-Leste.

535. On 8 August, a highly publicised troop withdrawal contributed to the perception that the situation in Timor-Leste was improving. Indonesia claimed it had fewer than 6,000 troops in the territory, and had purportedly withdrawn its special forces (Kopassus) who were widely accused of serious human rights violations.[683] But military documents leaked that month proved the opposite. Troops numbered 21,540, including Kopassus, and rather than the dramatic troop reduction presented to the media TNI's military strength was in fact being steadily increased.[684] The documents showed that the TNI maintained a network of paramilitary groups across most districts. Twelve teams were in place in 11 districts, most of them linked to Kopassus units. These groups formed the basis of the militia that were rapidly recruited in later months.[685] The military later denied that the militias were integrated into its formal structure.

536. The first sign of the future behaviour of these paramilitaries, which were to become known collectively as the militia, came in November when the Indonesian military and members of the ABLAI militia, many of whom were local government officials, responded to a Falintil attack on the Koramil in Alas, in Manufahi District. On 9 November, Falintil had killed three soldiers, abducted 13 others and stolen 36 rifles. The community sought refuge in the Alas church after the attack. On 13 November ABRI retaliated against a Falintil strike and the area was beset by violence.[686] The Indonesian military and the militia raided the church, beating those inside. The military detained civilians throughout the area in an attempt to find the Falintil. The Commission received testimony of torture and sexual violence by the Indonesian military against those held in detention.[687] At least eight people were killed by ABRI or the militia. An ICRC investigation found nine to have died in the retaliation, including the two soldiers killed by Falintil.[688] The killings, coming after months of uneasy openness, prompted angry protests in Dili. After students occupied the parliament building, a fact-finding team was quickly assembled from civil society groups, but it was denied access to the area by the military.[689] International journalists travelled to Alas and observed armed non-military personnel in control, indicating the beginning of the militias' role as the front line of the military campaign against independence.[690]

537. Militia groups had long existed in Timor-Leste. However, the militias emerging in late 1998 and early 1999 were mostly directly linked to the TNI rather than owing their allegiance to *liurai*[*] as had been the practice in the past.[691] Some of these new militias had their roots in the military auxiliary forces[†] fostered by the TNI since the late 1970s. Most militia leaders had extensive links to Kopassus through the various long-standing paramilitary groups in Timor-Leste.[692] An example was Joanico Césario, who became commander of the militia in the eastern area, Sector A,[‡] who had been a military operations auxiliary (TBO) in his childhood.[693] The notorious commander of Sector B, Eurico Guterres, had a background in the Gadapaksi paramilitary in the 1990s.

* Militia in some regions were formed with the influence of *liurai* families, such as the Carvalho family in Cassa.

† These included Hansip, Ratih, Wanra, Kamra (Police), as well as TBO- military operations auxiliaries.

‡ The sector designations (A, B and C) reflected the combat-oriented sectoral command under Kopassus that divided East Timor into three areas.

Another, Joni Marques of Team Alfa in Lautém, had long-term links to Kopassus. The TNI recruited extensively in 1998 and1999 to build on this core leadership.[694] Other militia personnel included West Timorese and East Timorese serving members of the TNI.[695] Some joined under duress. Money and prestige motivated others (see Part 9: Community Reconciliation).

538. The military's role in forming these militias was quickly apparent. A major indicator was that key military personnel in Timor-Leste attended the public inaugurations of militia groups.[696] Militia leaders themselves declared TNI had armed them.[697] Most conclusively, senior TNI officers* themselves declared that they were arming groups.[698] General Wiranto, commander-in-chief of the Armed Forces acknowledged TNI involvement in the militia.[699] This relationship was clear from late 1998 when militia groups began appearing. Military documents later provided conclusive evidence of TNI arms' supplies to militia,[700] and subsequent militia defector Tomás Gonçalves confirmed the involvement of the Kopassus intelligence unit and key military officers Suratman, Sudrajat and Damiri in recruitment.[701]

539. The rapid emergence of the militias and their consistency of behaviour show that a strong organising force stood behind them.[702] This was the TNI, which in the conditions of openness of Reformasi needed a force that could be seen to attack the well-organised East Timorese pro-independence movement. One of the reasons the militia were predominantly armed with crude home-made weapons was to create the appearance of a spontaneous people-based movement. This was a major deception, as the TNI made automatic weapons available to at least some of the militia groups as well as a range of other logistical and security support. [703]

Xanana Gusmão calls for tolerance

540. In late 1998, despite rising tensions from the violence in Alas, Dili residents continued to openly express their desire for change. On 12 November, residents mounted the first public demonstration in commemoration of the Santa Cruz Massacre. That evening people stayed home and lined the streets of Dili with thousands of candles in commemoration of the dead. Xanana Gusmão's New Year message focused on the CNRT idea of transitional autonomy, and argued restraint of the voices calling for an immediate referendum. Above all, he called for tolerance in the face of increasing pressures:

> Let us concentrate on…achieving: an end to military hostilities; a climate of greater political tolerance. This stance aims at preventing further East Timorese casualties. The occupiers are arming the East Timorese and telling them to kill their own brothers and sisters. Instead of allowing ourselves to be consumed by anger, let us make an effort to think in a balanced political manner. Otherwise we will be playing the colonists' game; we will be reinforcing the Indonesian

* District military Commander Supardi on 28 January, and Kodam IX Commander Adam Damiri on 7 February both admitted arming the militias.

> argument that the East Timorese are threatened with a new civil war.[704]

Negotiations on the autonomy package

541. Indonesian Foreign Minister Ali Alatas travelled to New York to present the autonomy idea to UN Secretary-General Kofi Annan on 18 June. In August Indonesia agreed to tripartite talks on special autonomy with the UN and Portugal. The Secretary-General's Personal Representative for Timor-Leste, Ambassador Jamsheed Marker, managed the negotiation process, which aimed to reach agreement on the content of a special autonomy package by the end of the year. The major stumbling block appeared to be the question of whether the proposed autonomy would be a stage toward a full act of self-determination or an end in itself. Portugal viewed autonomy as a transition towards an ultimate act of self-determination, in broad accordance with the long-established CNRM/CNRT plan. Indonesia had a different perspective, and viewed autonomy as a final concession, one which would close the question of Timor-Leste in the international arena. The initial talks focused on the content of the package rather than on this political question.

542. Ambassador Marker also sought to bring the East Timorese leadership into the process. Since his appointment in 1997, Marker had aimed to widen the scope of UN involvement beyond the tripartite talks with Portugal and Indonesia. The AIIETD had been a result of this objective, and Marker had developed working relationships with key East Timorese leaders. The UN consulted Xanana Gusmão, José Ramos-Horta and Bishops Belo and Nascimento, among others, on the details of a blueprint for autonomy drawn up for the UN.

543. Tensions inside Timor-Leste mounted in late 1998. On the one hand there was the popular support for open political dialogue and a referendum; on the other was the military strategy of developing armed pro-integration militia groups to stifle the referendum movement. It was becoming increasingly clear to key international governments engaged on the issue that a special autonomy package itself would not resolve the issue.

544. On 19 December 1998, Australian Prime Minister John Howard wrote a letter to President Habibie, a document that has been viewed as having significant impact on the President's thinking. While Prime Minister Howard reaffirmed Australia's preference that Timor-Leste remain part of Indonesia, he drew a parallel with the Matignon Accords of French New Caledonia and suggested that Indonesia consider implementing the special autonomy with a "review mechanism" that would effectively be a referendum some years into the future:

> It might be worth considering, therefore, a means of addressing the East Timorese desire for an act of self-determination in a manner that avoids an early and final decision on the future of the province. [705]

545. This suggestion of avoiding a quick, final solution to Timor-Leste was in step with the UN, which advocated a five- to seven-year period of autonomy. However, this was seen by Indonesia as a major policy change by their most staunch international supporter, a change that recognised the East Timorese right to self-determination. When the story of Australia's letter became public, Australian Foreign Minister Alexander Downer explained on 12 January 1999 that "our preference would be for an arrangement where East Timor would have a high degree of autonomy but remain legally part of Indonesia.[706]

546. President Habibie and Foreign Minister Alatas were keen to see a resolution on the negotiations with Portugal before Indonesian parliamentary elections due on 7 June 1999, which could lead to the appointment of a new president.* The original of Prime Minister Howard's letter was delivered to President Habibie on 21 January. President Habibie wrote a hand-written memo in the margins which said that:

> If, after 22 years, the East Timorese people cannot feel united with the Indonesian people…it would be reasonable and wise, if by a decision of the People's consultative Assembly, the 27th province of East Timor can be honourably separated from the Unitary Republic of Indonesia.[707]

547. There has been much speculation about the causes for Habibie's shift, and perhaps too much made of the Australian letter and perceived shift of policy. However, it seems clear that President Habibie was mindful of the limited window of opportunity to make an impact on this long-running issue, and that he was more open to the influence of liberal international views than his predecessor and many of those still in powerful positions in Indonesia.

548. On 27 January 1999, before the special autonomy framework had even been finalised, Indonesia announced its policy change: it would give Timor-Leste the opportunity to reject its offer of special autonomy. If the East Timorese people rejected the autonomy package, Indonesia would revoke its June 1976 law incorporating the territory into the Republic of Indonesia. Four powerful TNI generals were members of President Habibie's Cabinet. It is remarkable that they accepted this policy, and the probable explanation is that they were confident a majority of East Timorese voters could be persuaded to favour continued integration with Indonesia.[708]

549. A definitive ballot would provide a firm answer on the Timor-Leste question, an issue that had long been an irritant to Indonesia. General Wiranto advocated that there be no period of transition, a position shared by Indonesian Foreign Minister Ali Alatas who said:

> Why should Indonesia pay, when East Timor doesn't want it? If our proposal is indeed unacceptable, I am not going to give alternatives in which they ask for 5 to 10 years and then a referendum.[709]

* At the time, the President of the Republic of Indonesia was not directly elected but was appointed by the People's Consultative Body (MPR).

550. Xanana Gusmão was removed from the high security Cipinang Prison to house arrest on 10 February 1999. While still held captive and limited in his ability to play a full role in the search for a solution inside Timor-Leste, he received a stream of East Timorese, Indonesian and high-profile international visitors at the house used as his prison in Salemba, Jakarta, and was increasingly accepted as an international statesman. Meanwhile numerous East Timorese political prisoners remained in detention across Indonesia.

Growing militia terror

551. In the weeks preceding President Habibie's 27 January announcement in Jakarta, over 4,000 people had sought refuge at the partially constructed Suai cathedral.[710] They were fleeing violence perpetrated by a militia group based in Cassa (Ainaro), which was to become known as the Mahidi militia (Mati Hidup dengan Indonesia, Life or Death with Indonesia). This group, headed by Câncio Carvalho, a son of the local *liurai* family, carried out a number of brutal killings targeting local CNRT leaders. In one of the worst of these, on 23 January 1999, in the small town of Galitas, a pregnant woman was killed and her baby cut from her belly. [711] Three days later, CNRT wrote to the United Nations Secretary-General:

> It is true that many of these "troops" are East Timorese. What is tragic for us is that this is being portrayed by the authorities as civil war – Timorese against Timorese. We are aware of the divisions in our society. We are also aware of why these divisions exist. We have neither the resources nor the power to control what is happening.[712]

552. Following killings in Mauboke (Maubara, Liquiçá) and on the eve of the killings in the Liquiçá Church, on 5 April Xanana Gusmão issued an angry statement authorising a "general popular insurrection" against the continuing militia violence.[713] The next day the militia killed as many as 60 refugees in the Liquiçá Church, with the presence and involvement of military and Brimob (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances, section on 1999). Senior TNI officers had been seen at the church immediately prior to the event.[714] Militia then killed seven people in Cailaco (Bobonaro) on 12 April. After a mass rally in front of the Governor's office in Dili on 17 April, at which Aitarak leader Eurico Guterres told militia to "capture and kill (independence supporters) if necessary",[715] militia rampaged through Dili. At Manuel Carrascalão's house they killed 12 people.[716] Irish Foreign Minister David Andrews was meeting in Dili with East Timor military commander Colonel Tono Suratman at this time, and observed him receive the report of the massacre and do nothing. The militia also attacked and burnt down the offices of the one newspaper in the territory, *Suara Timor Timur* (STT, Voice of East Timor). Though it had traditionally been a mouthpiece for Indonesian policies, in late 1998 and early 1999, STT had provided a relatively neutral coverage of the rising violence and support for a referendum, enraging staunch pro-integrationists. Amid the rising violence of April, members of the clergy and nuns of the Catholic Church conducted a candle-lit peace march through the streets of Dili in an effort to calm the situation.

553. In each of these cases the killings shared the elements of direct military support or involvement, militia perpetration, the targeting of independence supporters and systematic body disposal by the military that made total deaths difficult to ascertain. These patterns strongly suggest the involvement of the TNI in conducting operations.[717] This violence was designed to create the illusion of a conflict between armed East Timorese. The Liquiçá and Dili massacres were later explained by Colonel Suratman as having been provoked by bullets fired by the pro-independence supporters.[718] However investigations showed that in no instance were the victims found to have been armed.[719]

554. On 20 April, General Wiranto flew to Dili to oversee East Timorese independence and autonomy leaders sign a peace agreement to cease hostilities. This belied the fact that the violence had been the killing of unarmed civilians seeking refuge, and was in no way a conflict between two armed groups. The Peace and Stability Commission (KPS) was established, on which the military, police and civil administration also had seats.[720] CNRT and Falintil representation was included.

The 5 May Agreements

555. The UN tabled a proposal for an autonomy plan in February 1999, named SARET (Special Autonomous Region of East Timor). Indonesia would retain control of foreign affairs, currency, defence and finance, while an East Timorese Regional Council would have wide powers of legislation and control over the police and judiciary. The TNI would be strictly for external defence, and otherwise confined to barracks.

556. In March, Indonesia decided on a direct ballot. It wanted the decision to be irrefutable and final. The ballot was to be called a "popular consultation", avoiding the word referendum that implied self-determination and a sovereign choice for the people of Timor-Leste, which Indonesia insisted had occurred by the 1976 Provisional Government of East Timor's petition for integration and Law No. 7 1976, providing for Timor-Leste's integration into Indonesia as its 27th province.

557. In view of the deteriorating security situation the UN-sponsored talks between Portugal and Indonesia on 22 April discussed security issues for disarming the militia, reducing TNI numbers, confining Falintil to cantons and the provision of civilian police. But Foreign Minister Alatas refused to agree to specifics.[721] Both the US and Australia advised the Special Representative of the Secretary-General, Jamsheed Marker, not to endanger the negotiations by too strong an emphasis on security.[722]

558. On 5 May, Indonesia and Portugal signed a set of agreements on the implementation of the ballot. Indonesia wanted a result before the September meeting of its MPR in order that it could be ratified in Indonesian law. The date agreed was 8 August. This presented a strict schedule and a limited window of opportunity. The agreed wording of the ballot asked the East Timorese people whether they would accept or reject the proposed special autonomy for Timor-Leste within the Unitary State of the Republic of Indonesia. The agreements stressed a "direct, secret and

universal ballot" (article 1), and that "the Government of Indonesia's responsibility for maintaining peace and security…so that a referendum could take place in an atmosphere free of intimidation, violence or interference from either side" (Article 3). They also defined an interim period after the ballot, with an adequate UN presence in Timor-Leste. The SARET guidelines were part of the agreement, with the UN responsible for conducting an information campaign about them. Both Indonesia and Portugal were forbidden to campaign for either option.

Security arrangements under the 5 May Agreements

559. The 5 May Agreements failed to define security responsibilities adequately. The Indonesian police were formally charged with responsibility for security. The police had only recently been separated from the military and were still under overall command of General Wiranto, the minister of defence. The Agreements allocated 300 unarmed international civilian police to support the UN electoral teams, and later augmented these with 50 military liaison officers, who were considered better qualified to deal with the TNI.

560. The Agreements demanded the "absolute neutrality of the TNI", but failed to require the TNI to reduce its numbers or disarm. They stated, vaguely, that the newly formed KPS be responsible for a "laying down of arms".[723] José Ramos-Horta, aware of the shortcomings of these security arrangements, did not attend the signing of the Agreements. He had previously warned the UN, in a letter to Kofi Annan, that Timor-Leste could not feel secure "with 'protection' provided by the very same army and gang of criminals that have turned the country into a hell."[724] The UN was not unaware of the dangers of these terms, and the Secretary-General wrote to Indonesia raising a number of concerns. He indicated his willingness to cancel the ballot if security was not acceptable. However this letter was informal at best and its stipulations were not agreed to by Indonesia. This left the UN weak throughout the process. Ian Martin, Special Representative of the Secretary-General, wrote later that even with a tighter security arrangement the "UN would still have faced the dilemma that lay ahead: whether or not to proceed in security conditions that clearly breached Indonesia's agreements."[725]

561. On 5 May, Army Deputy Chief of Staff Lieutenant General Johny Lumintang sent a telegram to the Bali regional command (Kodam IX Udayana) requesting the preparation of evacuation plans for Timor-Leste.* This led to police and military post-ballot contingency plans for, among other things, evacuation of up to a quarter of a million people from Timor-Leste. The plans indicated TNI's antipathy towards a range of civil society actors, including independence leaders and students, the Church, international observers and the UN, in clear contradiction of the neutrality required by the 5 May Agreements. Neither police nor the TNI informed the UN of the existence of these plans until shortly before the ballot.[726]

* The operational plans included Operasi Cabut [Operation "is lost"]; Korem's Operasi Wira Dharma 99, and Police's Operasi Hanoin Lorosae II [Operation Remember Lorosae II] [Yayasan Hak collection].

Popular Consultation

Overview

562. UN staff began arriving in Timor-Leste in late May 1999, to establish the United Nations Mission in East Timor (UNAMET). During June UNAMET international electoral staff, civilian police and military liaison officers were deployed to all 13 districts of the territory. There was less than four months for the conduct of the Popular Consultation.

563. The level of violence, which had escalated in April, eased somewhat with the arrival of the United Nations and the growing contingent of international media and observers for the ballot. Nevertheless, those responsible for the massacres of April remained at large and tensions remained high. The militia groups across the territory continued to be supported by the Indonesian military and police, and efforts were made to legitimise them within the Indonesian military administrative system.

564. Apparent attempts at peace-building between pro-independence and pro-autonomy representatives proved fruitless, partly because they did not address the role of the TNI in the violence. Falintil unilaterally cantoned its forces. TNI troops were not cantoned, nor were the pro-autonomy militias. Apparent militia disarmament just prior to the ballot was more ceremonial than real.

565. UNAMET delayed the beginning of voter registration due to security concerns in June, and Ian Martin flew to Jakarta to raise these with the head of the Indonesian security forces, General Wiranto. Voter registration proceeded, and in 22 days 451,792 voters registered.

566. Up to 40,000 people had been displaced from their homes due to violence before UNAMET arrived, and due to militia intimidation displacement continued in the weeks leading up to the ballot. The majority of internally displaced people were in the western districts of Bobonaro, Covalima and Liquiçá. Some fled to West Timor before the ballot. In the tense and at times violent atmosphere campaigning was generally a low-key affair. The pro-autonomy groups conducted several large rallies. Pro-independence supporters conducted only one large rally, in the capital on the penultimate day of the campaign period.

567. Originally set for 8 August, the day of the ballot was delayed to 30 August. The day of the Popular Consultation dawned with voters lining up in polling centres well in advance of opening time all across the country. A remarkable 98.6 per cent of registered voters came out to vote. After voting they quickly returned home, reflecting the atmosphere of anxiety.

568. Votes were brought to Dili for counting. In some areas violence against UN staff and pro-independence supporters began toward the end of the day of the vote. In the days that followed the ballot, attacks by the pro-autonomy militia increased. Amid growing threat of violence, UNAMET announced the results of the Popular

Consultation on the morning of 4 September. An emphatic 78.5% of East Timorese voters had chosen to reject the proposal for special autonomy within the Republic of Indonesia, with 21.5% voting for special autonomy.

UNAMET deployment

569. United Nations officials arrived in Timor-Leste soon after the signing of the 5 May Agreements, to assess the situation and the support needs for the electoral mission. UNAMET staff started work in late May, and on 4 June the United Nations flag was raised at its compound in Dili. UNAMET staff arrived throughout June, comprising civilian electoral officers, unarmed civilian police and unarmed military liaison officers from nations across the world.* East Timorese staff, of whom there were around 4,000 for polling day, played key support roles in interpretation, administration and logistics, and as electoral support staff in the registration and voting process. They worked under the leadership of Ian Martin, whose combined title was Special Representative of the United Nations Secretary-General for the East Timor Popular Consultation and Head of the UN Mission in East Timor (UNAMET).† The original date set for the ballot was 8 August, creating a very tight operational timetable.

Electoral Commission

570. The 5 May Agreements had made reference to an independent Electoral Commission. The UN Secretary-General appointed three eminent international experts to the Commission.‡ The Commission was fully independent of UNAMET and the UN in New York, and had responsibility for certifying each stage of the Popular Consultation. The Commission was also the final arbiter for all complaints or challenges about the process.

571. Members of the Commission arrived in Dili shortly after the beginning of the voter registration process, and observed the consultation process in each of its phases.

* UNAMET international personnel comprised an electoral team with its headquarters in Dili and eight regional officers staffed by 28 professional staff and approximately 500 UN volunteers, 275 police, 15 political officers, 9 public information officers, 271 administrative and support staff, and 16 security officers from over 70 countries. Originally not included in the mission, an additional number of approximately 50 military liaison officers was added in June, after international recognition of the key role of TNI and the importance of trying to influence them. [See Martin, Self Determination in East Timor, pp. 38-39 and pp. 41-42.]

† Ian Martin had worked for the United Nations and non-governmental organisations in a number of senior positions from 1985 to 1999. He was Secretary General of Amnesty International from 1986–1992, and before that Head of its Asia and Pacific Region Research Department. Ian Martin testified to the Commission on the UNAMET period at its National Public Hearing on Self-Determination and the International Community, 15–17 March 2003.

‡ Judge Johann Kriegler (Chairperson of the Electoral Commission of South Africa) who chaired the Commission, Pat Bradley (Chief Electoral Officer for Northern Ireland), and Bong-Suk Sohn (Commissioner of the National Electoral Commission of the Republic of South Korea).

The choice

572. The question to be put to the Timorese people in the ballot was framed in two parts, with the voter required to select one option. It was based on the acceptance or rejection of the Indonesian offer of special autonomy package, based on the proposed Special Autonomous Region and known as SARET. The ballot paper read:

> "Do you accept the proposed special autonomy for East Timor within the Unitary State of the Republic of Indonesia?" or "Do you reject the proposed special autonomy for East Timor, leading to East Timor's separation from Indonesia?"

573. Indonesia and Portugal were prohibited by the 5 May Agreements from promoting either option. UNAMET's mandate included the obligation to conduct a public information campaign to explain to the Timorese people the details of the special autonomy offer. It did so with television, radio and print publications.[728]

Indonesian government coordination for the Popular Consultation

574. Indonesia established the Task Force for the Implementation of the Popular Consultation in East Timor (Satuan Tugas Pelaksanaan Penentuan Pendapat di Timor Timur, Satgas P3TT), which reported to the minister for coordination of political affairs and security in Jakarta. Representing the military on the Task Force was Major General Zacky Anwar Makarim, the most senior TNI officer in Timor-Leste during the ballot. This Task Force was the first point of liaison for UNAMET, whose staff conducted meetings with its members on almost a daily basis.[729]

International presence in Timor-Leste

575. With the presence of the United Nations in Timor-Leste, the international community poured into what had only recently been virtually a closed territory. International media contingents covered the story of preparations for the ballot, and representatives of major international newspapers and journals were on the ground. UNAMET accredited some 600 journalists in the course of the Popular Consultation.[730]

576. A number of key foreign governments maintained a close diplomatic watch on the situation in Timor-Leste throughout the UNAMET period. The US maintained a satellite consulate from its Jakarta embassy, and a US Congressional delegation visited Timor-Leste in August. Australia in particular staffed a sizeable consulate in Dili.

577. Portugal and Indonesia each sent official observer teams totalling 50 members, which travelled across the territory throughout the registration, campaigning and final preparations for the ballot.[731] They observed the day of the ballot in polling stations throughout the territory, as well as the counting in Dili. In addition to the

official Portuguese and Indonesian observers, UNAMET accredited nearly 2,300 observers, which required them to follow a code of conduct guaranteeing their neutral behaviour. Nearly 500 international observers came with government delegations, representing Australia, Brazil, Canada, Chile, Ireland, New Zealand and Spain, as well as the European Union. There were also large numbers of people from civil society and non-governmental organisations, international, Indonesian and East Timorese. Two NGOs, the Carter Center and IFET (International Federation for East Timor), maintained district-based observer teams.[732]

578. This international presence was unprecedented in the history of Timor-Leste. In the 25-year period of Indonesian presence it had been unthinkable that the territory could have been so open to the international community. After the months of bloody violence against civilians leading to the 5 May Agreements, when there was almost no international presence in Timor-Leste, the presence of internationals across the territory provided a level of monitoring that may have contributed to the reduction in large-scale attacks by militia or TNI.

East Timorese and Indonesian observers

579. UNAMET accredited around 1,700 East Timorese and Indonesian non-governmental observers for the ballot. Many came from student and activist organisations, but all had to sign up to the UNAMET code of conduct for accredited observers stipulating neutral behaviour.[733] UNAMET allowed for CNRT and the pro-integration umbrella organisation UNIF (United Front for East Timor Autonomy) to accredit observers, known as party agents, for the day of the ballot and the count.

Security for the ballot

580. The fragile security situation across the territory remained the biggest threat to the electoral process. While major operations by the Indonesian military and militias could no longer occur openly without observation by the international community, the Indonesian military did not disarm the militias or curb their intimidating presence in communities. After the massacres in April, at the Liquiçá Church and at Manuel Carrascalão's home in Dili, there was no action to investigate and arrest those responsible. An air of impunity for the crimes of late 1998 and early 1999 prevailed, despite the presence of the United Nations and the international community.

581. The 5 May Agreements had given Indonesian police formal responsibility for security during the ballot. This arrangement turned out to be completely inadequate. A key institutional problem was their subordinate status to the TNI. Despite the institutional separation of police and military commands in April 1999, both remained under the authority of the minister of defence, General Wiranto. There was a longstanding culture of TNI domination over the police in operational matters. While the TNI remained deployed across Timor-Leste in large numbers to the community-level, this placed great pressure on the police in terms of their capacity to act independently as keepers of law and order.

582. The police consistently proved unable or unwilling to control the violence during the ballot. A further reason for this may have been the presence of large numbers of Indonesian riot police, Brimob, who had won notoriety in Timor-Leste for their violence and role in major human rights violations during the 1990s. Police numbers, particularly Brimob numbers, were increased throughout the period of the ballot to a total of around 8,000.[734] Police commonly failed to respond quickly to reported violence or to arrest known perpetrators. This continued the apparent licence enjoyed by those committing violence and intimidation across the territory. A significant example of this was when the police failed to act during a Red and White Iron militia (BMP) attack on a humanitarian convoy on 4 July, despite being specifically charged with its protection.[735] More damningly, the police were repeatedly and directly involved as support to militia violence. The clearest case of this was the killing of Bernardino Agusto Guterres on 26 August 1999, who was shot dead by Brimob in Becora, Dili, while militia rampaged nearby.[736]

583. UNAMET Military Liaison Officers (MLOs) were unable to gain accurate information from TNI as to troop numbers or deployment, though it was believed that TNI numbers in Timor-Leste were in excess of 15,000.[737] Despite efforts by Xanana Gusmão to negotiate a reduction of TNI troops and a withdrawal of the remaining troops to district barracks, the Indonesian military continued to be deployed at the village level across the territory.[738]

584. The 5 May Agreements had made no direct provision for the cantonment of the TNI, the militias or Falintil, or for their disarmament. However this matter was left to the Commission on Peace and Stability (KPS) established by General Wiranto on 21 April after the massacres in Liquiçá and Dili that month.* The KPS was responsible "in cooperation with the United Nations, (to) elaborate a code of conduct, by which all parties should abide, for the period prior to and following the consultation, ensure the laying down of arms and take the necessary steps to achieve disarmament." The KPS proved ineffective in implementing this responsibility, despite an agreement signed by Commission members on 18 June that both sides would cease all acts of violence and surrender all weapons to the authorities.[739]

TNI-militia violence: June–July

585. A great deal of evidence exists chronicling the TNI direction of both the pro-autonomy campaign and the militia violence.[740]

586. After the 5 May Agreements the TNI presented the militias as civil defence groups. The District Administrator of Dili established Pam Swakarsa (Self-initiated security group) on 17 May 1999. The decision named the governor, the provincial

* The KPS comprised two members of CNRT/Falintil and two pro-integrationists, described as parties to the conflict, together with members of the Indonesian military, police and local administration. There were no civil society representatives and the United Nations was excluded. The Indonesian Human Rights Commission, Komnas HAM, convened the KPS. [See Martin, Self-Determination, p. 30 and p. 70].

military commander (Danrem) and the provincial police chief as top advisors to the Pam Swakarsa, and Eurico Guterres as "Operational Commander". Among the 2,650 listed members of Pam Swakarsa in Dili were the 1521 members of Aitarak militia.[741] This afforded the militia a degree of legality it had previously not enjoyed.[742] An image invoked frequently by the militia was that a "sea of fire" would descend if the East Timorese voted for independence. Foreshadowing this well before the referendum, the head of the TNI in Timor-Leste, Colonel Tono Suratman, told the Australian television current affairs programme *Sunday*, in June:

> I want to give you this message. If the pro-independence side wins, it's not going to just be the government of Indonesia that has to deal with what follows. The UN and Australia are also going to have to solve the problem and well, if this does happen, then there'll be no winners. Everything is going to be destroyed. East Timor won't exist as it does now. It'll be much worse than 23 years ago.[743]

587. The Commission heard testimony from Ian Martin about evidence gathered by UNAMET staff of the link between the TNI, the local administration and the militia groups. He noted:

> *As our staff moved out into the districts and sub-districts, we learned more of the activities of the militia. We rapidly came to understand that the militia were established, armed and directed by the TNI, in conjunction with the local administration. We directly encountered militia under TNI training and direction, and we said so publicly.* [744]

Dare II

588. From 25 to 30 June, Bishops Belo and Nascimento made a further effort at bringing pro-independence and pro-integration East Timorese together. This Dare II Peace and Reconciliation Meeting was held in Jakarta, enabling Xanana Gusmão to participate. It was the first time since 1975 that he had met José Ramos-Horta, who was allowed to attend together with other East Timorese pro-independence representatives in exile. While discussions were held in a cordial atmosphere, the meeting did not establish a plan of action for continuing dialogue between the parties which might have reduced animosities and violence.

589. A series of militia attacks in Timor-Leste followed soon after the Dare II meeting. On 29 June the Dadarus Merah Putih militia attacked the UNAMET office in Maliana, and on 4 July the Besi Merah Putih militia attacked a humanitarian convoy between Liquiçá and Dili.[745] Ian Martin told the Commission of regular UNAMET meetings with the civilian and military members of the Indonesian Task Force, in which he and his colleagues constantly put forward their concerns. He told the Commission that on 7 July, after these attacks, he flew to Jakarta to meet with General Wiranto to put directly the UN's evidence of the relationship between TNI and the militia.[746]

590. The violence and the delays it caused provoked a flurry of diplomatic activity that ultimately succeeded in pressuring Indonesia to improve the security situation. On 12 July, the Indonesian Task Force visited Timor-Leste, accompanied by General Wiranto. Violence decreased within days and, while making it clear that the ballot could be cancelled at any time, the UN Secretary-General gave his authority for the ballot to proceed.[747]

Voter registration

591. The 5 May Agreements set 16 July as the final day allowable for voter registration to begin. This was driven by the fact that the Indonesian People's Consultative Assembly (MPR) was to convene in September, and it alone had the power to ratify in Indonesian law the outcome of the Popular Consultation. For this to happen, the ballot had to be held by the end of August. Under increasing international pressure, voter registration did begin on 16 July.

592. On 20 July, Kofi Annan reported to the Security Council:

> Such [militia] activities, which have led to the displacement of many East Timorese and denied them basic security and freedom, with the clear intention of influencing political choice, continue to pose a fundamental challenge to a credible consultation process.[748]

593. The Secretary-General also noted that CNRT activities were restricted, that independent media access was limited, that the pro-autonomy campaign had begun before the allocated period, that public officials used their offices and funds for pro-autonomy campaigning and that there had been undue pro-autonomy pressure on civil servants.[749]

594. The climate of fear created by the militia and the pro-autonomy groups caused 40,000 people to be displaced from their homes by June.[750] Due to continuing violence, this figure increased to 60,000 by mid-July (see Vol. II, Part 7.3: Displacement and Famine, section on 1999). Some of these people were pro-independence leaders who had been targeted in their home villages. Many were simply fleeing violence and intimidation. Some sought protection in Timor-Leste's larger towns, while others fled to the security of West Timor. In the face of the dismal security situation, UNAMET's voter education campaign stressed the secrecy of the ballot and the pledge that the UN would remain after the vote.

595. Despite the problems and delays UNAMET's voter registration was hardly disrupted at all, and 451,792 voters were duly registered, both in Timor-Leste and overseas.* This greatly exceeded expectations in the circumstances, and demonstrated the determination of the East Timorese people to choose their political destiny even in the face of intimidation and violence. The Electoral Commission determined

* External polling stations were established at five locations within Indonesia, as well as in Australia and Europe.

that the registration process was legitimate, establishing it as a sound basis for the ballot.[751]

The campaign

Pro-independence groups

596. In the climate of fear created by continuous militia activity throughout the early part of 1999, the CNRT leadership opted for a very low-key campaign. It was also confident that the East Timorese nationalism built through 24 years of resistance to Indonesian rule made an independence campaign unnecessary. Instead they focused their efforts on reconciliation in order to help create a stable and peaceful situation in which UNAMET could hold a vote.

597. In March 1999, Xanana Gusmão had asked students to take on the role of the driving force for the campaign, since for the CNRT itself to do so would be too dangerous. In April the CNRT office in Dili was destroyed by militia and most of its leadership driven underground. Around this time 800 students returned to Timor-Leste from universities across Indonesia. Many student groups united under the banner of Presidium Juventude Loriku Ass'wain Timor Lorosa'e.* Many returned to their home villages from study in Indonesia or to the capital Dili. In Dili, students focused on coordinating an information campaign and publicising the CNRT symbol displayed on the ballot. Their activities included discussing reconciliation, carrying updates on preparations for the ballot, and conveying CNRT directives. The medium for this was photocopied bulletins, as initially printers were unwilling to take the risk of printing this material. The Presidium also established a radio service, Matebian Lian (The Voice of Matebian) which, despite being forced underground, continued to broadcast.

598. The students' role risked reprisals, and they were targeted during the campaign.[752] On 20 May Aitarak militia killed two members of the Students' Solidarity Council (ETSSC) in Hera, with alleged TNI involvement.[753] Laksaur militia killed another two students in Covalima.[754] In accordance with CNRT orders, students did not respond to the militia violence. This was critical in avoiding an escalation of conflict between East Timorese groups that the TNI could portray as civil war.

599. From 1 to 4 July, Xanana Gusmão met at his prison house in Salemba with the CNRT delegation to the Dare II gathering in Jakarta, together with other CNRT members, and formed the CNRT campaign team, the Commission for Planning and Coordination of the Campaign (Comissão de Planeamento e Coordenacão de Campanha, CPCC). The CPCC met in Dili on 9 July, and formulated its campaign plan. This focused on a low-key door-to-door campaign, primarily to publicise the CNRT symbol and to build a sense of national unity and stability. Its flag had only recently been publicly displayed in Timor-Leste and many were not yet familiar with

* The East Timor Students' Solidarity Council (ETSSC) was a notable and prominent exception; it chose not to be aligned with the CNRT, which it perceived to be tainted by the partisan politics of 1975.

it. It also published the broadsheet newspaper *Vox Populi*, with a circulation of 1,300 copies every second day, and produced a radio programme by the same name.[755]

Active pro-autonomy groups

600. In early 1999 a number of organisations formed what became the political wing of the pro-autonomy campaign. On 27 January the Forum for Unity, Democracy and Justice (Forum Persatuan, Demokrasi dan Keadilan, FPDK) was inaugurated, led by the District Administrator of Dili, Domingos Soares. In April, the East Timor People's Front (Barisan Rakyat Timor Timur, BRTT) was formed, with former UDT President Francisco Lopes da Cruz as its leader. A third organisation, the United Front for East Timor Autonomy (UNIF) emerged on 23 June.

601. The FPDK and its sibling pro-autonomy organisations were closely linked to and funded by the civil administration.[756] They routinely attended the tripartite military-police-government meetings (Muspida), although they had no official standing. By the time of UNAMET's arrival, the joint campaign of the militia and the pro-autonomy groups had been in operation for some time. Individuals were under pressure to declare publicly their allegiance to Indonesia, both by attending rallies and by displaying an Indonesian flag in front of their houses. One target of this coercion was civil servants. FPDK mounted a campaign to discredit UNAMET, which was given widespread publicity in Indonesia and through Indonesia's diplomatic channels.[757]

602. The formation on 23 June of UNIF aimed to bring the pro-autonomy groups under one body, led by a number of senior East Timorese pro-integrationist leaders. Basilio Araújo told the Commission:

> *UNIF…covered all of us, and had a collective leadership [presidium] including Mr Lopes [da Cruz, Indonesian Ambassador at large and leader of BRTT], Mr Armindo [Soares, leader of East Timor's provincial assembly (DPRD)], Mr Domingos [Soares, Dili District Administrator and leader of FPDK], and Mr João Tavares ["Commander-in-Chief" of the]…PPI *, so the collective leadership was a single group, and I continued as its spokesman, while still spokesman for FPDK.*[758]

Indonesian civil administration in Timor-Leste

603. The civilian administration in Timor-Leste conducted a campaign to "socialise" the special autonomy package in contravention of the May Agreements, which had vested sole responsibility for this with UNAMET. Its approach combined coercion and incentives, taking advantage of the administration's influence over its employees. In a letter to civil service heads (Kepala Instansi Vertikal dan Otonomi) dated 28

* PPI- the Forces of Struggle for Integration, led by João Tavares; an umbrella group that united older paramilitary groups with the new militia groups that emerged in 1999.

May 1999, the Governor directed that civil servants engaged in activities opposed to the Indonesian government must be dismissed.[759] It also funded pro-autonomy rallies around the territory, at which armed militia were active and forced local attendance.[760]

604. In addition to its campaign activities, the civil administration was deeply involved in the funding and organisation of the militias. In May Governor Abilio José Osorio Soares wrote to all District Administrators (Bupati) requesting budget proposals for Pam Swakarsa (civil defence units) and for "expenses associated…with (the) autonomy plan".[761] Each district received a part of the government Social Safety Net Program funds, which were likely to have included funds provided by the World Bank. The distribution was approved by the Governor, and included in distribution of funds to police, to be spent on socialisation of the autonomy package.[762]

The official campaign period

605. The campaign officially began on 14 August, and was brief. Across the country event schedules were drawn up in liaison with UNAMET staff in an attempt to regulate meetings and rallies to avoid clashes between pro-integration and pro-autonomy supporters. CNRT was unable to open offices in three districts due to the threat of violence,* while in others they were quickly targeted and forced to close. Among those forced to close were Dili on 17 August, Manatuto on 19 August and Ainaro on 21 August.[763] Students and civil society groups played a key role in the pro-independence campaign. Later, documentary evidence showed that the TNI listed CNRT, ETSSC and OJETIL as "enemy forces" in its operational plan for the referendum.†

606. Killings continued during the campaign period, notably between August 14 and 16, which led CNRT to end its campaign activities in the districts on 19 August. It mounted one last public campaign rally in Dili on 25 August. Thousands came out in support, and remarkably Dili was peaceful. Chaos, however, followed the final pro-autonomy rally in Dili the next day. Eight were killed, including Agusto Guterres, the student shot by Brimob in Becora. That night the offices of Renetil and the CNRT were burnt. This surge of violence by pro-autonomy supporters signalled the end of public campaign activities in Dili.

Declining security situation: August

607. An account by East Timor Military Commander Tono Suratman of the campaign period indicates both Indonesia's insistence that TNI bore responsibility for security despite the provisions of the 5 May Agreements that specifically charged the police with this task, and his maintenance of the fiction of a genuine civil war rather than an engineered conflict:

* Bobonaro, Ermera, Liquiçá.

† Operasi Wira Dharma 1999.

> Security had to be made conducive before the referendum… Indonesia, in this case the police and TNI, implemented this and were responsible for the problems of security and its derivative, the problem of legal enforcement…I privately feel, TNI's security responsibility was very heavy. The time to settle the situation was so short…while the history of intra-East Timorese violence was 23 years old, or more.[765]

608. Throughout the campaign period TNI persisted in the argument that armed militia were an East Timorese response to Falintil, completely disregarding either the TNI's role in the establishing and supporting them, or even the TNI-Falintil conflict of 24 years.

609. The TNI's misrepresentation of the conflict and denial of its own combatant status made negotiations for peace and stability difficult. It never once disclosed its troop levels in the territory to UNAMET MLOs.[766] Faced with this situation, Xanana Gusmão as Falintil commander-in-chief demanded a minimum of a TNI troop reduction and confinement to barracks. Meanwhile TNI commander Wiranto demanded that Falintil disarm. Although TNI did not reduce its numbers, Falintil unilaterally confined itself to cantonments with the explicit objective of proving that it was not the source of violence and of persuading the TNI to reciprocate by itself withdrawing to barracks and by disarming the militias. By 12 August, all 670 Falintil troops were confined to their cantons.*

610. However, the TNI did not withdraw troops to district level barracks, and militia members remained threateningly at large in communities across the territory. Days after the completion of the Falintil cantonment, militia leaders announced that they would lay down their arms. UNAMET observed ceremonies in four districts between 16 and 19 August, where militia members handed over their guns to the police. However, UNAMET observed that the amount of weapons "was only a fraction of those in possession of the militia."[767]

611. Although pro-integration leaders accused Falintil of excesses during this period, UNAMET investigations rarely substantiated such claims. Two incidents of pro-independence violence were proven. In one, independence supporters killed a pro-integration supporter on 12 July, and an Aitarak militia member was killed in Becora, Dili on 29 August.[768]

612. In addition to his role in the Task Force for the Implementation of the Popular Consultation in East Timor, Major-General Zacky Anwar Makarim seems to have been entrusted with the task of running the militia campaign.[769] On 18 August a US Congressional delegation witnessed violence in Suai and their testimony led to

* The four Falintil cantonment sites were in Uaimori, Manatuto (260 troops), Atalari, Baucau (70 troops), Poetete, Ermera (153 troops) and Aiassa, Bobonaro (187 troops). UNAMET Military Liaison Officers observed these cantonment sites and met with Falintil members. [See Martin, *Self-Determination*, p. 73.]

the official removal of Makarim, as well as of the Bobonaro and Covalima district commanders. The rationale behind this removal was that a few isolated officers were responsible for the violence, an approach that did nothing to curb the excesses of the Indonesian military as an institution. On 13 August, Colonel Tono Suratman was replaced by another Korem Commander with a Kopassus background, Colonel Noer Muis.[770]

613. On 24 August, the UN Secretary-General addressed the Security Council and cited a statement from the independent Electoral Commission that the election period was never "free of intimidation, violence or interference (as required by 5 May Agreements)".[771]

Final preparations for the vote

614. The formal campaign period ended on 26 August. UNAMET employed up to 4,000 East Timorese staff to assist in the conduct of the ballot at the 200 polling stations across the country.[772] All staff were required to conduct themselves in a politically neutral manner, and were managed by international electoral staff. International observer groups and media arrived in large numbers in the days leading up to 30 August, ensuring that the ballot itself took place under the scrutiny of the international community.

The ballot

615. 30 August 1999 dawned as a remarkable day in the history of Timor-Leste. Despite months of intimidation and violence, people across the country came out in droves to cast their ballot.[773] Many dressed in their best clothes, and in rural areas they walked for hours to reach polling centres. By dawn, up to 50% of those registered to vote were waiting outside polling stations to cast their ballot. People waited patiently in long queues in most polling centres, and quickly returned home after casting their vote. Polling stations opened from 6.30am to 4.00pm, though in most places voting was completed by early afternoon.

616. International observers and the media commented on the courage and dignity of the people, who after 24 years of violence would not allow the intimidation of the past months to prevent them exercising their right to determine their future. The East Timorese cast their ballots in huge numbers, with 98.6% of those registered voting. In contrast to the surge of violence on 26 August, the day was peaceful in most areas. However, militia killed two East Timorese UNAMET staff in Atsabe. A Civpol (UN Civilian Police) witness placed the TNI at the scene.[774]

617. Immediately after the vote, before the count and the announcement of results, the Indonesian Foreign Minister, Ali Alatas, confirmed the Indonesian government's view that the ballot was legitimate:

> I am very encouraged and pleased to say that [the vote] constitutes indeed a free and peaceful, and therefore fair execution, of the consultation.[775]

618. However, the pro-integration spokesman Basilio Araújo produced a list of 37 alleged violations by UNAMET staff and claimed the ballot was unfair. The Electoral Commission considered the objections of the pro-integration supporters over a day and a half of deliberations on 2 to 3 September. The Electoral Commission concluded:

> Whatever merit there might be in individual complaints regarding alleged misconduct and/or partiality on the part of the electoral staff, none of them, singly or collectively, impaired the process as such.[776]

The count and the results

619. In order to ensure the secrecy of the ballot, the vote was counted in Dili. In the afternoon of 30 August, UNAMET staff from the polling stations brought the votes to their district headquarters under the watch of the UN police. These were stored under guard by UN police overnight, and were brought to the Dili counting centre by helicopter or by road convoy by UNAMET staff and UN police on 31 August. In Maliana a helicopter transporting the ballots was shot at, and in Gleno and Atsabe in Ermera District there was violence and intimidation from militia groups against the UNAMET teams transporting ballot boxes.[777] The count was centralised in Dili. There would be no individual reporting of district or regional results, but a single result for the entire electorate. This was to ensure both security for regions who might otherwise be targeted by violence for their political affiliation, and also to counter earlier suggestions by the pro-autonomy movement that the territory might be split to reflect regional results.

620. At the counting centre in the Dili Museum in Comoro, UNAMET electoral officers from across the country gathered to conduct the count. International observers, including the official Portuguese and Indonesian delegations, had access to the count centre and witnessed all stages of the process. Many of the large international media contingent left Timor-Leste immediately after the peaceful day of voting, as did some of the international observers.

621. Militia violence broke out in the days following the ballot. On 1 September militia arrived in Dili and conducted attacks on pro-independence supporters close to the UNAMET compound in Balide. One man was filmed by international media running for his life and being caught and hacked to death by militia. Hundreds sought refuge in the school next door to the UNAMET compound. In Ermera violence broke out, and UNAMET evacuated its staff to Dili. On 2 September in Maliana, militia surrounded the UNAMET office and went on a spree of shooting and house burning. Two East Timorese UNAMET staff were killed.

622. Counting proceeded round the clock, in increasingly poor security conditions. The UN determined to make a simultaneous announcement of the result, by the Secretary-General in New York on the evening of 3 September and by his Special Representative Ian Martin in Dili on the morning of 4 September. In consultation with the Indonesian

Task Force, it was thought that a morning announcement in Dili would allow for better control of the security situation during the initial ensuing daylight hours.[778]

623. At 9.00am, Saturday 4 September, Ian Martin read the results of the ballot at the Mahkota Hotel in Dili: 21.5% of voters had voted for the special autonomy package, 78.5% against. The Electoral Commission had prepared its final determination on the ballot:

> The Commission was able to conclude that the popular consultation had been procedurally fair and in accordance with the New York Agreements, and consequently provided an accurate reflection of the will of the people of East Timor. There can be no doubt that the overwhelming majority of the people of this troubled land wish to separate from the Republic of Indonesia.[779]

Indonesia departs: scorched earth

Overview

624. With the announcement of the result of the ballot the United Nations called on Indonesia to ensure security in the territory.[780] Diplomatic pressure was brought to bear to achieve this end, but provisions for the protection of the East Timorese population were still inadequate. The events of September and October 1999 have been the subject of two judicial processes and a number of investigative reports, by East Timorese, Indonesian and international organisations, agencies and organs, including the United Nations.*

625. The Indonesian military and militia are known to have killed between 1,200 and 1,500 East Timorese in 1999, 900 of these after the ballot. Between them they murdered 400 in mass killings, and the remainder in individual killings.[781] Victims suffered brutal deaths, many were cut down with machetes, and of those that escaped death many were mutilated and continue to suffer health problems. In particular, the killers targeted and executed CNRT leaders and their families.[782] Torture, sexual violence and forcible transfer of the population occurred across the territory.[783] Over half the population, 550,000 people, fled their homes, including 250,000 who were transferred to West Timor by force or under intimidation (see Vol. II, Part 7.3: Forced Displacement and Famine).[784] Militia killed people seeking refuge in churches, and clergy and nuns were among those targeted. TNI and militia collaborated in implementing a strategy of mass violence across the territory.

626. The attention of the world focused on the UNAMET compound in Dili where a small number of UNAMET officials and the only remaining international journalists in the territory took refuge. Frantic diplomatic activity took place both behind the

* UN Commission of Experts in 1999–2000, Serious Crimes Unit and Panel in Timor-Leste; the East Timor Ad Hoc Tribunal on Human Rights in Jakarta, Indonesia; the Indonesian KPP-HAM report and the report by Professor Geoffrey Robinson for the UN High Commissioner of Human Rights are perhaps the most notable to date. The latter was delivered as a submission to the CAVR by the OHCHR.

scenes and sometimes publicly to put pressure on Indonesia to fulfil its security obligations or consent to an international force to restore security. No nations were willing to act to protect the people of Timor-Leste without Indonesia's consent. East Timorese leaders outside Timor-Leste worked to convince world and regional powers to intervene to save lives. At the United Nations, at the APEC summit being held in New Zealand, in Portugal and Rome, in Jakarta and Australia, East Timorese leaders worked unceasingly.

627. With the TNI demonstrating that it would not bring the violence under control and with a Security Council team on the ground in Dili and Jakarta, Indonesian President Habibie consented to an international force on 12 September. A week later the commander of the International Force for East Timor (Interfet), Australian Major-General Peter Cosgrove, arrived in Dili followed a day later by his troops. As the TNI departed Timor-Leste, it destroyed 70% of major infrastructure, houses, and buildings, it razed entire villages and it looted the possessions of the East Timorese.[785]

628. Xanana Gusmão returned to Timor-Leste on 22 October, and on 25 October the UN Security Council established the United Nations Transitional Administration for East Timor (UNTAET), with Sérgio Vieira de Mello as its head. The task of addressing the humanitarian crisis and rebuilding the shattered nation of Timor-Leste lay ahead.

Violence following announcement of the results

629. The post-ballot violence that began late on 30 August and built during the days of vote counting intensified after the announcement of the result on 4 September 1999. In Dili, fearing the threat of reprisal for the pro-independence vote, large numbers of people either fled to Dare in the foothills behind the city or sought refuge in places such as the ICRC compound, Bishop Belo's residence and the Dili Diocese compound, and the school next to the UNAMET compound. UNAMET staff withdrew to the Balide compound after the announcement of the ballot result.

630. On 5 September, the Aitarak militia, the TNI and the police, assaulted the Dili Diocese office, segregating East Timorese UNAMET staff and CNRT members, and killing between 15 and 20 of the 300 people seeking refuge in its grounds.[786] The military moved the few remaining journalists and surviving internally displaced persons to the UNAMET compound in Balide, where internationals were to remain until their evacuation. On 6 September, the militia violently cleared the 7,000 people seeking refuge at the ICRC compound and Bishop Belo's residence on Dili's waterfront, which they then destroyed. These people were later taken to West Timor as part of a contingency plan named Hanoin Lorosae II (Operation Remember Lorosae II) developed by the police months earlier, as noted above.

631. On the same day on the south coast in Suai, the Laksaur militia, in the presence of the district administrator and district police and military chiefs, killed between 27 and 200 of the remaining 2,000 refugees in the church.[787] Among the first to be

killed were three priests, cut down with machetes by militia members. Subsequent exhumation of bodies indicated children and women were among the dead.[788] Investigations and witness testimony have shown the involvement of TNI territorial troops.[789]

632. The murder of the Catholic priests signalled that the Catholic Church had become a target. The Church had long maintained its tense co-existence with the Indonesian occupying authorities, but until the post-ballot violence its personnel had not been a target for murder. In the days that followed the attack in Suai, this targeting of Catholic clergy became a pattern seen in other districts. The Commission heard eyewitness testimony of the very deliberate targeting of clergy when they were seeking to prevent violence:

> *I saw Father Francisco holding up both hands and saying to the militia, "Enough. Don't shoot anymore. All of us are Timorese. Stop." The Father screamed when he saw how many victims had fallen, however the militia paid no attention to his screams. Then a militia…approached Father Francisco. He pretended to hug Father [Francisco], then escorted him down to the grotto of the Virgin Mary. When they came back, [he] shot the priest. But Father Francisco was not yet dead, so [he] took a sword and stabbed him in the chest. That is when he died.*[790]

633. As the tension and violence mounted across the country, people fled their homes seeking safety in the forests and mountains. Thousands of people flocked to the protection of Falintil in their cantonments.

634. In general the violence against the community by TNI and militias was most severe in the western districts. In these districts, close to the border with West Timor and where there were fewer Falintil, TNI-militia links were strongest. By 7 September Falintil Deputy Commander Taur Matan Ruak was desperate, and threatened to retaliate from his base at Uaimori. Speaking to Taur Matan Ruak by satellite phone, Xanana Gusmão forbade this no matter what the cost in human life and suffering, on the grounds that any retaliation would create the civil war TNI had so long tried to engineer and risk forfeiting the international intervention that was the only hope for salvation.[791] Falintil discipline remained mostly intact despite the extreme provocation. A number of killings perpetrated by independence supporters or Falintil members were reported as having occurred during the period after the ballot, mostly in the western districts.[792]

TNI takes formal control

635. On 4 September, TNI reorganised its Timor-Leste command under Major-General Adam Damiri of Kodam IX Udayana, taking formal control from the police. On 5 September, General Wiranto met with militia and TNI commanders in Timor-Leste, and then with Bishop Belo, who asked Wiranto to control the militia.[793] On 6 September, the Secretary-General's Personal Representative Jamsheed Marker

pushed Indonesia to invite international forces, a request which met with an angry refusal. President Habibie declared martial law the next day, placing Major-General Kiki Syahnakri in command. He replaced territorial units with Kostrad troops, the theory being that the territorial troops were acting out of emotional attachment to the territory and that new troops would be more likely to conduct themselves professionally.

636. Crimes against humanity continued to occur after the TNI took formal control. These attacks followed the established pattern of militia killings involving the TNI, frequently with senior TNI personnel in direct attendance. Many killings had common elements: they followed a period of mounting violence, they targeted select individuals, and they seemed to conform to a procedure that extended to systematic body disposal using trucks that all evidence indicates were supplied by the military.[794] Their patterns included weaponry, which relied on "home-made" guns (*senjata rakitan*), knives, machetes, and some automatic weapons.[795] The threats, beatings, rapes and house burnings of previous months were now perpetrated systematically and on a mass scale. Militia burnt Timor-Leste with petrol supplied by the military, often delivered in fire engines with petrol in their water tanks. They loaded looted goods onto army trucks. It is improbable that such an enormous logistical exercise could have been carried out without TNI involvement.[796]

637. The Commission also received a submission containing testimony that priceless East Timorese cultural artefacts and relics were taken by Indonesian authorities from the site known as the Dili Museum in Comoro during the violence in September 1999.[797] The Museum had been opened by Indonesian authorities in 1995, and in 1999 housed a collection of some 3,000 objects, including ancient *tais* (traditional woven cloth), traditional pottery, basketry, and sacred and domestic carvings in wood and stone. The submission quotes an interview with Virgilio Simith, who in 1999 was a senior member of CNRT responsible for cultural affairs. In the first Cabinet of the RDTL after 20 May 2002, Virgilio Simith was the Secretary of State for Culture, Youth and Sport. Virgilio Simith said that many objects were taken to the Museum in Kupang, where he said there are now 68 pieces of East Timorese *tais*. He recalled that during continuing negotiations on outstanding bilateral issues between Indonesia and Timor-Leste during the UNTAET administration, Indonesian representatives had explained the removal of the artefacts by saying that "because of the unsettled political environment in Timor-Leste, the objects were removed for 'safekeeping.'" However, Virgilio Simith noted that he understands that authorities in Kupang now maintain that the objects were "bought with funds from the Indonesian budget and therefore form a part of the Indonesian patrimony." Virgilio Simith told interviewers that he believed that many of the items, especially the *tais*, had been on sale in the Indonesian town of Ubud in Bali since around 1999.[798]

638. Sexual violence and sexual slavery were widespread during this period. The Commission heard in particular from many women in Suai of their experiences

after the massacre at the church on 6 September, when they were taken to the nearby school and repeatedly raped before being forced over the border where many were held in sexual slavery.[799]

639. The 8 September killings in Maliana illustrate the pattern well. Following days of mounting violence TNI trucks brought militia to the district police headquarters, where hundreds of people had sought refuge. In the presence of TNI and police officers the militia singled out and executed at least 13 CNRT leaders among those taking shelter.[800] Thirteen who escaped the massacre were hunted down and killed with machetes the following day. Some days later a similar incident took place far from sight in the isolated district of Oecussi. The Sakunar militia segregated and killed CNRT leaders in Passabe. Following this, an estimated 170 people were killed over the following month, the last killed two days before Interfet's belated arrival in the district.[801]

The UNAMET compound

640. While this violence was going on around the territory, unarmed UNAMET personnel took refuge in their regional headquarters. Ian Martin testified to the Commission about the situation in the compound during this period, and about UN efforts to gain international intervention. He told of direct attacks against UNAMET personnel and offices in the districts, and the decision to withdraw UNAMET regional teams to the Dili compound. A UN police officer was shot by militia using a high-powered weapon in Liquiçá and was only saved by his flack-jacket; in Baucau, police trained automatic weapon fire for over 20 minutes at chest height into the UNAMET office, where over 70 staff were seeking refuge. When the Baucau regional office staff evacuated to the airport, TNI and militia sought to prevent the evacuation of East Timorese UNAMET staff to Dili. By 5 September most UNAMET regional teams had withdrawn from the districts to the Dili compound in Balide. Ian Martin recalled that East Timorese staff members of UNAMET were especially targeted, and told the Commission:

> *UNAMET local staff were among the first to be killed as the polls closed and in the days which followed. Fifteen East Timorese staff members of UNAMET are known or believed to have lost their lives…I ask that the Commission take note of the particular courage displayed by the local staff of UNAMET, without whose service the United Nations could not have fulfilled its mandate to conduct the ballot.*[802]

641. UNAMET staff were trapped in the compound in Balide. Teams leaving the compound in Dili to seek access to food and water in the UNAMET warehouse were shot at. The small number of foreigners still in Dili fled to the compound, along with a number of East Timorese seeking refuge. On the evening of 5 September, sustained automatic gunfire was heard at the school next to the compound and after 20 minutes of attack, large numbers of people seeking refuge in the school started to leap the razor-wired walls into the UNAMET compound. There were around 1,500

people in this group. This meant that there were over 3,000 people in the UNAMET compound, with limited access to food, water and sanitary conditions.

642. By 6 September, apart from Church personnel, there were virtually no foreigners in Timor-Leste outside the UNAMET compound. The TNI cordoned off the compound, achieving the first step of closing off Timor-Leste to the outside world. Among those trapped in the compound were a small number of international journalists. On mobile telephones and satellite connections they told the story to the world. But while the world media focused on the besieged UNAMET compound in Dili, it had no images of the systematic violence and destruction taking place across the territory.

Growing international pressure

643. East Timorese leaders outside the territory conducted frantic diplomatic activity to seek international intervention. Xanana Gusmão was finally released from imprisonment by Indonesia on 7 September, and handed over to UNAMET in Jakarta. To forestall any assassination attempt, he was shuttled to the British Embassy in Jakarta, and from there to Darwin, Australia. Bishop Belo had been evacuated to Baucau after his Dili residence was attacked, and from there by UN airplane to Darwin on 6 September. He travelled to Rome and Lisbon to seek support. José Ramos-Horta and others travelled to Auckland, in New Zealand, where regional and world leaders had gathered for the annual APEC summit. Worldwide, and especially in Australia and Portugal, mass protests, driven by the non-governmental solidarity movement and by the East Timorese diaspora, called for international intervention. Combined with the poignant but limited images from the UNAMET compound in Dili, and the messages of journalists and others in the compound, the story dominated international news and kept up pressure on Indonesia and world leaders to intervene.[803]

644. The UN Secretary-General, Kofi Annan, conducted his own urgent personal diplomacy. His first efforts were aimed at having Indonesia fulfil its security obligations. President Habibie opposed the Secretary-General's idea of an international peacekeeping force, conveyed by a direct telephone call on 5 September, and instead declared martial law in the territory. The Secretary-General increased the pressure on Indonesia by stating publicly that further measures would have to be considered if matters did not improve in Timor-Leste within 48 hours.[804]

645. Before the ballot, and again on 1 September, Portugal had been calling for the mobilisation of an international peacekeeping force. Australia had been making quiet preparations in the event of the need for military intervention since late 1998, and had troops in readiness. New Zealand was also preparing. However, no state was prepared to intervene militarily without Indonesia's consent.[805] On 4 September the Australian Foreign Affairs Minister, Alexander Downer, publicly declared Australia's willingness to lead an international force into Timor-Leste, if Indonesia agreed and if it received a UN Security Council mandate. Kofi Annan and the Australian

Prime Minister John Howard were in constant contact about these efforts, seeking Indonesian agreement to an international force and gathering a coalition to form a force which could be rapidly deployed.

646. On 5 September, the UN Security Council formed a mission to travel to Jakarta and Timor-Leste.* The mission left New York on 6 September, accompanied by Francesc Vendrell, the Deputy Personal Representative of the Secretary-General. The mission began meetings on 8 September. It met President Habibie, his likely successor Megawati Soekarnoputri, a delegation of UNAMET staff who had left the Dili compound and flown direct to Jakarta, and with General Wiranto. They also met the recently released Xanana Gusmão. The mission insisted that it travel to Timor-Leste.

647. On 10 September, the UN High Commissioner for Human Rights, Mary Robinson, flew to Darwin to meet with East Timorese UNAMET staff and refugees who had been evacuated. She talked publicly of the need to bring those responsible for the violence to justice.[806]

648. Meanwhile, the gathering of world political and economic leaders at the APEC summit fortuitously provided a forum for addressing the situation. Influential statements came from the World Bank and the International Monetary Fund (IMF). World Bank President James Wolfensohn wrote directly to President Habibie on 8 September stressing the importance of Indonesia restoring order and honouring the result of the Popular Consultation. Indonesia, still economically vulnerable after the 1997 Asian financial crisis, came under increasing pressure. When US President Clinton arrived at the summit on 11 September he announced the suspension of arms sales to Indonesia. The UK and the European Union made similar announcements.

649. On 11 September, the Security Council mission travelled to Dili. General Wiranto flew to Timor-Leste in advance of the mission. When it arrived Dili was relatively calm, indicating the capacity of the TNI to maintain security when it chose to do so.[807] The mission was briefed at TNI headquarters, and met with UNAMET staff and displaced East Timorese people in the compound. It returned to Jakarta later that day, as the Security Council was meeting in New York to consider the situation in Timor-Leste. The Security Council meeting lasted nearly six hours, with 50 delegations speaking.[808] Support for international intervention in Timor-Leste was high, with many countries seeking Indonesia's consent to this step.

650. The isolation of Indonesia over events in Timor-Leste had reached its height. On 12 September, with the Security Council mission still in Jakarta, President Habibie held a Cabinet meeting. Following this he telephoned the UN Secretary-General to ask for UN assistance to restore peace and security in Timor-Leste, and immediately after made an announcement to this effect on Indonesian national television and radio networks.

651. With Indonesian consent gained, the Security Council passed Resolution 1264 (1999) on 15 September, mandating a multinational force with full Chapter VII

* The five members of the mission were Martin Andjabal of Namibia, Ambassador Jeremy Greenstock of the United Kingdom, Ambassador Danilo Türk of Slovenia, Ambassador Hasmy Agam of Malaysia and Minister Alphons Hamer, the Deputy President of the Security Council, of the Netherlands.

powers to restore peace and security in Timor-Leste. Ian Martin testified to the Commission that it was only after this international commitment that he made the decision to close down the UNAMET compound in Dili. He told the Commission that earlier, on 8 September, he had recommended that UNAMET withdraw but that a meeting with senior staff demonstrated that they were willing to stay as long as East Timorese were with them in the compound.[809] On 10 September the first evacuation removed most of the UNAMET staff, including some East Timorese staff, leaving 80 volunteers to stay with the East Timorese seeking refuge in the compound. Many of them were local UNAMET polling staff, and were certain to be targeted if left behind.

652. When Indonesia announced on 12 September that it would accept international intervention, there were fears that the TNI and the militia would seek to take reprisals against the UNAMET staff and those displaced with them in the UNAMET compound before the force could land in Dili.[810] Intense diplomatic activity sought the permission of President Habibie and Prime Minister Howard for the evacuation of the 1,500 East Timorese displaced in the UNAMET compound, and on 14 September they were evacuated to Darwin. Ian Martin travelled with them. The UNAMET compound was closed, and a small team of 12 UNAMET staff relocated to the heavily fortified Australian consulate where they awaited the arrival of Interfet, surrounded by Kostrad soldiers.

Forced evacuation of population

653. Behind the frantic diplomatic efforts and the limited picture of Timor-Leste offered by those still in the UNAMET compound, the destruction and forced relocations that had begun in the days following the announcement of the result of the Popular Consultation intensified. Although generally worse and of longer duration in those western areas where TNI-militia links were stronger, the violence took place across the territory.[811]

654. Before the ballot, the TNI and police had planned a mass evacuation of the population. They had detailed contingency plans to save the population from a civil war that Indonesia forecast would follow the ballot. This was part of a pre-planned policy, as noted above (see paragraph 651).[812] Views differ as to whether this was an evacuation to protect East Timorese, or a forced removal under intimidation and violence. While some genuinely sought to leave the territory, the conditions of violence were generated by the TNI and its militias, the same agents organising the evacuation. Following the ballot, 250,000 people, over a quarter of the population, were transferred from Timor-Leste, mostly to West Timor (see Vol. II, Part 7.3: Forced Displacement and Famine). Both military and police were involved in effecting their removal, and police and military district commands were used as transit points for the evacuation.[813] Frightened by marauding militia, many people sought military or police protection and were subsequently taken to West Timor. Eyewitness accounts say people were expelled from their homes by TNI and militia, then their property was destroyed.[814] Forced expulsions continued until the arrival

of Interfet on 20 September.[815] Many East Timorese had fled by airplane to Java in the days immediately following the ballot, fearing the outbreak of violence.

655. About 400,000 people were estimated to have fled violence in the towns and villages for the relative security of the hills inside Timor-Leste (see Vol. II, Part 7.3: Forced Displacement and Famine). Not trusting the Indonesian military or police, many ran to the protection of Falintil cantonment areas in the mountains. Tens of thousands fled the large towns. Around 10,000 left Ermera, and between 30,000 and 40,000 people fled Dili for the area around the Church compound in the foothills around Dare. In Dare those with mobile telephones called contacts around the world and described their bird's-eye view of the destruction of Dili. Food, water and medicines were in short supply, and the fear of TNI and militia attack was high.

Interfet arrives: TNI withdraws

656. On 19 September, the commander of Interfet, Australian Major-General Peter Cosgrove, his Thai deputy and heads of other national contingents flew from Darwin to Dili, accompanied by the head of UNAMET, Ian Martin. On 20 September Interfet troops arrived in Timor-Leste.*

657. The Indonesian military was in the process of withdrawing. On 20–21 September, Battalion 745 withdrew from Lautém to Dili, and are known to have killed 17 people as they did so (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). In addition to TNI killings in the post-ballot period, certain militia groups continued to be active. On 23 September militia killed 12 people in Ainaro. On 25 September five days after Interfet arrived in Timor-Leste, the long-established Kopassus-linked Tim Alfa militia ambushed and executed, with machetes, members of a humanitarian convoy led by Catholic nuns on a bend near the Sika River in the district of Lautém. Nine people, including five clergy, an Indonesian journalist and two others were killed.[816]

658. Conscious of TNI anger at its intervention, and aware of the potential danger posed by militia groups, Interfet deployed cautiously. It took a month to reach isolated areas such as Oecussi. As it secured areas, people who had been hiding in the mountains or sheltering with Falintil returned to the ruins of their towns and villages. Many of those returning from the mountains and other places of internal displacement were hungry and sick, and generally in very poor condition. On 30 October the last of the Indonesian military had withdrawn.[817] The Falintil commander-in-chief, Xanana Gusmão, was present at Dili airport to see off the final departing troops.

659. The experience of the 250,000 refugees in West Timor was substantially different from that of people internally displaced within Timor-Leste. Most settled

* At full strength, Interfet comprised approximately 11,000 troops from 20 different countries. Australia commanded the force, and contributed 5,000 troops. It took some time to reach its maximum strength, and initially was outnumbered by the TNI. [Dunn, *East Timor*, p. 361].

in camps along the border and near Kupang. The Commission heard testimony from a coalition of Indonesian non-governmental organisations from West Timor who worked with East Timorese refugees.[818] The coalition told of camps controlled by the TNI and their militia auxiliaries, where ordinary people lived under fear and intimidation. Women and girls in particular were powerless and vulnerable. Testimonies to the Commission from women victims tell of sexual slavery at the hands of militia members.

660. Facilities in West Timor were poorly prepared and could not cope with such numbers. Upon arrival, many signed forms declaring their intention to become Indonesian citizens and accept resettlement elsewhere in Indonesia. Some later said they signed under duress.[819] Militia groups retained authority within the camps, and continued to target CNRT leaders. Mau Hodo, who had tried to continue dialogue with the KPS after the ballot, disappeared in Atambua.[820] Long after the Popular Consultation, the militia continued to harass and intimidate refugees and to spread misinformation about the situation in Timor-Leste. They also interfered with those that wished to return.[821]

The formation of UNTAET: Security Council Resolution 1272, 25 October 1999

661. Small numbers of UNAMET staff returned to Timor-Leste with the arrival of Interfet. Military liaison officers were the first to return, then a small number of police and civilian affairs officers. The immediate concern was security and stability, and addressing the urgent humanitarian crisis. With Interfet deployed and securing the territory, a huge international humanitarian intervention began. A conference of donors was held in November in Tokyo where pledges of $522 million were received.[822] UN agencies, the IMF and the World Bank, and international NGOs mobilised emergency relief. The CNRT organised its network to assist this operation. East Timorese NGOs were active in humanitarian assistance and coordination, although they faced a major challenge in holding their own as the huge international operation got under way. The Catholic Church played an important role in coordination in many places.

662. Indonesia maintained that it had *de jure* control of Timor-Leste until its Parliament made a formal decision on the results of the ballot. However, it agreed that the United Nations could exercise *de facto* powers.[823] On 19 October, the Indonesian People's Consultative Assembly (MPR) rescinded the 1976 law incorporating Timor-Leste as a province (East Timor), and on 25 October the UN Security Council passed Resolution 1272 (1999) establishing the United Nations Transitional Administration of East Timor (UNTAET), making the United Nations the official administering authority of Timor-Leste.

Returning home

663. For East Timorese people in West Timor, in other parts of Indonesia, in

Portugal, Australia and other parts of world, those who had been displaced recently, those being released from Indonesian prisons, and those in long-term exile, the question was when and how to return home. Of East Timorese leaders outside Timor-Leste, Bishop Belo was the first to return on 5 October after a month outside the territory. Xanana Gusmão returned to a tumultuous welcome on 22 October. After 24 years overseas José Ramos-Horta returned, then left to return escorting the newly appointed UN Transitional Administrator and Special Representative of the Secretary-General, Sérgio Vieira de Mello, on 1 December. East Timorese refugees began coming back from West Timor in the last months of 1999, assisted by UNHCR, IOM and international NGOs. Others, some in exile since 1975, returned to find their homeland in ashes.

664. The right to self-determination had finally been respected and upheld by the international community, but only after the East Timorese people had shown great courage in the face of intimidation and mass violence and had cast their vote. The task of building a nation based on respect for human rights, the rule of law and democratic principles, including justice for past crimes against humanity, is the work and hope of current and future generations.

Endnotes

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Part 4.

Regime of Occupation

Part 4. Regime of Occupation

Tables:

4. Regime of Occupation

Introduction

1. From the early days following Portugal's Carnation Revolution in April 1974 and the beginning of the decolonisation process, the Indonesian military began to intervene in the political future of Timor-Leste.* The Indonesian armed forces imposed military solutions to the emerging political problems with disastrous consequences for the people of Timor-Leste. Indonesia's concerns over the emerging post-colonial Timor-Leste need never have resulted in military intervention if hard-line military leaders had not played such an important role in President Soeharto's New Order regime. Once committed to military intervention, ABRI was dominant during the early years of the occupation: by increasing military violence they sought to achieve the political objectives of pacification and integration. To do this, they brought the conflict to every level of East Timorese society, involving East Timorese men, women and children in combat, intelligence, torture and killings to control the population. By the late 1980s, when full-scale military conflict shifted to clandestine resistance by a new generation of East Timorese youth, the Indonesian military again sought violent solutions to the problem. Death squads and paramilitaries in the mid-1990s became forerunners to the widespread militias formed in 1998-99. From 1974 to 1999, there was a consistent pattern of forming East Timorese armed paramilitary forces that operated with impunity with the support of ABRI.

2. This military strategy had extensive and long-term consequences for the people of Timor-Leste. The scale of violence was multiplied and brought into even the smallest villages across the territory. Fear and distrust were sown in communities as Timorese were turned against Timorese, especially through intelligence and surveillance operations. Impunity for perpetrators and the lack of any effective system to uphold the rule of law

* ABRI, the acronym for Angkatan Bersenjata Republik Indonesia (Armed Forces of the Republic of Indonesia), existed until April 1999 at which time the police were separated from the other three services--the army, navy and air force. These three were then jointly named Tentara Nasional Indonesia (the Indonesian National Army) or TNI.

meant that East Timorese people could not trust the police and the mechanisms of civil administration to protect them. The civil administration was effectively subservient to the military as an institution and to powerful individual commanders throughout the occupation. Many key civilian posts, from the national to district levels, were filled by military or ex-military figures. This compromised the civil administration's capacity to operate and implement national development objectives.

3. This part provides background on the Indonesian military and governance systems as they were applied in Timor-Leste throughout the period of occupation. It serves as a reference to assist in understanding the context of the human rights violations reported in other parts of the report.

The Indonesian armed forces and their role in Timor-Leste*

Introduction

4. The Indonesian armed forces played the leading role in the Indonesian intervention and 24-year occupation of Timor-Leste. In 1974-75, after the Carnation Revolution in Portugal opened the way to decolonisation in Portuguese Timor, the Indonesian military intelligence agency, Bakin (Badan Koordinasi Intelijen Nasional), and the closely associated civilian think-tank, the Centre for Strategic and International Studies (CSIS), masterminded covert operations and a destabilisation campaign in the territory. From late 1974, these groups began to arm and train East Timorese in West Timor, thus extending the conflict into Timorese society, a practice that was to continue until 1999.

5. The Commission heard testimony from a senior CSIS official, Yusuf Wanandi, who said that military hardliners dominated the debate when Indonesia decided on full-scale military intervention and invasion in 1975. From the outset they characterised the Timor-Leste intervention as an heroic anti-communist crusade, joining it to the ideology and historical antecedents of the New Order regime in order to attract Western support in the continuing Cold War situation. The invasion of Timor-Leste was a large-scale military exercise. The ABRI hardliners had convinced the Indonesian leadership and their international backers that absorbing Timor-Leste would be a quick and simple matter. ABRI's credibility was invested in this venture. When military victory did not come as quickly or as easily as expected, ABRI sought and gained international military assistance that allowed it to intensify its operations.[1]

6. While ABRI could claim to have military control over Timor-Leste from the late 1970s, it was never able to eliminate the armed resistance. As the Resistance shifted to a strategy that relied primarily on clandestine networks, urban protest and an international diplomatic campaign, ABRI applied oppressive measures to subdue this resistance. It established a pervasive hold over Timorese society and the economy. Its

* This section focuses on the conventional military role of ABRI. ABRI's socio-political role is discussed in Civil Administration, p. 397.

territorial structure extended down to the village level, paralleling and dominating the structure of the civil administration. It maintained intelligence networks across the country and mobilised East Timorese civilians into paramilitary forces during the 24-year occupation, culminating in the militias of 1999. It maintained control over the police until April 1999. It also established powerful business interests and monopolies in the territory, which, like its other activities, had a damaging impact on the everyday lives of East Timorese (see Vol. III, Part 7.9: Economic and Social Rights). The invasion of Timor-Leste and the subsequent inability of the Indonesian military to crush resistance to its occupation made the territory the main arena in which Indonesian soldiers could gain experience in combat and anti-insurgency during the 24 years of occupation. Generations of officers used combat experience gained in Timor-Leste to further their careers. Operating in a distant province on the periphery of the Indonesian archipelago, the Indonesian military went about its task with virtually no outside scrutiny within a system where the civil administration had no power to maintain balance or control the military's actions. The Indonesian armed forces operated with impunity.

7. The sections in Part 7 of this report on human rights violations set out the consequences of actions by the Indonesian armed forces for the East Timorese and their experience of living under a system dominated by the Indonesian military. This section provides information about the Indonesian military and its operations in Timor-Leste in order to provide a context for the violations parts in Volumes II and III.

Background of the Indonesian armed forces

The historical background to ABRI and TNI[2]

8. First the Dutch and later the Japanese recruited Indonesians into their armed forces. Officers in the Royal Netherlands Indies Army (Koninklijk Nederlands-Indisch Leger, KNIL) were mostly Dutch, but the troops were Indonesians trained by the Dutch. The Japanese invaded in March 1942 and by the end of that year they had established Heiho as an auxiliary unit with guard duties. On 3 October 1943, the Japanese formed a more formal fighting unit known as PETA (pasukan sukarela Pembela Tanah Air, Volunteer Force for Homeland Defence) to support them should allied forces land. During the transition from Japanese control to the recognition of Indonesia as a fully independent nation, a number of armed organisations arose. These groups reflected a wide ideological range from Muslims struggling for an Islamic state to radical nationalists and Communists to those who advocated a secular state. On 22 August 1945, the Preparatory Committee for Independence (Panitia Persiapan Kemerdekaan Indonesia, PPKI) formed the People's Security Body (Badan Keamanan Rakyat, BKR) comprising mostly former PETA members and officers. Following the arrival of allied troops in late September 1945, the BKR became the People's Security Army (Tentara Keamanan Rakyat, TKR) on 5 October 1945 under a centralised command. In a decree issued by Sukarno on 26 January 1946, the People's Security Army became the Army of the Republic of Indonesia (Tentara Republik Indonesia, TRI). The TRI was consolidated in mid-May 1946, and on 26 June 1946 both the air force and navy were placed under the command of the TRI's commander-in-chief, Sudirman, rather than falling under the

jurisdiction of the Minister of Defence. On 5 May 1947, Sukarno joined the TRI with other armed groups (*laskar*) to form the Indonesian National Army (Tentara Nasional Indonesia, TNI). During the 1950s the commanders of the army, air force and navy were under the command of the President, but following the political upheavals and widespread killings in 1965, these services were consolidated along with the police in December 1965 to become the Armed Forces of the Republic of Indonesia (Angkatan Bersenjata Republik Indonesia ABRI) under the commander-in-chief of the armed forces. In April 1999, with the separation of the police from the armed forces, ABRI became the TNI.

The armed forces as saviour of the nation

9. Indonesia's struggle for independence from Dutch colonial rule was long and complex. Its armed phase after the Second World War mobilised a broad cross-section of Indonesian society to evict the Dutch who attempted to reassert their colonial authority following the surrender of the Japanese. The Army of the Republic of Indonesia (Tentara Republik Indonesia, TRI) and later the Indonesian National Army (Tentara Nasional Indonesia, TNI) were formed to lead this struggle and played a key role in forcing the Netherlands to depart after the revolution of 1945-49. During this period the relationship of the armed forces with politicians and the many citizens' militias that sprang up to fight for what was called the Revolution was not always easy. While Indonesia's civilian leadership adopted a democratic constitution in 1950, the military saw itself from the outset as having a major role to play in Indonesia's political future.

10. In the years following independence, a number of milestones marked the consolidation of military power that enabled the military to promote itself as having saved the nation. During much of the 1950s, the armed forces were engaged in combating secessionist and Islamic movements. In 1957-58 Indonesia faced two federalist revolts, one in Sumatra (Pemerintah Revolusioner Republik Indonesia, PRRI) and one in Sulawesi (Perjuangan Rakyat Semesta, Permesta). Both revolts had strong support, including backing from some elements in the military. President Sukarno declared martial law in 1957 and the military, led by General Abdul Haris Nasution, crushed both rebellions. Confident from these victories, and its takeover of nationalised Dutch enterprises at around the same time, the Indonesian military adopted an increasingly aggressive political stance in the late 1950s, first against political parties and then against the democratic system itself. With the support of the military, Sukarno abandoned parliamentary democracy in 1959, reinstating the 1945 Constitution and instituting what he called Guided Democracy which gave greater powers to the president. Guided Democracy also gave the military, as one of several so-called "functional groups", the right to participate in politics.[3]

11. Following a tumultuous period in the early 1960s when Sukarno presided over an increasingly divided Indonesia, the army, under the command of Major General Soeharto, effectively deposed the president and initiated a violent purge against its main political rival, the Indonesian Communist Party (Partai Komunis Indonesia, PKI). With the active support of the military, between 250,000 and 1 million suspected communists

were killed in 1965-66, and many more leftists and Sukarno supporters were incarcerated in prisons and prison camps.[4] In Soeharto's New Order, the military was once again represented as having saved the nation, this time from communism.

12. In 1974, the Indonesian military used the threat of communism to justify its involvement in covert operations in Timor-Leste (See Vol. I, Part 3: History of the Conflict). At the height of the Cold War this was a powerful symbol for Indonesia's international allies, particularly as the United States sought to control the spread of communism in Southeast Asia. Though there was no evidence that communism was a major force in Timor-Leste politics, or that communist nations were actively wooing Timor-Leste's political leaders, the armed forces depicted the possibility of an independent Timor-Leste as a threat to the stability of Indonesia. For years after the 1975 invasion, ABRI continued to insist that it was fighting a communist enemy in Timor-Leste.[5]

Armed forces doctrine

13. The Indonesian armed forces basic doctrine is known as the Entire People's Defence and Security System (Sistem Pertahanan Keamanan Rakyat Semesta, Sishankamrata), according to which all citizens have a role to play in national defence. The concept emerged from the war of independence in which the armed forces depended on the support of the population.[6] Originally this was a concept based on the idea that the entire nation would need to resist an external enemy if it overpowered the conventional military. Over time its focus changed as the armed forces came to see the greatest threat to national security as being internal.

14. The role of the Indonesian armed forces in national political life changed significantly when in 1959 President Sukarno declared "Guided Democracy" and gave the armed forces the right to participate in politics. Under the leadership of General Abdul Haris Nasution, the armed forces formed a dual function policy (*dwifungsi*), claiming for itself both a security role and a social-political role.

15. From 1965 and the advent of President Soeharto's New Order regime, ABRI was concerned almost exclusively with internal security. This was articulated in a range of policies and concepts further justifying its engagement in all spheres of the nation's life. In 1966, for example, it adopted the all-embracing concept of *ipoleksos* - ideology, politics, economic and social.[7] The consolidation of the territorial structure, which gave ABRI a geographical presence throughout Indonesia (see paragraphs 17 and 18), reflected this preoccupation with internal control.

16. During the course of the New Order regime, intolerance of internal dissent increased to the point where any criticism of the regime was regarded as a threat to the state. The 1982 Defence Act laid out ABRI's social-political role, stating that:

> National defence and security includes defence against both external and internal threats, and these threats may be directed against national freedom and sovereignty, national unity and solidarity, the integrity

of the nation and national jurisdiction, and the values of the national ideology, Pancasila and the Constitution.[8]

Territorial structure of the Indonesian armed forces

17. The structure of Indonesia's armed forces is divided into two broad operational sections, a combat command and a territorial command. The territorial structure is a particular feature of Indonesia's armed forces, with its roots in the war of independence when the Indonesian armed forces were composed of local, non-professional units that fought a guerrilla-style war against the Dutch. These local units developed into the formal territorial structure that exists today which parallels the civil administrative structure. At the top of this structure operationally is the Regional Military Command (Komando Daerah Militer, Kodam), which oversees a number of Sub-regional Commands (Komando Resort Militer, Korem).* At this level the military commands do not always correspond to the same administrative units across the archipelago. The populous provinces of Jakarta and West, Central and East Java, have their own Regional Commands and in the case of the last three, Sub-regional Commands cover a number of districts. Most Regional Commands, however, cover more than one province while Sub-regional Commands cover the territory of a single province. This was the case in Timor-Leste during most of the period of the occupation (see paragraphs 31-33). Below the Korem, the structure invariably corresponds to the civil administrative units: each district has a District Military Command (Komando Distrik Militer, Kodim) and each sub-district a Sub-district Military Command (Komando Rayon Militer, Koramil). In most villages there is a non-commissioned "village guidance" officer called a Babinsa (Bintara Pembina Desa). The Indonesian military also has civil defence forces known as Wanra (Perlawanan Rakyat, People's Resistance) and Ratih (Rakyat Terlatih, Trained Civilians) under its command. These paramilitary groups are recruited from the civilian population in villages and represent a cost-effective way of extending military control and of enlisting the general public for security duties (see Vol. I, Part 4.3: Militarisation of East Timorese society, paragraphs 64-140). The result of this structure was an institution able to exercise power on both the government and the population at all levels of society, and a large standing army that in 1993 fielded one soldier for every 900 people.[9]

18. During the early years of President Soeharto's New Order regime this territorial structure was consolidated and enlarged. ABRI became the core of the regime, and through its territorial structure was able to use a range of methods to ensure its dominance. It institutionalised consultations with high-ranking members of the civil administration and the police called Muspida (Musyawarah Pimpinan Daerah, Regional Leadership Consultation) at provincial and district levels, and Tripika (Tri Pimpinan Kecamatan, Sub-district Leadership Triumvirate) at the sub-district level. In other areas, the New Order presented a largely civilian face to the world. For example, it exhorted the public to pledge allegiance to the state through ensuring public participation in the

* Until 1985 groups of Kodam fell under the command of a higher territorial unit, the Kowilhan (Sectoral Defence Command). The Kowilhan was abolished because it came to be seen as redundant.

ceremonial aspects of Indonesian nationalism. ABRI also implemented public works projects such as 'ABRI Enters the Village' (ABRI Masuk Desa) in keeping with its dual function (*dwifungsi*).

Indonesian armed forces and the police

19. Indonesia's police force was structurally part of the military throughout the New Order. This long history of effective subservience to the leadership of the armed forces had a profound effect on the independence of the police and their capacity to enforce law and order. This history has contributed to the impunity enjoyed by the armed forces and those who work with it. The police force doctrine, founded on a belief that security is the responsibility of the total population, is similar to that of the armed forces. Under its System of Neighbourhood Security (Sistem Keamanan Lingkungan, Siskamling) members of the community have a role in maintaining security in their locality.[10] Like the military, the police force also has a territorial structure, including a presence at the village level (Bintara Polisi Daerah, Binpolda). In addition to its normal duties, the police maintain an armed division called the Mobile Brigade (Brigade Mobil, Brimob). Brimob originally had responsibility for internal security, but as this role was taken over by the military during the New Order this division began to specialise in riot control and was used extensively for this purpose.

Indonesian armed forces funding and its role in the Indonesian economy

20. Since its inception the Indonesian military has played a role in Indonesia's economy. This is largely because the armed forces received inadequate budget allocations,[11] and consequently were forced to raise funds themselves.[12] This practice of "extra-budgetary" funding became institutionally entrenched.[13]

21. During the Revolution, the armed forces had to improvise to supply its troops, but its deep involvement in the economy dates from the late 1950s, as the military took on a central role in all aspects of national life. The nationalisation of foreign-owned enterprises in 1957 gave the military control over a number of state assets which it used for institutional and personal gain. Military officers also seconded to powerful positions in key state agencies such as the National Logistics Agency (Badan Urusan Logistik, Bulog)[14] that is responsible for the distribution of basic staples. This was the beginning of the armed forces' institutionalised role as a source of economic dominance within the nation.

22. During the New Order, President Soeharto moved to reduce the budget allocation to the military from almost 30% to less than 10% of government expenditure.[15] He won praise for what appeared to be a reduction in the role of the military in the society. However, at the same time ABRI grew in size and territorial reach, and developed its role in state affairs. The shortfall in government funding was made up by ABRI's business ventures.[16]

23. The development objectives of the New Order regime provided a justification for ABRI's economic role.[17] The concept of *kekaryaan* (assignment to civilian posts in state and government agencies, and nationalised enterprises) sanctified ABRI's role in the nation's economy.[18] This tied in closely with another key military concept, namely that 'guidance', as exemplified through military discipline and integrity, was vital to the progress of the whole nation. In order to coordinate these functions, ABRI maintained a central office for social political affairs (Kantor pusat masalah sosial politik, Kantor Sospol).[19] The result was a class of civilian officers that by 1992 had numbered 14,000[20] (see paragraphs 141-183 below).

24. The military's control of key state assets allowed it to ensure that lucrative contracts were granted to ABRI-linked businesses. This often resulted in the inefficient running of state agencies for military gain. A clear example of this was the near-bankruptcy of the state oil conglomerate Pertamina in the mid-1970s after it had accumulated massive debt and become "a state within a state" answerable only to President Soeharto.[21] The Pertamina crisis coincided with the build-up to intervention in Timor-Leste and initially gave the military pause about the feasibility of launching a full-scale invasion of the territory.[22]

25. In addition to their formal role in the bureaucracy and state enterprises, ABRI officers also operated in a variety of extra-legal capacities. They were able to use their position to operate as middlemen for entrepreneurs willing to pay for privileged access. Many entrepreneurs were Indonesian-Chinese investors who provided the capital and financial management skills while the ABRI officers provided the political influence and, if required, military force.[23] A prominent member of this group was Liem Sioe Liong, a close partner of Soeharto's since before the New Order. Foreign investors entered into similar relationships.[24] For example, the Indonesian military was contracted by PT Freeport McMoran, a gold and copper mine in West-Papua, to provide security as part of their transaction with the mining company.[*]

New Order reorganisation of the armed forces

26. During the Sukarno era the four military services (Army, Navy, Air Force and the Police) had been rivals, and the joint chiefs of staff were not effective in coordinating them.[25] Greater unity and centralisation were achieved in the late 1950s and 1960s, and in 1967 President Soeharto, using the New Order, placed the military services under the

* According to *The Jakarta Post*, 13 March 2003, Freeport-McMoran Copper and Gold Inc. sent "a confidential document to the New York City controller's office and the US Security and Exchange Commission, disclosing that in 2001 it paid US $4.7 million for the employment of about 2,300 'Indonesian government security personnel'".

Sian Powell, *The Australian*, 15 March 2003, reported that Freeport disclosed that it had made payments of US $11 million to the TNI over the preceding two years. According to Powell, Freeport stated that "The Grasberg mine has been designated by the Government of Indonesia as one of the Indonesia's vital national interests. This designation results in the military's playing a significant role in protecting the area of company operations." The Freeport statement said that it paid expenses for "government-related security" for the mine operations of US $5.8 million in 2001 and US $5.6 million in 2002. [see http://www.minesandcommunities.org/Action/press127.htm].

command of a single ministry, the Department of Defence and Security (Departemen Pertahanan dan Keamanan, Dephankam).[26] From 1967 until the end of the New Order, army generals held the position of ABRI commander-in-chief. Operational authority was taken from the service chiefs and given to the Minister of Defence and Security who tended to be the ABRI commander-in-chief. These changes confirmed the army's *de facto* dominance over ABRI.

27. Under Soeharto, the intelligence sector grew to a position of great power within the military. Intelligence became one of the core aspects of internal security operations which also included territorial, combat and law and order operations.[27] Repression of internal dissent was a major function of the armed forces. Combined with the new centralised command structure, this growing intelligence sector had a major impact on the military's policy and behaviour.

28. President Soeharto came to power in turbulent times and one of the first structures he established to secure his position was the Operational Command for the Restoration of Security and Order (Komando Operasi Pemulihan Keamanan dan Ketertiban, Kopkamtib). He had direct control of this extra-constitutional and very powerful institution.[28] It was overwhelmingly anti-communist in intent and its mission was to:

> Restore security and order from the consequences of the G30S/PKI revolt (the 1965 alleged coup) as well as other extremist or subversive activities.[29]

29. In 1966 the Central Intelligence Body (Badan Pusat Intelijen, BPI) was renamed Coordination of National Intelligence (Koordinasi Intelijen Nasional, KIN) and was subordinated to President Soeharto through Kopkamtib. A more informal body that played a prominent role in early New Order Indonesia was General Ali Moertopo's Special Operations unit, which helped to manage the 1971 elections and responded covertly to a variety of challenges such as ending the "confrontation" with Malaysia and orchestrating the "Act of Free Choice" (Penentuan Pendapat Rakyat, Pepera) in West Papua in 1969.[30] In 1974 the Special Operations unit worked closely with the civilian think tank, the Centre for International Strategic Studies (CSIS), in developing the strategy that led to the takeover of Timor-Leste (see Vol. I, Part 3: History of the Conflict).

30. In 1974, after a major riot known as the Malari affair exposed both widespread dissatisfaction with the New Order and serious divisions in the military itself, Soeharto consolidated and centralised intelligence and the internal security apparatus. Extensive powers were concentrated in the hands of Major General Benny Moerdani who headed the intelligence section at the Department of Defence and Security, was deputy chief of Bakin (Badan Koordinasi Intelijen, Intelligence Co-ordinating Agency) and also head of the Ministry of Defence and Security's Strategic Intelligence Centre. The system of military and political checks and balances that might normally restrain intelligence bodies was removed, and intelligence services attained an unprecedented level of power and influence. Generals Moertopo and Moerdani, and their intelligence networks, played a key role in the development and implementation of policy for Timor-Leste in 1974-75.

Organisational structures of the Indonesian armed forces in Timor-Leste

31. How the military command structures of the Indonesian armed forces over the 25 years of Indonesia's intervention, invasion and occupation of Timor-Leste were made to conform with those in Indonesia will be examined below. However, the nature of the conflict forced ABRI to treat Timor-Leste as a special and extreme case throughout the period of occupation.

32. Throughout the 24-year period there were a number of structural and policy shifts in the way the Indonesian military was organised in Timor-Leste. These modifications were influenced by the nature of the conflict in Timor-Leste, by levels of international assistance, and at times by the level of international scrutiny and ultimately by international pressure on Indonesia to withdraw from the territory. The phases of Indonesian military involvement in Timor-Leste were:

- Covert intelligence operations in 1974 in preparation for full-scale military takeover and occupation;
- The establishment of a Timor-Leste regional command structure for a 'transitional period' which lasted until the end of the 1970s as ABRI sought to consolidate its position and crush the armed resistance;
- The transfer of command into the conventional regional command structure as ABRI declared Timor-Leste 'pacified';
- The expansion of the territorial structure of ABRI after 1979 to control the civilian population as people came down from the mountains and were resettled in camps and villages;
- The establishment of parallel combat and territorial command structures in the 1980s;
- The decision to treat Timor-Leste as a "normal" province as Indonesia partially opened Timor-Leste at the end of 1988;
- The shift of focus to intelligence operations and the use of riot police, Brimob, to counter the spread of clandestine activities and public demonstrations in the 1990s;
- The deployment of Army Strategic Reserve Command troops (Komando Strategis Angkatan Darat, Kostrad) in late 1998 as the militias were formed;
- The creation of a special command structure after the Popular Consultation (30 August 1999) when President Habibie declared martial law in Timor-Leste;
- Liquidation of the special command structure in late September 1999 and replacement by a Task Force for East Timor to coordinate the Indonesian withdrawal with the incoming International Force for East Timor (Interfet).

33. This outline provides background to the sections on human rights violations in Vols. II-III, Part 7 of this report and to Vol. IV, Part 8: Accountability and Responsibility.

It does not aim to give a comprehensive analysis of all the factors that contributed to structural or policy shifts in the Indonesian armed forces or to their consequences. Instead it highlights key developments relevant to the Commission's core concerns.

Table 1 - Structure of military commands in Timor-Leste

Dates	Command	Major known operations
Late 1974	Operasi Khusus (Opsus)[31]	Operasi Komodo
Early 1975	Assistant I/Intelligence of Defence and Security Department with support from Special Warfare Command (Kopassandha)[32]	Operasi Flamboyan
31 August 1975	Operasi Seroja Joint Task Force Command (Komando Tugas Gabungan Operasi Seroja, Kogasgab Seroja).[33]	Operasi Flamboyan Operasi Seroja (*invasion*)
August 1976	East Timor Regional Defence and Security Command (Komando Daerah Pertahanan dan Keamanan Timor Timur, Kodahankam)	Operasi Seroja
October 1978	Operasi Seroja Joint Task Force Command (Kogasgab Seroja)	Operasi Seroja Operasi Skylight
26 March 1979	Sub-Regional Command 164/Wira Dharma (Korem 164)	Operasi Security Operasi Kikis Operasi Persatuan
1984	Security Operations Command for East Timor (Komando Operasi Keamanan Timor, Koopskam Timor Timur) (Combat and Intelligence Command)	Operasi Watumisa 1 Operasi Watumisa 2

May 1990	Operations Implementation Command in East Timor (Komando Pelaksanaan Operasi Timor Timur, Kolakops Timor Timur)	
March 1993	Sub-regional Command 164 (Korem 164)	No formal operations conducted, although combat troops permanently in Timor-Leste.
7 September 1999	Martial Law Authority Command in East Timor (Komando Penguasa Darurat Militer Timor Timur)	
23 September 1999	Indonesian Task Force for East Timor (Satuan Tugas Indonesia di Timor Timur)	

Source: CAVR research and compilation

Operasi Seroja Joint Task Force Command,[34] August 1975 to August 1976

34. Indonesian military involvement in Timor-Leste began in mid-1974 when Major General Ali Moertopo's Special Operations (Opsus) unit began to work covertly in Operasi Komodo. In early 1975, Operasi Komodo ended and was replaced by Operasi Flamboyan under the control of Major General Benny Moerdani, the chief of intelligence at the Department of Defence and Security. The new operation received more resources and involved Special Forces (Kopassandha) units. It undertook a wider range of activities than had Komodo, including destabilisation, intelligence gathering, and the paramilitary training of East Timorese recruits. On 31 August 1975, the commander-in-chief of the armed forces and minister of defence and security, General Panggabean, established the Operasi Seroja Joint Task Force Command (Kogasgab Seroja).[35] This brought Indonesian military involvement in Timor-Leste under the direct control and central command of ABRI.

35. The Seroja Joint Task Force Command was led by Brigadier-General Soeweno, who directed the full-scale invasion in December 1975 known as Operasi Seroja. This was a combined military operation involving troops from all service branches, including:

- The Army Strategic Reserve Command (Komando Strategis Angkatan Darat, Kostrad);
- The Special Warfare Command (Komando Pasukan Sandhi Yudha, Kopassandha);

- The Air Force Rapid Response Troop Command (Komando Pasukan Gerak Cepat, Kopasgat), of the air force;
- Marine and infantry battalions from several regional commands.

36. Although the Operasi Seroja Joint Task Force Command had direct command over all troops, operations were conducted under the strategic reserve command (Kostrad), initially under its Second Combat Command (Komandan Tempur, Kopur II), and after March 1976 under the Airborne Combat Command (Komando Tempur Lintas Udara, Kopur Linud).

37. In early 1976, Seroja Command divided Timor-Leste into four operational sectors. Sector A covered Dili and the enclave of Oecussi; Sector B covered the districts of Bobonaro, Covalima, Ermera and Liquiçá, Sector C covered Aileu, Ainaro, Manufahi and Manatuto; and Sector D covered Baucau, Viqueque and Lautém.* With the exception of sector A (Dili), a composite Combat Team Regiment (Resimen Tim Pertempuran, RTP) was assigned to oversee operations in each sector. Each Combat Team Regiment comprised six to eight territorial battalions supporting artillery, cavalry and engineering units that were designated "combat support units" (Bantuan Tempur, Banpur).

East Timor Regional Military Command, August 1976–October 1978

38. Soon after the Indonesian parliament passed the law integrating Timor-Leste into the Republic of Indonesia in July 1976, ABRI reorganised the military structure in Timor-Leste to incorporate what had been external operations into the conventional military structure. On 4 August 1976, the Ministry of Defence and Security in effect made its operation in Timor-Leste into a domestic operation by establishing the East Timor Regional Defence and Security Command (Komando Daerah Pertahanan dan Keamanan Timor Timur, Kodahankam Timor Timur). Ministry documents defined its role as consolidating the military position during what was called a transitional period:

> The East Timor Regional Defence Command was established with the aim of laying the foundation for the Guidance and Development of Defence and Security in East Timor during the "transitional period", which lasts until the end of the Second Development Plan (in 1979), along with implementing the Guidance and Development of National Defence and Security Policy.[36]

39. The changes were far-reaching:

* Indonesia adjusted some district boundaries (Zumalai was originally part of Bobonaro/Ainaro, not Covalima), and also changed some names in the late 1970s (Same became Manufahi, Lospalos became Lautém).

- The military began to establish a territorial system of District Military Commands (Komando Distrik Militer, Kodim) and Sub-district Military Commands (Koramil). The Kodim were initially numbered from 01 (Dili) to 13 (Oecussi). The February 1977 instruction regarding the organisation of the Regional Defence Command envisaged that eight of the Kodim would operate under a Sub-regional Military Command (Korem), while the other five were to operate independently and report directly to the Regional Defence Command (Kodahankam). However, given that Sub-regional Military Command 164 was not established until March 1979, all of the Kodim were in effect under the direct command and control of Regional Defence Command and, from October 1978 until March 1979, its successor, Seroja Joint Task Command (Kogasgab).
- Under the Regional Defence Command were several kinds of combat units. Continuing the practice of its predecessor, the Regional Defence Command deployed Combat Team Regiments (RTP) in the operations sectors. In late 1976 - early 1977 these included RTP 16 in sector B, RTP 13 in sector C, and RTP 15 in sector D. In addition Independent Combat Battalions (Batalion Tempur Berdiri Sendiri) and Independent/non-RTP Combat Support Battalions (Batalion Bantuan Tempur Berdiri Sendiri), comprising artillery, cavalry, engineering and other specialist troops, were also deployed.
- The Regional Defence Command included a unit called the Intelligence Task Force/Implementing Body (Satuan Tugas/Badan Pelaksanaan Intelijen, abbreviated Satgas/Balak Intel, or simply Satgas Intel). This unit played a prominent role in internal repression, which it would continue to play throughout the next two decades.
- Military Police were deployed in Dili and other major towns. Available evidence suggests that Military Police played an active role in the growing system of detention centres and the establishment of prison facilities. CAVR does not have any evidence to suggest that Military Police took disciplinary measures against military personnel during this period.
- Provincial, district and sub-district police units were established at this time, although they operated directly under the command of the Regional Defence Command for several years.
- The military bureaucracy also expanded greatly.* [37]

40. [40.] During this period, ABRI was engaged in full-scale military operations against Fretilin/Falintil, which controlled significant areas of the interior and a large proportion of the civilian population. International military hardware, especially from the US, played a critical role in giving ABRI the capacity to destroy Fretilin's mountain and jungle bases and to end this phase of the resistance.

* In addition to the general staff already present, the East Timor Regional Defence Command commander was also served by a number of service specialties (information, finance, mental development, history, law, and psychology), implementation bodies (communications and electronics, Military Police, health, personnel administration, Command Logistics, a naval station and air force base), and operational units (Brigif/RTP, an intelligence task force, independent battalions, territorial units, navy and air force task forces, etc.).

Operasi Seroja Joint Task Force Command (Kogasgab), October 1978–March 1979

41. On 12 October 1978, a new Operasi Seroja Joint Task Force Command (Kogasgab Seroja) was established.[38] The Seroja Joint Task Force was placed under the control of Regional Military Command XVI/Udayana (Kodam XVI/Udayana), which included the Indonesian provinces of Bali, and West and East Nusa Tenggara.[39] A month later operational control over Timor-Leste was transferred from the Ministry of Defence and Security, which had administered the territory directly until then, to the Regional Defence Command II (Komando Wilayah Pertahanan, Kowilhan II), which covered Java, Bali and all of Nusa Tenggara. These changes signalled a judgment by ABRI that it had substantially achieved military victory over Fretilin/Falintil, and that "normalisation" would soon be in order. The ministerial decree establishing the new command stated:

> From the time of its founding and in the shortest possible time Operasi Seroja Joint Task Force Command (is to) destroy the remnants of the armed Gang of Security Disturbers (Gerombolan Pengacau Keamanan) to maintain and increase the security of the region, and to assist in preparing to normalise the functioning of the civil administration by carrying out Domestic Security Operations in the province of East Timor.[40]

42. Brigadier-General Dading Kalbuadi, who had run the Regional Defence Command since 1976, was appointed Commander of Regional Command XVI/Udayana and hence retained direct command over military operations in Timor-Leste.

43. Under the command of Colonel Sutarto, the Seroja Joint Task Force Command oversaw the final stages of Operasi Seroja in Timor-Leste in late 1978 and early 1979 (see Vol. I, Part 3: History of the Conflict). With the fall of the last Fretilin base areas on Mount Matebian (November 1978), Mount Kablaki (about January 1979), Fatubessi, Ermera (February 1979) and Alas, Manufahi (March 1979), ABRI had achieved formal control over all territory in Timor-Leste. The death of Fretilin President Nicolau Lobato on 31 December 1978 provided further reason for the Indonesian military to think that the war was over. These developments set the stage for a further reorganisation of military structures in Timor-Leste.

Sub-regional Military Command 164/Wira Dharma, 1979–1999

44. Declaring Timor-Leste pacified, ABRI brought Operasi Seroja to an end, and on 26 March 1979 established the territorial Sub-regional Command 164/Wira Dharma (Korem 164).[41] This was one of four sub-regional commands under Regional Military Command XVI/Udayana headquartered in Denpasar, Bali. As the civilian population surrendered and was resettled in detention camps and later villages, the territorial structure was expanded. Non-commissioned village guidance officers (Babinsa) extended the reach of the military into the villages. By the 1990s the number of village guidance officers exceeded the total number of villages in Timor-Leste.[42]

45. When carrying out operations, the sub-regional commander was also the commander of the Operation Implementations Command (Komando Pelaksana Operasi, Kolakops). This was really just another name for the sub-regional command, though with the addition of non-organic troops.[43]

46. In 1979, the Ministry of Defence and Security issued an instruction on combat operations in Indonesia for 1979-80. The aim of operations in Timor-Leste was explained as:

> a) Destruction of the remaining activities and ability of the armed resistance of the Gang of Security Disturbers so they no longer have strategic significance, particularly with regards to political resistance by elements of the Gang of Security Disturbers overseas.
>
> b) Partition off Timor-Leste so it is not possible for the Gang of Security Disturbers to escape from the territory or for the smuggling of physical assistance from abroad into the territory of Timor-Leste.
>
> c) Assist in the infrastructure rehabilitation programme and normalise the activities of the populace.[44]

Security Operations Command for Timor-Leste, 1984–1990

47. In 1984 ABRI established a new combat command structure called the Security Operations Command for East Timor (Koopskam Timor Timur).[45] The commander of the Army Strategic Reserve Command's First Infantry Division (Divif I/Kostrad) headed it, and his staff filled the new combat command structure.

48. Throughout this period there was a hierarchical relationship between the Sub-regional Command (Korem) and the Security Operations Command (Koopskam). The Security Operations Command was the superior command with responsibility for combat and intelligence operations, while Sub-regional Command 164 was responsible for territorial affairs. The head of the Security Operations Command was a brigadier-general and thus outranked the commander of Sub-regional Command 164, who was a colonel.

49. Both the Special Warfare Command (Kopassandha) and the Army Strategic Reserve Command (Kostrad) played major combat roles in Timor-Leste during this period. The officers appointed to command the Security Operations Command (Koopskam) during the mid-1980s served simultaneously as commanders of the West Java-based Strategic Reserve (Kostrad) First Infantry Division.* This dual appointment facilitated coordination between the Special Warfare Command (Kopassandha) and troops from the Army Strategic Reserve Command's First Infantry Division (Divif I/Kostrad) based in West Java.

* This can be confirmed for Brigadier-General Sugito (c. 1983-85), Brigadier-General Warsito (1985-87) and Brigadier-General Mantiri (1987-88), and is likely also the case for Brigadier-General Sutarto (?–83).

50. In July 1988 the Army Strategic Reserve Command Second Infantry Division was appointed to replace the First Infantry Division within the structure of the Security Operations Command for East Timor. A military history book indicates that at the time of the handover, ABRI considered Falintil to be weak, but acknowledged its capacity to both mount operations and influence the population.

> The remnants of the GPK (Gerombolan Pengacau Keamanan, Gangs of Security Disturbers) running wild in the forests of East Timor, particularly in the central and eastern sectors, physically total less than 244 people. They possess around 217 weapons composed of various light, long and short types.
>
> They are former leaders and members of Fretilin and they have communist, Marxist and Leninist ideological sympathies. They are still capable of indicating their existence. Through various means they influence a minority of the people to support an independent nation separate from the Republic of Indonesia.[46]

Operations implementation command (Kolakops) in Timor-Leste, 1990–1993

51. In December 1988, in response to a request by Governor Mario Viegas Carrascalão earlier in the year, President Soeharto signed Presidential Decree No. 62/1988 granting the province of East Timor an "equal status" with the other 26 provinces of Indonesia. Decree No. 62 permitted freer travel within the province, allowed Indonesian citizens from elsewhere in Indonesia to enter Timor-Leste, granted foreign tourists entry into Timor-Leste and allowed foreign journalists to visit Timor-Leste (subject to official approval). This was an attempt to put a kinder face on the Indonesian military occupation of the territory. In 1989 the sub-regional (Korem) commander, Colonel Rudolf Samuel Warouw, announced a new operation called Operasi Senyum (Smile) that aimed to reduce travel restrictions, release a number of political prisoners and curtail the use of torture during interrogations.

52. The decision to treat Timor-Leste like a "normal" province also entailed a further transformation of the military structure. In May 1990 the Security Operations Command for East Timor was turned back into the Operations Implementation Command in East Timor (Kolakops Timor Timur).[47] The Korem commander, Colonel Rudolf Samuel Warouw, was appointed to command Kolakops and promoted to brigadier-general, replacing the hard-line Brigadier-General Mulyadi.

53. However, this period coincided with the rise of the urban youth and clandestine movement of the Resistance, and the use of public demonstrations against the Indonesian regime (see Vol. I, Part 3: History of the Conflict). On 12 November 1991, Indonesian military troops were filmed as they massacred peaceful demonstrators at the Santa Cruz cemetery in Dili (see Vol. I, Part 3: History of the Conflict and Vol.

II, Part 7.2: Unlawful Killings and Enforced Disappearances). Although a Military Honour Board was convened and a number of officers were dismissed from active service and some non-commissioned officers and privates court-martialled, there was no immediate move to alter the military structures in Timor-Leste.

Sub-regional Command 164/Wira Dharma (Korem 164), 1993–1999

54. Despite international condemnation of the Indonesian military after the Santa Cruz massacre, ABRI was confident that it had brought the Resistance under control. An August 1992 military document stated:

> The repressive actions of the Government of the Republic of Indonesia have broken up a large part of the clandestine network, both inside and outside East Timor.[48]

55. Military confidence increased further with the capture of Xanana Gusmão on 20 November 1992 and of Mau Hunu (Antonio Gomes da Costa) on 3 April 1993.

56. Military efforts shifted increasingly to the control and repression of youth resistance, with Special Forces Command (Komando Pasukan Khusus, Kopassus) taking the lead.[49] When Operations Implementation Command in East Timor (Kolakops) was abolished, the Joint Intelligence Unit (Satuan Gabungan Intelijen, SGI) was transferred to Sub-regional Command 164 and renamed the Intelligence Task Force (Satgas Intel). In contrast to the official policy of normalising the status of Timor-Leste and reducing the military presence, in late 1994 Colonel Prabowo Subianto and the Special Forces Command (Kopassus) initiated psychological operations to intimidate and terrorise the Timor-Leste population, increased military training of civil servants and university students, expanded the paramilitary teams, and established new militia organisations.[50]

57. The focus on repression of the urban resistance during the 1990s was also signalled by the large presence and extensive use of the anti-riot police, Brimob.[51] Anti-riot police units were present in far larger numbers in relation to the size of the population than was normal in Indonesia during this period. By August 1998 nearly 7,400 anti-riot police, renowned for their violence, were deployed in Timor-Leste, divided between territorial units (with 214 personnel) and units brought from outside the territory (7,156) (see Vol. III, Part 7.4: Detentions, torture and ill-treatment.)

Continued combat troop presence

58. In March 1993, the Operations Implementation Command (Kolakops) was abolished and its functions were handed over to the sub-regional command (Korem). Combat operations are not the standard responsibility of territorial commands.[52] The Combat Sectors A and B in Timor-Leste were transferred to the Sub-regional Command 164 and ABRI continued to deploy large numbers of combat

troops. Precise information on troop deployments is available from 1998, due to the availability of secret military documents that were passed out of Timor-Leste.[53] It is clear from these documents that combat troops were extensively deployed; five infantry combat battalions, as well as several special duty contingents, were in Timor-Leste since August 1998. In addition, Special Forces Command (Kopassus) training units were present, evidence that Timor-Leste was used as a training ground for ABRI's elite troops.[54]

59. Between the time Operations Implementation Command in East Timor was abolished (in 1993) and 1999, the Indonesian Armed Forces continued to deploy the Army Strategic Reserve Command (Kostrad) and the Special Forces Command (Kopassus) as well as infantry and other units from outside Timor-Leste. From 1993 until 1997, on average there were six external battalions posted in Timor-Leste at any one time. The Commission's data show that only one Army Strategic Reserve Command battalion was deployed in Timor-Leste at any given time. In 1995 ABRI began special deployments of strategic troops to Timor-Leste. The first contingent of these troops, code-named Rajawali (Hawk),* was deployed to the combat sectors under Sub-regional Command 164 in October 1995.[55] They were primarily drawn from the Strategic Reserve Command, and troops apparently served 12-month tours of duty. In late 1998 troops from the intelligence and counter-terrorism units of the Special Forces Command were deployed. These troops were attached to the Intelligence Task Force (popularly referred to by its previous title SGI). In 1998 the total number of external battalions present in Timor-Leste increased to at least 12.[56]

Martial Law Military Command in Timor-Leste, September 1999

60. In the violent aftermath of the Popular Consultation, and under intense international pressure to allow an external peacekeeping force into Timor-Leste, General Wiranto sent a letter to President B.J. Habibie on 6 September 1999 about the "continual development of the situation in East Timor and policy recommendations to handle it".[57] Wiranto explained that security had deteriorated, becoming "brutal and anarchistic and had led to the loss of lives and property." Among the reasons he cites are the "disappointment of the pro-integration groups caused by the impartiality of UNAMET" as well as the "misconception on the part of pro-integration groups who believe they can change the result of the referendum by force". International pressure prompted President B.J. Habibie to act on this letter, signing Presidential Decree Number 107 1999 that declared martial law in Timor-Leste beginning at midnight on 7 September 1999.

61. Following the declaration of martial law, General Wiranto issued a Commander's Directive outlining the establishment of a Martial Law Authority Command in East Timor (Komando Penguasa Darurat Militer Timor Timur) as of midnight on 7 September 1999.[58] The stated objectives of this command were to return security in Timor-Leste in the fastest possible time, to give security assurances so that the results of the Popular Consultation could be acted on and to maintain the credibility

* Distinct from Kopassus Rajawali.

of the Government of the Republic of Indonesia, including that of the Armed Forces of Indonesia and the National Police.

62. Major-General Kiki Syahnakri was appointed martial law commander. He and other newly-appointed senior officers, several of whom were Special Forces Command officers,* had served in Timor-Leste during the 1990s and some had held command positions in the lead-up to the Popular Consultation. Thus a predominately Special Forces Command (Kopassus) leadership commanded Strategic Reserve Command troops during the martial law period. Wiranto may have wanted Special Forces Command officers in command positions to lessen the blow to Special Forces personnel who had played a primary role in organising the militia and to prevent inter-corps tensions from developing. The most egregious human rights violations of 1999 occurred during this period of martial law.

Martial law command liquidated: Indonesian Task Force for Timor-Leste

63. The UN and key member states put Indonesia on notice that it had limited time to prove that martial law was effectively restoring law and order (see Vol. I, Part 3: History of the Conflict). When it became obvious that this was not the case, President Habibie succumbed to this pressure and requested UN assistance. The Security Council passed Resolution 1264 on 15 September 1999, and Interfet, with full Chapter VII powers, was deployed on 20 September to restore peace. On or soon after 23 September 1999, President B.J. Habibie ended martial law in Timor-Leste.[59] The Martial Law Operations Command in East Timor was liquidated and a new security command named the Indonesian Task Force for East Timor (Satuan Tugas Indonesia di Timor Timur) was established. The head of this task force was Police Brigadier-General J.D. Sitorus, the commander was Colonel Sahala Silalahi and the deputy commander was Colonel Suryo Prabowo. The Indonesian Task Force for East Timor was intended to coordinate with the incoming Interfet.

* Those who had served in Timor Leste were Kiki Syahnakri, Amirul Isnaeni, Andi Gerhan Lentara, and those from Special Forces Command were Amirul Isnaeni, probably Lilik Koeshardianto and Irwan Kusnadi.

Militarisation of East Timorese society*

Introduction

64. Over the course of the Indonesian occupation, East Timorese society underwent extensive militarisation. Although the extent and intensity of militarisation varied over the 24-year occupation, overall it was pervasive and had a profound impact on the lives of all East Timorese people.

65. Soon after the Carnation Revolution of 25 April 1974, the Indonesian military increased its intelligence focus on Timor-Leste with the aim of supporting the pro-integration Apodeti party. By the end of 1974, it was running covert operations in the territory (see Vol. I, Part 3: History of the Conflict), and was arming and providing military training to Apodeti members in West Timor.[60] Indonesian military intelligence was the chief architect of the takeover of Timor-Leste. It conducted a diplomatic campaign to assert Indonesia's status as a concerned party that ultimately led Indonesia to the decision to invade Timor-Leste in October 1975.

66. Intelligence operations were a major part of Indonesian military operations throughout different periods of the conflict. Beginning with the covert operations of 1974-75, through the early years of the occupation of the main towns, and subsequently during the mass surrenders and resettlement of civilians in 1977-78, intelligence figured prominently (see paragraph 4-63 above; also Vol. I, Part 3: History of the Conflict). After the mass surrenders, the Resistance changed its strategy and began to develop clandestine networks where the civilian population had settled. Indonesian intelligence used East Timorese spies to try to break these networks, destroying the sense of trust and social cohesion in East Timorese communities.

67. Indonesia invaded Timor-Leste with the assistance of what it termed Partisans, members of Apodeti, UDT and other parties who had fled to West Timor from mid-1974. The Partisans established a precedent for the Indonesian military's use of East Timorese proxies. During the full-scale war that ensued in the late 1970s, Indonesia developed East Timorese battalions and paramilitary groups. It also mobilised civil defence forces and pressed men and boys into providing logistics support for combat troops. In the early 1980s, the Indonesian military forced massive numbers of civilians to march across the island to flush out the remaining resistance forces (see Vol. I, Part 3: History of the Conflict).

68. The state structure that Indonesia imposed on Timor-Leste was itself heavily militarised. This derived from the extensive involvement of the armed forces in

* This section discusses the various types of paramilitary forces deployed in Timor-Leste by the Indonesian military. In this section the term 'civil defence force' is used to describe Hansip, Ratih, Wanra, etc. – groups comprising East Timorese recruited by the Indonesian armed forces. The term 'paramilitary' is used to refer to the East Timorese auxiliary units established by ABRI throughout the occupation and the term 'militia' is used to refer to the groups that were established in the period leading up to the Popular Consultation in 1999. 'Auxiliary forces' is an umbrella term used to describe these various groupings collectively.

Indonesian politics and the economy during President Soeharto's New Order regime (see pars 4-63 above). In Timor-Leste, the Indonesian military had an even more pervasive role than in New Order Indonesia. ABRI was directly involved in establishing the province of Timor-Leste and thereafter dominated its administration (see this chapter on civil administration, below). Throughout Indonesia's occupation of Timor-Leste, the province was a conflict zone, varying from full-scale war in the early years to a low-level conflict during much of the 1980s and 1990s. Timor-Leste represented the extreme compared to other provinces of Indonesia where the armed forces were engaged in conflicts. Unlike those provinces, Timor-Leste became part of Indonesia only through invasion, annexation and occupation. It was therefore distinct from Indonesia, and the armed forces had to adopt different methods to subjugate it.* In addition, Timor-Leste was an external acquisition. For these reasons Timor-Leste was categorically distinct from Indonesia, and the behaviour of the armed forces in Timor-Leste was similarly atypical. This explains the thorough militarisation in Timor-Leste by the Indonesian government.

69. In the 1990s East Timorese youth became more open in their willingness to protest the Indonesian occupation. The primary response to this was a shift in military strategy from waging war against Falintil to an intelligence war against the growing clandestine resistance.

70. The scout movement, martial arts groups and student bodies in schools and at universities aimed to instil discipline and loyalty to Indonesia into East Timorese youth. Indonesia placed great emphasis on its national ideology (Pancasila) and the performance of nationalist rituals through military-style ceremonies and events to celebrate national days.

71. While these activities may have had an insidious militaristic quality, the recruitment of East Timorese youth in the mid-1990s to form paramilitary groups was brutal. These groups, under the protection of the Special Forces Command (Kopassus) conducted organised crime activities by day and disappearances of independence supporters by night. These youth groups were forerunners to the militias that were rapidly developed by ABRI/TNI in 1998-99. As in 1974-75, the Indonesian military again used East Timorese to give non-Timorese troops "plausible deniability" for their role in the violence. Nevertheless, in 1999 it was clear that the militias were an extension of the TNI.

Pre-Indonesian militarisation of Timor-Leste

72. Timor-Leste is a mountainous country that was historically divided into regional kingdoms. Most traditional regional kings (*liurai*) maintained armies of local men, who, from time to time, would fight armies in neighbouring kingdoms.[61] In its dealings with Timorese *liurai*, Portugal used a strategy of divide-and-rule, often

* The Commission notes that parallels exist with other conflict zones within Indonesia, such as West Papua and Aceh.

using the armed forces of "friendly" *liurai* to crush the dissent of others (see Vol. I, Part 3: History of the Conflict). This pattern where an outside power used the *liurai* as intermediaries to raise forces in defence of foreign interests was replicated by Indonesia in its covert activity in 1974-75 and in the subsequent years of occupation.

73. The Second World War first brought Australian and British troops to neutral Portuguese Timor and then Japanese occupation forces. Many East Timorese took great risks to assist the small numbers of Australian troops in their guerrilla activities, while others sided with the Japanese or were caught between the warring international forces. Over 40,000 East Timorese civilians are reported to have died during the Japanese occupation, and the war left deep divisions.[62]

74. When Portugal returned after the Second World War, it maintained a professional armed force, comprising Portuguese soldiers and recruits from Portugal's African colonies. The police were technically part of these armed forces. East Timorese were also recruited to the armed forces, though few held positions above the lower ranks. There was not much resistance to the Portuguese colonial authority during these years that were dominated by Salazar's authoritarian regime. The Portuguese secret police, PIDE, monitored all signs of opposition among the East Timorese and had a fearful reputation.[63] This suppressed freedom of expression and the ability to form political associations or to have political debate. Compared to the subsequent experience under Indonesia, the impact of the armed forces on society was minimal.

75. When the Armed Forces Movement (MFA) took power in Lisbon on 25 April 1974, East Timorese quickly formed political parties (see Vol. I, Part 3: History of the Conflict). The Commission heard testimonies from leaders of the two major parties, Fretilin and UDT, who said they used force and violence in their campaigning and efforts to gain influence in the community.[64] When UDT took power on 11 August 1975, it did so with guns from the police force. When Fretilin responded the decisive factor in its victory was the support from East Timorese members of the Portuguese armed forces and their weapons. Both UDT and Fretilin indiscriminately distributed guns to their civilian members, greatly increasing the scale of violence during the internal conflict.[65] Although the internal armed conflict was relatively brief, it intensified existing divisions and created new ones that scarred East Timorese society throughout the years of the Indonesian occupation. These divisions were manipulated by the Indonesian military in its efforts to crush the Resistance, that included strategies of militarising East Timorese society.

Indonesian militarisation of Timorese political parties before the occupation

76. The Commission heard testimony from Tomas Gonçalves, the son of Apodeti leader Guilherme Gonçalves, the king of Atsabe (Ermera), about how the Indonesian military employed a strategy of arming and training young men associated with the party from late 1974.[66] ABRI named this group the Partisans. In October 1974, Tomas Gonçalves travelled to Jakarta and met with senior Indonesian military

figures. This was not long after Indonesian Foreign Minister Adam Malik had met with Fretilin Foreign Affairs Minister José Ramos-Horta and assured him that Indonesia respected Timor-Leste's right to self-determination and independence. ABRI began to build its strategy of preparing East Timorese armed auxiliaries at a time when Portugal was attempting to conduct an orderly decolonisation process.

77. When Tomas Gonçalves returned in November 1974, 216 young men from the Atsabe area were mobilised and sent to West Timor where they received basic military training and weapons from ABRI operatives, including members of the Special Forces Command (Kopassus).[67] At least some of these men were forced to participate by Apodeti leaders.[68] Tomas Gonçalves told the UN-supported Serious Crimes Unit in Timor-Leste how these youths were mobilised:

> *I was appointed supreme commander of the Partisans on 2 December 1974. There was a supreme commander, myself, then there were two company commanders, eight platoon commanders, and 16 team commanders. There were 216 combatants in all. I was under the command of Yunus [Yosfiah of the Susi Team, a Special Forces command that was part of Indonesia's Operasi Flamboyan].*[69]

78. Around 50 Partisans were attached to each of the three Special Forces teams - Susi, Umi and Tuti - and deployed in home areas.[70] After the 11 August 1975 attempted coup by UDT, ABRI, with members of these Partisan forces, began cross-border raids from West Timor. The three teams conducted further cross-border raids in mid-September, again with limited success.[71] These raids included the forced recruitment of East Timorese men to serve with the Partisans[72] and a number of killings.[73]

79. Following defeat in the civil war, UDT's armed forces and supporters retreated to the border and by the end of September to West Timor. According to UDT military leader, João Carrascalão, more than 500 of the 3,000 UDT troops who crossed the border were armed.[74] They were absorbed into the Partisan force. Further ABRI cross-border raids in mid-October involved larger numbers of Partisans and were better supported by naval artillery, enabling the capture of Batugade, Balibó (Bobonaro) and other border towns.[75] According to Tomas Gonçalves, the attack included 216 Apodeti Partisans, 450 Indonesian troops and 350 men under the control of João Tavares.[76] This last group was known as Halilintar. The Halilintar re-emerged in 1994 with the mission of suppressing the growing clandestine movement in Bobonaro District and went on to become one of the leading militia groups in 1998-99. In addition to providing valuable local knowledge of Portuguese Timor to Indonesian commando units, the Partisans were a vital part of Operasi Flamboyan's continuing strategy of "plausible deniability". ABRI developed the myth that Indonesian soldiers involved in these operations were merely volunteers helping East Timorese return to take control of their homeland.[77] However, Tomas Gonçalves told the Commission that the planning and implementation of operations were led by members of the Indonesian military, with East Timorese Partisans used as support troops, guides and sources of intelligence.[78]

80. It seems that selected Partisans took part in the invasion of Dili,[79] and others were involved in the landing at Baucau three days later. After the invasion, Partisans participated in attacks further inland. While generally ABRI reorganised its use of East Timorese auxiliaries, some Partisan units were maintained throughout the duration of the occupation, such as a group in Ermera that in 1999 numbered around 130.[80]

Establishment of East Timorese combat battalions

81. In 1976, ABRI began providing formal military training to East Timorese when it sent 60 Partisans to Java. In June 1977, 400 more East Timorese, some of whom had previously served as Partisans, followed. On 1 October 1977, these men graduated with the rank of private, and on 24 January 1978, the East Timor military commander, Colonel Dading Kalbuadi, formally established Infantry Battalion 744/Satya Yudha Bhakti. The new battalion of 460 troops was divided into four companies under the overall command of Major Yunus Yosfiah.[81] In early 1977 these troops were given "raiders" training in Tacitolu, west of the Dili airport, and then declared ready for combat. A second group of more than 500 East Timorese recruits was trained in 1978. They formed Battalion 745/Sampada Yudha Bhakti which was inaugurated in September 1978 under Major Theo Syafei. Plans for a third battalion, 746, were dropped after the new recruits were deemed physically and mentally unacceptable.[82]

82. The battalions were intended to be entirely manned by East Timorese. However, this goal was never realised. Among the East Timorese soldiers were Indonesian infantry and Special Forces troops, and the officers down to platoon level were Indonesian.[83] The two battalions were part of the permanent territorial Regional Military Command (Korem) structure in Timor-Leste during the occupation, and were used extensively in combat operations as well as for internal security duties. They developed a reputation for brutality. The former Partisan, Tomas Gonçalves, described Battalion 744 in its early days:

> *The Partisans only became evil after [Battalion] 744 was formed by Yunus [Yosfiah], and they became 744 members. 744 was comprising Javanese, commandos, and all sorts. The whole time Yunus was the commander of 744 there were extrajudicial killings going on constantly, massacres...*[84]

83. ABRI also recruited East Timorese into the Korem/Kodim/Koramil regular territorial structure. Some had formerly served in the Portuguese colonial army. Others were former members of civil defence forces (Hansip) who had been recruited into ABRI through the Milsas programme (see section on "Tri-monthly Military Member" Milsas, paragraphs 100-102 below). By July 1998, there were 6,097 East Timorese serving in ABRI, of whom 5,510 were in the army and 569 in the police. The chances of East Timorese becoming officers or non-commissioned officers were far less than those of Indonesians. The data show that in July 1998 only 0.4% of East Timorese serving in the Indonesian armed forces were officers and less than 24% were non-commissioned officers, while 76% were privates. The breakdown for Indonesians in the 17,834 armed forces in Timor-Leste at the time

was very different: 5.6% were officers, 34.1% were non-commissioned officers and just 60.4% were privates.[85]

Early paramilitaries, 1976–1981

84. From the outset the Indonesian armed forces aimed to bring Timorese into the conflict in Timor-Leste. It recruited East Timorese members into the armed forces and used East Timorese paramilitary groups to conduct covert operations. During the late 1970s the Indonesian military mobilised East Timorese specifically to fight against Fretilin/Falintil. The paramilitaries had a different role from that of the Partisans who had been treated more like porters or combat support personnel than as frontline troops. It also differed from the civil defence forces that did not normally play a frontline combat role. The paramilitaries established in the late 1970s and 1980s were generally closely linked to the Special Warfare Command (Kopassandha).

85. One of the first paramilitary forces was formed in September 1976 when Major-General Benny Moerdani personally granted the Special Warfare Command captain, A.M. Hendropriyono, permission to form a special platoon of East Timorese (Peleton Khusus, Tonsus) in Manatuto. The unit was recruited from an initial Apodeti core in Laclubar (Manatuto) and led by ex-Falintil member João Branco.[*] It quickly expanded beyond platoon size. Tonsus was well-armed and assigned East Timorese to special combat operations in the central sector.[86] Tonsus was a successful initiative that recognized East Timorese as equals rather than as inferiors. Despite its successes, the unit lapsed in 1978, and ABRI resumed using East Timorese as auxiliary personnel such as logistical assistants rather than as front-line combatants.[87]

86. ABRI recruited East Timorese for several other teams during the late 1970s. One group, called Nuclear Team (Tim Nuklir) operated in Moro (Lautém) under the command of sub-district administrator, Edmundo da Conceição da Silva.[88] Ex-partisan members known as regional military command volunteers or Skadam (Sukarelawan Kodam) were involved in the assault on Mount Kablaki in June 1977. Their title, "Skadam" seems to imply that they were formally incorporated into the ABRI structure.[89]

Paramilitaries in the 1980s

87. In 1979 ABRI established the Morok Team (literally, "Wild Team") under the command of Filomeno Lopes in Manatuto.[90] Comprising former Apodeti and UDT members, the Morok Team operated in Manatuto throughout the 1980s. A second team, called the Asahan Team, was established in 1980 by the intelligence section of the Manatuto District Military Command. It was placed under the leadership of Domingos ("Apai") da Silva and Antonio Doutel Sarmento, but functioned for only a year.[91] In 1981, at the time of Operation Security (Operasi Keamanan), a third team called Alap-alap was formed and used primarily to back up combat troops.[92]

* Tomas Gonçalves (interviewed by SCU on 8 August 2000) described João Branco's men being trained in Dili. [CAVR Community Profile of Pairara, Moro (Lautém), 28 March 2003].

88. In the 1980s ABRI established a number of more highly trained paramilitaries. One of the first was Railakan Team (literally, "Lightning Team") formed in about 1980 or 1981 under the command of an ABRI private, Julião Fraga, an East Timorese from Baguia (Baucau) and operating in Baucau.[93] The Lightning Team engaged in a variety of tasks such as the arrest, interrogation and torture of suspected clandestine members and taking part in operations to search out Falintil. Around 1983 the group was renamed the Saka (Satuan Khusus Pusaka, Heirloom Special Unit) Team. Julião Fraga continued to command the renamed group until his assassination in Baucau in 1995. The Railakan/ Saka Team was occasionally seen working directly with Kopassus[94] and regularly acted as an intermediary in conducting arrests for the Sub-district Military Command (Koramil).[95] At about the same time as the Railakan Team was renamed Saka Team in 1985, a sister paramilitary group called Sera Team was established in Baucau. Under the command of a former Falintil leader named Sera Malik, the Sera Team operated primarily in the Baucau-Vemasse-Venilale area. Alfa Team, yet another paramilitary squad from this period, was established in Lautém by the Special Forces Command (Kopassus) captain, Luhut Panjaitan, probably in 1986.[96]

89. The paramilitary groups served a number of purposes, such as participating in offensives and operations. A CAVR informant recalled:

> *Major Sinaga formed Parrot Team (Tim Lorico) in the village of Oestico Loilubo (Vemasse, Baucau) from former Falintil. He used them for jungle operations, and after they found a Falintil place ABRI troops would go in and shoot… After Sinaga left Timor-Leste, the members of Tim Lorico disappeared one by one.*[97]

90. The paramilitary groups also had functions that reflected their proximity to the Special Forces Command (Kopassus), such as covert operations and functioning as intelligence agents. These teams established the tradition of close relations between ABRI, specifically the Special Forces, and East Timorese paramilitary units. In the case of key individuals these relations were often sustained throughout the years of the conflict.[98]

Civil defence forces

91. One of the ideological cornerstones of the Indonesian military is the concept of Total People's Defence and Security System (Sistem Pertahanan Keamanan Rakyat Semesta, abbreviated Sishankamrata), according to which all civilians have a role to play in national defence.* In theory, Indonesian civilians may be selected to undergo basic military training, after which they are referred to as Trained Populace (Rakyat Terlatih, Ratih). Further selections may be made from the ranks of the Ratih to form (a) the Civil Defence Force (Pertahanan Sipil, Hansip), responsible for protecting civilians in case of natural disaster or war, (b) the People's Security Force (Keamanan Rakyat, Kamra), which is responsible for assisting the police, and (c) the People's Resistance Force

* This concept is derived the guerrilla strategy employed during the Indonesian revolution.

(Perlawanan Rakyat, Wanra), responsible for assisting the armed forces.* Although all of these categories are theoretically under the administration of the Department of Home Affairs (Departemen Dalam Negeri, Depdagri), in Timor-Leste these groups operated directly under Indonesian military command and control.[99]

92. The recruitment of East Timorese civilians into civil defence forces in Timor-Leste during the conflict is an example of how ABRI adapted its standard strategies in the territory. In Timor-Leste, ABRI used civil defence forces in a conventional territorial security role, but also in combat, surveillance and intelligence roles. In Indonesia, the Department of Home Affairs administers the civil defence forces, but in the early years of the conflict in Timor-Leste civil defence forces were directly under Indonesian military command and control; it was only in the 1980s that responsibility passed to the Department of Home Affairs.[100]

93. The widespread use of East Timorese civil defence forces had a dramatic impact on the East Timorese, bringing the conflict and the military into peoples' daily lives. Based in communities, members of civil defence forces were used as a link between the civilian population and the military. Intelligence gathering was a pervasive activity, and civil defence force members, either with members of the Indonesian military or on their own, were often involved in direct violations of civilians' rights. Protected by ABRI, they enjoyed some impunity for their actions. The Commission took many statements and heard many testimonies of the violence committed by other community members who were members of the military's civil defence forces (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment; and Vol. III, Part 7.7: Sexual Violence, respectively).

94. The first East Timorese Hansip (Civil Defence) units were established during the second half of 1976, not long after Indonesia's act of integration in July 1976.[101] By mid-1978 there were 5,897 Hansip in Timor-Leste: numbers varied across the territory, with the largest numbers in Baucau (700) and Ainaro (665), and the fewest in Lautém (187).[102] Hansip were regularly used as combat support personnel, a role typically filled elsewhere in Indonesia by Wanra units (Perlawanan Rakyat, People's Resistance). In Indonesia, the Civil Defence forces (Hansip) were an established institution whose members were salaried and so had some longevity of service, whereas Wanra members did not receive a salary. However, the distinction between Hansip and Wanra in Timor-Leste was not always clear. This is either due to the military using Hansip in the capacity of Wanra, or because sometime between 1978 and 1980 Hansip were reclassified as Wanra. The two fulfilled essentially the same role. By 1980 the number of what by then were officially called Wanra reached 6,500, but two years later had decreased to 4,800.[103]

95. The Trained Civilians force (Rakyat Terlatih, Ratih) was first established in Timor-Leste in 1981 to assist in Operation Security (Operasi Keamanan). By the following year there were 6,000 members.[104] This rapid expansion coincided with a plan to convert

* For an overview of this system, see secret document Komando Resor Militer 164 Wira Dharma, Seksi-Intel, "Rencana Penyusunan Kembali Rakyat Terlatih," signed by Major Willem da Costa, dated 10 September, 1982, p. 2; and Robert Lowry, *The Armed Forces of Indonesia* (St. Leonards, NSW: Allen and Unwin, 1996), p. 111.

Hansip/Wanra into Ratih, mainly to save money. A People's Security Force (Keamanan Rakyat, Kamra) was established by the Indonesian police in early 1981 and by 1982 numbered 1,690.[105] In sum, by 1982 nearly 12,500 East Timorese were involved in the various civil defence organisations. Although it is difficult to make a definitive statement without knowing exact population figures for Timor-Leste in 1982, this figure is roughly 2.25% of the population,[*] higher than the national rate of around 2%.[†]

96. During 1981-82 the military command in Timor-Leste demoted many Hansip members to Ratih status. At the time ABRI stated its goal as:

> [D]eveloping a consciousness among the Timorese people of the need to defend the state, towards developing the realisation by every single citizen that he/she has the right and duty to take part without reserve in the defence of the state.[106]

97. ABRI had trouble controlling its civil defence forces. In 1983, partly as a consequence of poor treatment, and possibly in response to losing their jobs as part of a 1982 downsizing plan,[107] many Hansip members defected to Falintil.[108]

98. Civil defence units functioned within the already extensive territorial military structure, which at the village level included the Village Guidance Non-Commissioned Officer (Babinsa), a Village Guidance Policeman (Binpolda), and sometimes a platoon of Battalion 744 or 745 troops. ABRI put great effort into recruitment of civil defence units. Some members joined willingly; others under coercion.[109] Civil defence unit members generally received a short period of training from the local territorial command (Kodim or Koramil), and once trained they fulfilled a combat support role to ABRI and its paramilitaries:

> The function and task of the militia are to patrol, to block the trails used by the enemy when on the move (this can be executed on their own or together with Marine Troops 5). The functions and tasks of the Hansip are to guard certain TNI posts (at night), to act as guides on patrols, or to undertake combat support activities for the militia.[110]

99. In most cases Hansip were expected to take orders from the local Indonesian military command.[111] The Commission found that civil defence forces were implicated in a large number of violations during military operations.[‡]

* This calculation is based on Indonesia's 1981 census that calculated the population of Timor-Leste as 555,350. See *Timor Timur dalam Angka*, 1981 [*East Timor in Figures*, 1981], Statistics Office, East Timor Province, p. 25.

† This figure is based on a 4m-strong civil defence force in a population of 200 million in 1992. See Robert Lowry, *The Armed Forces of Indonesia*, p. 112.

‡ The CAVR human rights violations database (HRVD) lists 784 acts perpetrated by Hansip from 1975-79. See in particular Vol. III, Part 7.7: Rape, Sexual Slavery and Other Forms of Sexual Violence and Vol. III, 7.4: Detention, Torture and Ill-Treatment of this report.

"Three-month military men", (Milsas) 1989–1992

100. It appears that after taking control of the Hansip from ABRI in the early 1980s, by 1989 the Department of Home Affairs was unwilling to provide sufficient budgetary resources to maintain the Hansip and a group of reserves known as Societal Protection who were trained for disaster and emergency services (Perlindungan Masyarakat, Linmas). At the time, ABRI was struggling to attain its planned quota of 3.5% of the national population as civil defence members.[112] As membership of civil defence units in Timor-Leste exceeded the national average, a cost-saving measure is a likely reason for this reduction.[113] As a result the Department of Home Affairs decided to transfer many of the Hansip into the army. This programme was called Milsas, an abbreviation from *militerisasi*, or as "three-month military training". The Indonesian Human Rights Commission noted that:

> Milsas - which senior military officials in Jakarta often referred to as regional sons of the TNI - functioned only in East Timor to assist TNI East Timor operations.[114]

101. In 1989, ABRI sent approximately 1,000 former Hansip to Malang (East Java) and Bali to attend three-month training courses. On completion of the course, the former Hansip became ABRI personnel and returned to Timor-Leste where most were posted in the District Military Commands (Kodim). In 1992, a second group of 1000 former Hansip were selected and sent to Java and Bali for training. José Sales dos Santos explained:

> *I was militarised in the second wave, with 1,000 Hansips from all districts. [As many as] 700 were sent to train in Malang and 300 were sent to train in Bali. After three months, each returned for duty in his own Kodim.*[115]

102. Between 1989 and August 1991, the "milsas" programme led to a 50% reduction in the total number of Hansip (including the People's Security force or Kamra and People's Resistance or Wanra) from 4,996 to 2,023.[116]

Operations assistants (Tenaga Bantuan Operasi, TBOs)

103. ABRI forced large numbers of East Timorese civilians to serve as porters, guides, cooks and personal assistants for the army, particularly during the period of intensive operations in the late 1970s and early 1980s. A military document from 1982 states that 60,000 East Timorese were involved as support personnel.[117] These were designated as operations assistants (Tenaga Bantuan Operasi, TBO). Many people were recruited as TBO during the 1981 operation known as the 'fence of legs' (Operation Kikis) (see Vol. I, Part 3: History of the Conflict and Vol. III, Part 7.3: Forced displacement and famine) One account describes the force used in recruitment:

> *In 1979, Francisco Amaral was visited by three Hansip and taken to Uatolari…he was interrogated by [members of] the sub-district*

administrator and Battalion 202 about where (Fretilin) equipment was hidden, which he didn't know…he was beaten until he urinated and defecated and blood came out of his mouth and nose. After that a Marine company took him as an operations assistant (TBO).[118]

104. Many young people were taken as operations assistants (TBOs). They would be attached to a unit for variable periods of time, sometimes the duration of an operation, although sometimes much longer. The Catholic Apostolic Administrator, Dom Martinho da Costa Lopes noted that this forced recruitment had disastrous consequences for ordinary rural people who were taken away from their fields at planting time. A 1978 police report offered a frank assessment of the social consequences of forced recruitment:

> During Operasi Gempur in the central sector recently, people were forced to become TBOs. Implementing this caused anxiety among the people, primarily in Dili, which became quiet at night (because) parents became worried that their children will be taken by ABRI. Educational activities at school and scouting activities are somewhat interrupted temporarily.[119]

105. Vol. III, Part 7.8 on The Rights of the Child details the experiences of East Timorese children and youth taken as operations assistants by the Indonesian military. Many were subjected to combat conditions and gruelling forced marches carrying heavy military equipment, and were required to live in military camps with adult soldiers. Alfredo Reinado Alves recalled his experiences when he was taken from his mother as an 11-year-old operations assistant (TBO), and the intimidation and violence committed by Indonesian soldiers against his young East Timorese peer:

> *One day one of the TBOs who was carrying a heavy load, refused to accept more weight to his load. The soldier became angry. When they arrived back at base camp, all the soldiers in the platoon and the TBOs were gathered together. The commander said that a TBO is not allowed to refuse to carry something. He said the army had come to help and to bring independence. After that, the TBO who had refused to carry the goods was called and before everyone's eyes he was shot dead. They told us that if we refused to comply, our fate would be the same as his.*[120]

'Intel' – East Timorese spies

106. Throughout the course of the conflict military intelligence units employed East Timorese spies and informants to gather information. ABRI's first use of East Timorese in an intelligence capacity pre-dated the invasion of Timor-Leste, when it relied on Partisan troops to provide local intelligence, and to serve as guides during early incursions into Timor-Leste. According to Tomas Gonçalves, the Partisans were questioned about geographic and political information about Portuguese Timor:

There, they [the Indonesians] did not communicate with us. They called us the Partisans, and the Partisans did not communicate with them… When they called me over they asked me, 'More or less how many guns do they have in Timor? How many companies are there? Over there do many people know how to use guns? Do they know how to be guerrilla fighters?'[121]

107. Later, when mass numbers of civilians surrendered and were held by ABRI in detention camps and resettlement villages, ABRI's priority was to keep them separated from the remaining Falintil. However, ABRI needed intelligence sources to know who was close to the guerrilla forces. In late 1981 and January 1982, Sub-regional Military Command (Korem) 164 Commander Colonel Adolf Sahala Radjagukguk issued a series of orders concerning territorial operations and intelligence, the role of Babinsa, and urban security, including resettlement areas.[122] These orders indicate that the military recognised that strong resistance remained among the civilian population. There was a need to focus on destroying the linkages to and support for the armed Resistance. To achieve this the documents set out goals such as building a society in which security forces were implanted deeply within each community, observing and relying on East Timorese informants to create a powerful intelligence operation capable of controlling the civilian population and limiting contact with Falintil. An example was an organisation formed in Quelicai:

At that time (1981) there was an organisation called 'Siliman' (Siguranca Sipil Masyarakat), formed by TNI-Koramil, with a goal of spying. The members were residents of Quelicai. Amongst them were (names listed)… The organisation often observed the movements of the deponent and if they were seen would report them to Koramil.[123]

108. In the early 1980s, following the major surrenders of 1978-79, a significant number of Timor-Leste's population was forced into resettlement camps. Structurally, ABRI designed civil defence posts (Hansip/Wanra) to be situated surrounding cities and towns. The civil defence troops (Hansip/Wanra) were expected to fulfil an intermediary role between the people and the military, typically represented at village level by a Babinsa or Village Guidance Team (Tim Pembina Desa).* Their tasks included carrying out duties assigned by the military as well as monitoring their fellow citizens. In support, members of Trained Civilians (Ratih) would provide internal security:

Civilian males armed with spears and machetes can, in case of danger, be gathered in one place in their village (within the town).[124]

109. This came during a period when ABRI wished to use more East Timorese as security/defence auxiliaries, aiming to bring Timor-Leste closer in line with ABRI's

* The presence of Babinsa posts in every village in Timor-Leste is a far higher coverage than what is normal in Indonesia and reflects ABRI's goal of achieving tight control over Timor-Leste's population.

doctrine of "Total People's Defence" (Hankamrata). A military document from February 1982 discussed the ideal:

> With security taking hold [ABRI gaining control], SATPUR (combat units) would decrease in size while the role of civil defence (HANSIP-WANKAMRA) would increase and would even play the most important role in defending and securing their territories from the remaining GPK and extremists.[125]

110. East Timorese were recruited to work as informants in a number of ways. Some willingly offered to help the intelligence units, others were offered bribes, and still others recruited by force of threat. The military often sought to "turn" clandestine members and former Falintil guerrillas to work for the Intelligence Task Force (Satuan Tugas Intelijen).

111. Towards the end of the 1980s, as the Resistance developed a clandestine movement in the towns and cities, ABRI needed a strong local intelligence capacity in order to control this growing network. From this point, ABRI's strategy changed from focusing on the guerrilla insurgency to trying to dismantle the growing clandestine resistance. Each of the territorial units (e.g., Regional, District and Sub-district Commands) contained intelligence personnel and each recruited its own network of informants. The most notorious intelligence unit was the Intelligence Task Force (SGI, Satuan Tugas Intelijen).[*] This unit was first established under the East Timor Regional Defence and Security Command (Kodahankam) in 1976 and later transferred to successor command structures.[†126] Formally under the control of the Regional Military Command (Korem), by the mid-1990s Special Forces Command (Kopassus) had extensive control over the Intelligence Task Force.[127]

112. East Timorese referred to intelligence informants and spies as *mauhu*; "mau" being a male and "hu" meaning to blow. This system of intelligence informants and spies played a large role in creating suspicion among East Timorese. It enabled the military to penetrate the Resistance, as well as enabling it to plant rumours and misinformation. Many East Timorese were forced to play a dangerous double game, and were continually at risk of being suspected by either side. There were large numbers of East Timorese spies and their prevalence meant that civilians rarely knew who was *mauhu* and who was not, who to avoid and who could be trusted. The pervasiveness of the system sowed deep suspicion among the East Timorese population, and social bonds and cohesiveness were casualties of this undercover element of the conflict.

* See paragraphs 56 and 59. The military normally abbreviated the full name Satuan Tugas Intelijen to Satgas Intel, but there are also military documents from 1992-93 in which it is abbreviated SGI. Most East Timorese, however, simply know the unit by the name SGI.

† In 1978 the Intelligence Task Force was transferred to Operasi Seroja; in 1979 it was transferred to Sub-regional Military Command 164; in 1984 to the Security Operations Command; and in 1990 it was transferred to the Operational Implementation Command (Kolakops).

1990s and a focus on youth

113. By the late1980s, young East Timorese had emerged as an important new element of the clandestine urban resistance movement. This was especially troublesome for the Indonesian regime that had invested its hopes in the new generation of East Timorese who had been educated within the Indonesian system.

114. In the late1970s and early1980s, Indonesian police, then formally part of the military, fostered the Indonesian scout movement (Pramuka) to instil nationalist discipline among East Timorese young people. This programme included military-style training such as marching and drilling, providing assistance to the Indonesian Red Cross, and attendance at official ceremonies. By May 1978 there were nearly 10,000 participants, rising to 22,455 by 1981.[128] Youth martial arts groups were also formed and encouraged. Through public physical training and wearing uniforms such groups mimicked the behaviour of soldiers.

115. East Timorese tertiary students were also targeted by the Indonesian armed forces. By the 1990s Timor-Leste had one university and one polytechnic college and a student regiment (Resimen Mahasiswa, Menwa) was established on those campuses. In common with student regiments in Indonesia, this was an avenue for ABRI to provide additional indoctrination to students.[129] In Timor-Leste the student regiment became a means for ABRI to infiltrate student organisations and clandestine groups active on campus. East Timorese students who went to Java and Bali to study were obliged to join the official East Timorese student organisation, Imppettu (Ikatan Mahasiswa, Pemuda dan Pelajar Timor Timur, The East Timorese Student and Youth Association).[130] Many East Timorese were under intelligence surveillance.

Death squads

116. In the early 1990s a new style of paramilitary force known as Ninja gangs emerged as a part of ABRI's efforts to control the growing urban clandestine resistance. These gangs operated at night dressed in black and wearing balaclavas.[131] They were feared for their role in the growing number of disappearances of suspected Resistance members. Effectively they were death squads.*

117. In 1995, a new group emerged called Young Guards Upholding Integration (Garda Muda Penegak Integrasi, Gadapaksi)†. It was essentially a continuation of the Ninja gangs, with a similar focus on targeting the clandestine Resistance. This had strong links to the Special Forces Command (Kopassus), and was founded by President Soeharto's son-in-law, Special Forces officer, Colonel Prabowo, in July

* The Ninja groups' behaviour was very similar to the Petrus 'mysterious killings' in Java of the early 1980s, although they served a different purpose. Masterminded by General Benny Moerdani, perpetrators of the Petrus 'mysterious killings' targeted criminals and left their bodies on public display.

† Sometimes spelt Gardapaksi.

1995.[132] Although the organisation was officially intended to assist Timorese youths in small-scale business ventures, members quickly developed a host of illegal or semi-legal smuggling, gambling, and protection rackets. In addition, it continued to target and harass the clandestine movement in the manner similar to the Ninja squads. The Young Guards developed rapidly; by early 1996 it had 1,100 members. In April 1996 it was announced that there were plans to add 1,200 members per year, and in May of that year, 600 members were sent to Java to receive training from the Special Forces Command.[133] Despite its public links to the Special Forces, two years after its establishment the head of the Young Guards (Gadapaksi), Marçal de Almeida lamented the fact that his organisation was reputed to be full of spies (*mauhu*). The emergence of the Young Guards coincided with the ascendancy of the Special Forces Command (Kopassus) over the Army Strategic Command (Kostrad) in Timor-Leste. Along with the dominance of the Special Forces came a shift towards psychological operations designed to infiltrate, intimidate and destroy the clandestine Resistance. The Young Guards was a front line element in this strategy. In 1995, the various paramilitaries in Timor-Leste received military training in Aileu conducted by the Special Forces Command. The Young Guards continued until it was replaced by a variety of militia groups in 1998-99.

Militias, 1998–1999

118. Many of the militias which emerged in 1998-99 had roots in groups formed much earlier in the occupation period. Below is a chart of the history of Timorese militias, including the names of the Timorese leaders, by sector and district, founded from 1975–1999.

Table 2 - Militias in Timor-Leste, 1975–1999

Sector A: East Commander: Joanico Césario Belo, East Timorese Special Forces Command (Kopassus) Sergeant				
District	**Name**	**Leader in 1999**	**Date founded**	**Background/links**
Lautém	Jati Merah Putih (True to Red White)	José da Conceição	1985	Team Alfa originally established by Special Forces in 1985; renamed JMP in 1999.

Viqueque	Makikit (Eagle) 59/75 Junior/Naga Merah (Red Dragon)	Alfonso Pinto (Lafaek) Alvaro de Jesus	1983 1999	Sponsored by Special Forces. Roots in the 1959 Viqueque rebellion.
Baucau	Saka	Joanico C. Belo (Special Forces)	1983	Formed by Special Forces from ex-Falintil and earlier Baucau paramilitary, Railakan, 1959-75.
	Sera	Sera Malik	1986	Founded by Special Forces as with Saka.
	Forum Komunikasi Partisan (Partisan Communication Forum	Antonio Monis	1999	Re-formed in 1999 from old Partisan members of 1975.
Manatuto	Mahadomi (Live and Die with Integration	Aleixo de Carvalho	1999	Founder and advisor Vidal Doutel Sarmento was District Administrator (Bupati) and member of Special Forces.
	Morok (Wild)	Filomeno Lopes da Cruz (April 1999: Thomas de Aquino Kalla)	ca. 1995	

Sector B: Central
Commander: Eurico Guterres,
(former leader of Youth Guards 'ninja' group, Dili, early 1990s)

District	Name	Leader in 1999	Date founded	Background/links
Dili	Aitarak (Thorn)	Eurico Guterres	1999	Dili-based young guards militia; early 1990; trained by Special Forces
Liquiçá	BMP (Besi Merah Putih, Red and White Iron)	Manuel de Sousa	27 Des 1998	Direct military link-based at Maubara Sub-district Military Command (Koramil)

Ermera	Darah Integrasi (Blood for Integration)/ Partisans; Naga Merah (Red Dragon)/Darah Merah (Red Blood); Pancasila (Five Basic Principles) Team	Miguel Babo Soares, Antonio da Sousa Lucas Martins, José Pereira João da Costa, Paulo Berlelo	April 1999	Partisan and People's Resistance (Wanra) heritage

Sector C: South-West
Commander: Cancio Lopes de Carvalho

District	Name	Leader in 1999	Date founded	Background/links
Ainaro	Mahidi (Mati Hidup Untuk Indonesia, Live or Die for Indonesia)	Cancio Lopes de Carvalho	17 Dec 1998	Ainaro Military Commander
Manufahi	ABLAI	Nazario Corte Real	27 Mar 1999	Special Forces links
Covalima	Laksaur (a kind of bird)	Olivio Mendonca Moruk		District Administrator (Bupati) and military commander of Covalima
Aileu	AHI (Aku Hidup untuk Integrasi) I Live for Integration)	Horacio Araújo	27 Mar 1999	Set up and supported by district administration

Sector D: West Commander: João Tavares, (former leader of Halilintar paramilitary, part of pre-invasion covert operations in 1975)				
District	**Name**	**Leader in 1999**	**Date founded**	**Background/links**
Bobonaro	Halilintar (Thunder) Dadurus Merah Putih (Red White Tornado); Guntur (Thunder); ARMUI (Aku Rela Mati Untuk Integrasi, I Volunteer to Die for Integration); Kaer Metin Merah Putih (Pegang Kuat Merah Putih, Hold Fast to Red White); Harimau Merah Putih (Red White Tiger); Saka Loromonu (Western Saka); Firmi Merah Putih (True Believer in Red White)	João Tavares Natalino Monteiro	1975; re-formed in 1994	Long-term military links through Halilintar
Oecussi	Sakunar (Scorpion)	Simão Lopes	April 1999	linked to Special Forces

Source: CAVR research and compilation

Formation of the militias

119. The Indonesian armed forces began to mobilise militia groups across Timor-Leste in mid-to late 1998. The militias were formed as a direct response to the new freedom of East Timorese to campaign for independence after the fall of Soeharto in May 1998 and the announcement a month later by his successor, B.J. Habibie, that Timor-Leste could have the option of wide-ranging autonomy. After Habibie went further in January 1999 and offered Timor-Leste a choice between autonomy and independence, militia groups mushroomed in every district.

120. In many ways the formation of the militias was the culmination of the strategy of militarisation described above. In creating the militias, the Indonesian armed forces drew heavily on the variety of auxiliary forces manned by East Timorese that had been developed over the years since 1975. Several of the militias, such as Saka Team and Sera Team in Baucau, Alfa Team in Lautém and Makikit Team in Viqueque, had in fact been in existence for a decade or more. Halilintar in Bobonaro originated as a unit of the Partisans in the months before the invasion, and having been inactive for

several years, it was revived in 1994 to assist the Indonesian military in its campaign against the growing clandestine movement in the district. Others were descendants of earlier paramilitaries. The leadership of the Mahidi militia in Ainaro had also led the "volunteers" who had terrorised Ainaro in the early 1990s.

121. Other militias recruited their leadership from officially-sponsored auxiliaries such as the People's Resistance (Wanra), Civil Defence (Hansip) and the Young Guards Upholding Integration (Gadapaksi). A military document dated April 1998 shows that 12 paramilitary teams, covering every district of Timor-Leste except Dili and Oecussi, were then in existence. From the document it is clear that these teams, which included the Saka, Sera, Alfa, Makikit (Eagle), Halilintar (Thunder) and Morok (Wild) Teams - all of which retained their names when they became militias - were part of the territorial structure.[134] The speed with which the militias were mobilised in 1999 was largely due to their ability to draw on existing structures. The antecedents of the main militia groups are summarised in Table 2 in paragraph 118 above.

122. The entire period leading up to and immediately following the Popular Consultation unfolded against a background of violence. Most of this violence was perpetrated by militia groups with TNI troops either playing a supporting role or being directly involved. The role of the Indonesian armed forces in planning and orchestrating this violence is well-documented. Investigations conducted by the Indonesian Human Rights Commission (Komnas HAM) and the UN-sponsored International Commission of Inquiry on East Timor (ICIET) in the immediate aftermath of violence, by the UN-supported Serious Crimes Unit (SCU) in Timor-Leste during the UNTAET and UNMISET missions, as well as the testimonies and submissions received by and research conducted by CAVR itself, all lead to the inescapable conclusion that the Indonesian military was deeply complicit in every aspect of the violence from the initial formation of the militia groups to instigating the final and most comprehensive phase of the violence in September–October 1999.

123. Aside from the historical evidence already cited, there is a massive amount of other evidence indicating that the militias were created, supported and controlled by the Indonesian National Army (TNI). This evidence is summarised below.*

Indonesian National Army (TNI) involvement in formation of the militias

124. Senior Indonesian army officers were involved in the planning, formation and training of the militias. In February 1999 the former Partisan leader, Tomas Gonçalves, who claimed to have been offered but to have refused a senior position in the militia structure, spoke to the international media. He described the role of key military personnel in establishing the militia, naming the Sub-regional Military (Korem) commander, Colonel Tono Suratman, and the commander of Regional

* The Commission's summary of the evidence of links between the militias and the TNI relies heavily on Geoffrey Robinson, *East Timor 1999: Crimes Against Humanity*, A Report Commissioned by OHCHR submission to CAVR, July 2003. pp.82-129.

Military Command (Kodam) IX Udayana Major-General Adam Damiri, as well as indicating the prominent role of the Joint Intelligence Task Force (SGI) dominated by Special Forces (Kopassus)[*135] Tomas Gonçalves said:

> *The order came from the regional commander, [Major-General] Adam Damiri, to the East Timor commander and the Special Forces Commander Yayat Sudrajat – liquidate all the CNRT, all the pro-independence people, parents, sons, daughters and grandchildren. Commander Sudrajat promised a payment of Rp200,000 to anyone wanting to serve in the militia.*[136]

125. In the indictment of the Serious Crimes Unit against General Wiranto and others, the Deputy General Prosecutor for Serious Crimes described a series of meetings in which senior officers planned the formation and recruitment of militias:

1. In or about August 1998 [the commander of Region IX Udayana, Major-General] Adam Rachmat Damiri arranged for a pro-Indonesian East Timorese leader to fly from Timor-Leste to Denpasar, Bali for a meeting. At this meeting, Damiri told the East Timorese leader to establish a group to promote integration.
2. In or about August 1998 Damiri travelled to Dili and met with TNI commanders and pro-Indonesian East Timorese leaders. [The commander of Sub-regional Military Command (Korem) 164, Colonel] Tono Suratman was present at this meeting. Damiri told the group that international attention was focused on Timor-Leste and this was a problem for Indonesia. He told them that they needed to come up with a plan for creating organisations that would spread pro-Indonesian sentiment throughout Timor-Leste. He told them that they must form a solid civil defence force based on previous TNI-supported models and that this force should be expanded and developed to protect integration.

* In 1993, the Joint Intelligence Task Force (SGI) was renamed the Intelligence Task Force (Satuan Tugas Intelijen). However, it continued to be widely referred to as the SGI (see Vol. I, Part 4.2: The Indonesian Armed Forces and their Role in Timor-Leste). In 1999 it was staffed by a Special Forces unit, named Three Earth (Tribuana) Task Force, under the command of Lieutenant Colonel Yayat Sudrajat. The Special Forces Command (Kopassus) had held a dominant role in the Indonesian military structure in Timor-Leste from the mid-1990s.A number of senior officers who had Special Forces Command (Kopassus) backgrounds and who had completed tours of duty in Timor-Leste played influential roles during the Popular Consultation. They included the senior intelligence officer Major General Zacky Anwar Makarim, who was officially the chief military representative on the Indonesian task force assigned to liaise with UNAMET. It is believed that he also played a key role in developing the militias during this period. Aside from Lieutenant Colonel Sudrajat, the Sub-regional Military (Korem) commander, Colonel Tono Suratman, had also previously been in Kopassus. His immediate superior, Major General Adam Damiri, the Bali-based commander of the Regional Udayana division, was another Kopassus member. At the Indonesian cabinet level, another key figure in developing policy on Timor-Leste was the Coordinating Minister for Political Affairs and Security, retired General Feisal Tanjung, who was one of four ministers in the cabinet with a Kopassus background. Another was the Minister of Information, Yunus Yosfiah, whose extensive involvement with Timor-Leste went back to his pre-invasion command of the Susi Tim. (Robinson, pp. 28-29).

3. In or about November 1998, Damiri travelled to Timor-Leste. During this visit he again met with pro-Indonesian East Timorese leaders in Dili, including individuals who later became leaders of militia groups. Damiri asked the men to join together and assist TNI to fight the pro-independence group Revolutionary Front for an Independent East Timor [Frente Revolucionária de Timor Leste Independente, Fretilin]. During this meeting with pro-Indonesian leaders, Damiri praised future militia leader Eurico Guterres as being a young man eager to fight for integration and said that he was willing to give Guterres 50 million rupiah to begin his work.
4. In or about November 1998, Tono Suratman met with pro-Indonesian East Timorese leaders at his headquarters in Dili. [Tribuana commander, Lieutenant Colonel] Yayat Sudrajat was present at this meeting. Suratman told the group that he wanted future militia leader Eurico Guterres to form a new organisation to defend integration similar to the pro-Indonesian Youth Guards Upholding Integration (Gadapaksi).
5. In early 1999, [Major-General] Zacky Anwar Makarim [who was head of the armed forces intelligence agency, BIA, until January 1999] received the founding members of the pro-Indonesian East Timor People's Front (Barisan Rakyat Timor Timur, BRTT) at his office in Jakarta. During the meeting he said that guerrilla warfare would be necessary to overcome independence supporters if the autonomy option lost at the ballot.
6. In or about February 1999, Damiri met with pro-Indonesian East Timorese leaders at Regional Military Command IX headquarters in Denpasar, Bali. Damiri told the men that TNI was ready to give secret support to pro-Indonesian forces. He explained that it must be secret in order to avoid international scrutiny and criticism. Damiri asked the men to gather East Timorese who had served in TNI. He told them that they should meet with Suratman for further instructions.
7. In or about February 1999, Suratman met with a pro-Indonesian East Timorese leader in Dili. He told him that because TNI was under a reformist regime, it could not take part in open operations against the independence movement. Suratman asked the pro-Indonesian leader to form a militia group. Suratman said that TNI was willing to provide any form of assistance required by militia groups.
8. In or about February 1999, Yayat Sudrajat met with TNI personnel and pro-Indonesian East Timorese leaders at Intelligence Task Force headquarters in Dili. Sudrajat told the group that the Intelligence Task Force had a list of independence supporters that were to be killed. He stated that the Intelligence Task Force and the pro-Indonesian groups would cooperate to carry out these killings. He said that Special Forces (Kopassus) dressed as civilians would start to carry out murders of pro-independence supporters.
9. In or about March 1999, [Assistant for Operations to the Army Chief of Staff, Major General] Kiki Syahnakri met with pro-Indonesian East

Timorese leaders at TNI headquarters in Jakarta. Syahnakri told the group that TNI would support their pro-Indonesian efforts and that Makarim was responsible for coordinating activities leading up to the popular consultation. Syahnakri told them that firearms had been sent to Timor-Leste, and that when the men returned to Dili they should contact Suratman to arrange distribution of the firearms.

10. In early 1999, [the governor, Abilio] Soares encouraged the District Administrators [Bupati] to form militia groups in their districts. Some of these District Administrators became militia leaders.[137]

126. One aspect of the TNI's role in the creation of the militias was its direct involvement in recruitment. In early 1999 the then Korem chief of staff, Lieutenant-Colonel Supardi, was quoted as saying that the TNI had recruited 1,200 militiamen and would continue recruitment until March.[138] In addition to using the financial incentive of Rp200,000 to encourage recruitment,* the TNI used threats and coercion (see further below). Targets of approximately ten men per village were established for the recruitment of militia members in each district.[139] In addition, training of the militias was conducted according to rules set out in instructions and reports issued by senior officers all the way up the regional command structure.[140]

TNI endorsement of the militias

127. Members of the TNI and Indonesian administration conferred official status on the militias. They did this, for example, by attending militia inauguration ceremonies and rallies throughout Timor-Leste. The Sub-regional military (Korem) commander, Colonel Tono Suratman, met and gave "guidance" to members of the Red White Iron (BMP) militia at the district military command (Kodim) 1638 headquarters on 16 April 1999, ten days after the massacre of civilians in Liquiçá church and one day before the militia rampage in Dili in which BMP also took part.[141] As late as 8 May 1999, Timor-Leste regional military commander, Colonel Suratman, attended the inauguration of the Manatuto Loves Integration (Mahadomi) militia in Manatuto. He and others, including the governor, Abilio Soares, the district administrator of Dili, Domingos Soares, and the then assistant for army operations, Major General Kiki Syahnakri, were also present at the rally on 17 April 1999 at which Eurico Guterres spoke to militiamen and encouraged them to kill "those who have betrayed integration". At the end of the rally, the militia dispersed and went on a rampage around Dili. Among their targets was the house of Manuel Carrascalão where several hundred people had taken refuge to escape militia violence in their districts. At the house they killed 12 people.[142]

128. In addition to these shows of support, the Indonesian authorities gave the militias official endorsement by treating them as part of the formal auxiliary military structure.

* At that time, Rp200,000.00 = US$26.66.

In official communications, militia groups were regularly referred to as being part of existing civil defence groups.[143] From April 1999, militia groups were also officially recognised as voluntary civil security organisations (Pam Swakarsa).[144]

TNI participation in militia activities

129. The close connection between the TNI and the militias is most clearly demonstrated by the overlap in their memberships. Many militia members were also enlisted TNI soldiers, a fact that has been confirmed through official Indonesian military and government documents.[145] At least one militia (Saka Team) had been a "special company" fully integrated into the structure of the TNI for several years.[146] In addition, militia leaders were treated as part of the official security apparatus and invited as such to meetings with military, police and government authorities.[147]

The provision of training, weapons and operational support

130. The TNI also provided the militias with training, weapons and operational support. The role of the TNI in training militias has been confirmed by numerous sources including Indonesian documents, telegrams and at least one statement to the media by Lieutenant Colonel Supardi, the sub-regional military command (Korem) chief of staff in the early months of 1999.[148] Weapons were provided, and control over their use maintained by the TNI.[149] Ample evidence of this is found in documents but also in the very possession by militias of modern weapons of the type used by Indonesian military and police.[150] General Wiranto himself acknowledged to investigators that:

> Sometimes weapons were provided, but this does not mean that [militias] carried weapons wherever they went. The weapons were stored at Sub-district military headquarters.[151]

131. The Deputy General Prosecutor for Serious Crimes made the following allegations in her indictment of General Wiranto and others:

1. In or about March 1999, [Governor Abilio] Soares held a meeting in his office in Dili. [Sub-regional 164 commander, Colonel Tono], Suratman and [commander of the Special Forces Tribuana Task Force, Lieutenant-Colonel Yayat] Sudrajat were present at the meeting. Soares told a group of pro-Indonesian East Timorese leaders that independence supporters who sought protection with priests and nuns were communists and ought to be killed. He also told the group that TNI would supply weapons to pro-Indonesian forces. He said that if TNI could not supply enough weapons, he would do so himself. He said that he would provide the pro-Indonesian organisation BRTT with funding.
2. In or about March 1999, Sudrajat and other members of TNI delivered a large number of firearms to a pro-Indonesian East Timorese leader. Sudrajat

asked the East Timorese leader to give the weapons to pro-Indonesian militia groups.

3. In or about April 1999, [the head of the armed forces intelligence agency, BIA], Major General Zacky Anwar Makarim told TNI commanders and pro-Indonesian East Timorese leaders that they should work hard for autonomy because if autonomy lost, more blood would flow. He offered pro-Indonesian East Timorese leaders the use of automatic firearms and ordered Suratman to arrange for the collection and distribution of these firearms.
4. In or about April 1999, Suratman, after being asked by Makarim to provide automatic firearms to pro-Indonesian East Timorese leaders, ordered his subordinate Sudrajat to arrange for the collection and distribution of the firearms.[152]

132. The TNI also provided operational support to the militias. Sometimes such support took the form of militias using TNI bases and posts. In the case of militias established well before 1999, the use of a TNI base was simply the continuation of a long-standing relationship. One example was the use by the Alfa Team of the Special Forces (Kopassus) base in Lospalos.

Joint TNI-militia operations

133. Joint operations commonly involved the presence of TNI troops when militia attacks took place, with the TNI troops in position behind militiamen and firing only in their defence.[153] One such militia operation where TNI troops were present was the Liquiçá church massacre in April 1999. The participation of TNI members became less frequent after the arrival of UNAMET in June 1999, though it did continue during the weeks leading up to the ballot, including in such high-profile instances as the attack on the UNAMET office in Maliana (Bobonaro) on 29 June 1999. Widespread joint TNI-militia operations resumed after the 29 August ballot, in September 1999, once international staff had been forced to flee the districts and were either under siege in UNAMET headquarters in Dili or had left the country.[154]

Provision of financial and material support by the TNI and other agencies

134. Finally, there is substantial evidence indicating that the Indonesian civilian and military authorities funded the militias and provided resources for their use. An estimated US$5.2 million was channelled to the militias through the Indonesian civilian administration.[155] Standard budgets for the "socialisation of autonomy" were drawn up by each district, containing allocation for the militias, and submitted to the governor for approval.* Additional funds were provided through

* Several such budgets are in the CAVR's Archives.

other arms of the Indonesian government and the TNI. There is also evidence that pro-integrationist political groups, the United Forum for Democracy and Justice (Forum Persatuan Demokrasi dan Keadilan, FPDK) and the People's Front of East Timor (Barisan Rakyat Timor Timur, BRTT) - both of which had close ties to the civil administration (see chapter 4.4 on Civil administration below) - were used to channel funds from the government and the military to the militia.[156] The United Forum was chaired by the district administrator (Bupati) of Dili, Domingos Soares, while the People's Front chairman was Francisco Lopes da Cruz, the former UDT president who had been deputy governor of Timor-Leste in the early years of the occupation, and who before 1999 was a roving ambassador with a brief to push Indonesia's case on Timor-Leste internationally.[157]

135. These close links between the militias, the TNI and Indonesian civilian authority led the UN Commission of Inquiry to state in its report that:

1. There is also evidence that the Indonesian Army and the civilian authorities in Timor-Leste and some in Jakarta pursued a policy of engaging the militia to influence the outcome of the Popular Consultation. The approach pursued was to provide the impression that the East Timorese were fighting among themselves.
2. There is evidence that the policy of engaging militias was implemented by the Kopassus (Special Forces Command of TNI) and other intelligence agencies of the Indonesian army. The policy manifested itself in the form of active recruitment, funding, arming and guidance, and the provision of logistics to support the militias in intimidation and terror attacks.
3. There is evidence to show that, in certain cases, Indonesian army personnel, in addition to directing the militias, were directly involved in intimidation and terror attacks. The intimidation, terror, destruction of property, displacement and evacuation of people would not have been possible without the active involvement of the Indonesian army, and the knowledge and approval of the top military command.
4. The Indonesian police, who were responsible for security under the 5 May Agreement,[*] appear to have been involved in acts of intimidation and terror and in other cases to have been inactive in preventing such acts.
5. The Commission is of the view that ultimately the Indonesian army was responsible for the intimidation, terror, killings and other acts of violence experienced by the people of Timor-Leste before and after the Popular Consultation. Further, the evidence collected to date indicates that particular individuals were directly involved in violations of human rights.[158]

* Talks between Indonesia and Portugal in New York City on 5 May 1999 resulted in the two governments entrusting the UN Secretary-General with organising and conducting a "Popular Consultation" to determine whether the East Timorese people accepted or rejected special autonomy for Timor-Leste within the unitary Republic of Indonesia. The Indonesian National Police Force had the task of maintaining security during the Popular Consultation.

The consequences of militia-TNI cooperation

136. Ian Martin, the Special Representative of the Secretary-General during UNAMET, told the Commission:

> *[T]he Deputy-Prosecutor for Serious Crimes appointed by the United Nations has found sufficient evidence to charge the highest leadership of the TNI with crimes against humanity…In my opinion, it is beyond doubt that the destruction of East Timor was not merely the result of an emotional response of militia and a mutiny of East Timorese within the TNI: it was a planned and coordinated operation under TNI direction.*[159]

137. The violent events of 1999 are covered elsewhere in this report (see Vol. I, Part 3: The History of the Conflict, Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances, Vol. II, Part 7.3: Forced Displacement and Famine, Part 7.4: Detention, Torture and Ill-treatment, Part 7.7: Sexual Violence). For the purposes of this chapter, it is important to note the close relationship between the TNI and the East Timorese militia groups, as well as TNI's domination of the civil administration and the national police in Timor-Leste. When the UN entered Timor-Leste in May 1999, the militias backed by the TNI were terrorising the population, unchecked by intervention of the Indonesian police.[160]

138. The Indonesian authorities asserted that these militia groups were spontaneous expressions of local support for integration, and that the violence was the result of conflict among pro-independence and pro-integration East Timorese. But there were no real efforts to rein in this threat. Those responsible for the massacres in Liquiçá and Dili in April 1999 were not pursued or brought to justice. The supposed disarmament of the militias in August 1999 was clearly designed to create the impression that the militias were reciprocating the decision of Falintil to place its forces in cantonment (see Vol. I, Part 3: History of the Conflict).

139. When massive violence occurred after the ballot, TNI tried to paint a picture of spontaneous violence caused by shock and anger at the pro-independence result. However, the rapid implementation and widespread extent of the violence and destruction indicated a well-planned and resourced operation with sophisticated logistical support.[161] Although militia were often the frontline of these activities, in many cases they were supported directly by military or police personnel.[162] They were in effect implementing a TNI plan. Indeed, the militia's threatened destruction of Timor-Leste in the event of a vote for independence had been foreshadowed by Timor-Leste's military Commander, Colonel Suratman, months before the consultation, when he said in an interview on Australian television:

> I want to give you this message: if the pro-independence side wins, it's not going to just be the Government of Indonesia that has to deal with what follows. The UN and Australia are also going to have to solve the problem and well, if this does happen, then there'll be no winners. Everything is going to be destroyed. East Timor won't exist as it does now. It'll be much worse than 23 years ago.[163]

140. Throughout the lead-up to the ballot the East Timorese civilian population was terrorised and could not look to the police or to the civil administration to respect the rule of law and restore law and order. The military and police, whose job it was to protect the population, instead allowed and supported this violence and intimidation. With the withdrawal of the UN and international observers in the days after the ballot,* cooperation between the militia and TNI was overt as both participated in the removal of huge numbers of the civilian population to West Timor and other parts of Indonesia.[164] During this process Indonesian military, police and Timorese militia committed murders, sexual violence and other abuses against civilians.

Civil administration

The Provisional Government of Timor-Leste

141. On 18 December 1975, shortly after its full-scale invasion of Timor-Leste, Indonesia established the Provisional Government of East Timor (Pemerintah Sementara Timor Timur, PSTT).† Most positions in this government were filled with East Timorese supporters of integration with Indonesia, predominately from Apodeti and UDT. Members of the Provisional Government were appointed in Dili as fierce fighting was taking place as the invasion pushed towards the interior. In the seven months of its existence the Provisional Government was virtually powerless to make autonomous decisions in the face of Indonesian military domination. Former Governor Mario Viegas Carrascalão told the Commission:

> *I could not say that PSTT [the East Timor Provisional Government] was an actual government. The Executive Chairman was Arnaldo de Araújo, with Lopes da Cruz as his Deputy. The President of the Popular Assembly was Guilherme Gonçalves. The Popular Assembly had just begun to function...it met once in May 1976 here, just to go over one point of its "charter", that is, the integration without referendum.*[165]

142. When the Indonesian People's Representative Council (DPR-RI) passed Law 7/76, and President Soeharto signed this into law on 17 July 1976, Indonesia claimed the integration of Timor-Leste was formally complete. Law 7/76 decreed the formation of a provincial government. To implement this Indonesia issued on 30 July 1976 Government Decree 19/1976 which established a government structure at the provincial and district levels in Timor-Leste. This imposed the standard Indonesian structure of civil government in Timor-Leste. However, with some minor modifications it retained the structure of the Portuguese civil administration: *conçelhos* became *kabupaten* (districts), *postos* turned into *kecamatan* (sub-districts), *sucos* became *desas* (villages),

* Twelve UN Military Liaison Officers remained in the Australian Embassy in Dili after UNAMET evacuated on 14 September 1999. They were protected by Army Strategic Reserve (Kostrad) troops.

† In this sub-section the report will denote East Timor, in English, to represent the Indonesian administrative title of Timor Timur used for the territory. Timor-Leste is retained when describing the territory other than as the Indonesian administrative unit.

and *aldeias* became *kampungs* (hamlets). The result of this policy was that there were far more administrative units at the district and sub-district levels and therefore a far more extensive civil administrative presence in Timor-Leste than in Indonesia. Moreover, as in Indonesia, in Timor-Leste the Indonesian military (ABRI) established a territorial command structure that paralleled the civil administration, meaning it too had a heavier presence at the local level than was normal in Indonesia.

Table 3 - Indonesian administration structure, with Portuguese and Indonesian military equivalents

Level	Indonesian term	Administrative post	Portuguese equivalent	Parallel Military command
province	*provinsi*	governor (*gubernur*)	territory	sub-regional military command (Korem)
district (13)	*kabupaten*	district administrator (*bupati*) and secretary	*conçelhos*	district military command (Kodim)
sub-district (62)	*kecamatan*	sub-district administrator (*camat*) and administrative assistant	*postos administrativos*	sub–district military command (Koramil)
village (442)	*kelurahan/desa*	village head (*kepala desa*)	*suco*	non-commissioned guidance officer or team (Babinsa)
hamlet	*kampung/dusun* RW *(rukun warga)* RT *(rukun tetangga)*	hamlet head [143.] (*kepala kampung*)	*chefe de aldeia*	
neighbourhood	RT/RW	neighbourhood head (*kepala RT*)		

Source: CAVR research and compilation

The position of Governor*

143. During Soeharto's New Order regime, the governor of an Indonesian province was appointed to a five-year term by the president, and approved by the national

* The governors in Timor Leste from 1976-99 were as follows: Arnaldo dos Reis Araújo, 1976–1978, Apodeti; Guilherme Maria Gonçalves, 1978–1982, Apodeti; Mario Viegas Carrascalão, 1982–1987 and 1987–1992, UDT; Abilio José Osorio Soares, 1992–1997 and 1997–1999, Apodeti.

People's Representative Council (DPR).* Active or retired military officers were appointed to the governorship of many Indonesian provinces In Timor-Leste, Indonesia appointed indigenous, civilian governors throughout the occupation.

144. On 4 August 1976, Jakarta appointed Arnaldo dos Reis Araújo, leader of Apodeti, as its first governor, bringing the new province of Timor-Leste (Timor Timur) into existence. The UDT leader, Francisco Lopes da Cruz, was appointed deputy governor. Araújo was replaced in 1978, after he was openly critical of Indonesia.[166] In an interview with an Indonesian journalist in September 1980, Araújo said:

> The government is showing great attention [to Timor-Leste], but unfortunately it is not being directed to the East Timorese. It's like during the Portuguese colonial period: money came from Portugal earmarked for the East Timorese people only to be sent back to Portugal in the name of private individuals who had been sent by Portugal itself.

145. He advised the Indonesian Government to:

> [C]reate a normal situation as quickly as possible and put an end to the situation of terror, unchecked power, arbitrariness, of taking the law into one's own hands, lawlessness, economic monopolies and so on, similar to the time of Portuguese colonialism.[167]

146. Araújo's replacement, Guilherme Maria Gonçalves, was a member of the Apodeti Presidium, a signatory of the Balibó Declaration and a *liurai*. He had been a prominent supporter of the Indonesian annexation, having supplied many of the men who formed the East Timorese Partisan units that accompanied the invasion forces. His term as governor ended in 1982 after a dispute with the Regional Administrative Secretary (Sekretaris Wilayah Daerah, Sekwilda), Colonel Paul Kalangi, over the assignment of coffee tax payable to the local government.[168]

147. During these early years the civil administration faced many problems. It lacked personnel, communication was difficult owing to limited understanding of Indonesian by the East Timorese, and at the leadership level there were disputes between the Apodeti and UDT members working with Indonesia. A March 1983 Indonesian police report stated:

> Ever since the establishment of the PSTT [East Timor Provision Government], in appointing local government officials the Indonesians gave priority to former members of the Apodeti party [whether governor, district or sub-district administrator], while former members of the UDT party had to be content to be their assistants and deputies. However, many of the former UDT in

* The governor, as the executive and the chairman of the Provincial People's Representative Council (DPRD), is formally the highest authority in an Indonesian province.

administrative positions had poor relations with their superiors. This resulted in a muddled local administration.[169]

148. In addition, civil administration was a secondary consideration for Indonesia in the early years of occupation when ABRI was fighting a major conflict with Fretilin troops.

149. The third governor, Mario Viegas Carrascalão, one of the founders of UDT, was appointed on 18 September 1982. He held the position for two terms, until June 1992.* Carrascalão was one of few Timorese with a university degree, and had been part of Indonesia's delegation at the UN from 1980-82.[170] He told the Commission that he was appointed at the "instruction" of General Moerdani.[171] During Carrascalão's period as Governor, Timor-Leste underwent a process of 'normalisation' within the Indonesian system. The administration was consolidated and Timor-Leste brought into line with most Indonesian provinces. In late 1988, President Soeharto signed Presidential Decree 62/1988, formally ending the sealing off of the territory and normalising its status as a province.[172] Mario Carrascalão told the Commission that it was only after this decision that the military lightened its control of the territory.[173]

150. After two five-year terms, Carrascalão was replaced in 1992 by Abilio Osorio Soares, a relatively minor figure in† Apodeti.[174] Soares's candidacy was supported by President Soeharto's son-in-law, Lieutenant Colonel Prabowo, then of Kopassus, which was deeply engaged in Timor-Leste at the time.[175] Abilio Soares was governor until the end of the Indonesian occupation.

151. The former UDT president, Francisco Lopes da Cruz, remained deputy governor until 1982. He was replaced by an Indonesian military officer, Brigadier-General A B Saridjo, who held the position until 1993.[176] He was then succeeded by another military officer, Lieutenant Colonel J Haribowo, who held the office until 1999. Both of the two last deputy governors were former Regional Administrative Secretaries (Sekwilda).

152. In 1987, Timor-Leste was divided into three administrative districts: the east, based in Baucau, the central district, based in Gleno, and the west, administered from Maliana (Bobonaro).‡ Each of these was administered by an assistant governor, who was often a military officer. [177]

Regional administrative secretary (Sekwilda)

153. Officially, the second in command in the provincial executive was the Regional Administrative Secretary (Sekretaris Wilayah Daerah, Sekwilda). In reality, as in Indonesian provinces, because the Regional Administrative Secretary had control of

* Mario Carrascalão told the Commission that he resigned his position as Governor after the Santa Cruz massacre of November 1991. CAVR national public hearing on Women and the Conflict, April 2003.

† Abilio Soares was the younger brother of prominent Apodeti figure José Osorio Soares, who had been executed while in Fretilin custody in January 1976, on the south coast of Timor-Leste.

‡ These divisions varied from the five military divisions.

the provincial budget this was a very influential position. The position was formally appointed by the Minister of the Interior. Initially an East Timorese filled this post, although all but one of the subsequent appointees were military officers.* The Regional Administrative Secretary managed a secretariat which was responsible for the processing of projects.[178] An equivalent position also existed at the district level.

The People's Representative Council

154. The People's Representative Council is the legislative wing at each level of government in Indonesia. It exists at the national level (DPR), the provincial level (DPRD Level I) and the district level (DPRD Level II). In theory, the chair of the DPRD I is, with the Governor, the highest authority in the province. At the time of Indonesia's occupation of Timor-Leste, 80% of the seats in each level of the council were contested by three state-sanctioned parties.† ABRI automatically received the remaining 20% of the available seats.

155. The first DPRD in Timor-Leste was established by Law I/AD, 1976 on 4 August 1976, with Guilherme Gonçalves as its chair. It had 30 members, none of whom were elected. District level DPRDs were also established. The former Viqueque Vice District Administrator (Wakil Bupati), Armindo Soares Mariano, told the Commission that to be a member of the Assembly at the beginning of 1976, the only criteria was to be appointed and approved by the Regional Leadership Consultation‡ (Musyawarah Pimpinan Daerah, Muspida) consisting of the administrator and military commander at the district level. He added:

> At the time they [Muspida] would appoint members directly because there was no parliamentary institution yet, there were no general elections and the DPR had just been formed in 1982 [sic-the DPRD was formed in 1976]. At the district level the members were also appointed. Although there was a legislative institution, they were all appointed…everyone… this person came from this village and this sub-district. Let's say they needed 20 people for the DPRD in Viqueque at the time, so these 20 people would be taken from five sub-districts, four people each, and they were non-formal leaders, local liurai or sons of liurai with some prominence, so they were appointed and they sat there.[179]

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* Regional Administrative Secretaries in Timor-Leste: José Bonifacio dos Reis Araújo (1976), J.R. Sinaga (ABRI), A.P.Kalangi (ABRI, 1980), Drs. Saridjo (ABRI), Antonio Freitas Parada, J. Haribowo (ABRI), Drs. Radjakarina Brahmana (ABRI).

† Golkar (Golongan Karya, Party of the Functional Groups), PDI (Partai Demokrasi Indonesia Indonesian Democratic Party), PPP (Partai Persatuan Pembangunan, United Development Party).

‡ Muspida was theoretically a consultative exchange mechanism to enable coordination between civil administration and local territorial police and military commands. In practice this was dominated by the military.

156. There is no record of the DPRD paying attention to the plight of the people of Timor-Leste during the famine of 1979-80.[180] However, in 1981 the economic exploitation of Timor-Leste by Indonesian officials inspired local parliamentarians to write a report to President Soeharto.[181] The report, signed by the oldest and youngest parliamentarians, expressed dismay at the economic regime the occupying power had created and its impact on ordinary East Timorese:

> The economic situation of the people of East Timor is passing through the most tragic phase since the beginning of the civil war... Considerable assistance for the purpose of building up the economy has been received…but the people of East Timor have not felt any benefit from their production of agricultural commodities such as coffee, sandalwood, candlenut, timber, copper and other produce. PT Denok is a special enterprise that has been located in East Timor to absorb all the main economic products of the province in return for its services to the Government of Indonesia…Five years after integration, most of the population is not yet able to enjoy stable living conditions.[182]

157. The report also complained of the misuse of development funds by military officers working in senior positions in the civil administration. The report accused the Regional Administrative Secretary, Colonel Paul Kalangi and his deputy, Captain A. Azis Hasyam, of plundering development funds allocated from the central government in Jakarta. The DPRD members claimed to know of expenditures of "hundreds of millions of rupiah" which they found to be "totally fictitious". The report also alleged that medicines sent as aid could be found in local shops in Dili, while hospitals continued to experience shortages. Finally, the members complained that to obtain jobs in the "provincial" government, the largest source of employment in the country, an applicant had to become an Indonesian citizen. Employment in the public service, then, was effectively available only to those who supported the occupation.* In an indication of how the military occupation dealt with human rights issues and even the mildest expressions of dissent, the parliamentarians who wrote the report were later arrested.[183]

158. General elections are held in Indonesia every five years. The first national election in Timor-Leste was held in 1982. 311,375 East Timorese voted. The results were clearly fraudulent and initially showed over 100% of registered voters casting their ballot for the government party, Golkar (see Vol. I, Part 3: History of the Conflict). As a result of the general election, 36 took the seats in the DPRD Level I, while eight members of this assembly represented Timor-Leste at the national DPR. In later years a degree of pluralism developed within the tightly controlled limits of the New Order. By 1995 the Timor-Leste DPRD I had grown to 45 seats. In that year's election Golkar won 20 seats; PDI five; PPP two; and ABRI received its allotted nine.

* This systematic discrimination in employment is similar to the New Order requirement that all government employees be Golkar party members who swear to protect the Pancasila ideology.

Table 4 - Composition of the Timor-Leste Provincial Assembly by Faction, 1980–1997						
Year	PPP Faction	Golkar Faction	PDI Faction	ABRI Faction	Non-ABRI Faction	Total Assembly Members
1980	0	25	0	0	0	25
1981	0	24	0	0	0	24
1982*	0	32	0	4	0	36
1987*	0	34	2	9	0	45
1988	0	34	2	9	0	45
1989	0	33	2	9	0	44
1990	0	34	2	9	0	45
1991	0	34	2	9	0	45
1992*	2	29	5	9	0	45
1997*	1	30	5	9	0	45

**general election year.*
Source: East Timor Provincial Parliament

Government administrative bodies: The national programme at the provincial level

159. Indonesian government administration during the New Order period was highly centralised. Most policy decisions were made in Jakarta as part of a structured national planning system. Indonesia implemented five-year plans (Rencana Pembangunan Lima Tahun, Repelita) as the basis of its fiscal and development policy. The Jakarta-based ministries, government departments and bureaus implemented policy through their counterpart offices at the provincial level. It took several years before this structure was operational in Timor-Leste, as Indonesia's primary focus was on military operations. The government also needed to recruit and train government functionaries. From the outset of the Indonesian occupation, Timor-Leste was controlled by the military. During the early years of the occupation, unlike any other territory in Indonesia, the Department of Defence and Security established teams that directly administered Timor-Leste. Timor-Leste was passed to the Department of Home Affairs in 1978, with the administration conforming to normal Indonesia practice.* However, the military retained ultimate control of the administration. The military held key positions in the

* Even after its administration was brought into line with ordinary Indonesian practice, Timor-Leste remained a special case. Timor-Leste got a special budget directly from the central government. Also, it received extensive special funds through a presidential instruction (*Instruksi Presiden, Inpres*). In addition, in the national budget there was a special budget line for Timor-Leste (budget item 16).

civil administration and wielded effective veto power over appointments. This gave it immense power, primarily over the province's economy, but also over local policy.

160. Once formal integration had taken place in July 1976, the Indonesian military began to implement standards in line with those in place in Indonesian structures. On 14 August 1976 the Ministry of Defence and Security made Timor-Leste a domestic military operation by establishing the East Timor Regional Defence and Security Command (Kodahankam Timor Timur) operating beneath the Ministry of Defence and Security.[184] Ministry documents stated that:

> The East Timor Regional Defence and Security Command was established with the aim of laying the foundation for the Guidance and Development of Defence and Security in East Timor during the "transitional period" which lasts until the end of the Second Development Plan [April 1979], along with implementing the Guidance and Development of the National Defence and Security Policy.[185]

161. The subsection on ABRI in this chapter discusses this process in more detail. The military established a territorial structure that introduced the system of military and police commands and posts that paralleled the civil administration down to the village level.

162. During the first few years of the Indonesian occupation, Jakarta directly administered Timor-Leste. In 1976-77 the Central Coordinating Team for Education and Culture (Tim Koordinasi Pusat Pendidikan dan Kebudayaan) was responsible for educational programming and coordination. It reflected the early focus of the occupying regime on language training to assimilate the East Timorese into the Indonesian state.[186] On the ground in Timor-Leste, it functioned through an Assistant Team for Education and Culture (Tim Pendamping Pendidikan dan Kebudayaan).

163. By 1978, a more broadly based team had been established to handle administration. This was the Central Development Implementation Team (Tim Pelaksana Pembangunan Pusat, TPPP). Staffed by personnel from government agencies in Jakarta, it was chaired by General Benny Moerdani. It worked through the Regional Development Implementation Team (Tim Pelaksana Pembangunan Daerah, TPPD) which was formally headed by the governor, but actually under the control of Colonel Paul Kalangi, then Regional Administrative Secretary.[187] Most sectors of the administration, such as security and order, political affairs, information, communications, population control and settlements, labour, family reunions and religion were under the direct supervision of the TPPP in Jakarta. The local government was responsible only for five sectors: primary education, health, public works, agriculture and social welfare.[188]

164. After 1978, when administrative control of Timor-Leste formally passed from the Department of Defence to the Ministry of Home Affairs, Indonesia established more administrative units. Its focus was on education and public information. The first operational government unit was a preliminary education office which opened in 1978. In addition to language, another early focus was information, and in 1978 the Timor

Department of Information installed a television transmitter at Marabia in the hills to the south just outside Dili. The department prioritised the distribution of television sets throughout Timor-Leste to ensure broadcasts could be watched.[189]

165. Also in the late 1970s a preliminary Regional Planning and Development Board (Badan Perencanaan Pembangunan Daerah, Bappeda) began to function. It focused on infrastructure, primarily building schools and teacher training. In 1979 the Department of Education was formed, thus establishing a separate process from the Regional Office of the Department of Education and Culture for the Province of East Timor (Kantor Wilayah Departemen Pendidikan dan Kebudayaan Provinsi Timor Timur).[190] When the third national five-year plan was launched in April 1979, Timor-Leste was partially incorporated into the national planning mechanism. At the start of the fourth national five-year plan in 1984, Timor-Leste became an integral part of Indonesian policy planning and implementation.

166. During the early 1980s, Indonesia developed conventional administrative structures in Timor-Leste. It established the two types of office ordinarily present at the provincial level – regional branches (kantor wilayah, kanwil) of central government departments based in Jakarta, and operational units (dinas) administered directly by the provincial government. The regional bureaus and agencies are important offices in the Indonesian system of government, being vertically integrated with their national offices and responsible for direct implementation of policies, for example taxation and industrial policy.[*191] In Timor-Leste, these agencies were mostly headed by military officers seconded into the civil administration (*dikaryakan*)[†] and predominantly staffed by non-Timorese personnel.[192] Among these regional branches was the powerful Regional Development Planning Board (Badan Perencanaan Pembangunan Daerah, Bappeda). As the primary coordinating board for government projects, this Board allocated lucrative projects to business, the military and government officials.[193]

167. The other group of offices administered directly by the provincial government were operational units called *dinas*,[‡] some of which had branches at the district level. These had a higher proportion of East Timorese staff, sometimes up to 60%.[194] Despite

* The "vertical" regional bureaus and agencies under the office of national cabinet ministers included Mining and Energy, Agriculture, Co-operatives, Education and Culture, Industry, Transmigration, Trade, Health, Forestry, Transportation, Information, Public Works, Social Affairs, Employment, Rural Development, State Ideology, and Family Planning (BKKBN). Other branches included Regional Logistics, the Regional Development Planning Board (Bappeda), the Provincial Inspector, Statistics and Social and Political Affairs.

† *Dikaryakan* officers were active military officers seconded to the civilian administration as part of ABRI's 'dual function' doctrine that gave it a role in politics and development, as well as defence.See paragraps 64 - 135, above). At the end of the occupation, "dikaryakan" officers filled 140 key positions in the government of Timor-Leste, including the leadership of 19 provincial administrative offices, the Deputy Governor position, and two assistant governor posts. The Regional Administrative Secretary (Sekwilda), the head of Social and Political Affairs (Kakansospol), and the Director of the Regional Development Planning Board (Bappeda) were all military personnel. At the district level, the military controlled 64 posts, including three of the 13 District Administrator (*Bupati*) positions. See 1998 captured military documents, "Rekapitulasi Karyawan ABRI yang bertugas di eksekutif + legislatif", pp. 1617.

‡ Dinas units included Agriculture, Animal Husbandry, Education and Culture, Fisheries, Forestry, Local Revenue, Mining, Plantations, Public Health, Public Works, Roads and Traffic, Social Affairs, and Tourism.

provincial administrative responsibility for these operational units, a high degree of overlap between provincial offices and regional branches of central offices meant that overall local government was "a mere extension of the central government".[195]

District and sub-district administration

168. District-level administration was headed by a district administrator (*Bupati*) appointed by the governor. The district administrator was responsible for coordinating the sub-districts (*kecamatan*) within that district. Timor-Leste's sparse settlement, coupled with the relatively high number of district and sub-district administrative divisions, meant that it was an over-administered province.

169. Government administration at a district level consisted primarily of *dinas* sub-offices. For example, there was a *dinas* for each unit of local administration - employees, public services and infrastructure. Among the *dinas* at the district level there was a relatively high proportion of Timorese staff, roughly 60%, though most of these held lower-ranking jobs.[196] After Timor-Leste was sub-divided into three administrative regions in 1987, an assistant governor who coordinated the district administrators was assigned to each region.

170. In the early years of the occupation, very few qualified candidates were available for public service, and this affected the appointment of many positions. An account by the former district administrator of Lautém during the early years of the occupation indicates the difficulties the military faced in putting together an administration:

> Public servants from the Portuguese era were immediately appointed. It had to be approved by ABRI…Those of us who came down [from the hills] early and had been public servants were immediately appointed, whether Fretilin, Apodeti or UDT…just appoint him...But every sub-district had a camat [sub-district administrator]. There was staff from [the] central government to assist us. They were also ABRI…They assisted us because we didn't speak Indonesian.[197]

171. The first district administrators were all either members of, or affiliated to, the Apodeti or UDT political parties. Some, like Claudio Vieira, were former Partisan members. Appointments seem to have been based on a mixture of desperation for skilled personnel and the military concern for control and compliance. Other key appointments, such as that of the sub-district administrator (*camat*), were made by the district administrator in conjunction with the local Regional Leadership Deliberation* (*Musyawarah Pimpinan Daerah*, *Muspida*).[198] The former district administrator of Viqueque, Armindo Soares Mariano, described the procedure to the Commission:

> *It was the* Bupati *[district administrator] together with the* Muspida *[regional leadership deliberation] who made the recommendation. At*

* At the district level, the district administrator (*bupati*), sub-regional military commander (*danrem*) and police chief (*kapolres*) met in the regional leadership deliberation (*muspida*).

that time there were nothing like proper criteria being applied. So the Bupati *submitted the name. It was his suggestion and was signed by the* Dandim *[District Military Commander], who was the chairman of the* Muspida. *The* Bupati *also signed it. Then the name was sent to the provincial level, and a Governor's Decree issued [to appoint him].*[199]

172. Over the duration of the Indonesian occupation, military officers filled some of the district administrator positions, although East Timorese tended to be appointed to the position, as was the governor.

Table 5 - District administrators by origin and affiliation, 1976–1999

District	Dates	District Administrator	Party	Origin	Ethnicity
Aileu	May 1976 – 1989	Abel Dos Santos F.	UDT	-	Timorese
	1989 – 1994	Fernão Verdial	-	Ainaro	Timorese
	1994	Waluyo	ABRI	-	Indonesian
	1994 – 1999	Suprapto Tarman	ABRI	-	Indonesian
Ainaro	May 1976 – 1984	Moises Da Silva Barros	Apodeti	Ainaro	Timorese
		Letkol. H Hutagalung	ABRI	-	Indonesian
		José A B dos Reis Araújo	Apodeti	Ainaro	Timorese
	1994 – 1999	Norberto de Araújo	Apodeti	Ainaro	Timorese
	1999	Evaristo D. Sarmento	UDT	Maubisse	Timorese
Ambeno	Mei 1976 – 1984	Jaime dos R de Oliveira	UDT	Same	Timorese
	1984 – 1989	Letkol. Imam Sujuti	ABRI	-	Indonesian
		Vicente Tilman PD	Apodeti	Viqueque	Timorese
	1994 – 1999	Filomeno Mesquita	Apodeti	Ambeno	Timorese

Baucau	May 1976 – 1982	Abel da Costa Belo	Apodeti	Baucau	Timorese
	1982 – 1987	Kol. I Gusti Ngurah O.	ABRI	-	Indonesian
	1987 – 1992	Drs. Herman Sediono	ABRI	-	Indonesian
	1992 – 1999	Virgilio Dias Marçal	UDT	Baucau	Timorese
Bobonaro	May 1976 – 1984	João Da Costa Tavares	UDT	Bobonaro	Timorese
	1984 – 1989	João Da Costa Tavares	UDT	Bobonaro	Timorese
	1989 – 1992(?)	Mariano Lopes da Cruz	UDT	Manatuto	Timorese
	1992(?) – 1999	Guilherme dos Santos	UDT	Bobonaro	Timorese
Covalima	May 1977 – c. 1981	Américo da Costa Nunes	Apodeti	Bobonaro	Timorese
	c. 1981 – 1989	Rui Emiliano T Lopes	UDT	Suai	Timorese
		Rui Emiliano T Lopes	UDT	Suai	Timorese
	1994 – 1999	Drs. Herman Sediono	ABRI	-	Indonesian
Dili	May 1976 – 1984	Mario Sanches da Costa	eks-Fretilin	Laleia	Timorese
	1984 – 1989	Raimundo Sarmento	UDT	Manatuto	Timorese
		Armindo Soares Mariano	Apodeti	Viqueque	Timorese
	1994 – 1999	Domingos MD Soares	-	Manatuto	Timorese
Ermera	May 1976 - 1984	Tomas Aquino Gonçalves	Apodeti	Atsabae	Timorese
	1984–1989	Tomas Aquino Gonçalves	Apodeti	Atsabae	Timorese
		Letkol. Inf. Hidayat	ABRI	-	Indonesian
	1994–1999	Constantino Soares	-	Ermera	Timorese

Liquiçá	May 1977–1984	Francisco dos Santos Ribeiro	Apodeti	Liquiçá	Timorese
	1984 – 1989	Jaime Remedios de Oliveira	UDT	Same	Timorese
		Gaspar Sarmento	UDT	Liquiçá	Timorese
	1994 – 1999	Leoneto Martins	Apodeti	Maubara	Timorese
Lautém	May 1976 – 1985	Claudio Vieira	Apodeti	Moro	Timorese
	1985 – 1990	Letkol. Hendrikus	ABRI	-	Indonesian
	1990 – 1995	José Valente	Fretilin	Lore	Timorese
	1995 – 1999	Edmundo Conceicão Da Silva	Apodeti	Moro	Timorese
Manatuto	May 1976 – 1984	Luis Maria da Silva	Fretilin	Manatuto	Timorese
	1984 – 1989	Elias Enes Carceres	Kota	Manatuto	Timorese
		Abilio José Osorio	Apodeti	Laclubar	Timorese
	1994 – 1999	Soares Vidal Doutel Sarmento	Apodeti	Manatuto	Timorese
Manufahi	May 1976 – 1984	Alexandrino Borromeo	Apodeti	Manufahi	Timorese
	1984 – 1989	Tomas Correia	UDT	Manatuto	Timorese
		Nazario Andrade	UDT	Manatuto	Timorese
	1995 – 1999	Nazario Andrade	UDT	Manatuto	Timorese
Viqueque	May 1976 – 1984	Jaime dos Santos Carvalho	Apodeti	Viqueque	Timorese
	1984 – 1989	Mayor Syarif Hidayat	ABRI	-	Indonesian
	1989 – 1994	Y. Hendro S.	ABRI	-	Indonesian
	1995 – 1999	I Ketut Lunca	ABRI	-	Indonesian
	1999	Martinho Fernandes	Apodeti	Viqueque	Timorese

Source: CAVR research and compilation

Village-level administration

173. An Indonesian village is administered by a village head (Kepala Desa), who coordinates with two subsidiary neighbourhood administrative units (Rukun Tetangga, RT and Rukun Warga, RW). In Portuguese times, the East Timorese village (*suco*) was often administered by the local king (*liurai*). During the Indonesian

occupation, as was the case in most of Indonesia, the hereditary traditional leader was often someone imposed by the state.[200]

174. After major displacements and resettlement of most of the population between 1978 and the early 1980s, Indonesia began economically and socially to develop the villages of Timor-Leste. The Institute for Community Sustainability (Lembaga Ketahanan Masyarakat Desa, LKMD) was created by the Ministry of Home Affairs (Mendagri) in 1980 by Minister of Home Affairs' Decree 25, 1980, and in 1982 Indonesia established this organisation in Timor-Leste. The organisation was staffed by villagers who were tasked with implementing state development goals at the village level.

175. Another significant body of village administration was the Village Cooperative Unit (Koperasi Unit Desa, KUD). This was a farming cooperative that worked with state monopolies to sell farm produce. Although its stated goal was for the state to guarantee farmers with an income and market, in practice these good intentions were often abused by the various state monopolies. This was the case in Timor-Leste, where the Village Cooperative Unit was used to purchase coffee from farmers at prices far below market rates, a practice which the military-backed coffee monopoly PT Denok profited from extensively (see extensive discussion in Vol. III, Part 7.9: Economic and Social Rights). The Indonesian economist, Professor Mubyarto, commented on the impact this had on the East Timorese coffee industry and on the credibility of the civil administration:

> [T]he stagnation of the coffee economy is due mainly to the arrangement by which private monopolies buy coffee through the official Village Unit Cooperatives system. In the eyes of the general public the private monopoly which operates through the village cooperatives diminishes the government's credibility, especially in relation to its capabilities (or even its integrity) in village development.[201]

176. Military commanders and high-level administration officials such as the governor benefited from their control of the coffee industry. Former governor Mario Carrascalão described the division of the huge profits reaped at the expense of East Timorese farmers, and how these "coffee fee" funds were divided between district- and provincial-level military and civilian officials - the governor, the state prosecutor, the military commander and others.[202]

177. In 1984 a military-run development programme called "ABRI Enters the Village" (ABRI Masuk Desa, AMD) was launched.[203] ABRI contended that this was a valuable contribution to village development by territorial troops, whereas critics of the programme saw it as yet another way for the military to keep the population under surveillance.

178. The degree of control by the military over local administration and the economy, as well as security matters, left many East Timorese deeply embittered, including some of those who had initially supported the Indonesian intervention

and occupation. A team of Indonesian economists described the impact of the military on the province's economy:

> Because of the military's excessive interference in economic and development matters, local people tend not to have much respect for them. Indeed, some among the East Timorese elite detest the military because they are held responsible for the region's economic stagnation.[204]

The civil service

179. Indonesia built a large civil service in Timor-Leste, nearly twice as large in relation to population than the national civil service.[*] In 1981 there were 780 public servants. By 1997 there were over 33,602.[205] Of these, 18,000 were in the districts, and the remainder, 15,300, were in Dili. Many of these were teachers and health workers. Many civil servants in Timor-Leste were recruited from Indonesia. They generally held more powerful positions than their East Timorese counterparts. East Timorese applicants to government positions had to acquire Indonesian citizenship. They were typically treated with suspicion and were always screened to prove their loyalty to the Indonesian state and its doctrine, Pancasila. A special division of ABRI known as the Tactical Command (Komando Taktis, Kotis) conducted the screenings.[†] The deep suspicion of East Timorese personnel indicated by this process was a factor in their lack of opportunity to rise to higher levels of the civil service.[206]

180. The Indonesian civil administration in Timor-Leste was, for most of the occupation, subservient to the military administration and its structures. The military dominated all aspects of administration in the early years of occupation when pacification of the Resistance was the first priority and full-scale military operations were underway. As this situation eased in the late 1970s, the military failed completely to destroy the armed resistance, and its preoccupation with controlling the civilian population resulted in the predominance of military administrative structures all the way to sub-district and village levels. Military personnel also held key positions within the civil administration itself. Many used these positions for their own financial advantage. The results were dual administrations, over-administration and a stifling impact on the economy and development. The civil administration was also compromised by its closeness to ABRI.

* Civil servants were 3.09% of the population, versus 2.12% at a national level (*Timor Timur Dalam Angka*, Biro Pusat Statistik [*East Timor in Figures*, Central Bureau of Statistics], Dili, 1993).

† Tactical command officers could be found at every structural level of the military command and were responsible for daily intelligence and population surveillance. In the late 1970s they had responsibility for screening people who had come down from the Mountains. Anyone wanting to apply for a work permit, travel permit, identity card, or even a marriage certificate, first had to complete a 15-page questionnaire before the tactical command officer. The questionnaire covered the individual's personal life in great detail, going back generations. It also covered someone's political affiliations, attitudes and reactions to UDT's August 1975 "coup", Indonesia's December 1975 invasion, integration, Fretilin, and more. The answers were legally binding, and "incorrect statements" were punishable.

181. The New Order regime produced a highly centralised process of government based in Jakarta which meant that outlying provinces such as Timor-Leste were removed from policy decisions and lacked direction over their own future. This was exacerbated in the militarised context of conflict in the territory. This regime also politicised civil administration, and this was further entrenched in the context of Timor-Leste where East Timorese with active pro-integration backgrounds were favoured over others. In addition, Indonesian authorities' distrust of East Timorese resulted in posts, particularly senior ones, within the civil administration being dominated by Indonesians brought to the territory.

182. The civil administration in Timor-Leste was seriously flawed and compromised. In the context of continuing conflict and a heavily militarised society for the 24 years of Indonesian occupation, its effectiveness as a professional institution serving the people of the territory was limited. This in itself obstructed the protection and promotion of human rights of the East Timorese people.

183. Furthermore, at the end of 1998 and during 1999, Indonesian public servants were heavily politicised in terms of self-determination issues, both before and after the signing of 5 May Agreement. The government budget was used to support pro-autonomy campaigns, including allocations for militia activities (see Vol. I, Part 3: History of the Conflict).

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Part 5.

Resistance: Structure and Strategy

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Tables:

5. Resistance: Structure and Strategy

Introduction

1. The Resistance against Indonesian occupation in Timor-Leste went through a complex development. This part provides an overview of the Resistance movement including: its emergence during the period of Fretilin administration following the coup; the effect of destruction of the Fretilin bases in 1978-79 by the Indonesian military including the loss of a number of Fretilin/Falintil leaders and the end of the protracted people's war strategy; the regeneration of Falintil, the armed front of the Resistance, after 1987 and its structure and strategies until the referendum in 1999; and the structure and strategies of the clandestine front over the course of the occupation. The third front in the Resistance movement, the diplomatic front, is discussed in Vol. II, Part 7.1: Self-Determination, and so has not been considered in detail here. The Commission notes that this part is only a first step in understanding the complex history of this aspect of Timorese history and that there is considerable scope for further research in the future.

2. The Resistance had its origins in the armed conflict triggered by the attempted coup of 11 August 1975. The UDT coup aimed to get rid of the so-called "communist" elements in Fretilin that UDT considered dangerous to the national interest of Timor-Leste. The Revolutionary Front for an Independent East Timor (Frente Revolucionaria de Timor-Leste Independente, Fretilin), which succeeded in securing the support of most East Timorese in the Portuguese colonial armed forces, won the conflict in fewer than 20 days. With its victory over UDT, and the departure of the Portuguese colonial government, Fretilin found itself having to act as the *de facto* government of the territory. Its leadership, which previously believed they could secure independence without armed conflict, suddenly faced a new situation that forced them to reorganise.

3. The invasion of the powerful Indonesian military on 7 December 1975 forced Fretilin and its armed wing, the Armed Forces for the Liberation of Timor-Leste (Forças Armadas de Libertação Nacional de Timor Leste, Falintil) to flee to the mountains

to reorganise into an armed resistance force. Fretilin were confronted with many problems during the process of reorganisation. Differences of opinions arose on the structure and even more so on the strategy to be used by Fretilin/Falintil. The changes in structure and strategy over time did not reflect only the changes in the nature of the conflict, but were also a result of conflicts within the Resistance movement itself.

4. The fact that the majority of people fled to the forest also became a problem. A number of resistance leaders believed that the war they were fighting was not only about the expulsion of foreign aggressors, but also a revolution to erase the old social order that oppressed people, known as "exploitation of man by man" (*exploração do homem pelo homem*) and to build in its place a new social structure without oppression. For them the war was a revolutionary war. In the aftermath of the Indonesian invasion, a majority of Fretilin leaders held this view. In the forest civilians were organised to support the armed resistance logistically and politically. People were organised through social and political programmes to create new social structures free from oppression and exploitation.

5. Other leaders, especially those with a military background, tended to see the war only from its military aspect, and regarded the people as a burden to the Resistance because of the military resources required to protect civilian lives. With the Indonesian military's relentless offensive against Fretilin resistance bases, the conflicts within the Resistance increased. Unable to endure the attacks, some leaders allowed or even advised people to surrender.

6. Other leaders tried to negotiate with the enemy, but these actions were strongly opposed and sometimes became a source of armed conflict within the Resistance.

7. The destruction of the "liberated zones" (*zonas libertadas*) brought about an entirely new situation. Civilians, some Fretilin civilian leaders and some Falintil troops were captured or surrendered because they could not withstand the Indonesian military assaults. Other Falintil units and a few Fretilin leaders managed to escape the "encirclement and annihilation" operations and survived in the forest by constantly moving from one place to another. The separation of civilians from the armed resistance prompted the Resistance to enter a new phase, where Falintil in the forest were supported by civilians in the settled, Indonesian-controlled areas. Previously, by contrast, civilians had been organised by Fretilin cadres in the Resistance support bases (*bases de apoio*), while Falintil had been responsible for security.

8. Falintil troops regrouped into small independent units without a fixed base, which made guerrilla attacks on the Indonesian military. Logistical support, which was once received from civilians in the Resistance *bases de apoio*, now had to be obtained from civilians in the occupied territory. As such, the armed resistance movement in the forest had to develop new ways to organise civilians as their main source of support.

9. Underground activities (*clandestina*) supporting the armed struggle in the bush and the diplomatic struggle overseas became increasingly important. These activities were first carried out by Fretilin cadres in the city who had not run to the bush at the

time of the Indonesian invasion on 7 December 1975. After the destruction of the *zonas libertadas*, the Fretilin political cadres as well as ex-Falintil commanders and soldiers also began to undertake clandestine activities to support the struggle. Their role was crucial to providing logistics and information to Falintil, for communication between Falintil forces who were separated from each other and for communication between leaders of the armed resistance in the bush and leaders of the diplomatic resistance overseas.

10. In 1981 the Revolutionary Council of National Resistance (Conselho Revolucionário de Resistência Nacional, CRRN) was established and formally took over the leadership of the Resistance. In practice Falintil led the Resistance because it represented the only functioning resistance leadership. Although the commander of Falintil was the National Political Commissar (Comissário Político Nacional), Falintil's real power came from its position as the most active branch of the Resistance. Indeed, political activities among the civilian population at this time were limited to assisting Falintil logistically.

11. The National Council of Maubere Resistance (Concelho Nacional de Resistência Maubere, CNRM) was founded in 1987 to replace the CRRN. This changed Fretilin's role in the leadership of the Resistance to a purely symbolic one. The Resistance leadership accepted that independence could never be achieved through war because of the enemy's military dominance, and instead focused on achieving independence through a peaceful resolution with primary attention to the international arena. The diplomatic struggle, which had been launched before the Indonesian invasion in 1975, was given new emphasis. International support was sought not only from non-aligned nations and socialist nations, but also from liberal democratic nations that had previously paid little attention to the plight of Timor-Leste.

12. Some resistance leaders felt the need to establish a new forum to accommodate all political parties and movements that supported independence, especially for those outside Fretilin. The CNRM aimed to be a movement of national unity, struggling against occupation on three fronts: the armed front in the forest, the clandestine front in the villages and towns in Timor-Leste and Indonesia, and the diplomatic front in the international arena (for more information on the diplomatic front see Vol. II, Part 7.1: Self-Determination). At this time, Falintil went through a "breaking of party ties" (*despartidarização*) with Fretilin, and became the national armed forces, under the leadership of the CNRM. This arrangement continued after the establishment of the National Council of Timorese Resistance (Concelho Nacional de Resistência Timorense, CNRT) in place of the CNRM in April 1998 in Peniche, Portugal, which led the Resistance until the end of the Indonesian occupation in 1999.

Fretilin and the *bases de apoio*

13. The Indonesian invasion caused major displacement of civilians to the forests and mountains with Fretilin. This issue is discussed in detail in Vol. II, Part 7.3: Forced displacement and famine.

14. Providing the large number of refugees with shelter, food and other basic necessities was a huge problem for Fretilin. Fretilin, having written a social and political programme as early as November 1974, appeared well prepared to organise the people. Cadres immediately arranged administration from the sub-village (*aldeia*), to the village (*suco*) up to the district (*região*) level using their existing organisational structures. Administrators at the *aldeia* level reorganised people from their own *aldeia*, *suco* administrators reorganised people from their *suco*, and so on until there was a Fretilin government administration in the mountains. It appears that this reorganisation was an initiative from the rank and file cadres. Eduardo de Jesus Barreto, a cadre from Ermera zone, stated:

> *Up until early 1976 there was no strong formal structure at the base, but Fretilin militants in bases managed to organise people although not formally…People individually or in groups also performed farming activities like growing corn, tubers, and other edible plants.*[1]

15. This spontaneous restructuring lasted from the beginning of the war until mid 1976. At that time, the Indonesian army had managed to take control of only the towns, the north coastal road from west to east and the central corridor running from north to south. Xanana Gusmão testified to the Commission:

> *The enemy came into Dili, Baucau, Lospalos, and people fled. There was still major confusion. After that it began to stabilise…When the enemy managed to take over the main roads, the north road and from north to south, it began to feel stable. This situation gave an idea to the Central Committee to establish six sectors in May 1976...having to do with the division of political administration from aldeia, suco, zona, região, and sector.*[2]

Organisation of civilians

16. The organisation of civilians (and the military) was discussed at the Fretilin Central Committee's second plenary session held in Soibada, Manatuto, in May 1976 (the Soibada Conference).* At this conference, it was decided to form national civilian and military structures. The *zonas libertadas* were divided into six sectors.† These sectors defined both military zones under military command and political

* According to this document, the plenary session was held from 15 May to 2 June 1976. The session decided "three Maubere Revolution guidance principles", which are : people's war, protracted war, and self-reliance. [*Relatório da Delegação do Comité Central da Fretilin em Missão de Serviço no Exterior do Pais*, p.3.]

† There were supposed to be seven sectors, with the Oecussi enclave as the seventh sector, but circumstances did not allow for the establishment of this sector. [CAVR interviews with Jacinto Alves, Dili, 11 May 2004; and Francisco Gonçalves, Dili, 14 June 2003.]

administrative units under Fretilin administration. In accordance with the principle that politics commands the gun (*a política comanda fuzil*), the military commanders deferred to the civilian political administrators.* However, some of the highest military positions, such as Chief of Staff and the minister and two deputy ministers of defence, were also members of the Fretilin Central Committee.

17. The position of political commissar (*comissário política*), the supreme leader in each sector with responsibility for both political and military matters, was also created in Soibada. All political commissars were members of the Fretilin Central Committee.† The sectors, the districts they covered and the political commissar in each sector is set out below:

Table 1 - Fretilin regional structure since May 1976

Sector	Districts Included	Political Commissar
Ponta Leste (Eastern End)	Lautém	Juvenal Inacio (Sera Key)‡
Centro Leste (Central East)	Baucau and Viqueque	Vicente dos Reis (Sa'he)§
Centro Norte (Central North)	Manatuto, Aileu, and Dili	João Bosco Soares
Centro Sul (Central South)	Manufahi and Ainaro	Hamis Bassarewan (Hata)
Fronteira Norte (North Frontier)	Ermera, Liquiçá, and some part of Bobonaro	Hélio Pina (Mau Kruma)
Fronteira Sul (South Frontier)	Covalima and some part of Bobonaro	César Correia Lebre (César Mau Laka)

* This principle had already been in effect since the establishment of Falintil in August 1975 after the 11 August Movement. From that time, Falintil was under the command of the Fretilin Central Committee. See, for example, CAVR interviews with Lucas da Costa, Dili (one of the people who initiated the establishment of the first Falintil units in Aileu), 21/6/2004, and CAVR interview with Taur Matan Ruak, Dili, 9/6/2004.

† According to Xanana Gusmão, who at the time was a member of the Fretilin Central Committee, the Timor-Leste Democratic Republic government's departments were no longer functioning, only Fretilin (government) was functioning. (CAVR interview with José Alexandre [Xanana] Gusmão, Dili, 7/7/2004.) In the Fretilin Central Committee there was a Permanent Committee, in charge of making decisions if a Central Committee plenary session was not possible. (CAVR interview with Jacinto das Neves Raimundo Alves, Dili, 11 May 2004.)

‡ In the RDTL Board of Ministers, Sera Key was the Minister of Finance. After the Aikurus (Remexio, Aileu) meeting, some parts of Baucau and Viqueque, east of the road connecting Baucau to Viqueque, were included in Ponta Leste Sector. This change was because Indonesia's control of that road made it difficult for the two territories in that sector to communicate. [CAVR interview with Francisco Gonçalves, Dili, 14 June 2003; Xanana Gusmão, "Autobiography" in Sarah Niner (ed.), To Resist is to Win! The autobiography of Xanana Gusmão, Victoria: Aurora Books, 2000, p. 49.]

§ In the RDTL Board of Ministers he occupied the position of Minister of Labour and Welfare.

18. In performing their tasks the political commissars were assisted by assistant commissars (Assistente Comissáriado),* who were each responsible for a specific area: health, agriculture, education, the women's organisation Popular Organisation of Timorese Women (Organização Popular da Mulher Timor, OPMT), and political propaganda. The secretariat where the Fretilin administrators worked was called the *comissáriado*. Sectors were then divided into smaller administrative units.†

Table 2 - Fretilin administrative structure

Administrative Unit	Area	Leadership
Region (*regiaõ*)	Similar to the area covered by a *conselho* in the Portuguese colonial administration system, today referred to as district.	A secretary (*secretário*) and a regional vice secretary (*vice secretário regional*)
Zona (*zona*)	Similar to the territory that, in the Portuguese administration system, was called *posto*, today referred to as sub-district.	Zone Committee (*comité da zona*) led by a secretário and vice secretário da zona. In the Comite da Zona there was a: Health Commission (*Comissão de Saúde*), Agriculture Commission (*Comissão da Agricultura*) and Education Commission (*Comissão da Educação*).[3] Attached to each commission was an *activista*, whose task was to implement the programmes. There was also an *activista* responsible for political education.
Village (suco)	Same as a village today.	*Secretário de suco* assisted by a *vice secretário*. They were in charge of *suco*-level bodies called sections (*secções*),

* In the Ponta Leste sector, the Delegado Komisariado was better known as "DK" (pronounced "de kapa") [CAVR interview with Egas da Costa Freitas, 19 May 2004.]

† Some mentioned the existence of *barracas* (barracks) units, but they were not part of the formal administrative structure.

		such as the: health section (*secção de saude*), agriculture section (*secção da agricultura*), education section (*secção da educação*) and political propaganda section (*secção da propaganda política*).
Sub-village (*aldeia*)	Same as a sub-village today.	Village ward (*responsável da aldeia*)

19. This structure was a continuation of the government system established by Fretilin when it took control of Timor-Leste after the defeat of the 11 August Movement. For instance at the *zona* level, some informants told the Commission that the government was run by a directorate (*direcção*), which consisted of a secretary and vice secretary, assistants, the local leader of the OPMT women's organisation and the local leader of the youth organisation, the Popular Organisation of Timorese Youth (Organização Popular de Jovens Timorenses, OPJT),[4] following the structural model Fretilin had employed at the district level after 11 August 1975 (see Vol. I, Part 3: History of the Conflict).

20. This structure changed little until the destruction of the *zonas libertadas*. In 1977, as the *zonas libertadas* came under growing pressure from Indonesian military attacks, the Fretilin leadership abolished the *região* level of administration, and the *zona* was placed immediately under the administration of the sectors. A new position of adjunct (*adjunto*) was created. The *adjunto*, who like political commissars were members of the Fretilin Central Committee, assisted the *zona* administrators in the implementation of Fretilin social-political programmes.[5] There were two to three *adjunto* in each sector. In 1978, the title of *activista* was changed to assistant (*assistente*).[6]

Military organisation

21. In the area of military organisation, there was also confusion after the invasion of December 1975. Falintil troops assigned to the border areas and towns, which fell immediately after the invasion, retreated to their places of origin. In the sub-district (which had now turned into *zonas*), Falintil regrouped into units called companies (*companhias*),[*] led by a zona commander (*comandante da zona*). Most *comandantes*

* These companies consisted of former colonial soldiers and civilians who had received military training from the army after the UDT "11 August Movement" and joined the militia formed by Fretilin. Initially, when Fretilin began to face attacks from the Indonesian army on the land border in October, some militia members had joined Falintil units that were assigned to face the Indonesian army in the border area. [CAVR interviews with José Alexandre Gusmão, Dili, 7/7/2004; Adriano João, Dili, 23/4/2003; Filomeno Paixão, Dili, 17/6/2004; Lucas da Costa, Dili, 21/6/2004; Agostinho Carvaleira Soares, Cailaco, Bobonaro, 13 August 2003; Sebastião da Silva, June 2003, Cornelio Gama (aka Nahak Leki, L-7), 9 April 2003; and Lere Anan Timor, Archives of the *Tuba Rai Metin* Oral History Project, Submission to CAVR, CD No. 18.]

da zona were sergeants in the Portuguese colonial armed forces.* There were between one and four companies in each *zona*, depending on the availability of trained men and weapons.[7] Each company consisted of three or four platoons (*pelotões*).[8]

22. These companies were theoretically under the control of the Falintil General Staff (Estado Maior das Falintil). After the unilateral declaration of independence on 28 November 1975, Falintil came under the Department of National Defence, which was led by a minister and two deputy ministers. The minister was Rogério Lobato, who was also the Commander of Falintil (Comandante das Falintil), and the deputy ministers were Hermenegildo Alves and Guido Soares. When Rogério Lobato left Timor-Leste to continue the struggle overseas, just days after 28 November 1975, the two deputy ministers took over the ministry. The defence department oversaw the Falintil General Staff (Estado Maior das Falintil), which was under the command of the Chief of Staff (Chefe do Estado Maior), Guido Soares, whose deputy chief (Sub-Chefe do Estado Maior), was José da Silva.†

23. After the invasion this structure was found not to be effective. Companies were under the control of the *zona* commanders, who operated relatively independently of the central command and focused mainly on defending their own *zona*. This created problems when it came to conducting military operations. Filomeno Paixão de Jesus, who was a company commander in Liquiçá, explained:

> *So in one zona…there was one zona commander. The zona commander had one to three companies under his command. In Liquiçá, for example, there were three companies with one zona commander. But each only took the initiative in their own sub-districts…Some sub-districts had plenty of weapons, while others didn't have any weapons at all.*[9]

24. The problem was resolved by the decision made at the Conference in Soibada (Manatuto) to reorganise the military. With the establishment of sectors, regions, and zones for all *zonas libertadas*, sector commands (*comandos da sector*), regional commands (*comandos da região*), and zone command (*comando da zona*) were established.[10] There was a commander appointed to each sector, region and zone. Aside from the battle companies, the Self-Defence Forces (Força Auto Defesa, Fade) were established in settlements. A Fade unit comprised people from the local area with basic military training. The strength of the Fade varied between local areas; one zone could have up to one company.[11] Some were armed with traditional weapons like spears and arrows, others with automatic rifles. Because most did

* For instance, the *zona* commander of Quelicai (Baucau), Aquiles Freitas, had been a colonial soldier with the last rank of a first sergeant (*sargento*) and the last position of a cavalry troop company commander in Atabae (Bobonaro). [CAVR interview with Adriano João, Dili, 10 June 2003.] The *zona* commander of Cailaco (Bobonaro), José Maria, was a second sergeant (*furiel*) in the Portuguese army in Timor-Leste. [CAVR interview with Agostino Carvaleira Soares, 13 August 2003).

† José da Silva was replaced by Domingos Ribeiro in the second half of 1976. José da Silva was replaced because he challenged the Soibada, Manatuto Conference's decision to reorganise the troops, which brought him into conflict with the Fronteira Norte Political Commissar, Mau Kruma, who was responsible for implementing the new structure. [CAVR interview with Filomeno Paixão de Jesus, Dili, 17 June 2004.]

not have firearms, Fade units were also known as the *armas brancas*, the "white soldiers" (who only used traditional weapons). The Fade's main task was to defend settlements, although some were also sent to assist frontline Falintil units.[12]

25. As it was before the reorganisation, the *zona* commanders oversaw the troop companies, but they operated under the authority of the *região* commander, while the *região* commander himself was under the command of the sector commander.[*] With this reorganisation, the Falintil General Staff oversaw all the territorial commands. The reorganisation at Soibada increased Falintil's capacity to face the Indonesian army. Falintil's operational territory became larger because they could now operate in areas larger than a *zona*. Troops and weapons could also be moved from one *zona* to another according to military need.[13]

26. Further changes in the military structure were decided at the Laline Conference, held between March and May 1977.[†] The Laline Conference agreed that the concentration of military units in the *zona* was another weakness. Filomeno Paixão de Jesus, who attended the conference, recalled:

> *We thought that the strategy was not so good, because [the Ermera] região would say we are Ermera so we belong only to Ermera, and Liquiçá would say it belonged only to Liquiçá. It was hard to supply weapons and ammunition to other região. That was why after the Laline Conference, sector companies were formed to provide people with security, intervention companies were formed that no longer could act from behind or outside…So while previously the war was fought within the região, now it was fought across all the whole sector.*[14]

27. Thus every company in a sector was placed directly under the command of the sector commander.

28. Further change took place in mid-1977, related to the Fretilin internal conflict. The Fretilin Central Committee, meeting in Aikurus (Remexio, Aileu), abolished the National Department of Defence, including the deputy minister positions, after an evaluation found it was not effective. Leadership of Falintil fell to the Falintil General Staff. Both deputy defence ministers were "demoted" to the positions of sector commanders. Hermenegildo Alves became the commander of the Centro Leste Sector and Guido Soares became the commander of Centro Sul. Domingos Ribeiro, who was

* Up to that point, the biggest army unit was company (*companhia*), there was no bigger unit like the battalion (*batalhão*).

† This was the session of the Highest Resistance Council and the Political Committee of the Fretilin Central Committee, held from 8 March to 20 May 1977 (*Relatório da Delegação do Comité Central da Fretilin em Missão de Serviço no Exterior do Pais*, p. 4). It is possible that the Highest Resistance Council in this document was the Highest Struggle Council (Conselho Superior da Luta), which consisted of the RDTL President (who also was the president of Fretilin), RDTL vice-president (deputy chairman of Fretilin), minister of defence, Falintil chief of staff, minister of domestic security, and Comissário Política Nacional. [CAVR interviews with Jacinto Alves, Dili, 11 May 2004 and Egas da Costa Freitas, 19 May 2004.] If this was its composition, it is clear that the council was a hybrid, between party (Fretilin) and government (RDTL).

previously deputy chief of staff, became the chief of staff. The deputy chief of staff position was abolished. In the Falintil General Staff, there were eight staff positions called the *colaborador do estado maior*, responsible for areas under the General Staff's authority such as operations, codes, information, logistics and training.[15]

29. In accordance with the principle of civilian control of the military, the President of Timor-Leste, also the President of Fretilin, Nicolau Lobato, directed the Falintil General Staff. At the same time, Nicolau Lobato also held the position of political commissar for the Falintil General Staff, with the function of providing political orientation to the army.*

30. At this time, a new unit called the Shock Troops (Brigada de Choque, usually abbreviated as Brichoq) was formed.† This brigade was formed by the chief of staff and was directly under his command. It was not based in a specific area, but operated throughout Timor-Leste.[16] Guido Soares, who was previously the chief of the Falintil general staff, became the commander of the Brigada de Choque.[17] With the establishment of this brigade, troop structure now comprised Brigada de Choque, sector and zone companies, and the Força Auto Defesa.

Fretilin's socio-economic programme

31. The organisation of civilians in the *zonas libertadas* was the responsibility of the Fretilin civil administration. After the invasion, Fretilin's main focus was launching and supporting the Resistance. Xanana Gusmão, then a member of the Fretilin Central Committee, said:

> *We had just entered war and the people were among us. [We established]* bases de apoio*, with the idea they would function as a base to provide logistical and political support – which we can call revolution…The Fretilin Central Committee in May 1976 put the* bases de apoio *into effect. So six sectors were established…with that the* base de apoio *was defined. The* base de apoio *structure was formed.* Base de apoio *was implemented as a mechanism to organise people so they could continue to fight in the war.*[18]

32. Settlements, which at first were strategically territories called "retreat zones" (*zona reta guarda*), finally changed to become the *bases de apoio*. In these the people were organised to run programmes in agriculture, health, education, culture and women's liberation.[19]

* While the Political Commissioners for sectors were under the Comissário Política Nacional (CPN, National Political Commissioner) that was not the case with Falintil General Staff's Political Commissioner. Not to mention that this position was occupied by the President of the Republic and Fretilin President. According to Jacinto Alves, at the time, Nicolau Lobato, who was also the President of RDTL, worked daily at the Falintil General Staff [CAVR interview with Jacinto Alves, Dili, 11 May 2004].

† This Brigade was also known as the "Brigada Intervenção" (Intervention Brigade), "Força de Intervenção" (Intervention Forces) or "Companhia de Intervenção" (Intervention Company).

Agricultural production

33. To increase production, agricultural work was performed by people organised into work teams (*equipa*).[20] Agricultural land was divided into three types of ownership: private, *coperativa* (cooperative) and *propriedade estatal* (state ownership).[*] Families owned private land and, while all members of a work group worked on such land, the produce belonged to each family. Cooperative land was owned and worked on by all members of a work group and the produce was distributed equally among its members.[†] Everybody worked on *propriedade estatal* and the produce was used by the state to feed Falintil, the civilian administration, the elderly and disabled, and for seed reserves.[21] Aside from edible crops like corn, tubers, sweet potatoes and bananas, cotton was also planted.[22]

34. Women also worked in agricultural production, performing activities such as pounding sago palm and making plaited items like baskets.[23] If a woman had children to nurse, they nursed them in the *crèche* (a day care centre). Some people were assigned to a team for maintaining the *crèche*, organised through the *equipa crèche*.[24]

35. At first, agricultural production proceeded smoothly. But the situation worsened once the major military offensive began in September 1978. Planted land could not be harvested as the population had to move constantly because of the Indonesian army's attacks. People also could not prepare new land to be planted.[25]

Health

36. The Fretilin cadres responsible for health, including traditional doctors, produced medicine from plants, such as quinine pills and treatments for gunshot wounds.[26] They also cared for the wounded and performed minor operations. Research was conducted to find plants with healing potential. Lucas da Costa, who was the head of Same (Manufahi) Hospital during the Portuguese era, recalled his experiences in the Uaimori area:

> *... I did research on plant therapy, medication using traditional medicines around the middle of 1976…We built a hospital. We conducted studies on traditional medicines. We gathered some people who knew about traditional medicines, we conducted a number of experiments, and we built a pharmacy to make tablets and injections. Our injections didn't work, but our tablets for malaria were a success. We also successfully made one for headaches, and, although it was very coarse, it was quite effective too.*[27]

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* Meaning the Democratic Republic of Timor-Leste.

† The Fretilin administrators also had to work in work groups but they only did a small amount of farm work because their time was mostly taken up with politics. [Virgílio da Silva Guterres, Dili, 25 May 2004.]

37. Former students provided public education on healthy living and the construction and use of public toilets. Virgílio da Silva Guterres from Venilale Zone (Baucau) described his experiences:

> *[Boys] who were already in the third grade of primary school were… given training on literacy, health and politics. After the training the participants were divided into groups called* Brigada Dinamisadora *[Dynamisation Brigades], each consisting of five people. The groups' task was to teach literacy and health and assist people to make toilets to meet health standards.*[28]

Education and culture

38. Fretilin provided education in two main areas: literacy and politics. Literacy programmes appear to have been conducted in a piecemeal fashion because of the lack of people trained in this field at the time. In certain places OPMT activists ran the programmes and focused particularly on women.[29] In some zones school activities were conducted for children.[30]

39. The most common educational activity was political education. Fretilin gave much attention to providing political training for Fretilin cadres to increase their capacity for organising people and their political and ideological knowledge. The commissariat in each sector established a Centre for Political Training (Centro da Formação Política, Ceforpol). Ceforpol was obligatory for *quadro medio* (mid-level cadres, the regional and zone committees), but sometimes was attended by *quadro inferior* (menial cadres, administrators of *suco* and *aldeia*). Topics covered included the history of Timor-Leste from the arrival of the Portuguese, theories of social development, the philosophy of dialectical materialism, building people-power, the organisational principles of "the mass line" (*linha de massa*) and democratic centralism (*centralismo democrático*), women's emancipation and collective food production. Military strategy and national liberation were also discussed, as well as national liberation wars in other countries such as Guinea Bissau, China and Vietnam. The instructors in the Ceforpols were members of the Fretilin Central Committee and Falintil commanders.[31] Overall, the Ceforpols were under the supervision of the Department of Political and Ideological Orientation (Departemento da Orientação Política e Ideológica, DOPI), which was a department of the Fretilin Central Committee.[32]

40. For the general public, the goal of political education was to encourage the spirit of nationalism and support the national liberation struggle.[33] Zone administrators conducted "enlightenment" (*esclarecemento*) programmes. In certain places Brigada Dinamisadora carried out the *esclarecemento*, travelling around to settlements to explain the Fretilin Political Program Manual (*Manual e Programa Políticos Fretilin*) and the need to work and support Falintil armed forces fighting to restore independence in Timor-Leste.[34] Where there was no Brigada Dinamisadora, the *assistente de zona* carried out the programme. OPMT

activists also provided political education.[35] Usually, popular political education was conducted together with cultural activities. A member of a Brigada Dinamisadora told the Commission that:

> *Every* brigada *was sent to an* aldeia *to teach during the day. At night their were activities like* tebe *and dancing, reading traditional poems and singing folk songs…The verses in the poems were about the poor people and their sufferings because of the invasion, and tributes to the people who died fighting for the motherland. Hearing such words aroused people's sympathy for the poor and their determination to fight for the independence of the motherland.*[36]

41. Fretilin cultural activities were sought to develop a sense of nationhood, based on the idea that the nation could progress only if the people fought to free themselves from the negative mentality sown by the colonial power. The theme of the poor needing to fight for their liberation had been developed since before the Indonesian invasion. Fretilin took traditional songs from many regions and gave them progressive lyrics. Songs were also sung to traditional dances such as the *tebe* and *dahur*.

42. Cultural activities were guided by the Fretilin concept of equality of all human beings. According to Fretilin, colonialism was a form of inequality by which a minority exploited and oppressed the majority. Oppression and exploitation did not only occur between the colonial power and the people of Timor-Leste, but also among the Timorese population itself between the traditional kings (*liurai*) and the people. This manifested through the tribute that subjects were required to pay to the *liurai* and forced labour. Inequality was also apparent in the form of discrimination and violence against women as a result of their low position in traditional society.[37] Fretilin introduced the concept of "comradery" (*camarada*) which viewed each person as a friend and an equal. The need to wipe out inequality from exploitation and oppression and replace it with equality became a theme in songs and verse which were sung at cultural events and in literacy programmes.

Women's emancipation

43. The emancipation of women was also part of Fretilin's socio-political programme. Women were encouraged to get involved in education, health, agricultural production and the production of items to be used by the military such as baskets (*lafatik* and *luhu*) and bags. To make it possible for women to carry out these activities, *crèches* were built. In the *crèches*, men and women took turns in looking after the children. The *crèches* also served to teach children to become revolutionary nationalists through songs of struggle, poetry and theatre.[38]

44. In some areas, courses were run to prepare women for marriage. For example, OPMT ran one such course in Zona Modok in the Centro Norte Sector. The aim was to create nationalist families with respect for men's and women's rights. The future brides were taught the concept of women's emancipation. The tradition of *barlaque*, which required an exchange of goods between the families of the

bride and groom and had previously been considered degrading to women, was reaffirmed as a symbol honouring women's dignity. Through these courses future brides also learned to challenge colonialist and feudal attitudes and preconceptions towards women and to defend the dignity of women and men.[39]

Justice system

45. Fretilin created a justice system to deal with people who committed crimes. People were tried according to the type of crime they committed. For minor offences, such as swearing, harassing women (*bok feto*) and stealing, a process called self-criticism (*critíca-auto critíca*) was administered. In this process, the perpetrator pleaded guilty in front of a small public audience, expressed their remorse and promised not to reoffend. The perpetrators would be forgiven, once they had received a light punishment, such as gathering firewood or fetching water for the public kitchen for two days. This kind of punishment was called "corrective justice" (*justo correctivo*).

46. For serious crimes, the process was called people's justice (*justiça popular*). Serious offences included having contact with the enemy, cooperating with the enemy, spying, and betraying civilians to the enemy and treason. The accused was considered to have opposed Fretilin policies and were put on trial in public, often in front of a large crowd. The military commander who had captured the person laid the charges, the crowd decided on guilt or innocence, while the political commissar, sometimes with the assistance of the sector commander, handed down the sentence.[40] Punishments ranged from death to rehabilitation in an institution called the National Rehabilitation (Rehabilitação Nacional, Renal), "a place to rehabilitate reactionaries to become revolutionaries".[41] Renals were under the authority of the Sector Commissariat, and would vary in number from sector to sector (See Vol. III, Part 7.4: Detentions, torture and ill-treatment).*

47. Rehabilitation was the punishment for people who, despite the seriousness of their crimes, were considered to be able to realise their mistakes and change their ways.[42] In the Renals, detainees were required to work during the day, including agricultural production such as planting and working in rice fields, and other tasks like collecting firewood and fetching water. Their output was used to feed them and to meet Falintil's needs.[43] At night they were required to attend classes in political education. In one Renal, literacy classes were provided.[44]

48. There were at least two kinds of detention facilities in Renal. The first type was a hole in the ground covered with wooden bars or by a wooden panel with a large rock on top of it. These holes varied in size: some were only 80 centimetres in height, forcing people held in there to sit on the floor, while others, such as the one in Renal Nundamar (Remexio, Aileu), were as much as three metres deep.[45] The second type was an enclosure above ground, which was surrounded by walls of stones two to three metres in height.[46]

* Renals were under the direct responsibility of an *adjunto*. The Renal in Nundamar, Remexio, for example, was under the responsibility of Adjunto Sebastião Montalvão ("Lais") [CAVR interviews with António Amado de Jesus Guterres, Manatuto, 11 December 2003; CAVR interviews with Egas da Costa Freitas, Dili, 19 May 2004.]

49. There were cases where people were deprived of food or water for days in Renals. Sometimes family members were allowed to give them food or water, but on other occasions it was prohibited. Alexandrino de Jesus, a Falintil soldier captured and accused of trying to surrender to the Indonesian army, said of his experiences in a Renal:

> *We were taken to the Renal in Sau Kata in Ura Hou Suco [Hatolia, Ermera]. We were ordered to work although we were very physically weak, and without being provided with farming tools. They ordered us to pull-up and tidy one-and-a-half hectares of grass to plant corn. While we worked there, we were never fed. We split our group into two, one group worked to clear the grass, while the other group of four people, including me, searched for cassava [for us to eat]. Luckily there was plenty of cassava around the area. [While we worked] eight Falintil members guarded us…We slept at the place where we worked and each week we were required to report to Fatubessi [Ermera]. None of us died.*
>
> *We were at the Renal for one-and-a-half-months. After we had planted the corn the commander of Fronteira Norte Sector, Filomeno Paixão, summoned us. When we arrived [the sector command centre in Fatubessi] we were treated well. We were told to line-up to receive food rations. Then we were reinstated as Falintil members.*[47]

50. People who were waiting to be investigated and tried by *justiça popular*, were also detained in Renals. Interrogation was the main form of investigation. Some detainees were tortured during interrogation to extract confessions.[48] Eduardo de Jesus Barreto from the Fronteira Norte Sector, testified:

> *I saw for myself how Comandante Região Martinho was buried up to his waist in a standing position without clothes and with his hands tied. Then they burned a car tire and let the burned rubber drops burn his body. I couldn't stand to watch, so I walked away.*[49]

51. Not all serious cases were investigated. There were cases where people suspected of having planned to surrender were simply accused by the local commander, and a decision was made on the spot. A former political assistant told the Commission:

> *…the guilty person would be brought in front of the public. There, many people would say that he was guilty. Nobody challenged it even if we were innocent. No judge defended us. I witnessed around three cases. One person was suspected and captured in guerrilla zone, and the commander accused him of being a spy. The commander said: "This man was captured in the guerrilla zone. He is a spy." Then people said: "If he is a spy, he must die." A Falintil commander usually handled cases like these and people just went along with whatever he said.*[50]

52. As a result, people were punished for crimes they did not commit. A cadre described one such case:

> *...some people they [the commanders] disliked had gone down to the town. Their families came under suspicion, and anything could be done to them, torture them for instance. I opposed that. I said "Don't do it, because if someone goes down to the town, it means that person no longer cares about our struggle. Why do we have to harass their families?" I always opposed it. They accused me of having contacts with them, of betraying the struggle. I was eventually imprisoned for no good reason. I wasn't tortured, I spent a few months below ground.*[51]

Strategy

53. The Resistance strategy adopted by Fretilin derived from the idea that it was engaged in a revolutionary war for independence. The concept of revolution was linked to independence, but the independence Fretilin desired involved more than simply the departure of Portuguese colonial rulers and their replacement by a Timorese government. For Fretilin, independence without a change in the social structure would mean only replacing one master with another. Fretilin saw independence as the creation of equality among people by "ending the inequality of the colonial situation, which was based on exploitation of the majority by a minority. The colonial minority and the wealthy exploited the majority".[52] The process through which Fretilin wanted to eliminate the colonial social structure was revolution.*

54. The Fretilin Political Programme and Manual (*Manual e Programa Políticos Fretilin*) published around September 1975 stated:

> [Fretilin] is called revolutionary because in order for the Timorese people to live prosperously, for true liberation, people have to change, transform, and REVOLUTIONISE all structures, which have been in place for 500 years. We have to make a major transformation by creating new structures to serve the Timorese people. If we do not erase the oppressive structures and replace them with new structures, the Timorese people will never live prosperously, the Timorese people will never gain Independence; only a small number of people will live prosperously, just as has been happening up to this day. Many people would still live in misery.[53]

* Article 2 of the RDTL Constitution stated: "The Democratic Republic of Timor-Leste is led based on FRETILIN's political orientation, which is aimed to erase colonial structures for the creation of a new society free from all kinds of occupation and exploitation." Fretilin also considered that colonialism could take a new form after the nation gained its independence, when foreign capital controlled Timor-Leste's economy. This situation would create an economic dependence called "neo-colonialism" that Fretilin wanted to prevent [*Manual e Programa Políticos Fretilin*, Manual point 5.]

55. Fretilin considered that traditional Timorese society was also oppressive. In the traditional social structure the *liurai* held power over the people by forcing them to work for him and to give him tithes. Colonial rulers also used the *liurais*' traditional status to mobilise people to work on plantations producing goods for export.* Fretilin saw the *liurais*' authority as feudalism and wanted to eliminate it.

56. Colonialism and tradition were also considered oppressive towards women. Fretilin saw that Timorese women experienced twofold oppression; the general colonial oppression that all Timorese experienced, and the more specific oppression they suffered as a result of traditional and colonialist attitudes towards women.[54] While general colonial oppression took the form of forced labour, inadequate wages, racism and so on, women's oppression was manifested in the way women were treated as an object of pleasure for colonialist employers and as commodities traded in *barlaque* practices and polygamy. Fretilin aimed to eliminate this oppression. Fretilin's revolutionary programme included "the liberation of women as social creatures".[55]

57. To create a new social structure free of oppression, Fretilin conducted socio-political programmes from September 1975. The most important programmes, according to Fretilin, were ones in the fields of agriculture, health, education and culture.[56] Fretilin saw that in the agriculture sector, colonialism had made the people of Timor-Leste poorer by focusing on export crops. People starved because of food shortages and a limited variety of food.[57] Fretilin sought to develop an agriculture sector that served the interests of the people and enabled "everyone to get proper food for good health, so everyone can live in prosperity".[58] A system of co-operative ownership and organisation was deemed the most appropriate to achieve this goal.† Fretilin planned to build production, distribution and consumption cooperatives all over the country. When Timor-Leste was still under Portuguese rule, Fretilin put this idea into practice in a number of places, among them Bazartete (Liquiçá) and in Bucoli (Baucau), the home villages of Nicolau Lobato and Sa'he respectively, who had pioneered these projects.[59]

58. In education, Fretilin carried out literacy programmes using the methods developed by the Brazilian educator, Paulo Freire.‡ Education was considered important because, for Fretilin, true independence would only happen if people actively participated in government, and people could only participate actively if they knew what they wanted and why. If people lived in ignorance, they would always be exploited. From Fretilin's perspective, the education system under the Portuguese colonial administration was the opposite of what was needed.[60] Freire's method of *conscientização* was preferable because people not only learned to read and write but also went through a process of gaining

* This forced labour was called *auxiliar* ("helper"), which the Timorese pronounced "assuliar."

† Fretilin also planned a land reform program, that would involve confiscating big plantations and giving them to people's cooperatives to be worked on. [*Manual e Programa Políticos Fretilin, Programa Políticos* part, point 2.B.1.]

‡ When the Portuguese government in Timor-Leste under Governor Mário Lemos Pires established an education committee, whose task was to perform decolonisation of Timor-Leste's education, Fretilin played an important role in changing the government policy in this matter. [Helen Hill, *Stirrings of Nationalism in East Timor*, p. 122.]

awareness of colonial oppression and how to overcome it. The literacy programme, which had been prepared in May 1974, was first implemented in January 1975.[61]

59. Health was viewed as being closely connected to education. Fretilin believed that poor public health was caused by people's lack of knowledge about health and nutrition, which was in turn caused by colonialism. For Fretilin, health education was the only solution to the problem.[62]

60. Fretilin's ideas about culture were closely linked to the need to develop a new national awareness among the people of Timor-Leste. During colonial times people generally understood that they were members of a particular *suco* community, a particular kingdom, or a particular ethno-linguistic group. For instance, people considered themselves as Turiscai people, as members of the Mambae ethno-linguistic group, rather than as East Timorese, and they viewed outsiders, even people from Dili, as foreigners (*malae*).[63] Fretilin tried to develop national awareness through programmes of cultural exchange between regions, and giving all East Timorese a sense of ownership of these forms. For instance the *tebe* dance from one place was introduced in literacy programmes in other places. Similarly, songs such as "Kolele Mai", which originated in a village in Baucau, were introduced throughout the nation. It was also Fretilin that used Tetum, which was the *lingua franca* throughout the territory, in their meetings and literacy programmes.

61. Fretilin considered that the revolution could be peaceful for two reasons.* First, it was becoming clearer that the Portuguese policy of decolonisation was more likely to lead to independence at the time Fretilin wrote its programme in November 1974. This assured Fretilin that colonialism was bankrupt politically and administratively.[64] Second, Fretilin was becoming increasingly popular because of its socio-political programmes.[65] For example, in the local election of village chiefs in May 1975 in a number of villages in Lospalos (Lautém), 90% of the elected village chiefs were Fretilin supporters.[66] According to Francisco Xavier do Amaral, this increased popularity made the leaders of Fretilin confident that the majority of people wanted independence and that they would easily defeat the idea of federation with Portugal or the idea of integration with Indonesia without an armed struggle.[67] For Fretilin, the way to launching the revolution was to mobilise people to accelerate the agricultural, education, health and cultural programmes.†

62. The socio-political programme implemented after the Indonesian invasion was a continuation of the programmes implemented before 11 August 1975. The

* Francisco Xavier do Amaral stated that Fretilin hoped Portugal "would be willing to give [Timor Leste independence] peacefully" and therefore there was no plan within Fretilin to organise for armed struggle. According to him, armed activities were conducted only after the armed action of 11 August Movement. (CAVR interview with Francisco Xavier do Amaral, Dili, 18 June 2004) Terra Mau Bulak also mentioned the establishment of an *Exercito de Libertaçao Maubere* among the Timorese serving in the Portuguese colonial army by a number of Fretilin Central Committee members around May 1975 [Terra Mau Bulak, Archives of the *Tuba Rai Metin* Oral History Project, Submission to CAVR, CD No. 18.] But this was denied by Mari Alkatiri (who was the Comissário Política Nacional at the time) and Francisco Xavier do Amaral (who was the President of Fretilin) [CAVR interviews with Mari Alkatiri, Dili, 25 June 2004 and Francisco Xavier do Amaral, Dili, 18 June 2004.]

† Helen Hill mentioned that Fretilin searched for "a peaceful alternative to the guerrilla war, which was to draw on people's power to fight the colonial structures." [Helen Hill, *Stirrings of Nationalism in East Timor*, p. 159.]

difference after the invasion was that the programmes were implemented in the *bases de apoio* to support the war. During the course of the war, Fretilin itself was radicalised, giving greater emphasis to the elimination of classes in society and declaring Marxism to be its ideology.*

Protracted people's war

63. Initially, as noted above, the war was fought as a spontaneous and decentralised reaction to attacks by the Indonesian military, without a clear overall strategy. At the Fretilin Central Committee's second plenary session in Soibada (Manatuto), held between 15 May–2 June 1976, Fretilin adopted the strategy of "Protracted People's War".† Fretilin conceded that the war could not be won easily and quickly, because of Indonesia's much greater economic and military strength.[68] If Timor-Leste wanted independence, the war would have to be long and hard. Based on its analysis of the international political situation, Fretilin believed that Timor-Leste could not depend on foreign assistance for victory.‡

64. The three main principles adopted at the Soibada Conference were: that the war would be fought by and for the people, that it would be protracted, and that Timor-Leste would have to depend on its own strength. According to this strategy, war was not simply a military conflict between two armed forces, but was also viewed as a war of the people. From a purely military perspective, the deciding factors would be military and economy. But Fretilin believed that the strength and will of the people would be the deciding factor, and that they could be continuously strengthened through education and mobilisation.

65. In the protracted people's war strategy, the *bases de apoio* played a central role. They provided logistical support for the armed forces, and also built people power through education and mobilisation.[69] Egas da Costa, an *assistente de zona* in the propaganda section in one of the zones in the Centro Leste Sector, said:

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* According to Xanana Gusmão, Marxism officially became Fretilin's ideology at the Laline Conference in 1977. This conference was not attended by Fretilin President Francisco Xavier do Amaral. Another source said that Marxism was not confirmed as the official ideology at the conference because of Xavier do Amaral's absence. [CAVR interview with Jacinto Alves, Dili, 11 May 2004]. But cadres who participated in Ceforpol's political education remembered that they studied Marxism in Ceforpol classes. [See for example, CAVR interview with Egas da Costa Freitas, 19 May 2004; Lere Anan Timor, Archives of the *Tuba Rai Metin* Oral History Project, Submission to CAVR.]

† This strategy was formulated by Mao Zedong based on China's experience of war against Japanese imperialism (Mao Zedong, *On Protracted War*, 1938, republished in *Selected Works of Mao Tse-tung* [Peking: Foreign Languages Press, 1965]). It seemed that some Fretilin leaders learned this strategy from materials from the African national liberation movements in Portuguese colonies.

‡ The idea to ask for Western countries' assistance was rejected because those countries were "imperialists" and opponents of countries who wanted "true liberation". Indonesia, which launched military aggression, was viewed as a lackey of the United States, which was the leader of imperialist powers in the world. The idea to seek assistance from socialist block countries was also rejected with the reason that the assistance would bind in the future. [CAVR interview with Egas da Costa Freitas, Dili, 19 May 2004.]

> *Because this war was a protracted war, people were educated, trained in bases, so they could have a new view on life.*[70]

66. Fretilin considered that Indonesian military assaults were attacks against the people of Timor-Leste, who were attempting to liberate themselves from the oppression of man by man. In carrying out these assaults, Indonesia was considered an accomplice of the world imperialist powers. A document from DOPI, which was ratified at the Laline Conference in 1977, stated:

> [T]he experiences of other countries in the struggle against colonial powers, and our own experience, show that this kind of movement is met by total violence from the imperialist power, and that the only way for a true nationalist movement to protect people from genocide or mass slaughter is to organise, mobilise and educate people to work for the full and complete eviction of the enemy and to beat imperialism.[71]

67. The war was considered the war of all people against enemy powers promoting their imperialist interests. Mobilising and educating people would create a popular force that was invincible in the face of imperialist aggression. The relationship between the people and the soldiers was compared with that between "water and fish", in the sense that the people is water, a means for the soldiers to survive.[72]

68. In more practical terms people supplied food to Falintil soldiers and were thus the source of power for the armed forces. In turn Falintil was considered to be the protector of the people (*liman kroat povo*), allowing them to live a life without oppression and exploitation in *zonas libertadas*.[73] Falintil was under the command of Fretilin, which was the guide (*mata dalan*) of the liberation struggle. The principle that regulated this relationship was "politics commands the gun" (*a política comanda fuzil*). According to Taur Matan Ruak: "Falintil was like the knife, used by political leaders to cut."[74]

Internal conflict

69. During the period of *zonas libertadas,* conflicts began to surface among the Fretilin leaders. These conflicts have been represented previously as occurring between ideological factions within Fretilin. This view holds that there were nationalist, social democrat, and Marxist, even Maoist groups, in Fretilin, and that the conflict between them was won by the Marxist or radical group.[75] Accounts received by the Commission describe a different ideological divide centred on

military strategy.* This divide manifested through issues like how the principle of civilian control of the military was to be put into practice, the idea of "ideological suicide" (*suicido ideológico*), and the presence of civilians in Fretilin-controlled territories.

Politics commands the gun

70. The first conflict arose around the implementation of the principle that "politics commands the gun". According to Lucas da Costa's testimony to the Commission, opposition to this principle had already surfaced soon after Fretilin launched its "counter-coup", and it reached a crisis point in October 1975.[76] At that time, not long after Fretilin took control of the whole territory of Timor-Leste, the military commanders, who were mostly former Portuguese soldiers, had a stronger *de facto* authority than the political leaders.† Adoption of the "politics commands the gun" principle had reduced their authority. Their dissatisfaction was compounded by the fact that many of the political leaders had less military knowledge and experience than they did. Lucas da Costa (Rama Metan) testified to the Commission:

> *When Fretilin took control of the territory, frictions were felt between the Fretilin armed forces and several commanders, especially here in Dili. It reached its peak in October.*
>
> *In Fretilin there was a principle,* "A política comanda fuzil" *meaning that politics controls the armed forces. [That principle] had been effective since we took control, it was released by the Fretilin Central Committee. So, because of that principle, some company commanders felt that their authority had been compromised because they had to obey the politicians, when it was they who actually oversaw the armed forces, the soldiers, and they felt uncomfortable about interacting with CCF members who were young or inexperienced.*[77]

* Egas da Costa Freitas gave a different categorisation, which were socialist, social democrat, and "a rather fascist right." The first persons to mention the existence of "groups" within Fretilin were Carmel Budiardjo and Liem Soei Liong, *The War Against East Timor* (London: Zed Books Ltd, 1984). According to them, there were four "groups" inside Fretilin: the underground anti-colonial group, the Casa dos Timorese group, the "group around Xavier do Amaral," and the "group around Alarico Fernandes" (pp. 53-54). John G. Taylor, *Indonesia's Forgotten War: The Hidden History of East Timor* (London: Zed Books, 1991) proposed a different grouping: "social-democrat groups" (represented by José Ramos-Horta, Justino Mota, Alarico Fernandes, and Francisco Xavier do Amaral), the group "that combined the tough anti-colonial nationalism with economic independence and political advancement" (Nicolau Lobato with the support of former sergeants of the Portuguese army) and the "nationalist-Marxist" group around Mau Lear and Sa'he (in the revision version of *East Timor: The Price of Freedom* (London and New York, Zed Books, 1999) pp. 46-48).

† According to Jill Jolliffe, at the time the military police placed road-blocks around Dili and sent a delegate to the Fretilin leaders to demand the arrest of a number of Fretilin militants, considered to be communists. This incident was resolved through a four-hour discussion on 4 November, which managed to convince the soldiers that their accusations were wrong. [Jill Jolliffe, *East Timor: Nationalism and Colonialism*, pp. 185-186.]

71. This problem continued in the jungle after the invasion, culminating in incidents such as the death of Falintil's deputy chief of staff, José da Silva. José da Silva, a sergeant in the Portuguese colonial armed forces, was commander of Falintil's first company in August 1975. Later Fretilin appointed him as Falintil's Deputy Chief of Staff (Sub-Chefe do Estado Maior). After the invasion, he fought in Ermera, which became part of the Centro Norte Sector. Conflicts among Fretilin leaders occurred over some of the decisions reached at the Soibada Conference. Hélio Pina (Mau Kruma), who was elected political commissar with Antonio Carvalho (Fera Lafaek) as his assistant, was given the task of restructuring the civilian and military relationship as proposed at the conference. José da Silva refused to accept the restructuring and so he captured Mau Kruma and several of his commanders. A fire-fight ensued and José da Silva was captured and imprisoned. He was executed by Fretilin in the middle of 1977.[78]

72. It appears that conflicts about the principle of civilian control of military affairs were also factors in the executions of Agostinho Espirito Santo (a commander in the Fronteira Norte Sector), Aquiles Freitas (a commander in the Centro Leste sector) and Martinho Soares.[*]

Suicido ideológico

73. Fretilin's ideas about the revolution also caused conflict. As the goal of the revolution was to create a classless society, those from the upper classes, such as *liurai*, were required to abandon their special status in society and commit *suicido ideológico*. As Xanana Gusmão stated:

> *Revolution was communism, no class, no wealthy people, no poor people, no exploitation, everyone was equal. The revolution followed communist ideology…so that there would be no classes and all of us would be equal, the upper classes had to commit suicide, those from the top must sit alongside the people.*[79]

74. In the *zonas libertadas* opposition to Fretilin ideology was denounced as "reactionary" and considered a serious crime.[80] According to Xanana Gusmão, someone who continually committed reactionary actions would be considered a traitor.[81]

75. The execution of Aquiles Freitas is a case in point. Aquiles Freitas was a commander in Atabae when Indonesia launched border raids in October and November 1975. His last rank in the Portuguese military was staff sergeant (*primeiro-sargento*). After the 7 December 1975 invasion of Dili by Indonesia he became a *zona* commander in Quelicai (Baucau), his home. He was then promoted to the position of second commander for Baucau Region under first commander

* According to Lucas da Costa, Comandante Agostinho Espirito Santo often had disagreements with Political Commissioner César Mau Laka. [EN: CAVR interview with Lucas da Costa, Dili, 21 June 2004.]

Reinaldo Correia (Kilik Wae Gae). Aquiles was not happy about being put under Kilik Wae Gae, who had been a private (*soldado*) in the Portuguese army, a lower rank than Aquiles had been.[82] A former Fretilin administrator in the Uato Carbau *zona* (Viqueque) told the Commission that Aquiles Freitas could not disguise his contempt for Fretilin and Falintil:

> *...one day he visited our zone office in Zona Furak Kaun. I was there. I was already the Vice-Secretário. It was strange because this man contacted only certain people; he never had business with the* zona. *From his words "What's Falintil?!" he seemed to be derisive of Falintil. So we finally concluded that he was indeed anti-revolutionary. And while I was the Vice Secretário, he never came to the office. We were derided as being officials. That is why I dare to say that he was anti-revolutionary.*
>
> *[Aquiles] came to Uato Carbau in 1976, if I'm not mistaken, around 1976 or 1977…I was still Assistente in Uato Carbau …I met him there, I knew for certain that he never respected the presence of the secretary, vice-secretary, administrators, assistants. He never did. I heard that he said: "Ahh, what is Falintil anyway?!"*[83]

76. The execution of Francisco Hornay is another example of this conflict. Problems began at the time of the restructuring of Ponta Leste Sector by Political Commissar Sera Key after the Central Committee's second plenary session in Soibada 1976. Francisco Hornay rejected the appointment of Tomas Pinto as the Illiomar zone secretary because he thought that the position should be held by a *liurai*. Lere Anan Timor who was the vice-secretary in Illiomar zone at the time, told the Commission that:

> *They didn't want Tomas Pinto to be the zone secretary, because they wanted a blue-blood. He [Francisco Hornay] wanted me to be the zone secretary, because I was a blue-blood. We opposed him because of the struggle, because we opposed exploitation…*
>
> *Tomas Pinto (Lesamau) and I made a report to the Regional Committee and Sera Key, the Ponta Leste Political Commissar. On the basis of that report they [denounced] Hornay's action as reactionary and part of the national reaction led by [Francisco] Xavier [do Amaral]. They held a meeting. No one was allowed to carry arms. [Hornay] stuck to his opinion, and said that Tomas could not be the secretary. In the debate [they] blamed Hornay. They took a unanimous decision…The political commissar, who had a platoon, ordered the troops to strip them of their weapons.*
>
> *The reaction was that nearly one company was stripped of its weapons. [The Commisar's troops] captured around five or six people and took them to Belta Tres (Irara, Lospalos, Lautém) where the Comissáriat*

was, and detained them for between one and seven months. After the political commissar thought they had changed, they were released. But after their release they didn't change, they still continued being reactionary. They were required to report to the zone, but they never did. They went straight to Aquiles in Quelicai (Baucau).[84]

77. According to Lere, Aquiles Freitas gave them weapons.[85] Francisco Hornay and two others were then captured again in Baguia (Baucau) and killed in Illiomar (Lautém).[86]

Military strategy

78. The most serious internal conflict within Fretilin appears to have been about which military strategy to use against Indonesia. Some political leaders, who came to be in the majority, thought that the East Timorese must depend on their own strengths and not expect outside assistance. Other military commanders and civilian leaders disagreed, believing that foreign assistance was necessary because of Indonesia's superior strength. In the first Central Committee plenary session held in April 1976 in Barique (Manatuto), there was a debate on this question. Requesting assistance from the United States and its allies was rejected because these nations were considered to be imperialist. Requesting assistance from the Soviet Union was also rejected because it was considered to be socialist imperialist.[87] According to Xanana Gusmão, in that meeting Francisco Xavier do Amaral said that it did not matter where the assistance came from as long as it came soon. Many military commanders agreed and showed their dislike of the political leadership.[88]

There had also been conflicts in the training of the Fretilin mid-level cadres; in this case the Fretilin leadership tended to choose youth:

Youth were brought in to become mid-level cadres, in which many youths were involved because in Fretilin's view, youth were easier to educate compared to older people, who were already familiar with colonial traditions. These youth became the liaisons between the people and the Fretilin Central Committee.[89]

79. Another conflict related to the role of the civilian population. Civilians had a very important role in the strategy of a protracted people's war adopted at the Soibada Conference of May–June 1976. At that time, further disagreements surfaced between a number of civilian leaders and military commanders, backed by Francisco Xavier do Amaral. For Francisco Xavier do Amaral, the presence of civilians could cause problems for Falintil, as they would be burdened with the task of guaranteeing their safety. He thought that it would be better for civilians, especially children and the elderly, to surrender to the enemy, while those who

were physically strong would remain in the jungle to fight with Falintil.[90] This idea won support from military commanders.[91]

80. This difference of opinion was sharpened by the tensions between the military commanders and civilian leaders about the reduced authority of military commanders, which dated from before the exodus to the bush. The tensions were compounded further by the animosity felt by some of the former Portuguese army sergeants towards military commanders who had previously been political leaders. Lucas da Costa (Rama Metan) told the Commission:

> *[Falintil soldiers who had served in the Portuguese army] felt uncomfortable interacting with some CCF members, who were young or inexperienced…There were some [CCF members], especially the young ones who, just because they had been brave enough to take away weapons, declared themselves commanders. Meno Paixão, for example, managed to confiscate a gun then made himself a commander.*[92]

81. The former sergeants, who viewed the war from a purely military perspective, believed that the protracted people's war strategy was inappropriate for Timor-Leste.* They believed that foreign assistance was necessary, and that civilians should surrender so that they would not become a burden for Falintil. According to them, Falintil's ammunition was limited, because of the lack of foreign assistance, and would quickly run out if they had to protect civilians. As the war would continue for a long time, it would be better to use ammunition attacking the enemy rather than just protecting people.[93]

82. The supporters of the protracted people's war strategy considered the idea that civilians should surrender to be treachery. They thought that only with the people could they win the war. Strategically, people were considered a source of power, while ideologically the war was seen as a revolutionary war. The CCF was also concerned about the people's support for independence.† Lucas da Costa told the Commission:

> *Friends, especially those from Portugal, wanted to keep people in the forest to be educated and become revolutionary. They thought that if people were to surrender without adequate knowledge of revolution, they would reclaim their previous social status and it would grow back, preventing the success of the proletarian revolution…*[94]

* Xanana Gusmão remembered that a former sergeant, who served in an African country occupied by the Portuguese, opposed the Long Term People War strategy by saying that the strategy had worked in Africa because the guerrilla forces had bases outside the borders of their country, and in those bases they were trained and received foreign assistance. The same was not available in Timor-Leste. [CAVR interview with Xanana Gusmão, Dili, 7 July 2004].

† Francisco Xavier do Amaral also mentioned another possible reason, that if people surrendered the world would think that it was only Fretilin that wanted independence, and that they did not have the people's support. [CAVR interview with Francisco Xavier do Amaral [part III], Dili, 18 June 2004.]

83. For those who viewed the war militarily, the problem was how to drive Indonesia out of Timor-Leste. For those who viewed the war as a revolution, war could erase classes in society, and it had to be made with the people. As such, telling the civilian population to surrender was a betrayal of the national liberation struggle.

84. Many commanders who suggested or allowed people to surrender were captured or even killed. Examples include the capture of Sebastião Sarmento and his removal from the position of commander of Fronteira Norte Sector,[95] the capture of Francisco Xavier do Amaral and his removal from the positions of president of Fretilin and president of the Democratic Republic of Timor-Leste,[96] and the killing of Agostinho Espirito Santo (commander of Fronteira Sul Sector)[*] and Martinho Soares (a commander in Fronteira Norte Sector).[97]

85. The conflict regarding civilians was not merely ideological, but also related to military developments. With the increase in attacks by the Indonesian military, more parts of the *zonas libertadas* could no longer be defended. There were piecemeal efforts from military commanders and civilian leaders to negotiate surrender with the enemy.[98] Adriano Soares Lemos told the Commission:

> *The Fretilin leaders Ali Alkatiri, Meno Paixão and Pedro Gonçalves from the Fronteira Norte Sector agreed to bring people down to surrender to [ABRI], because the people's condition was critical at the time... if they continued to stay in the forest, everyone would die of either starvation or illness. They agreed on the decision, so Ali Alkatiri and Filomeno Paixão had contacts with [ABRI] in Fatubessi (Ermera), to inform them that people would surrender. [ABRI] agreed to it, so on 6 February 1979, we began to come down from Fatubessi to the area of Caisoru [Liquiçá]. [We] surrendered to [ABRI] Battalion 512 on 7 February 1979.*[99]

86. Such actions aggravated the conflicts between other political leaders and military commanders. When Meno Paixão, the commander of Fronteira Norte Sector, and a large group of political leaders and civilians surrendered in February 1979, the political commissar of Fronteira Norte Sector, Mau Kruma, refused to join them. He continued resisting until he was killed with his wife in March 1979.

87. These conflicts were never resolved within the Resistance itself; they ended when the Indonesian military offensive of 1978–1979 led to the destruction of the *zonas libertadas*.

The end of *bases de apoio*

88. The period of the *bases de apoio* ended with the major Indonesian offensive of 1978–1979. The offensive, which Fretilin called encirclement and annihilation (*cerco*

* According to Maria de Fátima Vaz de Jesus, Commander Agostinho Espirito Santo had a conflict with Political Commissar César Mau Laka on the strategies of war. [CAVR interviews with Maria de Fátima Vaz de Jesus, 23 September 2004 and Lucas da Costa, Dili, 21 June 2004.]

e aniquilamento),* began in mid-1978 with heavy assaults on the western territories (Fronteira Sul Sector and Fronteira Norte Sector). The offensive was then directed eastwards with assaults on bases around Mount Matebian and the Natarbora plain (Manatuto). The attacks then resumed in the west in the early months of 1979, to destroy the remaining forces in the region. This offensive involved strafing and bombings and artillery fire from navy ships, as well as attacks by ground troops (see Vol. I, Part 3.11: History of the Conflict).

89. Falintil could not withstand these new attacks with its static positional defence.† Unlike the Chinese during the war against Japan, Fretilin was unable to retreat to a remote base, unreachable by the Indonesian army, which was one of the basic principles of a protracted people's war strategy. Falintil's bases, such as those around Mount Matebian, Mount Kablaki, and Cailaco (Bobonaro), were reachable by Indonesian soldiers by land, air and/or sea. A Fretilin cadre described the destruction of the Manatuto base to the Commission:

> *In May 1978 the situation became worse. The enemy began to surround us. In July the [Indonesian] military started "encirclement and annihilation" from the Central North Sector. Forces from Manatuto began to advance, then [they] came from Aileu, from Laclubar [Manatuto], we were forced to leave Hatuconan [Laclo, Manatuto] for Remexio [Aileu]. Then we circled from Aileu back to Hatuconan. Many people died there; because of an injured leg, people couldn't walk, new born babies, starvation. We just covered the dead with mats and then left them because we didn't have time to bury them, because the enemy was still chasing us.*
>
> *At night we moved on foot, in the morning we had to hide because the OV-10 fighter planes kept following and shooting at us…and dropping bombs killing many friends, families, people.‡ There were also some killed by landmines.*

* It seemed that this term copied the term "encirclement and suppression" used by Mao Zedong in "Problems on War and Strategy" (written in 1938), published in *Selected Works of Mao Tse-tung, Vol. 2* (Peking: Foreign Languages Press, 1967). That term showed on page 222 of this collection of writing.

† Chamberlain, *The Struggle in Iliomar*, p. 18. One Fretilin document, *Relatório da Delegação do Comité Central da Fretilin em Missão de Serviço no Exterior do Pais*, mentioned that the "encirclement and annihilation" offensive launched toward the Fatubessi (Ermera) base on 1 January 1978 was contained by Falintil, but the battles escalated in Fatululik (Covalima), Dili, Remexio (Aileu), Baucau, Baguia (Baucau), and Bazartete (Liquiçá). Further battles took place in Fatululik (Covalima), Fatubessi, Fatumean (Covalima), Suai (Covalima) and Atsabe (Ermera) on the second week of March 1978 and many Falintil soldiers died. Then "encirclement and annihilation" was launched toward the Centro Norte, Centro Sul, and Centro Leste Sectors, and at the end of June Remexio (located 15 km from Dili) fell to the Indonesian army. [*Relatório da Delegação do Comité Central da Fretilin em Missão de Serviço no Exterior do Pais*, p. 5.]

‡ In the aerial assaults, aside from using the *OV-10 Bronco* plane, the Commission also received reports of Skyhawk bomber planes. [CAVR interviews with Adriano João, Dili, 21 September 2004; Jacinto das Neves Raimundo Alves, Dili, 5 August 2004.] It should be noted that the British government denied that Skyhawk bombers were being used for military operations in Timor-Leste at the time. [See Pat Walsh's written submission to CAVR, based on his testimony as expert witness during CAVR Public Audience on Forced Displacement and Starvation, 28–29 July 2003.]

When the OV-10 planes shot, people were not in bushes or the forest, but thousands of them in open fields, so many died…

In the encirclement and annihilation in July 1978, nobody surrendered. We then hid in Ilimanu [Laclo, Manatuto]. The next morning the Indonesian military bombed us in Ilimanu, until we couldn't escape.[100]

90. Maria José da Costa, who at the time was in the Centro Sul Sector base in Alas (Manufahi), gave a similar account:

In 1978, the enemy began the strategic siege in Dolok. Many died of starvation. All the people's food was burned, and some were abandoned by families. The siege was like this: warships fired from the sea, warplanes attacked from the air and burned the dry, tall grass, then the troops attacked on the ground.

It was the dry season [in August]. The army set the tall grass alight and the fire quickly burned the whole area as if it was soaked with gasoline. Those of us who were surrounded didn't have the chance to escape because the fire was so huge. Because of this desperate situation, many people couldn't save themselves. [The Indonesian's] strategy prevented many people from escaping.

People managed to escape the encirclement when the Indonesian soldiers returned to their camps to rest in the middle of the night. When we left we were still showered with bullets from the warships at sea. I witnessed many people being burned to death…

After we managed to escape the encirclement the enemy surrounded us in a semi-circle. With support from the sea, they drove us to a plain. This made us run in all directions and the enemy started to capture us.[101]

91. The eastern region base on Mount Matebian fell on 22 November 1978.[102] Falintil troops were divided into groups: some headed to the Centro Leste Sector to join the national forces, and some headed east to become guerrillas. Xanana Gusmão, who was an *adjunto* in Ponta Leste Sector, told the Commission:

...[O]n 22 November we split up on Matebian. Even though we were surrounded, we always tried to maintain contacts with the Central Committee in Centro [Leste]. We informed them that we could no longer hold out and they told people to surrender and form a guerrilla company in the Ponta Leste Sector…

We had contact with a nearby Racal [communication radio]. That was how we knew the situation throughout the country. We thought the other sectors were totally destroyed. Some people surrendered, some were captured.[103]

92. The last base destroyed was in Fatubessi (Ermera) in February 1979. Adriano João, a mid-level cadre in Fronteira Sul Sector, told the Commission:

> *The* base de apoio *[in Fatubessi] was destroyed on 16 February 1979. People surrendered en masse because they were surrounded by Indonesian military warplanes, which were destroying the defence base around the Cailaco (Bobonaro) mountains. As a result of the Indonesian military campaign, nearly all people came down to the town on the orders of the* adjunto, *Rui Fernandes, and the commander of Sector Fronteira Norte, Meno Paixão, who wrote to us at that time.*[104]

93. Xanana Gusmão states that before the *zonas libertadas* were destroyed, the Fretilin Central Committee decided that civilians should surrender and that Falintil troops should continue the Resistance war. The news of this decision was spread to all sectors. Jacinto Alves recalled:

> *But when* cerco e aniquilamento *happened, the Central Committee realised that it was better if people surrendered… And it was then announced to the people that women and the elderly aged over 56 years and those aged below 18 years could surrender, and the rest could stay [in the forest].*[105]

94. Surrender, which before the major Indonesian major offensive had been condemned as treason, was forced on the Fretilin Central Committee.* The decision did not mean that the struggle was henceforth to be carried out only by Falintil soldiers. The Fretilin Central Committee reminded people to keep helping Falintil and keep fighting for the independence of Timor-Leste, although they did not specifically describe how the struggle was to be continued.[106] Benvinda G.D. Lopes, an OPMT administrator in the Uatolari area (Viqueque), described her experience:

> *On 23 December 1978, a letter came from Baucau informing Commander Calisae and Moiseskin: "Now people must surrender because this war still has a long way to go." On that same day my brother Moiseskin came and explained to us: "Now you can leave, you don't have to stay here, you'll die because there is no more food and medicine. We are telling all of you that you can surrender to Indonesia, but you must never forget one thing. Your hands may work for Indonesia but you must remember us always. You can go there but you must find a way to look for us, continue to contact us, you must not be scared." That night on 23 December 1978 we came down from Kilobuti [Uatolari, Viqueque] to Matebian. Then we surrendered to the Indonesian army.*[107]

* Taur Matan Ruak compared two actions in different circumstances: "In 1976 when people voluntarily surrendered it was a big problem!…[A] big problem! Now…1979, this surrender, we didn't voluntarily come down. Because we were forced…and that was why the leader accepted this. They were forced to accept." [CAVR interview with Taur Matan Ruak (part II), Dili, 14 June 2004.]

95. Fretilin suffered many losses in this Indonesian military offensive. Francisco Xavier do Amaral, the former President of Fretilin and the President of Timor-Leste, was captured by the Indonesian army near the Dilor River (Lacluta, Viqueque) in August 1978.[108] Alarico Fernandes, the Democratic Republic of Timor-Leste's Minister of Information and Internal Security, surrendered with a number of other Central Committee members.* Perhaps the biggest loss was the death of Nicolau Lobato, President of Fretilin and the RDTL, in a battle on 31 December 1978.[109] Other important leaders such as Mau Lear (the vice-president of Fretilin and the RDTL) and Vicente Sa'he (the national political commisar) were killed in February 1979.[110] Mau Kruma, the political commissar in Fronteira Norte, was killed in battle around March 1979.[111] After the offensive ended, only three members of the Fretilin Central Committee were left to continue the struggle from the bush: all the others died in battle, were captured, or surrendered to the Indonesian military.† Many of those who were captured or surrendered were subsequently executed or disappeared.

96. With the fall of the *bases de apoio* in 1978–1979, the *zonas libertadas* and the protracted people's war strategy were finished. Any hopes of pursuing a strategy of defending a particular area with people inside that area had ended.‡ The project of creating a new society without oppression and exploitation was also abandoned. People surrendered to the Indonesian army and then lived life under the occupying power. A number of Fretilin civilian leaders, Falintil commanders and soldiers who managed to escape formed small units and continued the guerrilla war.

* It is still not clear why Alarico Fernandes surrendered to the Indonesian army. Fretilin's official source said that it was a "treason" caused by his disbelief in their own strength and that he kept hoping for foreign assistance, that Alarico Fernandes tried to compromise with Indonesia and he separated himself from the Fretilin Central Committee and betrayed them [*Relatório da Delegação do Comité Central da Fretilin em Missão de Serviço no Exterior do Pais* p. 6). He was said to be involved in what was called the "Skylight" operation by the Indonesian military, which had the objective of capturing Fretilin's highest leaders. (CAVR interview with Kay Rala Xanana Gusmão, Dili, 7 July 2004; "Six Years of Heroic Armed Resistance," East Timor News, Winter 1982, pp. 10-12). Mari Alkatiri mentioned the possibility that Alarico Fernandes was disappointed because, after the removal of Francisco Xavier do Amaral as the President of Fretilin and the RDTL (in which Alarico Fernandes had a major role), it was Mau Lear who was appointed to replace Nicolau Lobato as vice-president of Fretilin and prime minister of the RDTL instead of him (Marí Alkatiri interview, 25 June 2003). Mari Alkatiri also stated that Alarico Fernandes "didn't have an ideology": he captured Xavier hoping that he would be appointed as vice-president of Fretilin and prime minister of the RDTL, and when that didn't happen, he accused Nicolau Lobato as "the hat that covered communists" and launched anti-communist propaganda [CAVR interview with Mari Alkatiri, 25 June 2004]. Xanana Gusmão called Alarico Fernandes a person who "joga sala, joga ba joga mai" (played around badly, played back and forth). Alarico suddenly proclaimed himself Marxist-Leninist in the 1976 Soibada Conference, captured and tortured Francisco Xavier do Amaral in 1977, and then surrendered and showed up in the "Skylight" operation. Xanana Gusmão called "Skylight" an "Alarico movement" and said that the Resistance leaders heard of the movement after Alarico surrendered in September when Indonesia was preparing for the incessant offensives at the end of 1978 [CAVR interview with Kay Rala Xanana Gusmão, Dili, 7 July 2004. See also Vol. I, Part 3: History of the Conflict]

† The three people were: Xanana Gusmão, Fernando Txay, and António Manuel Gomes da Costa (Mau Hunu).

‡ According to Ernest Chamberlain, when the Base in Matebian fell, Falintil was converting its defence strategy from "positional-bases" to "moving", which involved reorganising troops into mobile troops 11,000 strong supported by guerrilla groups (Chamberlain, *The Struggle in Illiomar*, p. 19). It is still not clear why this strategy was implemented only at the end of 1978, when the decision to launch the protracted people's war was taken in May 1976, a decision that meant that positional war would be replaced with moving and guerrilla troops.

Restructuring the Resistance 1981–1987

97. For the first two years after the fall of the *bases de apoio* in the *zonas libertadas*, the remaining Fretilin leaders in the Ponta Leste Sector searched for Fretilin Central Committee members and Falintil troops in other places. They tried to make contact with Fretilin activists and Falintil commanders who had been captured and were living in areas occupied by the Indonesian army. They sought out those they could trust to resume the struggle in a new form. They also tried to gather intelligence on the conditions under which the population in the occupied areas were living and on the strategy and deployment of ABRI units. Their ability to carry out these activities was limited by continued harassment by Indonesian forces, which culminated with Operasi Keamanan (Operation Security) in mid-1981 and which compelled them constantly to take evasive action to avoid direct combat (See Vol. I, Part 3: History of the Conflict).

98. After the fall of the *bases de apoio* in the *zonas libertadas* Falintil forces divided into small units of three to four people. Previously the smallest unit had been the *secção*, comprising seven people. If they entered villages in occupied areas to establish contact with civilians, Falintil troop units would not carry their weapons or wear uniforms. Sometimes Falintil was able to form larger units for specific purposes. Xanana Gusmão recalls that in May 1980 he took a company (of about 60 people) as far west as Mount Kablaki in search of resistance forces still holding out in the bush.[*] The military commander, Kilik Wae Gae, attempted to build a fixed base that could support a full battalion.[†] One informant told the Commission that in early 1979 Xanana Gusmão and Kilik Wae Gae succeeded in forming a "brigade" consisting of four companies.[‡]

Reorganising the Resistance for the new situation

99. At a gathering of surviving military commanders and political cadres in March 1981 a new organisational structure for the Resistance began to emerge. The first "Reorganization of the Nation Conference" after the fall of the *zonas libertadas* was held in the area of Maubai on Mount Aitana in Lacluta Sub-District (Viqueque) from 1 to 8 March 1981. The conference was organised by the two members of the Fretilin Central Committee still actively engaged in the struggle in the bush, Kay Rala Xanana Gusmão and Mau Hunu Bulerek Karantaianu. The first item on the agenda was the inauguration of new members of the Central Committee: José da Costa (Mau Hudu Ran Kadalak), Bere Malae Laka, Reinaldo Correia (Kilik Wae Gae), Dinis Carvalho (Nelo Kadomi Timor), Sakin Nere Ulas Timor Lemo Rai, Holy Natxa, Tito da Costa (Lere Anan Timor), Hari Nere and Paulino Gama (Mauk

* Xanana Gusmão said that he conducted a search for Central Committee members all the way to Dili with a company of troops. [Xanana Gusmão, *To Resist is To Win!,* Niner (ed.), p. 64.]

† Lere Anan Timor, who at the time was a mid-ranking cadre in Ponta Leste, said that Kilik Wae Gae, a sector commander before the fall of the *zonas libertadas*, led this effort [*Lere Anan Timor*, Archives of the *Tuba Rai Metin* Oral History Project, Submission to CAVR, CD No. 18.]

‡ A source related that "after Nicolau Lobato was shot dead", Xanana Gusmão and Kilik Wae Gae formed a "brigade" consisting of four companies: Lospalos, Laga (and Quelicai), Sul, and western Ponta Leste [CAVR interview with Sebastião da Silva, Viqueque, June 2003.]

Moruk Teki Timor Ran Nakali Lemo Rai).[112] Together with the two other Central Committee members, Xanana Gusmão and Mau Hunu Bulerek Karataianu, they became the leaders of the internal struggle. The members of the Central Committee living abroad retained their positions: Abílio Abrantes Araújo, Mari Alkatiri, Roque Rodrigues, José Luis Guterres, Guilhermina Araújo, José Ramos-Horta and Rogério Lobato. Abilio Araújo was also appointed Secretary General, while Xanana Gusmão was appointed as the National Political Commissar (Comissário Política Nacional).[113] They became the official resistance leaders.

100. At the conference, the members of the internal Central Committee decided to establish the Fretilin Marxist-Leninist Party (Partido Marxista-Leninista Fretilin, PMLF) and the Revolutionary Council of National Resistance (Concelho Revolucionário de Resistência Nacional, CRRN), and to form new structures for Falintil.[114] The reason for the change of name from Fretilin to PMLF is not clear.[*] Xanana Gusmão said that what they did was only to "ratify" the decision taken by the "pioneers" at the Laline Conference in 1977 when, following the lead of the Central Committee's Department of Political Orientation and Ideology (Departemento de Orientação Politica e Ideologica, DOPI) Marxism-Leninism was officially declared the party's ideology.[115] The Commission was unable to gather any information on party structures under the Central Committee. It is possible that the PMLF consisted only of the Central Committee, which had no subordinate organs operating below it.

101. The CRRN was intended to be the organisational vehicle for everyone who wanted to join the struggle to end the Indonesian occupation of Timor-Leste. The CRRN was in effect the PMLF's invitation to all Timorese regardless of party or other affiliation to join the Resistance to the Indonesian occupation. Clear information on CRRN's structures is also not available.[†] One source testified that the CRRN leadership at the national level consisted of Fretilin's political cadres, Falintil military commanders, and "representatives of the people [living] in Indonesian-occupied territories".[116] The Committees for Regional Resistance (Comissões Regionais de Resistência) was to operate as the arm of the CRRN in the districts and below them at the sub-district level would be National Resistance Centres (Centros de Resistência Nacional, Cernac) and at the village-level, Nuclei of the People's Resistance (Núcleos de Resistência Popular, NUREP).[117] But these structures operated unevenly throughout the country. An underground activist at the time testified to the Commission:

* Several testimonies stated that the reason for that name-change was tactical, to seek assistance from the Socialist Bloc countries. José da Conceição told the Commission that after attending the National Reorganisation Conference, Fretilin Central Committee member Mau Hunu explained to him that the change was needed to gain political and diplomatic support from socialist block countries in their struggle for national liberation. [CAVR interview with José da Conceição, Dili, 20 October 2004.] Justo Talenta gave a similar explanation. [CAVR interview with Justo Talenta, Dili, 3 November 2002.]

† António Tomás Amaral da Costa (Aitahan Matak) said that CRRN consisted of: Xanana Gusmão, Mau Hudu Ran Kadak (Jośe da Costa), Mau Hunu Bulerek Karantaianu, Bere Malae Laka, Kilik Wae Gae, Nelo Kadomi Timor (Dinis Carvalho), Mauk Moruk Teki Timor Ran Nakali Lemo Rai, Ologari Assuwain, Lere Anan Timor, Konis Santana, Venancio Ferraz, Merak, Okan, and Taur Matan Ruak [CAVR interview with António Tomás Amaral da Costa (Aitahan Matak), Dili, 18 December 2003.] Six of those people, who were not members of PMLF Central Committee, were Venancio Ferraz, Ologari Assuwain, Konis Santana, Merak, Okan, and Taur Matan Ruak, but they were Fretilin's middle ranking cadres (*quadros médios*) or Falintil commanders.

The CRRN structure at the time was operating only at top level or in the forest, while there was no structure or base in the towns. It was just a kind of tactic to signal that an armed front [of the] Resistance, which wanted to continue the struggle, still existed. The structure only existed at the level of the Falintil command. The highest official was Xanana Gusmão. Only the members of Falintil knew the structure. We ourselves did not know exactly what the structure was.[118]

102. The CRRN had its headquarters in the forest. Some of the district and sub-district level organs also operated from the forest. Others operated clandestinely in Indonesian-controlled territory in the towns, villages and the new settlements.

103. Falintil's highest military authorities were the Commander-in-Chief (Comandante-em-Chefe) and the Chief of Staff (Chefe do Estado Maior), positions held by Xanana Gusmão and Reinaldo Correia (Kilik Wae Gae) respectively. They were in charge of four Falintil companies placed in each region where guerrillas were operating. Unlike during the period of the *zonas libertadas*, these companies did not have a fixed base but were highly mobile guerrilla units. After the National Reorganisation Conference, a Red Brigade (Brigada Vermelha), led by Mauk Moruk as the First Commander (Primeiro Comandante) and Ologari Assuwain as the Deputy Commander (Segundo Comandante) was created. It is not clear whether the Brigada Vermelha was one of the units of Falintil or whether all Falintil troops were reorganised under the Brigada Vermelha.*

104. The CRRN leaders were people who before the fall of the *zonas libertadas* were high and mid-level Fretilin cadres (*quadros superiores* and *quadros médios*) and Falintil commanders, an indication that the CRRN was dominated by Fretilin.†

105. The military division of the territory changed completely. Previously the country had been divided into six sectors; at the National Reorganisation Conference, it was divided into three regions (*regiões*):

* It seems that the Brigada Vermelha served the same function as had been performed by the Brigada de Choque before the destruction of the *zonas libertadas*. Their troops were not stationed in one place but were mobile and would launch surprise attacks on the Indonesian army. Jacinto das Neves Raimundo Alves, a former *colaborador* (staff) in the Falintil General Staff (1977–1978), said that the Falintil General Staff in 1977 devised a strategy of mobile warfare concentrating on a central line running from the extreme east to the western border. At the time the Resistance had evacuated the northern coastal area, and large numbers of people had moved to the fertile lands of the south. The central line stretching from east to west therefore became a shifting battleground for Falintil's Brigada de Choque troops. Several Brigada de Choque companies were formed and trained under the guidance of the former commander of the Fronteira Norte Sector, Sebastião Sarmento. [CAVR interview with Jacinto das Neves Raimundo Alves, Dili, 11 May 2004.] Ernest Chamberlain said that before the fall of the Matebian base there was a plan to form mobile war units totalling 11,000 people. [Chamberlain, *The Struggle in Iliomar*, p. 19.]

† Xanana Gusmão and Mau Hunu were members of the Central Committee, which meant they were high ranking cadres. Bere Malae Laka, Lere Anan Timor, Mau Hudu and Konis Santana were cadres responsible for *região* and zones; they were the mid-level cadres. Kilik Wae Gae and Nelo Kadomi Timor were former Falintil commanders responsible for *região*, while Taur Matan Ruak was a company commander. There is no information on the non-Fretilin membership of the CRRN.

Table 3 - Military division of the territory at the National Reorganisation Conference		
Region	**Districts covered**	**Commander**
Far Eastern Region (*Região Ponta Leste*, also known as Funu Sei Nafatin)	Lospalos, Viqueque, Baucau, and Manatuto	Kroasu and Lemorai
Central Region (*Região Centro*, also known as Nakroman)	Dili, Aileu, Ermera, and Liquiçá	Fera Lafaek
The Border Region (*Região Fronteira*, or Haksolok)	Suai, Ainaro, and Maliana	Venancio Ferraz [119]

106. District-level zones were also established and led by three *adjunto* - one of them became the main official (*responsável principal*). Each zone's *adjunto* oversaw several cells (*celula*), consisting of *assistente* (assistants) and *activista* (activists).[120]

107. These territorial divisions differed completely from those of the period of the *zonas libertadas*. At the time, the territory had been divided into political and administrative units as well as military ones. At every level of that structure political activists managed agricultural production, health education and cultural programmes. After the fall of the *zonas libertadas*, the regions were exclusively military in character and were based on guerrilla operations. There were no people left in the three *regiões*, making both civilian administrative units and their associated support activities redundant. The main work of the political cadres – the *adjunto*, the *assistente* and the *activista* – was to form underground cells in Indonesian army-occupied villages, to create and disseminate propaganda to sustain the people's commitment to independence, and to provide logistical support and intelligence for the guerrillas in the forest. And for these purposes a system of *caixas* (literally, boxes) was organised in every zone and operated by a liaison officer (*responsável de caixa*) and couriers (*ligaçãõ*).*

108. Without a civilian population in their midst, the internal Resistance now launched by Fretilin focused on armed struggle. The political cadres maintained contact with the people, not in order to organise them in "building new structures to serve the people", but to assist Falintil guerrilla units with intelligence and logistical support.[121] Their role changed to that liaison with the guerrillas in the forest and the people in the villages and towns under Indonesian occupation.

109. Given that the armed resistance was based in the forest, operationally the core of the Resistance was Falintil, not Fretilin or the CRRN. Fretilin, as the "guide"

* *Ligação* (connection) was then replaced by the term *vias de canais* (connecting channel) and from 1986 the role became better known by the term of *estafeta* [CAVR interview with Vasco da Gama (Criado), Dili, 18 May 2004.] They functioned as couriers carrying mail, intelligence and goods from one connecting hub (*caixa*) to another, based on Falintil's needs.

(*mata dalan* in Tetum) of the struggle, still formally set the political line, but as the struggle was now primarily an armed one, politics was chiefly the politics of the armed struggle. In the earlier period the Fretilin Central Committee, either in plenary sessions or, if the Central Committee was unable to convene, through its Permanent Committee, made decisions on the broad issues of policy, to which decisions on military strategy were subordinate. After the fall of the *zonas libertadas* the decisions that had to be made were chiefly about the armed struggle, and as such fell within the purview of the Falintil commander, sometimes, though not always, acting in concert with the Chief of Staff.* This was inferred in Xanana's statement in connection with the 1984 restructuring, which was not accepted by several of the reassigned commanders:

> *I said as Commander-in-Chief that in the military there is no democracy. Either we make war or we don't make war. I made a restructuring…*
>
> *But the [real] problem is restructuring the military, [I] gave new instructions, took the initiative…If it is a political problem, we could have an intelligent discussion. If the problem is a military one, in war the commander gives the orders.*[122]

110. The Resistance had become a fully armed struggle, with Falintil playing the main role. Fretilin's civilian structure was subordinate to Falintil's. The Fretilin *adjuntos* evolved into logistics and intelligence officers for the Falintil company commanders. As a revolutionary party, the PMLF seems to have existed only on paper. There was no longer mass mobilisation to "build new structures to serve the people" or for the "total elimination of all forms of exploitation". The PMLF activists took up arms to fight as guerrillas or to become couriers between the guerrillas and the people, to obtain food supplies, medicine, clothes and information on the enemy's movements.

Strategy

111. The new reality brought about by the fall of the *zonas libertadas* required new thinking from the Resistance. A "protracted people's war" strategy was no longer sustainable. The Indonesian army's relentless attacks had forced Falintil to split into small units.† After seriously reconsidering the military strategy, the remaining commanders and political activists determined that the war of resistance against Indonesia was to take the form of guerrilla warfare. Attacks were launched by highly mobile small units around the country with no fixed base. Intelligence would be obtained from civilians who were organised in underground cells (*clandestina*) in the occupied territories.

* In 1982 the Comissário Política Nacional's function was eliminated in Structural Readjustment (*Rejustamento Estrutural*). This meant that Xanana Gusmão relinquished the highest internal political position in Fretilin and from then on acted only as Falintil Commander. [Xanana Gusmão, *Timor Leste-Um Povo, Uma Patria*, p.98; and Budiardjo and Liem, *The War Against East Timor*, pp xii and 67-70.]

† Xanana Gusmão and Taur Matan Ruak stated that initially they split troops into small units in response to the situation created by the Indonesian army; it was not a strategy adopted by the Resistance out of choice. [CAVR interview with Xanana Gusmão, part II, Dili, 10 August 2004 and Taur Matan Ruak, part II, Dili, 14 June 2004.]

112. Falintil's guerrilla attacks had as their tactical objective the destruction of targeted Indonesian troops, although at the same time Falintil recognised that it could never defeat the Indonesians militarily. The Resistance war shifted from its initial objective of expelling the Indonesian aggressors to demonstrating to the international community that Falintil was still capable of fighting a war of resistance against Indonesian occupation and that the Timorese people wanted independence.*

113. This military strategy was in line with their changed view regarding negotiations. During the period of the *zonas libertadas*, Fretilin categorically refused to negotiate with Indonesia. One of the slogans at the time was *Negociação – Não e Nunca* (Negotiation - No and Never). With the failure of the protracted people's war the leaders slowly began to see negotiation as a means to end the Indonesian occupation. The meetings between resistance leaders and the Indonesian army leadership were initiated in Timor-Leste in March–April 1983. They were known as the *kontak dame* (or *kontak damai*, peace contacts). Taur Matan Ruak remembers:

> *We sought opportunities for peace. That was why in 1983 Xanana accepted the offer of contacts with Indonesia…Their overriding objective was to use the opportunity to strike at us…On the other hand we were thinking of how it could be used to reach a peaceful resolution of the conflict.*[123]

114. During the various *kontak dame* Falintil proposed a plan for resolving the conflict through negotiations between the armed resistance and Indonesia under the supervision of the United Nations. Some of the Resistance's proposals, such as the one for the unconditional withdrawal of Indonesian troops, were still in the uncompromising tradition of the Fretilin of the *zonas libertadas*. Others included the establishment of a UN peacekeeping force in Timor-Leste to supervise the withdrawal of the Indonesian army providing security for the transitional government, and retaining Falintil troops "to protect people from pressure". The Resistance also proposed a referendum to decide Timor-Leste's political future.[124] This was clearly a softening of the position that had been taken in 1975. Then Fretilin had asserted that the East Timorese had the right to independence and that the people had stated their desire for this through Fretilin Central Committee's Proclamation of Independence on 28 November 1975. By proposing a referendum as a way to end the Indonesian occupation of Timor-Leste, Fretilin was in fact endorsing the position that had been taken much earlier by the diplomatic front: that since Fretilin's Proclamation of Independence stood no chance of gaining

* In 1983 the Indonesian army wrote a summary of the strategy of the Resistance as they saw it, namely that the objectives of the protracted war launched by Fretilin were: (a) to stay alive by avoiding decisive combat, so as to have the time to restore their forces while at the same time cultivating a high spirit of motivation and strong discipline; (b) to preserve and develop support networks in resettlement areas and in the towns; (c) to show their presence or existence, particularly in the months before the UN General Assembly; (d) to create conditions which would make ABRI feel unsafe anywhere in the territory; (e) to establish mobile bases in many regions, particularly in formerly fertile villages now abandoned by their inhabitants. [Attachment Document 3 in Budiardjo and Liem, *The War Against East Timor*, p. 197.]

recognition from more than a handful of states, the only course open to the independence movement was to seek to gain international backing for the right of the people of Timor-Leste to self-determination (see Vol. II, Part 7.1: The right to self-determination). If in the past diplomatic efforts had been aimed primarily at winning the support of the socialist bloc and the non-aligned states, now the western bloc countries became important, not least because of their influence at the UN, including on the UN Security Council (see section on the Clandestine Front paragraph 145-170). The idea of the primacy of the struggle on the diplomatic front gained weight in resistance thinking, until by late 1984 it was the dominant view among resistance leaders. José da Costa (Mau Hudu Ran Kadalak), a prominent members of the PMLF Central Committee, said that the Resistance leadership now centred its strategy on dialogue and shifted its focus to the diplomatic front, in preference to the armed struggle, although armed operations were to continue whenever possible and necessary.[125]

115. At the same time another shift in thinking was underway. For several years the dominant view within the Resistance had been that Fretilin was the only true champion of independence; and the only true patriots were to be found within Fretilin ranks. After 1982 the idea that other parties and social groupings could also take part in the national liberation struggle began to gain ground. An important milestone in this process was the meeting between the Falintil Commander and National Political Commissar, Xanana Gusmão and the Apostolic Administrator, Monsignor Martinho da Costa Lopes, in the village of Mehara, Tutuala, Lautém District. At that meeting Dom Martinho said that national unity between Fretilin and UDT was needed if the independence struggle was going to succeed. At first Xanana Gusmão rejected the idea,* but slowly it became more acceptable until in 1983 the PMLF Central Committee affirmed National Unity (*Unidade Nacional*) as its official policy.[126]

116. The politics of National Unity and the idea of a negotiated, UN-sponsored end to the Indonesian occupation of Timor-Leste amounted to a radical shift in the ideology of the Resistance, which also had organisational implications. Hopes of gaining the cooperation of parties like UDT, especially its leadership abroad which rejected Timor-Leste's integration with Indonesia, could easily founder on UDT's abhorrence of Fretilin's revolutionary politics. Another party whose cooperation was crucial was the Catholic Church. Several priests, including Monsignor Martinho da Costa Lopes, had shown their sympathy for the predicament of the Resistance, though not for its ideology. The Church often protected people on the run from the Indonesian army and sent information outside the country. Relations between Fretilin and the Catholic Church had been strained in the past, as the conservative Church could not come to terms with several aspects of Fretilin's ideology.[127] To gain the explicit support of UDT and the Catholic Church, the

* José da Conceição, an *adjunto* at the time said that in the beginning Xanana Gusmão did not agree with the concept and believed that unification of Fretilin and UDT was like "marrying a frog and a crocodile". [CAVR interview with José da Conceição, Dili, 20 October 2004.]

PMLF needed to abandon its revolutionary politics. Monsignor Martinho Costa Lopes addressed this matter at his secret meeting with Xanana Gusmão in Mehara in 1982.[128]

117. The dissolution of the PMLF occurred during a Central Committee meeting held in April 1984.[129] Thereafter Marxism-Leninism ceased to be Fretilin's ideology, revolutionary politics were abandoned, the principle of " Negotiation – No and Never" adopted in the 1977 Laline Conference was dropped; and the PMLF became just Fretilin again.[130]

118. With those changes National Unity politics and negotiation as a means of defeating Indonesia became central to the struggle. This led to the CRRN becoming increasingly more visible than Fretilin. Although Fretilin, while still the PMLF, formulated the policies of National Unity, their implementation was a matter for the CRRN, which gave it a more important role. The reality was that the struggle was the armed guerrilla struggle led by Falintil. For this reason Falintil's role became more prominent too and so did Xanana Gusmão's position as a military leader. One indication of this was the decision to abolish the position of the National Political Commissar in 1982.[131]

119. Nonetheless, these changes did not go unchallenged. Several members of the Central Committee, including the Falintil Chief-of-Staff, Kilik Wae Gae, and the Red Brigade Commander, Mauk Moruk, opposed the decision to disband the PMLF. They also opposed the National Unity policy adopted the previous year.[132] This conflict caused a crisis in the Resistance leadership. Kilik Wae Gae and friends attempted a coup against Xanana Gusmão, the struggle's highest leader.[133]

120. Xanana Gusmão said that the dispute was not really about politics or ideology, but about his decision to reshuffle the military structure. Several units under the leadership of Kilik Wae Gae, Mauk Moruk and Ologari in the Central Sector were not taking the offensive against the Indonesian army, while Falintil troops in the eastern sector were facing repeated Indonesian attacks. Xanana Gusmão reshuffled several command positions, demoting the recalcitrant commanders to operational level. Kilik Wae Gae was demoted from Chief-of-Staff to Red Brigade Commander, Mauk Moruk was demoted from Red Brigade Commander to Company Commander as was Mauk Moruk's deputy Ologari Assuwain. In his testimony to the Commission, Xanana Gusmão said:

> *I carried out a restructurisation. Mauk Moruk didn't have real plans to lead the company [into action]. He just sat up there in the mountains. The troops around him [kept him] secure. I said: "If you want to lead a company, then you will." Ologari, who was the Deputy Commander, just sat around doing nothing. I said: "You will also be a company commander." Because of this [change] they called me a traitor, that I was no longer a Marxist. They held on to the ideology, making it into a problem. But the [real] problem was the military reshuffle. I gave new instructions, gave new directions to the companies, ordering them: "Now find the enemy and kill them"."*[134]

121. Other witnesses agreed that the reshuffle caused problems.[135] Cornelio Gama (Leki Nahak Foho Rai Boot), a company commander at the time testified to the Commission:[136]

> *There were differences over PMLF. There was also an issue about senior commanders not getting positions. In fact most of them were demoted. Like Mauk Moruk, who previously was the Commander of Brigada Negra [sic] [Brigada Vermelha] and Ologari Assuwain, who previously was the Brigada Negra Deputy Commander [sic] [Brigada Vermelha], and Kilik Wae Gae, who previously was the Chief of General Staff. Kilik became the Commander of Brigada Negra [sic] [Brigada Vermelha], while Mauk Moruk and Ologari both became Regional Commanders.*

122. Taur Matan Ruak, who at the time was on the staff of the Falintil General Staff, suggested that the movement of Kilik and his allies was "impure". Taur Matan Ruak reflected:

> *Whenever President [Xanana Gusmão] created the Partido Marxista-Leninista, they would say: "the Partido Marxista-Leninista is the wrong politics; social democratic politics are better." Then when it changed to social democratic politics, they said: "This is not good, Partido Marxista-Leninista is better." Nothing was ever right, what did they want?*
>
> *Basically when a man defends an ideology, a theory or a view, he should have the capacity to defend it, to be ready intellectually to defend his views. But he didn't defend them and he jumped around. That was our case. We didn't know what we should call [the party], how to name it… I saw that there was something impure going on.*[137]

123. But Mauk Moruk said that the cause of the opposition of Kilik and his allies was Xanana Gusmão's proposal to separate Falintil from Fretilin.[138] Whatever the cause of the conflict, what happened was that several of the commanders and political leaders who were at odds with Xanana Gusmão died or surrendered with their troops. The dissident group broke away from the main body of the Resistance group. Kilik Wae Gae and Okan, were killed fighting the Indonesian army. Mauk Moruk[*] and Ologari Assuwain ended up surrendering to the Indonesian army.[139]

124. The deaths and surrender of the opponents of the National Unity policy, strengthened Xanana Gusmão's position as leader of the Resistance. The Central Committee expelled Kilik and Mauk Moruk. The Falintil Commander-in-Chief assumed the position of Chief-of-Staff left vacant by the expulsion of Kilik.[140] The

* Aleixo Ximenes told the Commission that before his surrender Mauk Moruk sent him a letter saying that Xanana Gusmão would kill him if he found out that Mauk Moruk wrote a letter of surrender. When he met Aleixo Ximenes, Mauk Moruk said that after breaking with the Falintil leadership, Kilik faced the possibility of death at the hands of Xanana Gusmão or ABRI, should either find him. [CAVR interview with Aleixo Ximenes, Dili, 2 February 2004.]

demise of the opponents of National Unity did not immediately result in the CRRN becoming an effective vehicle for national unity. UDT, in particular, continued to refuse to cooperate with the CRRN. Taur Matan Ruak reflected:

> *There were different interpretations of the CRRN… For instance UDT said [in the name]* "Conselho Revolucionário"*…[the term]* "Revolucionário" *came from those who were Marxist-Leninist… So they had their own definition. About the important field of strategy, the strategy for resolving the conflict… required a consensus… Consensus only existed in the armed resistance. But at the political level those who were abroad, those who were closely affiliated, like the Fretilin [External] Delegation they accepted it, but UDT and the others didn't accept it…*[141]

125. This was probably the reason why the CRRN leadership continued to be drawn from Fretilin. A representative of the Resistance in Australia said that CRRN was not effective because of the internal conflicts within the Resistance leadership "and the lack of resources to resist and to fend off Indonesia's attacks".[142] Even so, there was some progress towards National Unity in March 1986 when an agreement was reached in Lisbon between Fretilin and UDT leaders to unite in the diplomatic struggle for Timor-Leste's independence. This became known as the Nationalist Convergence (Convergência Nacionalista).[143] This agreement proved to be fragile because of the persistent mutual suspicion and the sectarian attitudes among those who were representing Fretilin and UDT abroad. Reflecting on that period, Xanana Gusmão was later to observe:

> In 1986, the Nationalist Convergence was formed in an attempt to dispel the climate of suspicion that existed between the political parties but, once again, good intentions were not enough to create harmony between our separate objectives.[144]

Falintil after 1987

126. In 1987, the Falintil Commander-in-Chief, Xanana Gusmão, took the important step of establishing Falintil as a non-partisan movement, removing the military wing from the Fretilin structure. This decision, known as the "Structural Readjustment of the Resistance" (Reajustamento Estrutural da Resistência), was taken at a meeting in Aitana (Lacluta, Viqueque), where it was also decided that the Resistance leadership had to remain inside the country and Xanana, as Falintil commander, resigned from Fretilin.[145] Detaching Falintil from its party political roots was intended to make the armed front a real national force and consolidate its leadership role in the Resistance. Previously, the struggle against Indonesian occupation had been led officially by the CRRN, with Fretilin at the forefront. With the "national unity" policy of the Resistance leaders coming increasingly to the fore, the CRRN became associated with the broader national interest. Fretilin, in contrast, was perceived to be more narrow

and partisan. As the only real resistance against Indonesian occupation existed in the form of armed struggle, Falintil became the dominant force in the CRRN, with the Falintil commanders leading the struggle. As a consequence, Falintil was seen to be the only organisation truly fighting for the national interest.

127. Falintil's exit from Fretilin demonstrated Xanana Gusmão's new approach of "national unity" politics. The previous approach had been to try to unify the political parties of Fretilin and UDT under the CRRN. This had proved unsuccessful because of fundamental differences both within and between the two parties. The perceived "radicalism" of the Fretilin Delegation for the Exterior (Delegação da Fretilin em Serviço no Exterior, DFSE) was one such sticking point.[146] The new approach's emphasis on Falintil as a truly non-partisan organisation fighting the Indonesian occupation of Timor-Leste met with some initial resistance. Lere Anan Timor, a Falintil commander at the time, reflected:

> *Falintil left Fretilin with a message from Commander Xanana on 7 December 1987… At the time I was with Mau Hudu… Mau Hudu asked: "Commander Xanana has spoken about it…about leaving the party…about the dissolution of the Marxist-Leninist Party. What do we think? How do we explain it?" I said: "You explain it. You have to explain it [because] you're the political commissar. I don't know how to explain it." This was a big problem…*
>
> *We retreated to a place near Vemasse and at night we held a meeting. [Mau Hudu] called me, I refused to [go]. The meeting was being held nearby [so I could hear it]. They started a discussion. Many commanders didn't want to accept it. [They said]: "Many people died, we suffered, we lost families… Why did he say that? Now the leader is playing games!"*
>
> *They didn't want Falintil to separate from Fretilin, didn't want the Marxist-Leninist Part abolished. But slowly, as the situation developed, they [finally] accepted the reasons.*[147]

128. The next step in the campaign for national unity was the establishment of the National Council of Maubere* Resistance (Conselho Nacional de Resistência Maubere, CNRM) in December 1988 to replace the CRRN. The CNRM consisted of ten members: three Falintil commanders, five from the clandestine resistance front and two Fretilin members.[148] The Falintil Commander-in-Chief Xanana Gusmão, who was no longer a Fretilin member, became the highest leader of the CNRM with the title *responsável principal*. The power of this post was extensive, encompassing "full authority over all matters connected with the struggle in Timor-Leste, including international diplomatic struggle".[149]

* "Maubere" is a common Timorese male name and was first used by José Ramos-Horta to refer to the Timorese common man. It was subsequently taken up by Fretilin (see Vol. I Part 3: History of the Conflict).

129. In keeping with the decision to keep the Resistance leadership in the country, the Resistance Delegation for the Exterior (Delegação da Resistência em Serviço no Exterior, DRSE) was formed to carry out resistance activities abroad. Abilio Araújo (Fretilin's secretary-general), Moisés Amaral, and the outspoken former Apostolic Administrator of Dili, Dom Martinho Costa Lopes, were appointed the caretakers of the DRSE. The new structure replaced the DFSE.[150] The change was intended to reinforce the new non-partisan approach and combat the perceived ineffectiveness of the DFSE,[151] which was attributed to internal conflicts within its leadership. The DFSE resisted the change. Its response was to turn itself into the Fretilin External Delegation (Delegação Externa da Fretilin, DEF).[152]

130. The document *Reajustamento Estrutural da Resistência e Proposta da Paz* (*Structural Readjustment of the Resistance and a Proposal for Peace*) set out CNRM's structure, including the new relationship between the DRSE and Falintil Commando. Falintil was named responsible for running the CNRM internally, while the DRSE was to function internationally through diplomatic representations, dissemination of information, cultural activities, and aid contributions to Timorese refugees abroad.[153]

131. In 1989, Xanana Gusmão appointed José Ramos-Horta as CNRM's special representative and his personal representative abroad.[154] José Ramos-Horta subsequently resigned from his position in the DEF to concentrate on representing the CNRM at the UN and elsewhere.[*] Thereafter the Resistance struggle at the international level was conducted by the CNRM alone and Fretilin's role in the struggle at the international level virtually ceased. The consolidation of the CNRM leadership at the international level was strengthened further by the appointment of non-political party representatives to key positions in a number of countries.[†]

132. The appointment of José Ramos-Horta as the CNRM special representative abroad, and the subsequent consolidation of CNRM's leadership at the international level, resulted in progress being made in the diplomatic struggle. Through the efforts of CNRM representatives abroad, a degree of unity was forged between Fretilin and UDT, which successfully collaborated in carrying out joint diplomatic initiatives. For example, in March 1995, in preparation for the All-Inclusive Intra East Timorese Dialogue (AIIETD), the leaders of the CNRM, Fretilin and UDT held an official meeting to formulate a joint strategy.[155] In September 1996 a joint delegation from the three organisations visited South Africa and met with the African National Congress (ANC), labour unions and parliamentarians to gain support for Timor-

* One source states that the reason for Ramos-Horta's resignation from Fretilin was that "not all [Fretilin] Foreign Delegation members were active in the struggle." [EN: "Fretilin: Roots of Friction," in *Fitun* (London) No. 11, September 1993.]

† For example, in the 1990s CNRM's representative for Australia and New Zealand was Abel Guterres, for the United States Constâncio Pinto, for Canada Abe Barreto, for Europe José Amorim Dias, and for Portugal Luis Cardoso ["East Timorese in the Diaspora," http://www.uc.pt/timor/diaspora.htm.]

Leste's independence struggle.* In recognition of these efforts, Xanana Gusmão stated in a 1994 message that Fretilin and UDT were "partners" of the CNRM.[156]

133. Despite efforts to turn the CNRM into a broad non-partisan national front, political resistance to CNRM as the leader of the struggle lingered. Xanana Gusmão noted:

> *..we made a pledge to our people to staunchly uphold the principle of "Unite to be able to resist better!" Side by side with our people, who easily understood the objectives of the CNRM, we were ready to cope with all the consequences. But there were distortions in the way the CNRM was perceived. It was seen as a party and incorrectly regarded as yet another player on the scene. It would have been better had this not been so…*[157]

134. Although Xanana Gusmão did not directly name those whom he believed held "distorted perceptions" of the CNRM, he was clearly referring to UDT. At this time UDT still considered CNRM to be just Fretilin in disguise, and was not ready to accept Xanana Gusmão as the ultimate leader of the resistance. Francisco Guterres (Lú Olo), who at the time was the Fretilin vice-secretary, remembers:

> *For over ten years the CNRM continued to promote national unity, but national unity still did not exist. Those of us who died remained in the forest, the enemy killed us every day, but what exactly did the people in the city want? Until finally you understood that [the word] "Maubere" was worse than Marxist-Leninist. That was why it was changed to CNRT in Peniche.*[158]

135. The progress in achieving unity was only confirmed at the Timor National Convention at Peniche, Portugal, in April 1998. At this meeting a number of key political achievements were made. Firstly, the CNRT (Conselho Nacional de Resistência Timorense, National Council of Timorese Resistance) was established, comprising not only Fretilin and UDT, but also other political parties such as KOTA and Apodeti (Pro-Referendum), and non-political organisations such as the Church. Secondly, Xanana Gusmão was chosen as the *lider máximo* (highest leader) and was subsequently appointed President of the CNRT, with José Ramos-Horta his deputy. Finally, the word "Maubere" in title of the CNRM, which was considered by UDT as being synonymous with Fretilin and containing revolutionary nuances, was replaced by the word "Timorense" (Timorese).

136. The newly established CNRT consisted of three organs, the National Political Commission, the Executive Council and the Jurisdictional Commission. Xanana

* According to the ANC, the delegation consisted of José Ramos-Horta (CNRM Special Representative), João Carrascalão (Chairman of UDT), and Roque Rodrigues (Timor-Leste Ambassador in Luanda, Angola) [African National Congress, "East Timorese Visit," in the African National Congress homepage: http://www.anc.org.za/ancdocs/pr/1996/pr0910b.html.]

Gusmão was appointed the leader of the National Political Commission, while José Ramos-Horta became the chairman of the Executive Council. The membership of the National Political Commission consisted of party representatives, non-partisan organisations and a priest; the Executive Council was made up of representatives from both the political parties and non-political groups; the Jurisdictional Commission consisted of technical experts.[159] There were 22 people appointed to the three bodies in Peniche, all of whom were outside Timor-Leste).*

137. The detachment of Falintil from Fretilin and the establishment of the CNRM confirmed Falintil leadership of the struggle. This was reinforced in the document Reajustamento Estrutural da Resistência e Proposta da Paz which set out the Falintil High Command's key responsibilities as:

- Deciding general strategy
- Providing the general political orientation
- Taking necessary action.[160]

138. Endowed with this authority, the Falintil High Command began to take charge of the political and military aspects of the struggle, with the development of the general strategy for the political direction of diplomatic efforts abroad, and the launch of continued armed resistance by Falintil against the Indonesian occupation army. Falintil's role in the overall struggle was described by Taur Matan Ruak: "There were three fronts: the Diplomatic Front and the Clandestine Front took their orders from the Armed Front."† In a speech in Uaimori (Viqueque) on Falintil's anniversary in August 2003, Xanana Gusmão confirmed Falintil's leading role:

> ...it was decided in 1987 to change Falintil into a non-partisan body to become the fundamental base to strengthen the whole resistance movement, which could then lead our struggle to final victory…[161]

* The National Political Commission's members appointed in Peniche were Xanana Gusmão, José Ramos-Horta, João Carrascalão, Padre Francisco Fernandes, Mari Alkatiri, Ana Pessoa, Alberto Araújo, and Domingos Oliveira, and four replacement members: Estanislau da Silva, Agio Pereira, Vicente Guterres, and Zacarias da Costa. Later in September 1998, 12 members of the National Political Commission were selected in Timor-Leste based on the decision of Xanana Gusmão who had the mandate as the president of CNRT to form the internal structure of CNRT: Abel da Costa Belo, David Dias Ximenes, Domingos F.J. Sousa, Leandro Isaac, João Baptista Fernandes Alves, Leão P. Dos Reis Amaral, Lú Olo, Manuel Viegas Carrascalão, Paulo Freitas da Silva, Taur Matan Ruak, Francisco Lopes Carvalho and Lucas da Costa (in Indonesia). The members of the Executive Council were José Ramos-Horta, José Luis Guterres (head of the Foreign Relations Department), Manuel Tilman (head of the Administration and Resources Department), Roque Rodrigues (Central Services), Emilia Pires (Regional Services), Pascoela Barreto (Finance and Resources) and Rama Metan (Youth Department). The Jurisdictional Commission members were: Carlos Alberto Barbosa, Jerónimo Henriques, Alfredo Borges Ferreira and Filomeno Andrade. [CNRT – National Council of Timorese Resistance (http://www.labyrinth.net.au/~ftimor/cnrt.html)].

† CAVR interview with Taur Matan Ruak, Part 2, Dili, 14 June 2004. José da Conceição (formerly an *adjunto*, and also after the fall of the *zonas libertadas*) said, "After the *roptura* (separation of the civilian and Falintil) the military was dominant. Civilian activists' role was to support the military, although they shared the same goal, which was independence." [CAVR interview with José da Conceição, 20 October 2004].

Falintil's Structures 1987 to 1999

The Falintil High Command was under the leadership of Xanana Gusmão, as the Commander-in-Chief (Comandante-em-Chefe). He was also the Chief-of-Staff (Chefe do Estado Maior), overseeing the Deputy General Chief-of-Staff (Sub-Chefe do Estado Maior) Taur Matan Ruak, Political Advisor (Conselheiro Político) Mau Hudu, and Military Advisor (Conselheiro Militar) Mau Hunu Bulerek Karantaianu.[162] The guerrillas operated under them in small units of four to eight people. During the CNRM period, the territorial structure of the armed resistance was the same as during the CRRN period. It was divided into three regions, Ponta Leste, Centro and Fronteira. Several guerrilla units operated in each region under the command of a regional commander.

The late 1980s and early 1990s was a difficult period for Falintil. Commander-in-Chief Xanana Gusmão later explained that there were fewer than one hundred of them remaining.[163] According to Indonesian army reports, there were 67 guerrillas in Ponta Leste, with 45 rifles operating in units of six people.[164] But in the wake of the Santa Cruz massacre on 12 November 1991, Falintil's strength grew from 143 guerrillas with 100 rifles to 245 guerrillas with 130 rifles.[165]

During the 1990s there were a number of changes in the leadership of the Falintil High Command as a result of the captures of several of its members by the Indonesian army. Mau Hudu, the political advisor to the chief-of-staff, was captured in January 1992. After the capture of Xanana Gusmão in November 1992, the CNRM'smilitary advisor, Mau Hunu, took over command of Falintil for a brief period, until he too was captured by the Indonesian army on 3 April 1993. Konis Santana (Secretary for the Comissão Directiva da Fretilin, the highest Fretilin internal structure) then took over command of Falintil in his capacity as the CNRM chief of staff until his death in March 1998. Despite these changes, formally the position of Falintil commander-in-chief and president of the CNRM still belonged to Xanana Gusmão, even though he was incarcerated in Jakarta.

In 1998 the territorial structure was overhauled. The country was divided into four regions; Região 1 covering Lautém and most of Baucau districts; Região 2 covering parts of Baucau, Viqueque and parts of Manatuto; Região 3 covering Dili, Aileu, Ainaro and parts of Manatuto; and Região 4 covering Ermera, Liquiçá, Bobonaro and Covalima.

Falintil's force of only 300 guerrillas in early 1998 had increased to some 1500 by late August 1999.[166] From mid-1998, the number of guerrillas increased rapidly for a number of reasons as former guerrillas returned to their units, young clandestine activists ran off to the forest to avoid capture by the Indonesian army, and the violence of the anti-independence militias, and East Timorese troops in the Indonesian army deserted.

139. Although the Frente Armada was responsible for leading the Resistance, Falintil's strategy for winning the struggle was not primarily a military one. Falintil commanders and political leaders realised that they did not have the military capacity to defeat the Indonesian army, which was far more advanced in terms of weaponry and personnel. For Falintil leadership the key to winning the struggle was diplomatic. Indonesia's invasion and occupation of Timor-Leste violated international law and therefore the integration of Timor-Leste into Indonesia was not internationally recognised.

140. In 1989, the CNRM proposed a peace plan, which envisaged a process sponsored by the United Nations, which would eventually lead to the holding of a referendum through which the people of Timor-Leste would exercise their right to self-determination. The process would involve the following steps:

- the withdrawal of Indonesian troops;
- the simultaneous disarmament of Indonesian-armed paramilitary groups and Falintil guerrillas;
- the establishment of a transitional government which would set a date for a vote on the political status of Timor-Leste;
- a cooperation agreement between the transitional government and Indonesia, with Australia, the European Union and other countries ensuring the rapid and peaceful development of Timor-Leste;
- the establishment of a government of National Unity for a period of 5-15 years at the end of which a referendum would be held and depending on the outcome, sovereignty transferred.[167]

141. The CNRM believed that through dialogue all parties to the conflict would be persuaded of the need to hold a referendum on self-determination. The struggle for international support came to be seen as more important than victories on the battlefield.* Armed resistance would continue although its purpose was no longer to win the war, but just to add weight to the demands of the wider resistance. Agio Pereira described the role of the armed struggle as follows:

* One of the premises of CNRM establishment was that the resolution of the Timor-Leste problem relied on taking the struggle into the international arena, not into the armed struggle. [Agio Pereira "The National Council of Maubere Resistance (CNRM), Overview of the History of the Struggle of East Timor," paper presented at a solidarity meeting, Sydney, August 1994.]

Inside East Timor, the Armed Front would mobilise the people to continue for as long as necessary, to at least maintain a quagmire in the battleground so that the diplomatic front could press ahead with a solution which meets the aspirations of the Timorese people and is internationally acceptable.[168]

142. The former Fretilin domestic vice-secretary of Falintil, Francisco Guterres (Lú Olo), told the Commission about its strategy:

...this defined the concrete strategy of resolving the conflict through negotiations. Resolution through negotiations did not mean that we didn't bring in the military to win the war, because the military alone wouldn't [win]. It was the troops' task to defend [the existence] of the army. As far as the Indonesian army was concerned, you could say that we were ready to attack by being defensive. But, we couldn't compare our army [with the enemy's] in operating on a military basis. We went on with the guerrilla [war] to create an objective situation, and a politico-military reality which would achieve the goal of liberating our land.[169]

143. Falintil guerrilla attacks on Indonesian targets were launched mostly for tactical reasons, to obtain weapons and other equipment needed to keep Falintil in existence. Another goal was to exhaust the Indonesian army psychologically. But strategically, the principal goals of the Falintil guerrillas were not military but political. The last Falintil chief-of-staff, Taur Matan Ruak told the Commission:

We evaluated the situation daily…on the international scene, we especially evaluated important events, parliamentary elections in [Indonesia], the presidential election [Indonesia], the 20th of May [the anniversary of the founding of the ASDT political party], troop withdrawals. On those occasions we undertook small actions that would have a large impact. That was why we normally made our evaluation based on such events. So, it wouldn't give people the impression that the situation was calm, which was why we had to create disturbances, why we always had to do something, however insignificant.

This could be considered a counter-campaign to their campaign to convince people that the situation was stable. But the aim was more to destabilise the situation. That was why the operations normally had a specific purpose. It might be an economic purpose, taking food, money, paper, clothes for our use… It might be diplomatic so that it had international repercussions... It always had repercussions of some kind. The repercussions might be more of a military kind if we took arms, and materials. And then there were times when the impact was strictly diplomatic, when we created a security situation which gave people the impression that the war would go on forever.[170]

144. And so Falintil launched its attacks with precision with a view to their impact on the diplomatic struggle, to impress on the world that in Timor-Leste there was still fighting and that the international community must take action to resolve it. From the time of the ceasefire in 1983, the CRRN, and then subsequently the CNRM, said that it would disarm if a peaceful solution, involving a referendum on self-determination, could be found. When the diplomatic solution bore fruit and President Habibie proposed a referendum to determine the future status of Timor-Leste, Falintil attacks virtually ceased, the Resistance turned its attention to preparing peacefully for referendum, and in August 1999 Falintil unilaterally decided to canton forces, as outlined under the 5 May 1999 Agreements on the implementation of the referendum.*

Clandestine liberation movement

145. The history of the clandestine movement during the Indonesian occupation is highly complex and, because of the nature of the movement, there has been very little written on the structures and strategies of the movement. The following overview has been compiled from interviews with former members of the Resistance, but the Commission notes that there is much scope for further research into this fascinating aspect of Timorese history.

146. The Commission has heard that clandestine activities began in the first years after the Indonesian invasion. Fretilin activists and their families in Dili and other parts of the country were organised into small groups and helped the guerrillas by providing food, medicines, clothing and information on the situation in the towns. These small groups evolved spontaneously without a common strategy, worked independently and made their own contacts with the Falintil commanders in the bush.[171]

147. These clandestine groups became increasingly important after the obliteration of the *zonas libertadas* (liberated zones). Two-way radio communication between guerrilla units, which broke down at this time, was replaced by communication through couriers.† The guerrilla leaders in the jungle established clandestine networks by forming organisations such as the Democratic Revolutionary Committee (Comité Democrático Revolucionário, CDR) and the Popular Militia for National Liberation (Milicia Popular da Libertação Nacional, Miplin).[172] Their main objective was to establish new support bases for the armed struggle because Falintil had to fight without logistical support in the forest. The network expanded

* Falintil troops were voluntarily cantoned in 12 August 1999 prior to the referendum on 30 August. Cantonment for Região 1 were in Atelari (Laga, Baucau district), for Região 2 and Região 3 in Uaimori (Manatuto district), for Região 4 in Poetete (Ermera district) and Odelgomo (Aiassa village, Bobonaro district). According to Falintil's information to UNAMET, 187 guerrillas were placed in Aiassa, 153 in Poetete, 260 in Uaimori, and 70 in Atelari, making a total of 670 people [D. Greenlees and R. Garran, *Deliverance: The Inside Story of East Timor's Fight for Freedom*, Allen & Unwin, Crows Nest, 2002, p. 182; Martin, Self-Determination for East Timor, p. 72-73,; see also Vol. I, Part 3: History of the Conflict.]

† Those who at the beginning were called "ligação" (liaison), "vias de canais" (channels) and since the mid-80s became known as "estafeta" (relays). [CAVR interview with Vasco da Gama [Criado], Dili, 18 May 2004.]

over the years following the destruction of the *zonas libertadas* and was able to support Falintil's armed struggle, eliminating the need for a permanent base in the bush. The leaders of the Resistance were therefore able to claim that their *bases de apoio* (support bases) had shifted to urban and rural settlements controlled by the Indonesian military.[173]

148. The Falintil resistance leadership in the mountains tried to direct the clandestine struggle by forming Miplin. Unlike most clandestine groups, Miplin had a military-type structure. Recruits were organised in unarmed teams and platoons. Taur Matan Ruak, then Falintil operations commander in the eastern region between 1982 and 1984, explained Miplin's role to the Commission:

> *The mission of those known as militia was usually to relay information about spies in their midst to prevent [the spies] from doing any harm, and about Indonesian [army] movements. Normally that is what we called a militia. But it wasn't necessary for them to carry weapons because there were no arms [to give them]…*
>
> *Miplin is a concept we created and it is difficult to compare it to the classic understanding of the term. Sometimes foreigners were surprised because they compared it with their classic concept...[laughter]…Their classic militias are armed and trained in the use of arms. We did not have arms...we used [the militias] to motivate the population to remain alert.*[174]

149. Despite the early efforts of the leadership to formalise the clandestine structure, groups still operated independently. Groups formed by former political activists or guerrillas began to appear. At first they only exchanged information on the situation. Later, they started to have contact with Falintil guerrillas and to collect food, medicines and clothes to take to the guerrillas. These groups operated in cells of three to five individuals, known as a *núcleos*. People in these groups liaised between guerrillas and sometimes with other *núcleos*. Some groups were organised into networks which were controlled by individuals that the Resistance leadership in the bush appointed. Other clandestine groups were independent but had direct links to Falintil commanders.[175]

150. In 1986, the CRRN increased the effectiveness of the clandestine network by placing it under the co-ordination of the Inter-regional Coordination Organisation (Organização Coordinadora Inter-Regional, OCR).* The OCR was the regional arm of CRRN and operated through the civilian population. It remained effective until around 1988. Although its leaders worked hard in all regions to establish networks, not all groups could be placed under the OCR because the number of clandestine groups kept increasing and because the blanket presence of the Indonesian military and its intelligence network restricted their ability to operate.

* According to Vasco da Gama, Aitahan Matak and Paulo Assis Belo were active in this body. [CAVR interview with Vasco da Gama (Criado), Dili, 18 May 2004.]

151. An important development in the clandestine movement was the formation of urban student cells in high schools. These cells successfully infiltrated and controlled legal organisations such as the Catholic Scouts (Escuteiros) and the Intra-School Students Organisation (Organisasi Siswa Intra-Sekolah, OSIS) the student bodies in each high school set up by the Indonesian government. For example, the members of a clandestine cell called 007 in Dili, Constâncio Pinto and José Manuel Fernandes, were Escuteiros leaders.[176] Ricardo Ribeiro, a Sagrada Familia activist who in 1988 became the liaison between the clandestine and Falintil in the eastern zone, also became an OSIS organiser and eventually the chairman of the association in his high school Hati Kudus, in Dili.[177]

152. With the establishment of the University of East Timor (Universitas Timor Timur, Untim) by the Indonesian government in 1986, university students became targets for clandestine organisational activity. In early 1991 the members of several clandestine cells, including those formerly and secretly based at the Externato de São José school, established the Association of Anti-integration Youth and Students (Himpunan Pemuda, Pelajar, dan Mahasiswa Anti-Integrasi, HPPMAI) working primarily among university students.[*]

153. A parallel development took place outside Timor-Leste in the early 1980s, when the government of Indonesia started to send Timorese students to study in universities in Java, Bali and other parts of Indonesia. Among them were people who had been Fretilin activists during the period of the *zonas libertadas*. In Indonesia they continued their activism in a student organisation called the Organisation of East Timorese Students and Youth (Ikatan Mahasiswa, Pemuda, dan Pelajar Timor Timur, IMPPETTU), which had been established by the Indonesian military and government in an attempt to control them. Active students were able to use the organisation to serve the needs of the continuing struggle in Timor Leste.[†] In 1988, the National Resistance of East Timorese Students (Resistência Nacional dos Estudantes de Timor-Leste, Renetil) was established in Bali, and in the following two years was established in Java and other islands. At approximately the same time the Secret Commission of the Timorese Students Resistance (Comissão Secreto da Resistência Nacional dos Estudantes Timorenses, CSRNET) was formed. Among the students who continued their education in Bali and Java there were also activists from the East Timorese Catholic Youth Organisation (Organização de Juventude e Estudante Católica de Timor-Leste, OJECTIL) while others organised clandestine groups, like the Clandestine Front of East Timorese Students (Frente Estudantil Clandestina de Timor-Leste, FECLETIL), in their own places of study.[178]

* The Chairman of this organisation was Agusto Gama (who came from a clandestine cell at the Externato de São José and at the time was a member of the Comité Executivo) with Vasco da Gama as vice-chairman. Formerly Vasco da Gama had been active in the Raculima clandestine cell. [CAVR interview with Vasco da Gama, Dili, 18 May 2004.]

† For example, João Freitas da Câmara, a political assistant in Bobonaro during the *zonas libertadas*, after his arrest by the Indonesian military was employed by the sub-district administration of Same and then obtained a scholarship to study at the Atmajaya University, Jakarta in 1981. He became active in support of the clandestine resistance inside Indonesia until his arrest and imprisonment for organising the first demonstration held in Jakarta on 19 November 1991 to protest the Santa Cruz massacre a week earlier. [CAVR interview with João Freitas da Câmara, Dili, 5 June 2004.]

154. Also at this time in Timor-Leste, demonstrations and acts of civil disobedience were increasing in number and intensity, along with other political actions in opposition to the Indonesian occupation. These included flying the national flag of the Democratic Republic of Timor-Leste, secretly writing messages on walls that condemned the Indonesian occupation and supported independence, and posting and distributing leaflets with the same messages. In Indonesia, in addition to demonstrations, students jumped the fence into foreign embassies to seek political asylum and to attract international attention.

155. With the proliferation of organisations and political activities, and the need to prepare for the expected visit of the Portuguese parliamentary delegation in 1991, the Resistance leadership tried to coordinate all clandestine groups operating in the territory. In June 1990, the political advisor to the CNRM, José da Costa (Mau Hudu Ran Kadalak), called a meeting in Baucau with leaders of the clandestine movements. As a result of this meeting, several clandestine leaders formed the CNRM Executive Committee of the Clandestine Front (Comité Executivo da CNRM na Frente Clandestina, more often known as the Comité Executivo or CE) in Dili. This became the official organ of the CNRM for the coordination of all clandestine groups.* Constâncio Pinto, who at the time was working as a teacher and was active in the clandestine group Orgão 8, was elected secretary of the Executive Committee, with Donaciano Gomes as Deputy Secretary I and José Manuel Fernandes as Deputy Secretary II.[179] António Tomás Amaral da Costa (Aitahan Matak) was later added to the executive as Secretary III.†

156. The decision to form the Comité Executivo was also related to a new strategy adopted by CNRM.[180] This strategy, which aimed to obtain independence through diplomatic channels rather than armed struggle, required that the Resistance gain international visibility. When political actions such as the entry of students into foreign embassies attracted international attention, Resistance leaders began to see that the combination of clandestine activity and civil disobedience could achieve this goal. Avelino Coelho, one of the clandestine activists at the time, said:

> *...after we sought asylum [and] after the demonstration in Tacitolu [Dili], actions started being coordinated. Students sought asylum in the Vatican and Japanese embassies [and] then [Pope] John [Paul II] visited and there was a demonstration on 12…October [1989] in Tacitolu. Xanana also changed his strategy then and there, [having realised] the youth movement as an awesome power to strike. So there was still a guerrilla movement but [it was] not active in a military sense, more active in a political sense, as a source of inspiration for the struggle but*

* Constâncio Pinto said that the committee was under the CNRM because with the increasing number of UDT and Apodeti members and their children joining the clandestine struggle there was concern that putting the committee under Fretilin would cause a schism. [Pinto and Jardine, *East Timor's Unfinished Struggle*, p. 123.]

† Avelino Coelho Silva, one of the founders of OJECTIL, said that Aitahan Matak was put into the Comité Executivo leadership by Mau Hudu after a protest. [CAVR interview with Avelino Coelho Silva, Dili, 17 July 2004; see also CAVR interview with Vasco da Gama, Dili, 18 May 2004.]

> *not using Falintil as a military movement because of lack of ammunition and for other reasons. And also to protect the movement itself. So in 1989 the strategy of the Resistance started to shift towards seeking asylum and [holding] demonstrations. In this period…the students' initiatives started to change Xanana's thinking, to change how he led the movement.*[181]

157. The Comité Executivo was placed directly under Xanana Gusmão, the president of the CNRM and the commander-in-chief of Falintil. The role of the Comité Executivo was to monitor, direct and co-ordinate all clandestine movements.[182] It comprised several sections including ones for Youth and Mass Mobilisation, Agitation and Propaganda, Study and Analysis, Information and Security, and Finance. Although the Comité Executivo was formally under the CNRM leadership, this did not mean that all clandestine organisations and groups were under its authority. Some of the organisations active in Indonesia worked with the Committee but continued to operate independently. Similarly, in Timor-Leste, many clandestine groups maintained their individual relationships with Falintil commanders in the bush.* Gregório Saldanha, who was responsible for the Youth and Mass Mobilisation section, related an incident to the Commission to illustrate the problem:

> *Sometimes there was stubbornness. For example, Constâncio Pinto brought a letter to Motael for Julião Mausiri about the visit of the DPP (Delegasi Parlemen Portugis, Portuguese parliamentarian delegation). Constâncio said: "This is a letter with instructions from Xanana."*
>
> *At that time [Mausiri] said: "I want all orders to come directly from Xanana and not through intermediaries." He asked Constâncio: "Where is the instruction letter?" So, formally he was refusing because he did not want to acknowledge the CE (Comité Executivo). But independently he asked his courier to ask for that information.*[183]

158. António Tomás Amaral da Costa (Aitahan Matak), a vice-secretary of the Comité Executivo at the time, remembers:

> *Organisations like 3-3, 5-5, 7-7 were not under the CNRM structure but they struggled for independence. OJETIL and Renetil were part of the CNRM structure.*
>
> *All organisations under the umbrella of Orgão 8 [joined the CNRM]. Sometimes [there were organisations that] had a network with specific commanders, like David Alex, Konis [Santana], Venancio Ferras, Merak and others. Those were special networks that did not go through Orgão 8.*[184]

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* For example, the Fitun youth organisation established after the formation of the Comité Executivo operated independently and maintained direct relations with the Chairman of CNRM/Commander-in-Chief of Falintil Xanana Gusmão. [CAVR interview with a Fitun founder, Armando José Dourado da Silva, Dili, 10 June 2004.] Gregório Saldanha admitted that the CE "could not control" all clandestine groups because there were too many as well as others who "did not admit to be involved in the struggle" [CAVR interview with Gregório Saldanha, Dili, 5 June 2004.]

159. Over time, the importance of the clandestine movement in the overall struggle to free Timor-Leste from Indonesian occupation increased. Falintil, which did not receive any logistical support or weapons from overseas, relied on the clandestine activists to obtain food, ammunition, intelligence and the support of the local population. Falintil's very survival depended on the clandestine movement. The Falintil leadership also relied on the underground movement to send information out of the country to activists playing their role in the Diplomatic Front who, without information from inside, would have found it very difficult to convince the international community to continue to take an interest in the Timor-Leste issue.

160. Despite its importance, there was no mention of the clandestine movement in the CNRM structure. The document *Structural Readjustment of the Resistance and a Proposal for Peace* from the CNRM leadership only mentioned the existence of two organs under the CNRM: the Falintil command and the DRSE. This indicated that the movement was considered to be under the command of Falintil as a channel of communication between Falintil on the one hand and the domestic support base and the Diplomatic Front on the other in support of the armed resistance.

161. The Comité Executivo experienced great difficulties when some leaders had to go into hiding to escape the security forces, which were hunting them after the incident at the Paulus VI High School in October 1990. One of the leaders ran off to the bush to join Falintil.[185] This difficulty was overcome by including people with past experience in clandestine work. One of those who joined the Comité Executivo remembers:

> *When they began looking for us after the Paulus school incident, we managed to get away, myself included. I hid and then I surfaced again. Some of my friends went into hiding and only came out after Indonesia left Timor-Leste. Some even left the country. Others hid and when the situation improved came back again to continue their activities. At that time Constâncio Pinto continued to work. José Manuel [Fernandes] ran into the jungle and Adano [Donanciano Gomes] left the country. So the Comité Executivo's programmes stopped. I hid in Balibar [Dili] and after conditions improved I returned and got in touch with Constâncio Pinto and other friends such as Juvencio Martins, Jacinto Alves, Francisco Branco and Filomeno da Silva. Then we revived and reactivated the Comité Executivo and the climax came when we were arrested again on 12 November 1991 [after Santa Cruz].*[186]

162. The Comité Executivo was hit badly by the crackdown that followed the Santa Cruz massacre of 12 November 1991. Some Executive Committee officials like Filomeno da Silva, Francisco Branco, Jacinto Alves, Juvencio Martins and Gregório Saldanha were arrested and tried and sentenced to long terms of imprisonment. The Comité Executivo secretary, Constâncio Pinto, managed to escape overseas. The next blow was the arrest in Dili in November 1992 of the CNRM president and Falintil commander-in-chief, Xanana Gusmão.[187]

163. To restore its links with the clandestine movement in 1993 and to resume control of its activities, the CNRM, at the time under the leadership of Konis Santana, established the Executive Committee of Struggle/the Clandestine Front (Comité Executivo da Luta/Frente Clandestina, CEL/FC). The CEL/FC was formed as a wing of the CNRM with the specific task of co-ordinating the clandestine movement. The Executive Committee of Struggle /Armed Front (Comité Executivo da Luta/Frente Armada, CEL/FA) was established at the same time to conduct the armed struggle from the bush.[188] With the formation of the CEL/FC the position of the clandestine resistance within the CNRM structure continued to gain in strength. Probably at this time three forms of struggle – the armed struggle in the bush, the clandestine struggle of civilians in the villages and in the cities, and the diplomatic struggle in the international arena – were "made official" under the names of Armed Front (Frente Armada), Clandestine Front (Frente Clandestina) and Diplomatic Front (Frente Diplomática) although the Falintil leadership continued to be highly visible. Regarding the role of Falintil, the last leader of the Clandestine Front, Francisco Guterres "Lú Olo", said to CAVR:

> *All groups, so that they could control the work of the Clandestine Front, were in contact with the Armed Front. But the Armed Front also established its own clandestines. The practical structure of the Clandestine Front functioned in Dili but it was mostly the Armed Front that coordinated the clandestines. Hence the Clandestine Front here in Dili had to coordinate with us [the Armed Front] so that the activities of the clandestines could be developed with various commanders…*[189]

164. After the Indonesian military captured Xanana Gusmão it was suggested that the leadership be replaced by a "troika" comprising the leader of the armed struggle, the leader of the clandestine resistance and the leader of the diplomatic resistance. Konis Santana, CNRM's chief of staff, and Xanana Gusmão rejected the idea. Xanana retained his position as Falintil commander-in-chief and chairman of the CNRM while in Jakarta serving a 20-year sentence. However, according to Agio Pereira, the day-to-day operations were in the hands of Taur Matan Ruak, Konis Santana and José Ramos-Horta, who were responsible for the armed front, the clandestine front and the diplomatic front respectively.[190]

165. The CEL/FC was led by Keri Laran Sabalae (Pedro Nunes) as secretary and David Dias Ximenes as vice-secretary. They were helped by three *adjuntos*, Paulo Alves (Tubir Loke Dalan), Paulo Assis Belo (Funo Matak), and Virgílio Simith (Kranek).[191] The *adjuntos* were given the task of organising the clandestine movement throughout the country. The CEL/FC formed Regional Directive Organ (Orgão Directiva Regional, ODIR), which had responsibility for organising the clandestine movement in the districts. There were three ODIRs covering the whole of Timor-Leste: the eastern region (Paulo Assis), the central region (Paulo Alves) and the western region (Aquilino Fraga Guterres, Ete Uco). In theory the ODIRs presided over a structure consisting of the Zone Executive Committee (Comité Executivo de Zona, Cezo), operating at sub-district level, Nucleus of Popular Resistance (Núcleo de Resistência Popular, Nureps) at the village level and Community Cells (Celula de

Comunidade, Celcom) at the *aldeia* level. In practice this structure did not function at all levels throughout the country.[192]

166. With the disappearance of Sabalae on 1 June 1995, Konis Santana, who was heading the CNRM in the country at the time, took over the leadership of the Clandestine Front.[193] With the formation of the CNRT to replace the CNRM in April 1998, the CEL/FC was replaced by the Internal Political Front (Frente Politica Internal, FPI).[194] Konis Santana remained the leader of the clandestine movement until his death on 11 March 1998 due to illness. Francisco Guterres (Lú Olo), who until Konis Santana's death had been the vice-secretary of the Comissão Directiva da Fretilin (the highest Fretilin organ in the country) became the secretary of the FPI with David Dias Ximenes still in the position of vice-secretary.[195]

167. The formation of the CNRT was followed by extensive organisational changes in the clandestine movement. The movement was restructured to bring it into line with the four regions structure of Falintil, with the addition of an extra region, Região Autonómica Dili, covering the capital and its district. The CNRT executive in the regions were drawn from the Clandestine Front and the Armed Front. According to clandestine activists, the CNRT executive unified the Clandestine Front and Armed Front structures.[196]

168. The top officials in each region were those of secretary and vice-secretary.* The secretary of Região 1 was Renan Selac, the secretary of Região 2 was Sabika Bessi Kulit (who was Falintil commander for that region) with Marito Reis as vice-secretary. The secretary of Região 3 was Falur Rate Laek (who was also Falintil commander in the region) with Virgílio Simith (Kranek) as his vice-secretary. The secretary of Região 4 was Riak Leman with Aquilino Fraga Guterres (Ete Uco) as his vice-secretary. The secretary of the Região Autonóm Dili was José da Silva.[197]

169. The existing clandestine organs from sub-district to *aldeia* became organs of the CNRT, but retained their old names (Cezo, Nurep and Celcom), but a layer was created to operate at district (*sub-região*) level.

170. Not long after the formation of the CNRT, Soeharto fell and Indonesia began to undergo a process of democratisation. This gave more room to clandestine activists to manoeuvre. The new Indonesian President, B.J. Habibie, created even more space for the movement to operate in when in June 1998 he offered "broad autonomy" to Timor-Leste. In 1999 the president went further with his offer of two options: broad autonomy and independence. Although in 1998 TNI-backed militias began to form to spread terror among independence activists, this did not shake the resolve of the clandestines. The clandestine organs from hamlet to region stepped up their activities and the population were emboldened in their demands for independence. With the arrival of UNAMET to conduct the public consultation, the focus of the CNRT's work became the task of preparing the population to vote for independence in the Popular Consultation of 30 August 1999. Having achieved independence through the referendum, the main task of the clandestine movement was over.

* Marito Reis, vice-secretary of Região 2, said that when establishing the structure of CNRT it was decided that the secretary had to be a military commander, while the vice-secretary should be "a political activist living in the city". [CAVR interview with Marito Reis, Baucau, 17 November 2002.]

End notes

1. CAVR interview with Eduardo de Deus Barreto, Gleno (Ermera), 12 August 2003.
2. CAVR interview with Xanana Gusmão, Dili, 7 July 2004.
3. CAVR interviews with Adriano João, Dili, 23 April 2004; Egas da Costa Freitas, Dili, 19 May 2004; and Jacinto Alves, Dili, 11 May 2004.
4. CAVR interviews with Egas da Costa Freitas, Dili, 19 May 2004 and Adriano João, Dili, 23 April 2004 (both from researcher's notes).
5. CAVR interviews with Jacinto Alves, Dili, 11 May 2004; Adriano João, Dili, 23 April 2004, Egas da Costa Freitas, Dili, 19 May 2004. See also CAVR interview with Francisco Gonçalves, Dili, 14 June 2003.
6. CAVR interview with Adriano João, Dili, 23 April 2004.
7. CAVR interviews with Julio Maria de Jesus (Unetim activist in Ponta Leste), 29 May 2004; Filomeno Paixão de Jesus, Dili, 17 June 2004; Tomás Araújo, 14 October 2003; Agostino Carvaleira Soares, Cailaco (Bobonaro), 14 June 2003; see also Lere Anan Timor, Archives of the *Tuba Rai Metin* Oral History Project, Submission to CAVR, CD No. 18.
8. CAVR interview with Agostinho Carvaleira Soares (former company commander in Fronteira Norte), Cailaco (Bobonaro), 14 June 2003.
9. CAVR interview with Filomeno Paixão de Jesus, Dili, 17 June 2004.
10. CAVR interview with Jacinto Alves (who after 1977 became a staff of Estado Maior das Falintil), Dili, 11 May 2004. See also CAVR interviews with Filomeno Paixão de Jesus, Dili, 17 June 2004; Xanana Gusmão, Dili, 7 July 2004; Taur Matan Ruak, Dili, 9 June 2004.
11. CAVR interview with Lucas da Costa, 21 June 2004.
12. CAVR interviews with Sebastião da Silva ("Mendeo"), Ossu (Viqueque), June 2003; Agostinho Carvaleira Soares, Cailaco (Bobonaro), 14 June 2003; Eduardo de Deus Barreto, Gleno (Ermera), 12 August 2003.
13. CAVR interview with Filomeno Paixão de Jesus, Dili, 17 June 2004.
14. CAVR interview with Filomeno Paixão de Jesus, Dili, 17 June 2004.
15. CAVR interview with Jacinto Alves, Dili, 11 May 2004.
16. CAVR interview with Jacinto Alves, Dili, 11 May 2004.
17. CAVR interview with Lucas da Costa, Dili, 21 June 2004.
18. CAVR interview with Xanana Gusmão, Dili, 7 July 2004.
19. CAVR interview with Lucas da Costa, Dili, 21 June 2004; Xanana Gusmão, Dili, 7 July 2004; Filomeno Paixão de Jesus, Dili, 17 June 2004.
20. CAVR interviews with Lucas da Costa, Dili, 21 June 2004;
21. CAVR interviews with Jacinto Alves, Dili, 11 May 2004; Egas da Costa Freitas, Dili, 19 May 2004; António da Silva; 10 June 2003; José Francisco Silva, 12 January 2004; Fausto do Carmo Mendonça, Remexio (Aileu), 16 October 2003; Fernando Amaral, Los Palos (Lautém), 28 May 2003.
22. CAVR interview with Eduardo de Deus Barreto, Gleno (Ermera) 12 August 2003.
23. CAVR interview with Umbelina Pires, Manumera, (Turiscai, Manufahi) (no date)
24. CAVR interviews with Jacinto Alves, Dili, 11 May 2004; António Amado de Jesus Ramos Guterres, Manatuto, 11 December 2003; Office for Promotion of Equality, Office of the Prime Minister of the Democratic Republic of Timor-Leste, *Written with Blood*, Dili, 2004, pp. 18-19.
25. CAVR interview with Virgílio da Silva Guterres, Dili, 25 May 2004.
26. CAVR interviews with Eduardo de Deus Barreto, Gleno (Ermera), 12 August 2003; Fausto do Carmo Mendonça, 16 October 2003; Caetano de Sousa Guterres, Dili, 22 May 2004.
27. CAVR interview with Lucas da Costa, Dili, 21 June 2004.
28. CAVR interview with Virgílio da Silva Guterres, Dili, 25 May 2004.
29. Office for Promotion of Equality, *Written with Blood*, p. 19.
30. Office for Promotion of Equality, *Written with Blood*, p. 23 mentioned this activity in Modok Zona, Centro Norte Sector.
31. CAVR interviews with Lucas da Costa, Dili, 21 June 2004; Egas da Costa Freitas, Dili, 19 May 2004; see also Office for Promotion of Equality, *Written with Blood*, p. 20.
32. CAVR interview with Lucas da Costa, Dili, 21 June 2004.

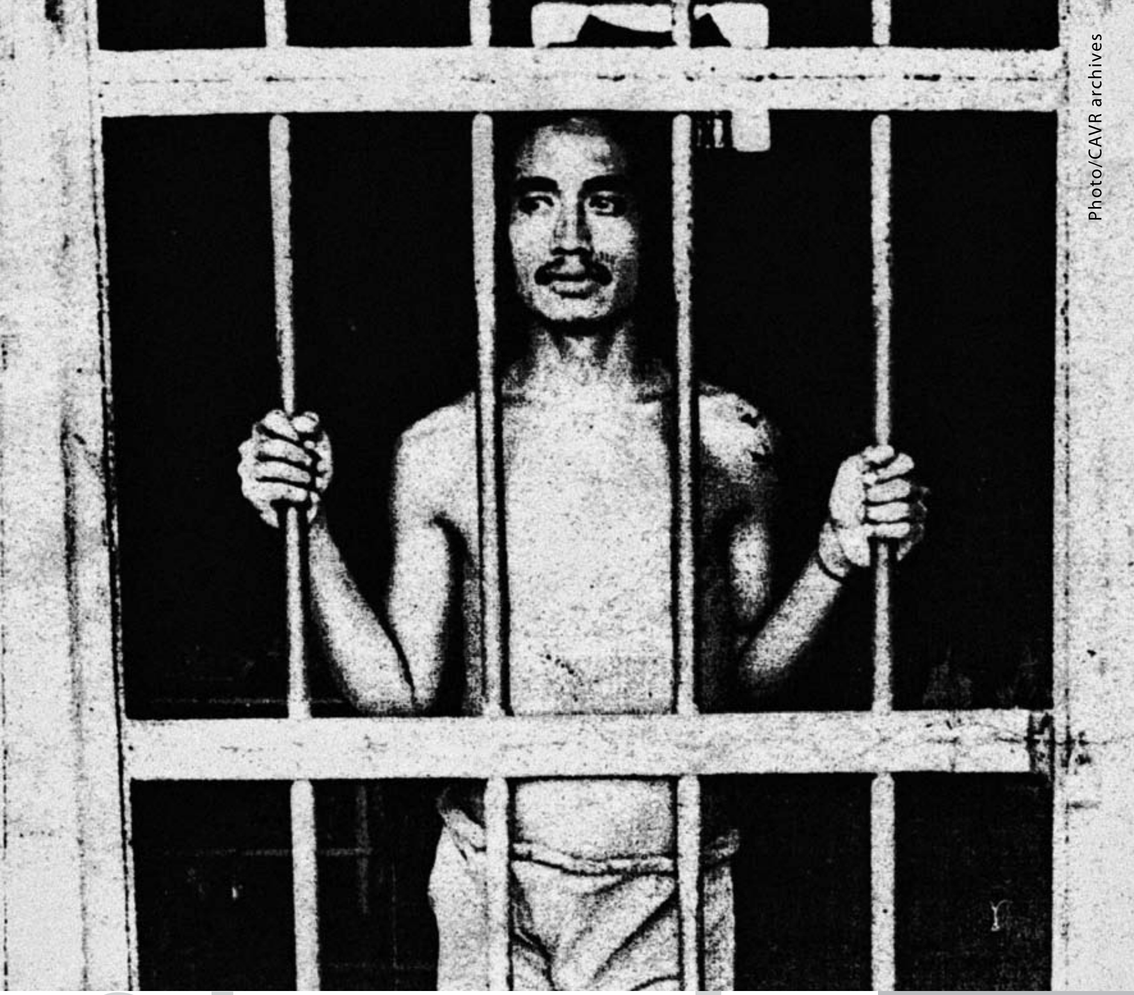
33. CAVR interview with José Francisco da Silva, 12 January 2004; with Taur Matan Ruak, Dili, 9 June 2004; Fausto Carmo Mendonça, Remexio (Aileu), 16 October 2003.
34. CAVR interview with Virgílio da Silva Guterres, Dili, 25 May 2004.
35. Office for Promotion of Equality, *Written with Blood*, p. 23.
36. CAVR interview with Virgílio da Silva Guterres, Dili, 25 May 2004.
37. "Timorese Women 'Are Fighting on All Fronts", *East Timor News*, No. 14, 25 August 1977. This was written by the first OPMT Secretary, Rosa Bonaparte "Muki" and was translated and a little shortened by the *East Timor News* editor.
38. CAVR interview with Jacinto Alves, Dili, 11 May 2004; see also Office for Promotion of Equality, *Written with Blood*, pp. 18-19.
39. Office for Promotion of Equality, *Written with Blood*, p. 21.
40. CAVR interview with Egas da Costa Freitas, Dili, 19 May 2004.
41. CAVR interview with Jacinto Alves, Dili, 5 August 2004.
42. CAVR interview with Gaspar Seixas, Illiomar (Lautém), 29 May 2003, and Jacinto Alves, Dili, 5 August 2004.
43. CAVR interview with Eduardo Jesus Barreto, Gleno (Ermera),12 August 2003.
44. CAVR interview with Xanana Gusmão, Dili, 7 July 2004.
45. CAVR interview with António Amado de Jesus Ramos Guterres, Manatuto, 11 December 2003.
46. CAVR interviews with António da Silva and Raquel da Silva, Ossu (Viqueque),10 June 2003; and CAVR interview with Bernardo Quintão, 4 June 2003.
47. CAVR interview with Alexandrino de Jesus, Hatolia (Ermera), 20 October 2003.
48. CAVR interview with Jacinto Alves, Dili, 5 August 2004. Incidence of torture was also reported by Francisco Gonçalves. CAVR interviews with Francisco Gonçalves, Dili, 14 June 2003; António da Silva and Raquel da Silva, Ossu (Viqueque), 10 June 2003; Domingos Maria Alves, Aileu, 15 October 2003; Filomeno Paixão de Jesus, Dili, 17 June 2004; António Amado de Jesus Ramos Guterres, Manatuto, 11 December 2003; Xanana Gusmão, Dili, 7 July 2004.
49. CAVR interview with Eduardo de Jesus Barreto, Gleno (Ermera), 12 August 2003.
50. CAVR interview with Egas da Costa Freitas, Dili, 19 May 2004.
51. CAVR interview with António da Silva, Jakarta, 11 August 2004.
52. Departamento da Orientação Política e Ideológica (DOPI) Fretilin Central Committee document titled "The National Liberation Movement, Imperialism and the Puppet Parties," approved at the Highest Resistance Board session, Laline (Lacluta, Viqueque), 20 May 1977. This document was published again in ETNA with the title "National Independence is Not Only a Flag and an Anthem", *East Timor News*, No. 36, June 29, 1978.
53. Fretilin, *Manual e Programa Política Fretilin*, 1974, point 3.
54. "Timorese Women 'Are Fighting on All Fronts", *East Timor News*, No. 14, 25 August 1977
55. "Timorese Women 'Are Fighting on All Fronts", *East Timor News*, No. 14, 25 August 1977
56. Fretilin, *Manual e Programa Políticos Fretilin, Manual Políticos*, point 6.
57. Fretilin, *Manual e Programa Políticos Fretilin, Manual Políticos*, point 9.
58. Fretilin, *Manual e Programa Políticos Fretilin, Manual Políticos*, point 10.
59. Helen Hill, *Gerakan Pembebasan Nasional Timor Lorosae*, Yayasan HAK and the SAHE Institute for Liberation, Dili, 2000, pp. 104 and 107.
60. *Manual e Programa Políticos Fretilin, Manual Políticos*, points 11 and 12.
61. Hill, *Gerakan Pembebasan Nasional Timor-Lorosae*, pp. 131-132, 138.
62. *Manual e Programa Políticos Fretilin, Manual Políticos*, point 13.
63. Hill, *Gerakan Pembebasan Nasional Timor-Lorosae*, p. 95.
64. Mari Alkatiri, testimony to the CAVR national public hearing on The Internal Conflict 1974–1976, 15–18 December 2003; CAVR interview with Mari Alkatiri, Dili, 25 June 2004.
65. CAVR interviews with Mari Alkatiri, Dili, 25 June 2004 and Francisco Xavier do Amaral, Dili, 18 June 2004; Jill Joliffe, *East Timor: Nationalism & Colonialism*, St. Lucia, Queensland, University of Queensland Press, 1978, p. 90.
66. See the testimonies of Mario Carrascalão, João Carrascalão, and Francisco Xavier do Amaral to the CAVR national public hearing on The Internal Conflict 1974–1976, 15–18 December 2003; See also Hill, *Gerakan Pembebasan Nasional*, p. 126.

67. CAVR interview with Francisco Xavier do Amaral, Dili, 18 June 2004.
68. CAVR interviews with Egas da Costa Freitas, Dili, 19 May 2004; Taur Matan Ruak, Dili, 9 June 2004; Xanana Gusmão, Dili, 7 July 2004.
69. CAVR interviews with Xanana Gusmão, Dili, 7 July 2004; Egas da Costa Freitas, Dili, 19 May 2004; Filomeno Paixão de Jesus, Dili, 17 June 2004; Taur Matan Ruak, Dili, 9 June 2004; and Lucas da Costa, Dili, 21 June 2004.
70. CAVR interview with Egas da Costa Freitas, Dili, 19 May 2004.
71. "National Independence Is Not Only a Flag and an Anthem", *East Timor News*, No. 36, 29 June 1978, p. 2.
72. CAVR interview with Marito Reis, Dili, 19 June 2003.
73. CAVR interviews with Egas da Costa Freitas, Dili, 19 May 2004, Jacinto Alves, Dili, 11 May 2004; and Albino da Costa, Soibada (Manatuto), June 2003.
74. CAVR interview with Taur Matan Ruak, Dili, 9 June 2004.
75. CAVR interviews with Xanana Gusmão, Dili, 7 July 2004 and Francisco Xavier do Amaral, Dili, 18 June 2004.
76. CAVR interview with Lucas da Costa, Dili, 21 June 2004.
77. CAVR interview with Lucas da Costa, Dili, 21 June 2004.
78. CAVR interviews with Filomeno Paixão de Jesus, Dili, 17 June 2004; and Jeronimo Albino, Aifu (Ermera) 10 September 2003.
79. CAVR interview with Xanana Gusmão, Dili, 7 July 2004.
80. CAVR interview with António da Silva, Jakarta, 11 August 2004.
81. CAVR interview with Xanana Gusmão, Dili, 7 July 2004.
82. CAVR interview with Egas da Costa Freitas, Dili, 19 May 2004.
83. CAVR interview with António da Silva, 11 August 2004.
84. Lere Anan Timor, Archives of the *Tuba Rai Metin* Oral History Project, Submission to CAVR, CD No. 18.
85. Lere Anan Timor, Archives of the *Tuba Rai Metin* Oral History Project, Submission to CAVR, CD No. 18.
86. Xanana Gusmão, "Autobiography" in Sarah Niner (ed.), *To Resist is To Win! The autobiography of Xanana Gusmão with selected letters and speeches*, Aurora Books, Victoria, 2000, p. 50; Ernest Chamberlain, *The Struggle in Iliomar: Resistance in Rural East Timor*, Point Lonsdale, 2003, p. 16.
87. Xanana Gusmão, "Autobiography" in *To Resist is To Win!,* p. 32; see also CAVR interview with Xanana Gusmão, Dili, 7 July 2004.
88. Xanana Gusmão, "Autobiography" in *To Resist is To Win!*, p. 32-33
89. CAVR interview with Jacinto Alves, Dili, 16 Mei 2005.
90. CAVR interview with Francisco Xavier do Amaral, part III, Dili, 18 June 2004.
91. CAVR interviews with Lucas da Costa, Dili, 21 June 2004 and Xanana Gusmão, Dili, 7 July 2004.
92. CAVR interview with Lucas da Costa, Dili, 21 June 2004.
93. CAVR interviews with Jacinto Alves, Dili, 11 May 2004 and Xanana Gusmão, Dili, 7 July 2004.
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Part 6.

The Profile of Human Rights Violations in Timor-Leste, 1974–1999

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Tables:

Graphics:

6. The Profile of Human Rights Violations in Timor-Leste, 1974–1999

Introduction

1. In order to achieve the core objectives of its truth-seeking mandate, the Commission developed a number of programmes, including both qualitative empirical research and quantitative statistical analysis. This part presents the findings that resulted from the Commission's statistical work and discusses the methodological approaches used to reach these findings.

2. The introductory section (par. 1-23), provides a brief summary of key findings, an overview of the historical context in which the Commission undertook its demographic and statistical work, and an outline of the Commission's information management decisions.

3. The next section (par. 24-97) presents the Commission's demographic and statistical estimates of the total extent, pattern and trend of, as well as the levels of responsibility for, fatal violations in Timor-Leste between 1974 and 1999. These estimates are derived from statistical and demographic analyses of data collected by the Commission and from external data from official statistical bureaus and human rights NGOs. Although displacement is not necessarily a fatal violation, it is nonetheless closely linked to both conflict-related and famine-related fatalities. Therefore, the analysis of large-scale displacements is included in this section.

4. The next section (par. 98-177) presents an analysis of general patterns of non-fatal violations. The Commission was unable to find sources containing extensive information about non-fatal violations other than its own testimonies. Consequently the Commission was unable to make rigorous quantitative estimates of the total magnitude of non-fatal violations during 1974-99. The statistical analysis described in this section therefore focuses on a macro-level view of patterns and trends of non-fatal violations as revealed in the statements given to the Commission.

5. The following section (par. 178-204) presents a statistical case study of violations reported by the community of the village of Mau Chiga in the context of uprising by the Resistance in their area that took place in August 1982, and the subsequent crackdown by the Indonesian armed forces. This case study is used to highlight the patterns and trends of arbitrary detention, forced displacement and conflict-related deaths which were experienced during the "consolidation

and normalisation" phase of the Indonesian occupation of Timor-Leste in all regions of the territory.*

6. The final section (par. 205-206) provides a brief summary and conclusion to the Part.

7. In addition, the Annexe to this Part describes the data collection and statistical techniques used to derive the Commission's statistical findings. It presents methodological background and detailed discussion about the various datasets, data processing methods used, record linkage techniques developed, and the analysis and estimation techniques employed.

Summary of key findings

Fatal violations

8. The Commission estimates that the minimum-bound for the number of conflict-related deaths during the Commission's reference period, 1974–1999, is 102,800 (+/- 12,000). This estimate is derived from (i) an estimate of 18,600 total killings (+/- 1000) using multiple systems estimation (MSE) techniques and (ii) an estimate of 84,200 (+/- 11,000) deaths due to hunger and illness which exceed the total that would be expected if the death rate due to hunger and illness had continued as it was in the pre-invasion peacetime period.

9. The estimated pattern of fatal violations over time shows a high concentration of killings and deaths due to hunger and illness during the initial post-invasion period between 1975 and 1980. The number of deaths attributed by respondents to "hunger or illness" rose to its highest level during the immediate post-invasion period, 1975-80. However, 1999 marked a high point for estimated killings, 2,634 (+/- 626).

10. The pattern and trend of deaths due to hunger and illness and to killing are positively correlated over time, suggesting that both phenomena have the same underlying cause during the first phase of the conflict. Of the killings and disappearances reported during the Commission's statement-taking process, 57.6% (2,947/5,120) of the perpetrator involvement in fatal violations was attributed to the Indonesian military and police, and 32.3% (1,654/5,120) to East Timorese auxiliaries (such as the militias, civil defence forces and local officials who worked under the Indonesian administration).

Displacements

11. Displacement was widespread: 55.5% of surveyed households reported one or more displacement events, for a total of 2,011 reported displacement events between 1974 and 1999.†

* In this Part, for the purposes of its quantitative research methods, the Commission defines regions in the following way: the Eastern Region comprises Lautém, Viqueque, Baucau and Manatuto; the Central Region comprises Manufahi, Aileu, Dili and Ainaro; and the Western Region comprises Ermera, Liquiçá, Covalima and Bobonaro.

† At the time of the 1990 census there were approximately 4.5 people per household. The 2004 census recorded an increase to about 4.75 people per household (924,642/194,943). The nominal confidence interval is 51.8-59.2% of households.

12. Most displacements occurred between 1975 and1980. The maximum years are 1975 and 1976, with 61,400 (+/- 13,300) and 59,800 (+/- 7,200) displacement events respectively. The number of displacement events in 1999 was substantially fewer, with approximately 28,100 (+/- 5,600) events.

13. Most displacements were local. Of all displacement events, 54.3% were within a sub-district, 15.6% were within a district, 17.4% were within a region, 9.3% were within Timor-Leste, and 2.4% were outside of Timor-Leste.* This finding may be limited by the restriction that people in refugee camps in West Timor were not interviewed. Many displacements occurred in rapid succession: 22.2% of displacement events lasted one month or less, and 50.1% lasted one year or less. However, other displacements were very long, so that the mean displacement period lasted 46.7 months.†

14. The institution that respondents reported most frequently as the group telling them to move was the Indonesian military (46.4%), followed by Fretilin/Falintil (15.0%) and militia groups (8.8%).‡ Respondents reported that "conflict" motivated 52.3% of all their displacements, with "forced by Indonesian military" contributing an additional 16.3%.

Non-fatal violations

15. The temporal pattern of reported non-fatal violations was similar to that for fatal violations: massive non-fatal violations during the initial invasion and occupation years were followed by relatively low-level violence during the consolidation and normalisation years and an increase of violations in 1999. Non-fatal violations around the time of the Indonesian invasion in 1975 were most intense in the western and central regions; after 1976 the focus of non-fatal violations shifted to the eastern region.

16. The observed statistical pattern of reported detention and torture suggests that over time (and particularly after 1984) the practice of arbitrary detention became more targeted and was used more regularly in combination with acts of torture. In the early invasion years there are approximately three reported cases of detention for each reported case of torture. After 1985 the two violations appear to be more closely linked, with approximately the same number of reported detentions and reported acts of torture each year.

17. Overall the Commission's quantitative findings are consistent with the hypothesis that individuals who were held in detention during the Commission's reference period were subject to increased vulnerability to torture or ill-treatment. Torture and ill-treatment were reported much more frequently among victims who were held in detention during the Commission's reference period: of the torture violations documented by the Commission, 83.6% (9,303/11,123) were suffered by victims who had experienced detention during the conflict. The abuses which were most often committed during known periods of detention were torture (46.9%, 4,267/9,094), ill-treatment (30.8%, 2,798/9,094) and threats (7.0%, 634/9,094).

* The nominal margin of error is +/- 10.4% for displacement within a sub-district, and 4.6% or less for the other estimates.

† The nominal confidence interval is 41-52 months.

‡ The nominal margin of error is +/- 4.2%.

18. The demographics of victims varied for different violation types. Relative to the overall East Timorese population middle-aged males experienced the highest rates of non-fatal violations such as detention, torture and ill-treatment. By contrast sexually-based violations were almost exclusively targeted against women, with 90.2% (769/853) of reported sexually-based violations being experienced by women.

19. The Commission's quantitative data suggest a notable difference in the pattern of responsibility for non-fatal violations between 1975 and 1998 relative to non-fatal violations in 1999. In particular, between 1975 and 1998, 51.7% (11,658/22,547) of acts of arbitrary detention are attributed to the Indonesian military acting alone relative to 8.4% (1,897/22,457) of acts of detention which were solely attributed to East Timorese auxiliaries or jointly to both the Indonesian occupying force and their East Timorese auxiliaries. However, of the acts of arbitrary detention in 1999 documented by the Commission, 75.7% (2,104/2,779) were attributed to either the East Timorese auxiliaries acting alone or in collaboration with the Indonesian military and police. 19.2% (534/2.779) of documented acts of detention which occurred in 1999 were attributed to the Indonesian military alone.

Overview of the Commission's information management and data collection methods

20. Most truth commissions base their empirical findings principally on databases derived from the large-scale collection of qualitative testimonies. In this, the CAVR was no different from the commissions in Haiti, South Africa or Peru. In other countries the truth commissions were able to draw on substantial additional information that had been collected by governmental and non-governmental human rights projects. Additional sources are important in order to "triangulate" or understand the patterns and magnitude of human rights events from perspectives other than a commission's own qualitative material. Without outside corroboration, the work of commissions could be dismissed as partisan.

21. The Commission did not have massive external sources available, so new sources were created. First, the Commission developed a Human Rights Violations Database (HRVD) from the narrative testimonies which it collected through direct witness and victim declarations. This was part of the Commission's community socialisation process, which sought to address truth-seeking objectives and to promote reconciliation and reception. The Commission used the HRVD narratives for both qualitative and quantitative research.

22. Second, the Commission developed a retrospective mortality survey (RMS) of 1,396 households that were randomly selected from Timor-Leste's approximately 180,000 households. Each sampled household gave information about their residence pattern and household members and relatives who died during the Commission's mandate period. Mortality surveys of this kind are common among governmental statistical offices to assess health conditions or to adjust censuses. Inter-governmental health authorities and academic demographers and epidemiologists also conduct surveys of this kind. However, no truth commission has ever before conducted a rigorously sampled household survey.

23. A third dataset collected by the Commission was the graveyard census database (GCD). Public cemeteries in Timor-Leste were visited, and the name, date of birth and date of death was recorded for every grave on which this information was present. Approximately 327,000 grave records were collected; after duplicate enumerations are removed, there are approximately 319,000 unique graves in the sample, of which about half have complete name and date information. Cemetery records have been used by historical demographers to reconstruct historical patterns of mortality, but no truth commission has ever used data of this kind before as part of the reconstruction of historical memory. In the world of human rights measurement these are valuable innovations which greatly enrich our understanding of the past.

Historical violation estimates in Timor-Leste and their limitations

Historical estimates of the conflict-related death toll in Timor-Leste (1974–1999)

24. The scale of conflict-related mortality during Indonesia's occupation of Timor-Leste has been the subject of considerable debate: estimates range from a low of 40,000 to more than 200,000.* The best-informed commentators have concluded their analyses by recommending that direct evidence be gathered and analysed to arrive at a more reliable estimate. For example, the historian Robert Cribb suggests that there are five techniques for measuring total deaths:

- perpetrators' accounts
- counting physical bodies or graves
- capturing historical memory through interviews
- indirect estimates via census records
- "intuitive" estimates projected from informed observers' understanding of local conditions.

25. Cribb laments that in 1999–2001, at the time that he published a series of papers on the subject, all the available estimates to date, including his own, were limited to the two weakest methods: indirect and intuitive estimates. In his extensive review of estimates of conflict-related mortality in Timor-Leste, John Waddingham writes: "We have to concede, however, that it is not yet possible to produce from available evidence, a quantitatively accurate, generally agreed figure on the death toll in Timor-Leste."[1]

* Estimates based on official Portuguese, Indonesian and Catholic Church data suggest an overall magnitude of approximately 200,000 deaths. See, for example, Ben Kiernan, "The Demography of Genocide in Southeast Asia: The Death tolls in Cambodia, 1975-79, and East Timor, 1975-80", *Critical Asian Studies* 35:4, (2003), pp. 585-597, and Geoffrey Gunn, *East Timor and the United Nations: The Case for Intervention*, Red Sea Press, Lawrenceville, NJ:1997, pp. 26-27. On the lower side, see Robert Cribb, "How Many Deaths? Problems in the statistics of massacre in Indonesia (1965–1966) and East Timor (1975–1980)", in Ingrid Wessel and Georgia Wimhoefer, eds. *Violence in Indonesia*, Abera-Verl, Hamburg: 2001. John Waddingham offers a review of estimates derived from "intuitive" and indirect methods: see John Waddingham, "Timor-Leste Death Toll Claims: a Proposal for Listing and Critical Commentary," Submission to CAVR, 14 July 2003.

26. The Commission was acutely aware of the sensitivity and importance of the estimation of total and disaggregated mortality patterns. Other truth commissions (particularly those in El Salvador, Guatemala and Peru) benefited from the existence of extensive, if still partial, registries of deaths that had been documented before the commissions began their work. Information of this kind was not available to the CAVR, and so three new datasets were created: a qualitative survey of respondents self-motivated to give testimony to the Commission; a probability sample of 1,396 households from which retrospective conflict-related mortality histories were taken; and a census of public graveyards in Timor-Leste. These sources fit Cribb's second and third definitions of data sources that could be used to analyse mortality.

27. While human rights activists sometimes cited the large variation in estimates as evidence of high mortality resulting from the Indonesian occupation of Timor-Leste, a possible explanation may be the lack of reliable population and demographic data for the period. The last population census in Timor-Leste before the Indonesian invasion was carried out by the Portuguese colonial administration in 1970. Censuses were conducted by the Indonesian authorities in 1980 and 1990, but their accuracy is questionable. The East Timorese population's suspicion, fear and general resistance to the government conducting the census combined with its frequent displacement introduced significant measurement challenges.

28. Even if the 1980 and 1990 census figures were accurate, their inclusion of only population counts without disaggregating by key demographic variables data (such as age and sex) substantially reduces social scientists' ability to apply standard demographic estimation techniques to the official population data. Non-governmental sources of population information are also of limited value due to the severely restricted access independent monitors and humanitarian groups had to Timor-Leste during the conflict. In the context of Timor-Leste, the demographer Terence Hull noted that "the variety of estimates in the BPS (Biro Pusat Statistik, Central Statistical Bureau) publications is not an indication of political manipulation of data, but rather the real difficulty of ascertaining mortality levels for small populations when using indirect demographic methods of estimation."[2] Given these limitations, the scientific debate about mortality in Timor-Leste has been unresolved.

29. Many of the problems facing earlier analysts were resolved by the publication of the preliminary results of the 2004 Timor-Leste census in March 2005. The Commission's mortality analysis has drawn heavily on the new census data to weight survey results appropriately.

Previous evidence on forced migration and displacement

30. Large sectors of the population were displaced during the conflict, especially during the early years of the occupation (1975-80) and in 1999. For example, according to Indonesian official figures, either 268,644 or 318,921 "displaced

persons" were held in a total of 15 centres in December 1978.[3] Qualitative reports and the Commission's own research show that people were forcibly moved to resettlement camps where a highly restrictive security regime severely limited their opportunities for growing food crops and their access to food sources (see Vol. II, Part 7.3: Forced Displacement and Famine). As with the estimation of conflict-related fatalities, accurate demographic analysis of displacement in Timor-Leste, especially in the early invasion years is complicated because there are few existing data. This is largely due to the absence of a systematic, country-wide administrative registration system and the limited access to the civilian population permitted to international humanitarian and human rights organisations during the conflict.

Non-fatal violations in Timor-Leste

31. The extent and depth of information about the human rights situation in Timor-Leste during the Indonesian occupation varied over time. In particular, access to the territory by international human rights monitors was severely restricted by the Indonesian government. Furthermore, the access of international humanitarian agencies (such as the ICRC and Catholic Relief Services) to the territory was restricted to particular areas and particular time periods. International organisations' limited physical access to the territory significantly shaped the international community's knowledge about the human rights situation in Timor-Leste.

Fatal violations: analysis

Background and overview of statistical analysis of fatal violations

32. In the analysis of mortality due to conflict in Timor-Leste, various authors have used varying terms for the manner in which people died. For example, a 2002 essay notes that in Maubisse, 5,021 of the 9,607 inhabitants alive in 1975 were killed by April 1979.[4] However, the original source for this claim says that the village had "lost" these people, that is, they died in unspecified ways.[5]

33. The analysis presented here distinguishes between civilian deaths due to violence, called killings; deaths due to hunger and illness, some of which resulted from the conflict; deaths of combatants; and other deaths.* Only the patterns and magnitude of killings of civilians, deaths due to hunger and illness, and disappearances will be estimated and analysed.

34. The distinction between deaths due to hunger and illness and killings is useful for two reasons. First, the person who or institution which causes deaths due to deliberate violence has an immediate and obvious responsibility for those deaths,

* The "other" category included accidents and maternal mortality, among other causes. These deaths were not identified specifically in the questionnaire.

while responsibility for deaths due to hunger and illness is more complex. Second, there were substantially fewer killings than deaths by hunger and illness in Timor-Leste between 1975 and 1999. The methods used here to estimate the total number of killings were more precise and underestimate the total less severely than the estimates of the number of deaths due to hunger and illness.

35. In the sections below, estimates are presented rounded to the nearest hundred in order to signify that the estimates are always approximate and should be interpreted within margins of error. However, specific counts of documented deaths are listed precisely since these numbers are known exactly. The underlying statistical data have been made available so that scholars can continue to analyse the patterns of deaths due to killings and hunger and illness in Timor-Leste during the Indonesian occupation.*

36. Both killings and deaths due to hunger and illness were at higher levels in the immediate post-invasion period, from late 1975 until 1979, than in previous years or at any time until 1999. Both series peak again in 1999, though killing reaches its highest peak since 1975-79 then while hunger and illness have a much smaller peak than in the 1975-79 period. The Commission's analysis suggests that during the period 1975-99, approximately 18,600 non-combatants were killed. Furthermore, we estimate that more than 100,000 people died in excess of the peacetime baseline rates of death due to hunger and illness.

37. The two series – killings and deaths due to hunger and illness – follow the same pattern: the correlation coefficient between the annual estimates (described below) of the number of killings and deaths due to hunger and illness is 0.81, a very high level for most social science findings.† Analysis of patterns of displacement suggests that displacement was at its highest levels in the period 1975-79. The high correlation between estimated numbers of killings, deaths due to hunger and illness, and displacement suggests that they are responding to similar underlying conditions. That is, the three phenomena are likely to have a common cause. The pattern of rapid increase in killings, deaths due to hunger and illness, and displacement at the beginning of the Indonesian occupation is consistent with the claim that the occupation caused the increased mortality.

Objectives of analysis

38. The analysis begins with an overview of the data and methods relevant to the analysis of fatal violations and displacement. In Section 6.2.4, the estimates of the number of killings and deaths due to hunger and illness are presented. For each manner of death, RMS and MSE estimates are presented and compared. The displacement section reviews the estimated total displacement events and the number of displaced households over time and space. In Section 6.2.5 descriptive

* See http://www.hrdag.org/timor for copies of the statistical data. Note that there is no personally identifiable information about witnesses, victims, or perpetrators in these data.

† The correlation relates the MSE estimated annual number of killings to the RMS estimated number of deaths due to hunger and illness.

analysis of the deaths reported to the Commission in the HRVD is presented. The analysis considers the patterns over time, space, collective deaths, demography and political affiliation of victims, institutional responsibility, and the relationship between detention and conflict deaths.

Overview of data and methods

39. The estimates of the patterns and magnitude of mortality are based on the three original data sources collected by the Commission, including:

- The Human Rights Violations Database (HRVD) contained the narratives of 7,669 deponents about violations they suffered or witnessed during the 1974-99 period.* These narratives included information about deaths by deprivation [of food and medication] and killings of civilians. The respondents selected themselves to give reports to the Commission. Therefore, the results of this project may not represent the entire universe of all people who suffered human rights violations.
- The Retrospective Mortality Survey (RMS) recorded the mortality histories of a probability sample of 1,396 households. In each household, two adult respondents were chosen at random. For male respondents, the respondent's parents and siblings were enumerated, including whether they are living or dead. If they were dead, the date, place, and manner of death were recorded. For female respondents, the respondent's children were enumerated in a similar fashion. In 60% of the households, only respondents of one sex were available at the time of the interview, and so one respondent gave information about parents, siblings and children.
- A census of public graveyards in Timor-Leste, documenting more than 319,000 graves (denoted GCD).

40. Each data source documents only a small fraction of the total number of deaths in Timor-Leste during 1975-99. Even in the absence of conflict, not all of the dead are buried in public graveyards; some people are buried in remote locations or in private family graveyards. When mortality conditions are especially severe, relatively fewer people are buried with formal markers. Markers degrade over time, so that by the time the graveyard census was taken in 2003-04, many graves could not be documented because their information is illegible. Other markers were destroyed entirely in the period between the burial and the time the GCD was collected.

41. The RMS reflects the experiences reported in 1,396 households but omits the experiences of nearly 190,000 households not sampled. The HRVD reflects the experience of 7,669 respondents, but approximately 940,000 other East Timorese did not give testimonies to Commission. However, even if the HRVD and RMS did reflect the experience of every living person in Timor-Leste, many deaths would still

* Commission teams collected a total of 7,824 statements. Some of these (155 statements) were not entered into the HRVD because they either did not mention violations connected to the Commission's mandate, or the violations which they mentioned were not within the Commission's reference period.

remain undocumented because all the people who could remember them have died, left the country, or were psychologically or physically unable to recount the stories during the data collection period. In villages where mortality was especially heavy, there may have been no witnesses who survived until 2002-03. Other families may have left Timor-Leste entirely, taking with them their social memory of the deaths. Still other families may have decided to keep secret their past experiences, so it may not be possible to directly document deaths in their family directly. Social memory is always partial.

42. The RMS uses standard household survey techniques based on the reported deaths to estimate the total number of killings, deaths by hunger and illness, and combatant deaths. However, these totals are estimates of the total number of deaths *that were possible to be remembered by current residents of Timor-Leste*, which is a subset of the total deaths that actually happened. The ratio of the deaths remembered by current residents to all deaths is called the coverage rate.

43. An alternative method for estimating total deaths uses multiple systems estimation (MSE). This method is used to correct censuses by comparing coverage among different documentation projects. MSE estimates of the number of deaths due to hunger and illness and due to killings are presented and compared to the RMS estimates. For killings, the MSE estimates are more appropriate, while for the estimated total number of deaths due to hunger and illness, the RMS estimates are more appropriate.*

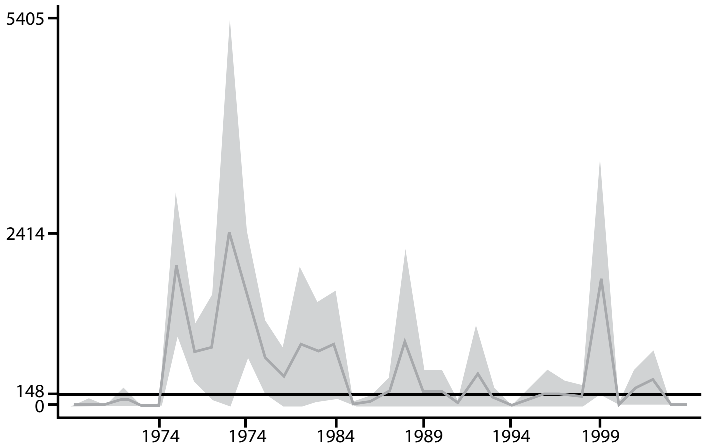
Estimates of killings, deaths due to hunger and illness, and displacement

Killings

44. The annual total number of killings can be estimated from the RMS, and the results are presented below. This figure follows relatively high levels of killings in the 1975-79 period, with additional peaks in the early 1980s and a spike in 1999. There are 16,000 total killings estimated by the RMS, with a margin of error of +/- 4,400. The RMS estimate of killings is based on only 235 reported killings. Consequently, the error is substantial, as seen by the many years for which the error bands touch zero. For these years, the hypothesis that the estimated number of deaths is zero cannot be rejected. Furthermore, the error bands are sufficiently wide that many different patterns could be possible.

* MSE is widely used in estimating the under-reporting levels in population censuses [see for example J. G. Robinson, B. Ahmed, P. Das Gupta and K. Woodrow, "Estimation of Population Coverage in the 1990 United States Census Based on Demographic Analysis", *Journal of the American Statistical Association, 88* (423), 1992, pp. 1061-1071].

Estimated total killings in Timor-Leste based on RMS

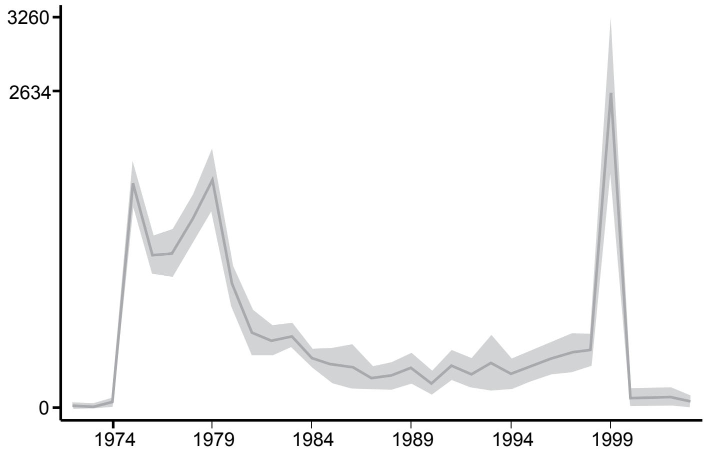


- Total estimated deaths by deprivation: 16090 (+/– 4426)

Source: Retrospective Mortality Survey conducted by CAVR

45. As with deaths due to hunger and illness, it is possible to estimate the annual total number of killings using multiple systems estimation (MSE). For killings, the CAVR testimonies (denoted HRVD) document nearly one-third of the total estimated killings, whereas as mentioned above, there are only 235 documented killings in the RMS. Consequently, the MSE for killings combines the GCD and the HRVD data. The results are shown in the total Killing in Timor-Leste Figure. The MSE estimates 18,600 total killings (+/- 1000). The vertical axis notes the maximum of the error (3,260) and the maximum estimated value (2,634), both of which occur in 1999. The pattern over time is much clearer in the MSE than in the RMS survey estimate: the estimated total number of killings rises from nearly zero (no killing) in the pre-invasion period to peaks in 1975 and 1979. Killings decline thereafter and through the 1980s and 1990s. A spike in 1999 marks the highpoint of estimated killings, significantly greater than in any other year.

Estimated total killings in Timor-Leste using HRVD and GCD data



- Estimated total killings, 1975–1999: 18571 (+/– 982)

Source: MSE using HRVD+GCD, by CAVR

46. The killing estimates suffer from an important lacuna in the data: 1991 should have a small peak representing the Santa Cruz massacre, but insufficient reports of the event were captured to estimate the killings in that year correctly. The estimate for 1991 is actually slightly lower than the estimate for 1990. This illustrates a problem with all large-scale data collection: killings are relatively rare events across the entire population, so probability samples are unlikely to capture specific events (for example, there were no reports of Santa Cruz in the RMS). In qualitative reports such as the HRVD, investigative resources must be specifically devoted to specific events, or there is no guarantee the events will be documented. Although the HRVD received more than 20 reported deaths for this event, this is only a small fraction of the total. Much smaller events were more thoroughly covered, and so the estimates over time do not accurately reflect the importance of 1991.*

47. Unlike for deaths due to hunger and illness, killings are unlikely to be substantially underestimated. First, killings are less likely to affect entire families than hunger and illness deaths, so there are more likely to be surviving relatives to report these events. Second, the ratio of documented killings to estimated killings (the coverage rate) is 0.637, which is higher than the ratio of documented hunger and illness deaths to estimated hunger and illness deaths (0.513). The higher coverage rate for killings means that MSE itself could correct better for the unreported killings than for the unreported deaths due to hunger and illness. Furthermore, killings are relatively rare, and so the kind of speculative analysis using census-based crude death rates (CDR) conducted for

* Note that the margin of error specifically represents "holes" in the data of this kind. That is, by its nature sampling only captures information on a small number of the total events. Some large events (such as the Santa Cruz Massacre) may be missed. The estimated error of the estimated total number of events is designed to reflect the uncertainty around the estimated total, including the fact that some large events may be missed.

deaths due to hunger and illness is not possible for killings. On these grounds, we find that there were approximately 18,600 killings, with a margin of error +/- 1000.

Deaths due to hunger and illness

48. The analysis of the total number of deaths by hunger and illness begins with an analysis of the total estimated deaths from the RMS, and the results are presented below in the Total Deaths Due to Hunger or Illness in Timor-Leste Figure.* The estimated deaths are presented against a baseline of deaths projected from the 1972-74 death rates due to hunger and illness (described below). The number of deaths attributed by respondents to "hunger or illness" rises to its highest levels during the immediate post-invasion period, 1975-80. During the period 1983-98 the estimated total fluctuates around a median of 3,632 estimated annual deaths. The annual total rises slowly during the 1990s, reaching a final peak in 1999.†

49. The total estimated number of deaths due to hunger and illness in 1975-99 is approximately 143,700, with a margin of error of approximately +/- 11,000.‡ Some of these deaths are natural in the sense that they would have occurred in the absence of conflict or famine. An assessment of deaths that could be attributed to the conflict must consider first how many deaths would probably have occurred as a result of hunger and illness in the absence of the conflict.

50. The immediate pre-invasion years 1972-74 provide a peacetime baseline of natural deaths due to hunger and illness. First, to create a baseline population, population estimates for 1971–2003 were interpolated between the total reported in the 1970 Portuguese census (609,477) and the 2004 census total (924,642). From the RMS, the estimated number of deaths due to hunger and illness in 1972-74 was approximately 1,686-2,252. Death rates for each year were computed by dividing the projected population for each year by the RMS estimated number of deaths for that year. Thus, the average of the 1972-74 annual death rates due to hunger and illness was calculated.

51. The estimated death rate (3.1 deaths per 1,000 people) was applied to the projected population for each year through 2003.§ These estimated death rates form the baseline shown in the Total Deaths Due to Hunger or Illness in Timor-Leste Figure. By subtracting the peacetime baseline projection from the annual RMS estimate, there are 84,200 excess deaths due to hunger and illness (+/- 11,000).¶ These deaths constitute

* The data are insufficient for a three-system estimation of the deaths by hunger and illness.

† As discussed in the methodological section, the slow rise in estimated deaths due to hunger and illness from the early 1980s through the late 1990s is a consequence of increasing population and a decrease in the number of deaths that are lost because no relatives survived until 2004 to be surveyed.

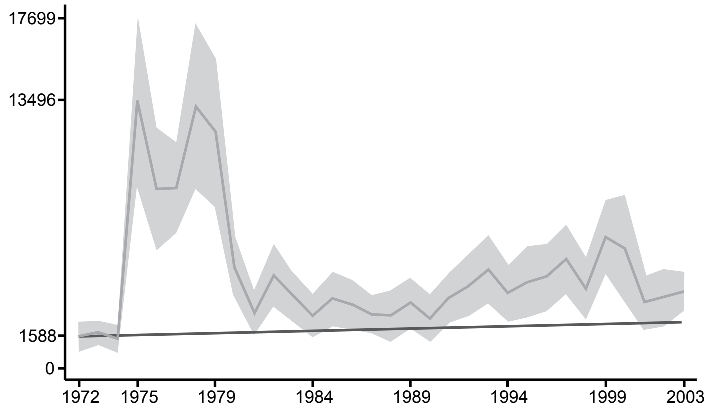
‡ The total margin of error is calculated by taking the square root of the sum of the variances of the annual estimates and multiplying by the conventional 1.96 to create a 95% confidence interval.

§ This baseline rate (3.1 deaths per 1,000 people) is low: the regional average for Southeast Asia in the early 1970s was 12-14 per 1,000. The methodological appendix addresses how the underestimates could be adjusted using census-based estimates of the crude death rate (CDR). However, adding the census-based measures requires many assumptions about the quality of the CDR estimates. The core findings presented here are based only on the 1970 and 2004 census estimates and the data collected by the Commission.

¶ The margin of error of the excess deaths is calculated in the same way as the total margin of error, including the standard error only of the years which contribute to the excess total.

the estimate from the RMS of the deaths which exceed the total that would be expected if the death rate due to hunger and illness had continued as it was in the pre-invasion peacetime period.

Estimated total deaths by hunger/illness in Timor-Leste based on RMS



- Total estimated deaths by hunger/illness, 1972–2003: 161098 (+/– 10962)
- Total estimated deaths by hunger/illness, 1975–1999: 135017 (+/– 10251)
- Deaths in excess of estimated baseline, 1975–1999: 86539 (+/– 10251)

Source: Retrospective Mortality Survey conducted by CAVR

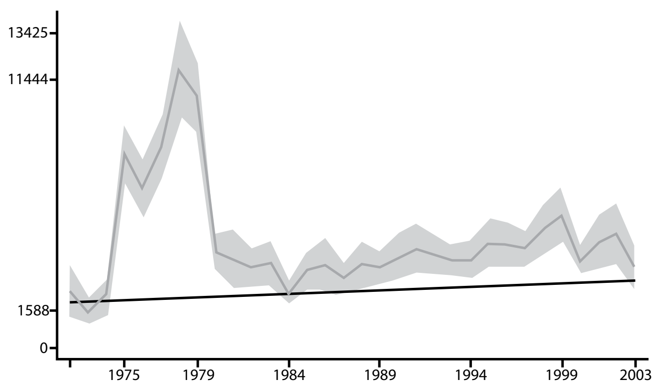
52. An alternative method for estimating the approximate total number of excess deaths is to calculate a two-system MSE using the RMS and GCD. This should be approached with caution, for two reasons. First, the number of reported hunger and illness deaths in the RMS in 1974-99 (2,231) is small relative to the RMS total estimate of deaths due to hunger and illness (143,700). Second, two-system estimates can be biased as a result of uncontrolled correlation between the systems.* For example, if people who died who were unlikely to be buried in a public graveyard were also unlikely to be remembered by survey respondents, then the two systems would have a positive correlation. Note that this correlation is likely in the immediate post-invasion years when many people were living in very difficult conditions, at first moving constantly and later being held in resettlement camps. Both conditions would tend to lead both to catastrophic deaths of entire groups and to situations in which relatively few people were buried in public graveyards with permanent markers. The positive correlation between the GCD and RMS in extraordinary years would bias the two-system estimate downward, potentially significantly.

* As mentioned earlier, the data are inadequate for three-system models of deaths due to hunger and illness. There are 5,101 deaths due to hunger and illness reported in the HRVD, approximately twice as many as in the RMS, but this is nonetheless a small fraction of the expected total number of deaths due to hunger and illness. The RMS is used in preference to the HRVD because the RMS was collected by a probability sample. The HRVD is a convenience sample, and using it would require the assumption that all deaths in each year had the same probability of being documented. See the methodological appendix for an explanation of how the MSE was calculated.

53. The MSE estimates are shown in the Total Deaths Due to Hunger or Illness in Timor-Leste Figure. The total estimated deaths by hunger and illness in 1975-99 is approximately 123,500 (+/- 5,200).* The estimated deaths in excess of what would be expected by the peacetime baseline is 75,000 (+/-5,200). The MSE estimate is lower than the survey estimate, which is consistent with the hypothesis that there is positive correlation between the RMS and the GCD. The median number of deaths due to hunger and illness during the "normal" occupation years, 1983-98, as estimated by MSE (3,727) is similar to the value found by the survey (3,632). That is, the survey estimates and the MSE estimates for "normal" occupation years are similar, but the RMS has higher estimates for the extraordinary years. It is likely that during normal years, relatively fewer deaths occur in catastrophic events that eliminate entire families (causing survey underreporting), and relatively fewer people who died are left outside public graveyards. Consequently, during normal years, the MSE and the survey provide similar estimates. During extraordinary years, both methods underestimate total deaths due to hunger and illness, but the MSE underestimates slightly more because a small proportion of all people who died are buried in public graveyards during extraordinary years.

54. The pattern shown in the Total Deaths Due to Hunger or Illness in Timor-Leste Figure was similar to the RMS estimate, but the magnitude is lower; note that the maximum estimated value in the Total Deaths Due to Hunger or Illness in Timor-Leste Figure is 11,444 whereas in the RMS estimate it is 13,496. There was one difference in the patterns over time: the MSE estimated totals for 1975 were lower than the estimates for 1978 and 1979, whereas in the survey, the estimates for the three years were close together. In the RMS estimate, the error bands for the three years were large relative to the differences among the years, and therefore, the hypothesis cannot be rejected that the real totals in those years are equal.

Estimated total deaths by hunger/illness in Timor-Leste using dual system



- Total estimated deaths by hunger/illness, 1972–2003: 146232 (+/– 5753)
- Total estimated deaths by hunger/illness, 1975–1999: 123529 (+/– 5184)
- Deaths in excess of estimated baseline, 1975–1999: 64037 (+/– 5184)

Source: dual system estimate RMS–GCD, by CAVR

* For the MSE, only the named deaths reported in the RMS are included. The RMS sampling weights were not used. The GCD does not include the manner of death, so records from the GCD are allocated as described in the methodological Annexe.

55. The MSE estimates suggest that 1975 had fewer deaths than implied in the RMS estimates. Other than this difference, the MSE and RMS estimates are similar in magnitude and pattern. It should be emphasised that the two estimates are methodologically very different: magnitude in the RMS was driven by the survey weights, while the preponderance of the data in the MSE came from the number of graves with dates in each year and the matching of the deaths identified in the RMS to the names, dates and locations of graves.

56. Combining the results from the two estimates, a highly conservative estimated minimum number of deaths by hunger and illness in excess of the peacetime baseline is between 75,000 and 86,500. These estimates draw only on the 1970 and 2004 censuses and the Commission's own data. These estimates should be explicitly understood as estimates of the total deaths due to hunger and illness which were possible to remember in 2004. This is a significant limitation on the calculations which can be made. Both the RMS and MSE estimates are substantially conservative because many deaths could not be remembered by 2004. Some deaths left no surviving family members available to report the death in 2004, and some people who died during extraordinary years were not buried in public graveyards. The years in which the survey is most likely to have been affected by the loss of entire families are also the years in which people are least likely to be buried in public cemeteries. This positive correlation between the GCD and RMS data creates an underestimation in the MSE.

57. In the methodological Annexe, a model is presented for adjusting the RMS and MSE estimates to correct for the loss over time of knowledge about deaths. This model uses additional census information, including crude death rates estimated by the US and Indonesian governments. If the assumptions in the underlying data and in the models were correct, the total deaths due to hunger and illness in excess of the peacetime baseline could be 103,000, with a possible (but improbable) high-end estimate of 183,300. Despite the uncertainty in these models, the Commission concludes that at a minimum, during the period 1975-99, 100,000 people died due to hunger and illness in excess of the peacetime baseline.

Displacement

58. The core findings from the analysis of displacement are outlined below:

- Displacement was widespread: 55.5% of surveyed households reported one or more displacement events, for a total of 2,011 reported displacement events between 1974 and 1999.*
- When projected to the total population, the surveyed results represent 108,200 displaced households† experiencing 282,800 displacement events.‡

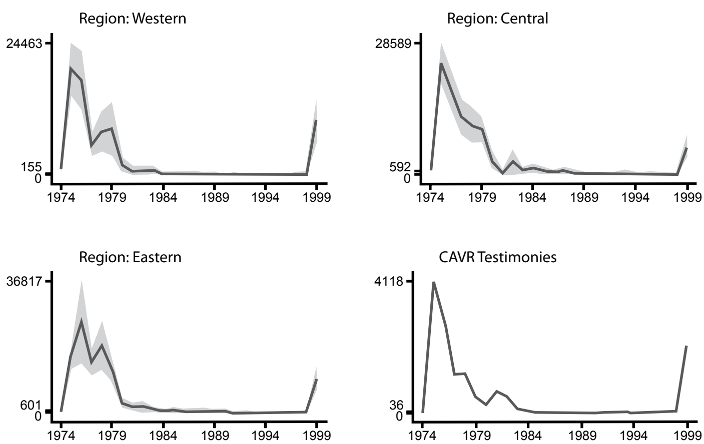
* According to the 1990 census, there were approximately 4.5 people per household in that year. The figure increases to 4.75 people per household (924,642/194,943) in the 2004 census. The nominal confidence interval is 51.8-59.2% of households.

† The nominal confidence interval is 101,013-115,412 households.

‡ The nominal confidence interval is 251,631-313,990 events.

- Most displacements were local. Of all displacement events, 54.3% are within a sub-district, 15.6% are within a district, 17.4% are within a region, 9.3% are within Timor-Leste, and 2.4% are outside of Timor-Leste.[*] However, in 1999, the displacements that took households out of Timor-Leste increased to 9.3% (+/- 6.1%) of displacements in that period.
- Many displacements occurred in rapid succession: 22.2% of displacement events lasted one month or less, and 50.1% lasted one year or less. However, other displacements were very long, so that the mean displacement period lasted 46.7 months.[†] Tens of thousands of households considered themselves displaced from the immediate post-invasion period in 1975q4 (the 4th quarter of 1975) continuously until 1999q4 (the 4th quarter of 1999). [see the Total Displaced Households in Timor-Leste Based on Region Figure in paragraph 60 for more analysis].
- The institution that respondents reported most frequently as the group telling them to move was the Indonesian military (46.4%), followed by Fretilin/Falintil (15.0%) and militias (8.8%).[‡] Respondents reported that "conflict" motivated 52.3% of their displacements, with "forced by Indonesian military" contributing an additional 16.3%.
- Most displacements occurred in 1975-80. The maximum years are 1975 and 1976, with 61,400 (+/- 13,300) and 59,800 (+/- 7,200) displacement events, respectively. The events of 1999 were substantially fewer, with approximately 28,100 (+/- 5,600) events.

Estimated displacement events in Timor-Leste (with error bands)



Source: Retrospective Mortality Survey (Displacements Module), CAVR

Note: one displacement per household per year counted

* The nominal margin of error is +/- 10.4% for displacements within sub-districts, and 4.6% or less for the other estimates. This finding may be limited by the restriction that people in refugee camps in West Timor were not interviewed.

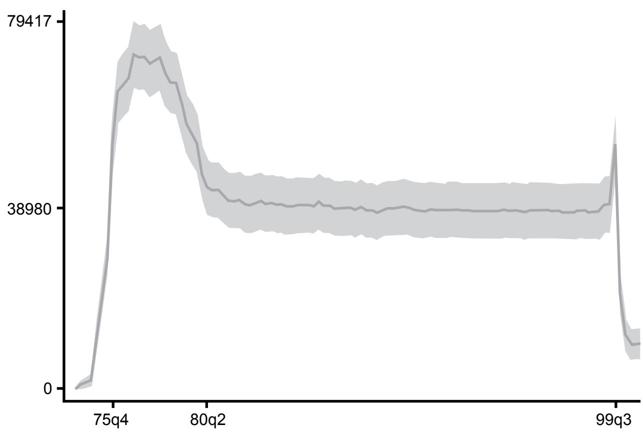
† The nominal confidence interval is 41-52 months.

‡ The nominal margin of error is +/- 4.2%.

59. The Displacement Estimates in Timor-Leste (with Error Bands) Figure above shows the number of displacement events by year in three regions of Timor-Leste, as well as the total displacement events reported to the Commission in qualitative testimonies. The vertical axes label the maximum values (at the top of the error band) for each region. The Total Displaced Households in Timor-Leste Based on Region Figure shows 1975 and 1976 as the peak years in overall displacements, with 1977-79 and 1999 at roughly equal lower levels. The Commission notes that 1975 and 1976 cannot be statistically distinguished from each other in any of the regional estimates; in formal language, it is not possible to fully reject the hypothesis that these years had equal numbers of displacement events. The Western and Central Regions show a decline from the 1975-76 peaks to lower levels through 1979; the decline is then toward zero. By contrast, the Eastern Region shows displacement levels in 1979 that are nearly the equal of the displacement intensity of the immediate-post-invasion period.

60. Another way to look at displacements is to consider how many households are displaced during each period. The Displacement Estimates in Timor-Leste (with Error Bands) Figure shows how many households were forced to move during each year. The Total Displaced Households in Timor-Leste Based on Region Figure shows how many households were forced to live in a place they did not consider their home during each period. That is, the Displacement estimates in Timor-Leste (with Error Bands) Figure shows how many "displacement events" were suffered in each period, while Total Displaced Households in Timor-Leste Based on Region Figure shows how many households are in the status of "displacement" in each period. The vertical axis notes the maximum value at the top of the error band and the median value from the third quarter of 1980 (1980q3) through to the second quarter of 1999 (1999q2).

Total displaced households in Timor-Leste by region



Source: Retrospective Mortality Survey (Displacements Module), CAVR

61. People were displaced in late 1975 and early 1976, and they were unable to return to their homes for a long period. Additional displacements continued in 1977, with more in 1978, and people displaced earlier are still away from their homes. Not until 1979 do large numbers of households settle in places they consider "home". In every year between 1980 until 1999, an estimated 39,000 households continue to consider themselves displaced. An additional 15,000 households are displaced in the third quarter of 1999. However, in the fourth quarter, more than 32,500 households returned to their homes, and the estimated number of displaced households dropped to approximately 20,400 before falling again to 11,700 in the first quarter of 2000, and to 9,600 in the second quarter of 2000.

Descriptive statistical analysis of fatal violations reported to the Commission

62. This section describes the pattern of killings and disappearances reported to the Commission in the narrative statement-taking process (the HRVD). The magnitude and patterns described here do not represent the total magnitude and overall pattern of killings and disappearances. Rather, this analysis describes the pattern and trend of killings and disappearances known through the Commission's qualitative statements.[*]

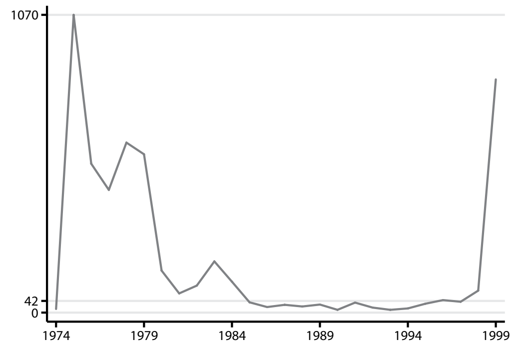
The reported pattern of killings and disappearances of non-combatants over time

63. The pattern of reported killings and disappearances varied substantially over time. As can be seen in the Reported Killings of Civilians, 1974–1999 Figure 67.4% (3,451/5,120) of reported killings are concentrated in the period 1975-81. 16.4% (838/5,120) of reported killings occurred in 1999 before, during and after the UN-administered Popular Consultation. The highest counts of killings reported to the Commission were during the period of the invasion by the Indonesian military and the initial years of occupation. Although the year with the highest reported counts of non-combatant killings was 1975, the open-ended nature of the narrative statement-taking process was such that a considerable amount of date imprecision was encountered in statements which reported killings in the mid- to late-1970s.[†] It is therefore likely that some of the non-combatant killings which were reported to have occurred in 1975 may have actually occurred in 1976 or 1977.

* See section below for a detailed discussion of the nature and limitations of the data collected through the Commission's statement-taking process.

† See the Statistical Methodological Annexe for a more detailed description of date imprecision in the statement-taking process.

Number of reported acts of civilian killings, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

64. The counts of disappearances reported to the Commission are substantially lower than that of reported non-combatant killings: 5,120 non-combatant killings were reported to the Commission, whereas 835 disappearances were reported to the Commission. Furthermore, the reported pattern of disappearances is substantially different from that of non-combatant killings, as can be seen in the Reported Disappearances, 1974–1999 Figure. Whereas large-scale non-combatant killings were overwhelmingly concentrated in the initial invasion years, large-scale disappearances were mostly concentrated towards the end of the initial invasion period in 1979 and in 1983-84, just before the start of the "normalisation and consolidation" period of the Indonesian occupation: 40.0% (332/835) of individual disappearances reported to the Commission occurred either in 1979, 1983 or 1984. The reported pattern of disappearances and non-combatant killings is consistent with the hypothesis that the two violations phenomena were driven by different policies or practices of those responsible. In particular, disappearances appear to have been used in a more targeted fashion as a counter-Resistance tool by the Indonesian military.

Number of reported acts of disappearance, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

65. 20.9% (1,070/5,120) of killings documented by the Commission's statement-taking process occurred in 1975. As shown in Number of Civilian Killings Table, of the documented killings in 1975, 26.5% (283/1,070) of these killings do not contain information about the month in which they occurred. However, 19.5% (348/1,070) of these killings occurred during the time of the internal party conflict and the first major Indonesian cross-border incursions, and 32.7% (350/1,070) occurred in December at the time of the launch of the full-scale Indonesian military invasion of Timor-Leste.

Table 1: Count of reported acts of civilian killing, 1975		
Year	**Frequency**	**%**
January	4	0.4
February	6	0.6
March	6	0.6
April	20	1.9
May	3	0.3
June	3	0.3
July	6	0.6
August	194	18.1
September	154	14.4
October	30	2.8
November	11	1
December	350	32.7
Not reported	**283**	**26.5**
Total	**1070**	**100**

Source: Database of Narrative Statements Given to the CAVR

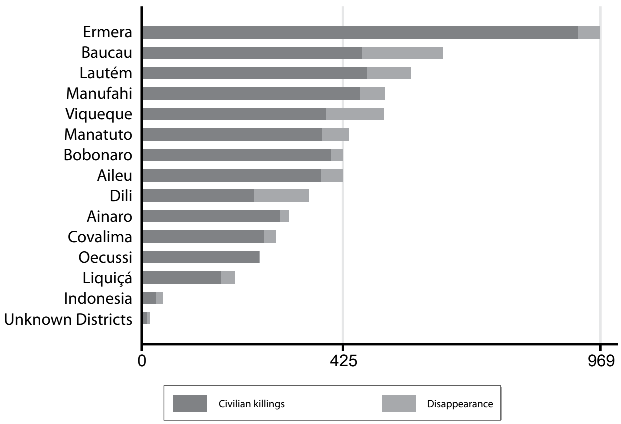
66. It is notable that only 3.8% (41/1,070) of documented killings in 1975 occur in October and November. Hence, the data from the Commission's statement-taking process are consistent with the hypothesis that large-scale killings occurred during the internal party conflict in August and September, then there was a relative lull in violence in the form of killings before large-scale killing resumed in December at the time of the Indonesian military's invasion of Timor-Leste.

The reported pattern of killings and disappearances of non-combatants over space

67. Data based on convenience samples (like these data) cannot be used to assess directly the differences in the magnitude of violations between regions and districts. Such data are representative only of the total extent of violence from region to region insofar as the deponents whose statements were taken are representative of their local population and were selected in proportion to the violence suffered in each district.

68. The Reported Violations, Based on Types and Districts Figure shows the counts of reported killings and disappearances by district in which the violation occurred, as reported in the Commission's statement-taking process. Ermera has substantially more reported killings than any other district, accounting for 18% (920/5120) of all reported killings. Relatively few non-combatant killings in Indonesia, Dili and Liquiçá were reported to the Commission.

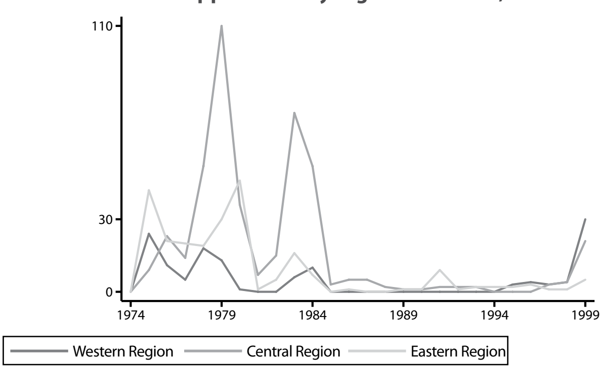
Count of reported violations, by type and district



Source: Database of Narrative Statements Given to the CAVR

69. The Disappearances Based on Regions Over Time, 1974–1999 Figure shows that reported disappearances were concentrated mainly in the Eastern and Central districts: in particular, of the disappearances reported to the Commission, 20.2% (169/835) occurred in Baucau, 14.7% (123/835) in Viqueque, 13.9% (116/835) were in Dili and 11.4% (95/835) were in Lautém.

Count of disappearance by region over time, 1974–1999

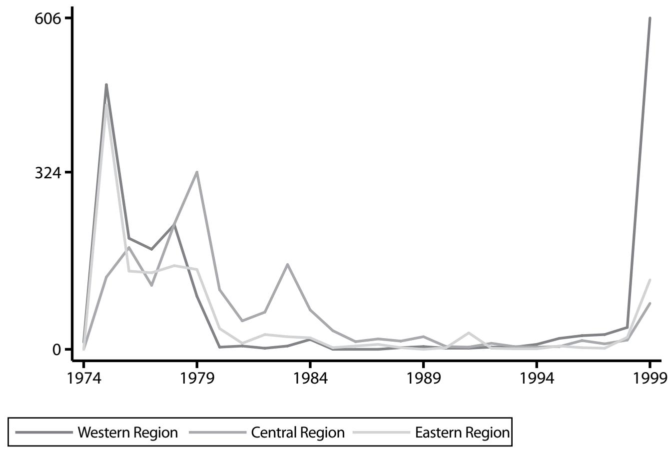


Source: Database of Narrative Statements Given to the CAVR

The reported pattern of killings and disappearances of non-combatants over time and space

70. As the Civilian Killings Over Time, 1974–1999 Figure shows, reported killings start in the Western and Central Regions at the time of the initial Indonesian invasion. Then between 1978 and 1981, most reported non-combatant killings are in the Eastern Region and Central Regions, with few reported non-combatant killings occurring in the Western Region. In 1999 72.3% of reported non-combatant killings occurred in the Western Region. The Commission's narrative statement data are consistent with the hypothesis that, between 1975 and 1984, large-scale individual non-combatant killings broadly tracked the movements across time and space of the invading Indonesian military.

Count of civilian killings by region over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

71. The pattern of reported disappearances over time and space is notably different to that of non-combatant killings, as can be seen in the Disappearances Based on Regions Over Time, 1974–1999 Figure. Although some disappearances are reported around the time of the Indonesian invasion and again in 1999, disappearances do not appear to be associated with large-scale military operations in the same way non-combatant killings are. Rather, two periods of large-scale disappearances were reported: the first period occurring from 1978 to 1980, in the aftermath of the completion of major military offensives against the Resistance, and the second period from 1983 to 1984 after the breakdown of the ceasefire between Indonesian forces and Falintil. During the first period of large-scale disappearances, 60.2% (198/329) of reported disappearances were concentrated in the Eastern Region, with 25.9% (95/329) occurring in the Central Region and 10.0% (33/329) in the Western Region and Indonesia. During the second period of large-scale disappearances, which occurred between 1983 and 1984, 72.0%

(126/175) occurred in the Eastern Region, 13.1% (23/175) in the Central Region and 13.1% (23/175) in Indonesia and the Western Region. This data on disappearances are consistent with the hypothesis that disappearances were used mostly in the Eastern districts as a counter-resistance tool against those suspected of being members or associates of the Resistance groups.

The reported pattern of killings and disappearances of non-combatants by attributed institutional responsibility

72. A number of different institutions were involved in acts of killing and disappearance over the course of the conflict. The main institutional groups were the Indonesian military, Falintil, East Timorese political parties (such as Fretilin, UDT and Apodeti), members of the East Timorese civil defence forces (such as Hansip, Wanra and Ratih), militias and other East Timorese auxiliaries. This section reviews the reported levels of responsibility for killings and disappearances reported during the Commission's statement-taking process.

73. The majority of killings and disappearances reported to the Commission were attributed to the Indonesian military and their East Timorese auxiliaries, as shown in the table below: 57.6% (2,947/5,120) of the perpetrator involvement in fatal violations was attributed to the Indonesian military and police, and 32.3% (1,654/5,120) to their East Timorese auxiliaries (such as the militias, civil defence force and local officials who worked under the Indonesian administration). In 29.6% (1,514/5,120) of reported killings and disappearances, institutional perpetrator responsibility was attributed to Resistance groups and pro-independence forces.

Table 2: Reported acts of civilian killings and disappearances

Violation Type	Indonesian Military	Timorese Collaborators of TNI	Resistance Groups	Other	Civilian Population	Pro-Autonomy Groups	Un-known	Total
Civilian Killings	2947	1654	1514	1341	214	81	708	5109
Disappearances	642	245	80	72	21	2	111	833
	3589	1899	1594	1413	235	83	819	5942

Responsibility for violations may be shared among perpetrators, and therefore, columns may not be directly summed

Source: Database of Narrative Statements Given to the CAVR

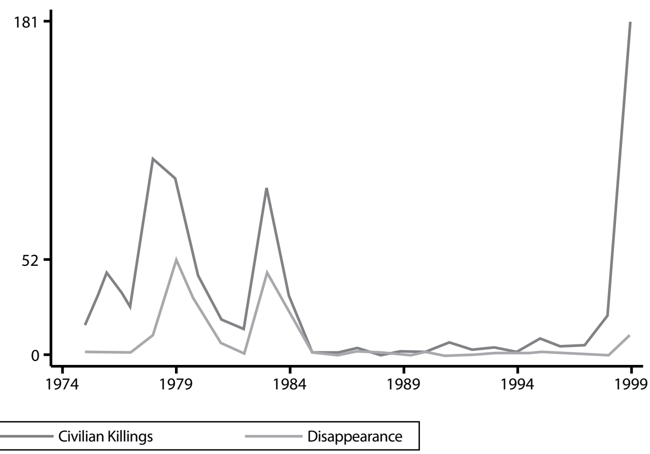
74. The levels of attributed institutional responsibility for documented killings and disappearances varied over the course of the conflict. During the initial Indonesian invasion between 1975 and 1984, 62.3% (2,831/4,543) of documented killings and disappearances were attributed to the Indonesian military and police. Then during

the period of "normalisation and consolidation" of the Indonesian occupation, between 1985 and 1998, 64.6% (317/488) of documented killings and disappearances were attributed to the Indonesian military and police. Then, in 1999 in the lead-up to and the aftermath of the UN-sponsored Popular Consultation, a significant structural change in the proportional responsibility of documented violations is observed. In particular, 9.5% (85/898) of killings and disappearances are attributed to the Indonesian military and police acting alone, 39.5% (355/898) are attributed to the Indonesian military and police acting in concert with the East Timorese militias and 42.9% (385/898) are attributed to the East Timorese militias acting alone.

75. By contrast, while 49.0% (561/1,145) of documented killings and disappearances in 1975 were attributed to Fretilin, 16.6% (563/3,398) of documented killings and disappearances between 1976 and 1984 were attributed to Fretilin.* Furthermore, 3.7% (18/488) of killings and disappearances between 1985 and 1998 were attributed to Fretilin and then in 1999 0.6% (5/898) of killings and disappearances were attributed to Fretilin. The Commission's narrative statement data are consistent with the hypothesis that most killings and disappearances attributed to Fretilin were committed during the 1975 internal political party conflict.

76. During different episodes of the conflict, deponents in the Commission's statement-taking process attributed substantial responsibility to specific units of the occupying Indonesian forces and their East Timorese auxiliaries at particular times during the conflict.

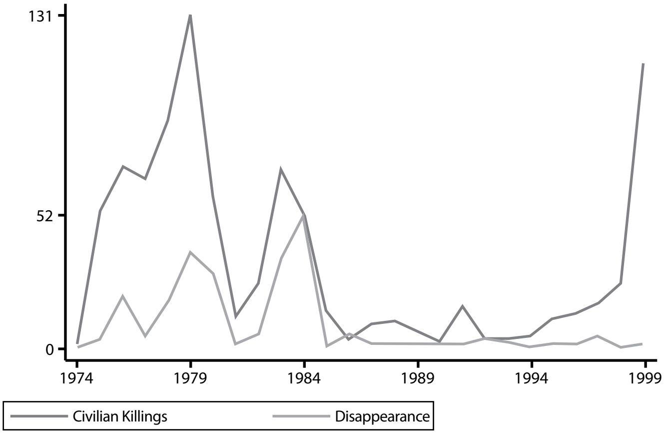
Fatal violations over time, 1974–1999, committed by territorial units



Source: Database of Narrative Statements Given to the CAVR

* Note that 42.2% (237/561) of documented killings and disappearances attributed to Fretilin in 1975 occurred during the internal political party conflict in August and September of that year and that 4.8% (27/561) of documented killings and disappearances attributed to Fretilin in 1975 occurred in December, but 43.3% (243/561) of killings and disappearances in 1975 attributed to Fretilin did not contain specific information about the month in which the violation occurred.

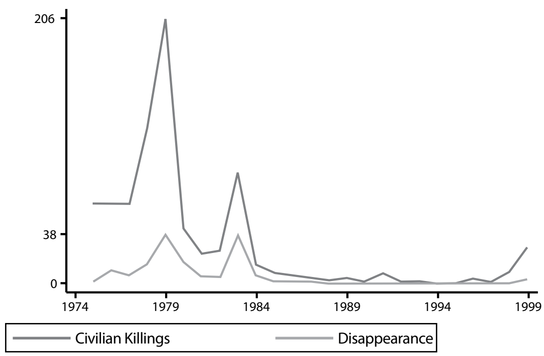
Fatal violations over time, 1974–1999, committed by non-territorial units



Source: Database of Narrative Statements Given to the CAVR

77. As the Fatal Violations Over Time, 1974–1999 by Territorial Units Figure and the Fatal Violations Over Time, by Non-territorial Units Figure show, the pattern of reported violations attributed to the territorial units (attached to the permanent local military structure) and non-territorial units (temporarily assigned to combat and other duties in Timor-Leste) of the Indonesian military are similar. Both reported killings and disappearances attributed territorial and non-territorial units are highly concentrated in the 1975-80 period, then the 1982-84 period and finally during 1999. The Commission's narrative statement data are consistent with the hypothesis that the territorial and non-territorial units of the Indonesian military used large-scale killings and disappearances in the initial occupation years, at the beginning of the consolidation phase of the occupation and then again around the time of the UN-sponsored Popular Consultation in 1999.

Fatal violations over time, 1974–1999, committed by Civil Defense Forces



Source: Database of Narrative Statements Given to the CAVR

78. Reported killings and disappearances attributed to the civil defence forces, primarily Hansip, are concentrated during the initial occupation years between 1975 and 1979 and then again in 1983.

79. By contrast, reported killings and disappearances attributed to the Special Forces (Kopassandha/Kopassus) are concentrated during 1978 and 1980, 1982 and 1984, 1991 and then again in 1999. Hence the Commission's narrative statement data are consistent with the hypothesis that Kopassandha/Kopassus was used for specific military operations in the latter years of the early invasion period, and then targeted military campaigns in the consolidation years and lastly in 1999.

80. Sometimes fatal violations were attributed to the Indonesian military and police acting alone, other times to East Timorese auxiliaries acting alone and other times to the Indonesian military and police acting in concert with their East Timorese auxiliaries. The pattern of shared institutional responsibility between the Indonesian forces and their East Timorese auxiliaries and sole institutional responsibility varied over time, as can be seen in the Percentage of Responsibility on Reported Killings, Based on Period, 1975–1999 Figure. During the initial invasion years, and then subsequently during the consolidation years of the occupation, around 45% of reported killings were attributed solely to the Indonesian military and police. At around the time of the UN-sponsored Popular Consultation, 8.5% (71/838) of reported killings were attributed solely to the Indonesian military and police. As the Indonesian occupation progressed, an increasing proportion of reported killings were attributed to the Indonesian military and police acting in concert with their East Timorese auxiliaries. Hence the Commission's narrative statement data are consistent with the hypothesis that the during the initial invasion and the years of "normalisation and consolidation", the Indonesian military largely acted alone in carrying out killings of civilians, whereas in 1999 the Indonesian military aided and abetted their East Timorese auxiliaries (principally pro-autonomy militias) in carrying out killings of civilians.

Table 3: Percentage share of attributed responsibility for reported killings by phase, 1975–1999

Institution	1975–1984	1985–1998	1999	Total (1975- 1999)
Indonesian Military & Police Alone	46.3	43.3	8.5	39.9
Indonesian Military & Police together with Timorese Auxiliaries	12.7	18.8	41.4	18
Timorese Auxiliaries Alone	9.1	7.4	42.5	14.5

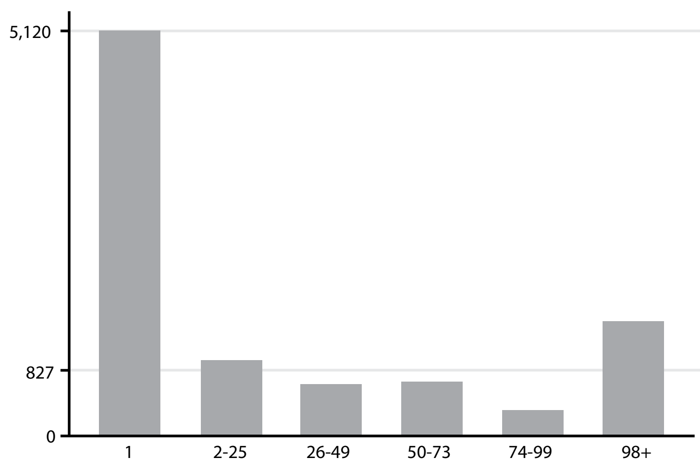
Other	31.8	30.5	7.6	27.7
Total (Frequency Count of Killings)	3,838	420	838	5,096

Source: Database of Narrative Statements Given to the CAVR

The pattern of reported killings and disappearances of non-combatants against individual and group victims

81. Some killings and disappearances were reported to the Commission as being perpetrated against a lone individual, whereas some others were reported as being perpetrated against multiple individuals at the same time. Civilian Killings Based on Group Size, 1974–1999 Figures and Civilian Disappearances Based on Group Size, 1974–1999 Figure show the distribution of violations by victim group size for killings and disappearances.*

Count of victims of acts of civilian killings by victim group size, 1974–1999

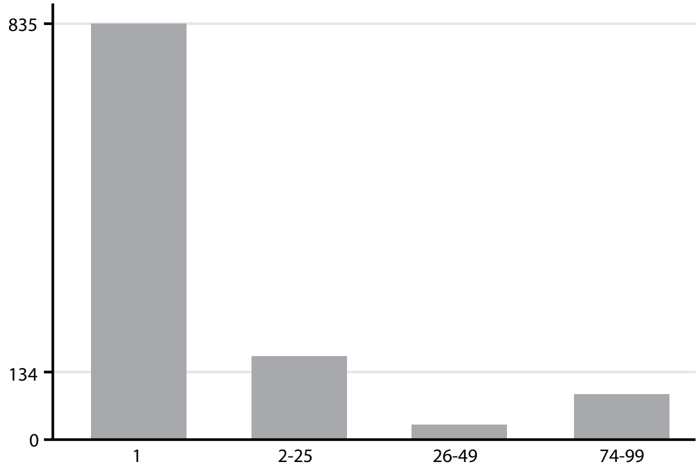


Source: Database of Narrative Statements Given to the CAVR

Note: This graph shows counts of unique victims in a group of a given size

* As is the case with reported violations against individual victims, violations against victims in groups can be reported by more than one deponent. Group victim records were matched to identify duplicate reports of the same violation and victim in multiple statements. The methods used for matching are described in the Statistical Annexe.

Count of victims of acts of disappearance by victim group size, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

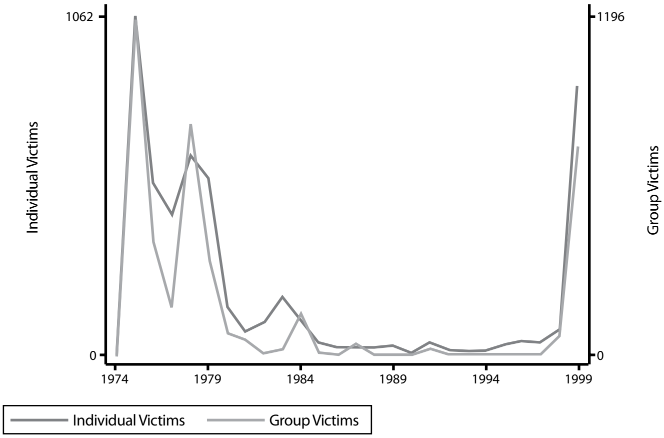
Note: This graph shows counts of unique victims in a group of a given size

82. Both killings and disappearances show a similar pattern in the proportions of the violations that were committed against individuals one-by-one and collectively. As Civilian Killings Based on Group Size, 1974–1999 Figures and Civilian Disappearances Based on Group Size, 1974–1999 Figure show, 95.9% (5,120/5,339) of reported killings and 96.9% (835/862) of reported disappearances were perpetrated against people one-by-one. This empirical finding appears to be consistent with the hypothesis that killings and disappearances were both used as a form of oppression in a targeted fashion.

83. As the two Violations Over Time Figures show below, in statements given to the Commission, both killings and disappearances against individual victims and group victims are positively correlated over time. When reported killings against individuals increase, so do reported killings against group victims. The same is the case for reported disappearances.*
Hence, large-scale reported group killings are concentrated in the early invasion years between 1975 and 1979, as are large-scale reported individual killings. Large-scale reported group disappearances are concentrated during the period of counter-Resistance campaigns in 1979 and 1984, as are large-scale reported individual disappearances.

* The correlation coefficient between reported individual killings and reported group killings over time is 0.95, while the correlation coefficient between reported individual disappearances and reported group disappearances over time is 0.84.

Violations over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Violations over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

84. There are at least two possible explanations for the positive correlation between (i) reported individual killings and group killings, and (ii) reported individual disappearances and group disappearances:

- Either individual killings and group killings are driven by the same practices or the same policies of those responsible for these crimes, as is the case for disappearances; or

- Some deponents to the Commission's statement-taking process had more difficulty than others specifically identifying individual victims of killings and disappearances during large-scale military offensives in the late 1970s and between 1983 and 1984. Consequently some deponents may have described these killings and disappearances as being suffered by anonymous groups of victims.

85. Whichever explanation is correct, the Commission's narrative statement data are consistent with the hypothesis that large-scale disappearances and large-scale killings were concentrated in time: large-scale killings being particularly concentrated in the early invasion and occupation years (1975-79), while large-scale disappearances are concentrated in 1978-79 towards the end of the invasion years and during the counter-Resistance crackdowns in the Eastern districts and, to a lesser extent, elsewhere in 1983-84.

The reported pattern of killings and disappearances of non-combatants across demographic characteristics and political affiliation

86. The Commission's research considered whether killings and disappearances were conducted in a systematic fashion and were targeted at victims with particular demographic characteristics (such as age and sex) or political affiliations. This section describes the reported extent and pattern of killings and disappearances according to the sex and age of victims and according to whether they were civilians, armed Resistance fighters or political activists.

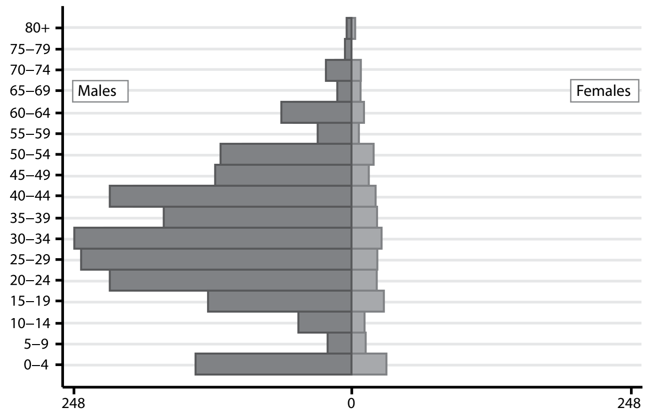
87. Killings and disappearances reported during the Commission's statement-taking process were overwhelmingly against male victims. 86.9% (4,451/5,120) of reported killings were of male victims and 90.5% (756/836) of reported disappearances were also of males. In addition, young adults between the ages of 20 and 34 were the most frequently reported age groups for victims of killings and disappearances: 37.4% (663/2,090) of killings victims whose ages were known were in this age group.[*] 40.0% (138/345) of disappearance victims whose ages were reported were between the ages of 20 and 34.[†]

88. As can be seen in the two Figures of Civilian Killings Rate Based on Age and Sex, 1974–1999, young males between the ages of 20 and 34 were the most frequently reported victims of killings and disappearances to the Commission's statement-taking process.

* Specific ages for 59.6% (3.030/5.120) of killing victims reported to the Commission's statement-taking process were either not known or not reported.

† Specific ages for 59.2% (490/835) of disappearance victims reported to the Commission's statement-taking process were either not known or not reported.

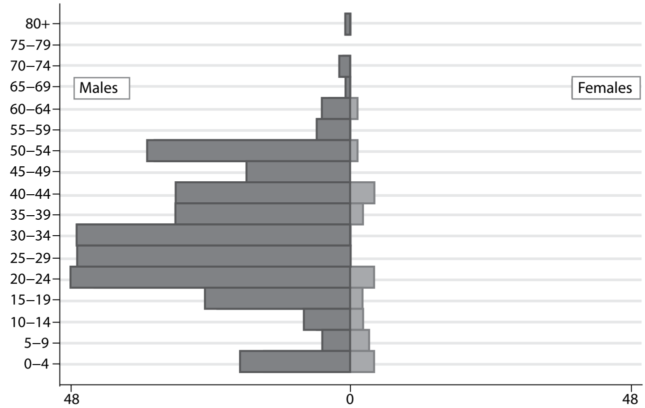
Number of reported acts of civilian killings, by age and sex, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Note: 59.6% of the records are missing age or sex of the victim

Number of reported acts of disappearance, by age and sex, 1974–1999

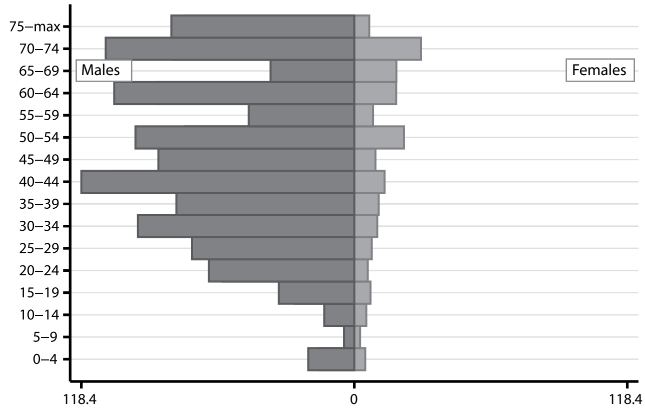


Source: Database of Narrative Statements Given to the CAVR

Note: 59.2% of the records are missing age or sex of the victim

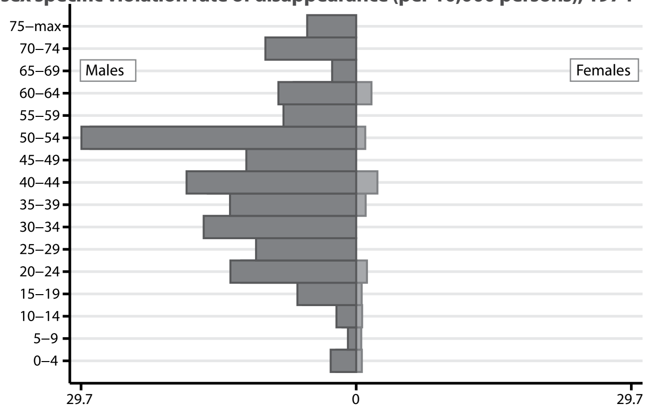
89. Moving from simple violation counts of killings and disappearances to population-based violation rates, notable differences can be observed. Relative to the overall East Timorese population, middle-aged and elderly males experienced the highest rates (relative to their share of the population) of reported killings and males in the age group 50-54-years-old experienced the highest rates (relative to their share of the population) of reported disappearances. These patterns are shown in the two Figures of Level of Fatal Violations Toward Civilians Specifically Based on Age and Sex (per 10,000 individuals), 1974–1999.

Age-sex specific violation rate of civilian killings (per 10,000 persons), 1974–1999



Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 59.6% of the violation records are missing age or sex of the victim

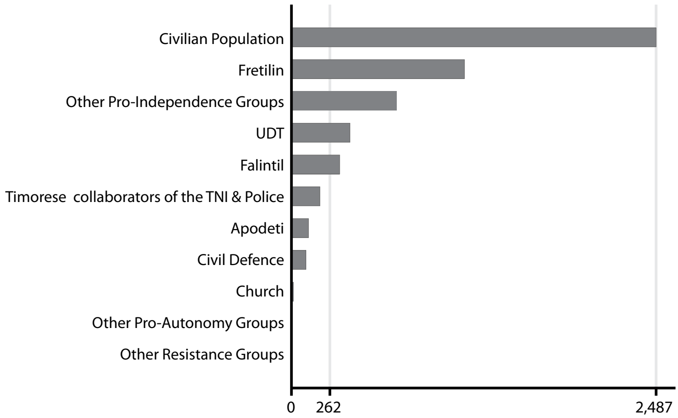
Age-sex specific violation rate of disappearance (per 10,000 persons), 1974–1999



Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 59.2% of the violation records are missing age or sex of the victim

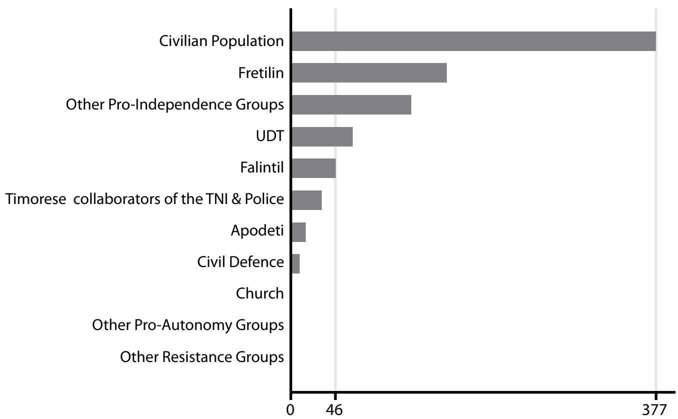
90. 48.7% (2,487/5,120) of killings and 45.3% (377/835) of disappearances reported to the Commission were committed against the civilian population, including both those civilians who were not known to have a political affiliation and those who were formally part of a pro-independence group or political party, as can be seen in the two Figures on Level of Reported Civilian Killings Based on the Victim's Affiliation, 1974–1999.

Reported acts of civilian killings by victim affiliation, 1974–1999



Source: Database of Narrative Statements Given to the CAVR
Note: some violations may be counted more than once because responsibility may be shared among perpetrators

Reported Acts of Disappearance by Victim Affiliation, 1974–1999



Source: Database of Narrative Statements Given to the CAVR
Note: some violations may be counted more than once because responsibility may be shared among perpetrators

91. 40.9% (2,092/5,120) of killings reported to the Commission's statement-taking process were against victims who were either formally affiliated with Fretilin or a pro-independence group that was not directly involved in the armed struggle. 6.4% (329/5,120) of reported killings were against victims who were reported to be affiliated with Falintil.

92. 33.5% (280/835) of disappearances reported to the Commission's statement-taking process were against victims who were either formally affiliated with Fretilin or a pro-independence group not directly involved in the armed struggle. 7.6% (64/835) of reported disappearances were against victims who were reported to be affiliated with Falintil.

93. The Commission's narrative statement data are consistent with the hypothesis that the overwhelming majority of killings and disappearances were committed against members and suspected associates of the Resistance movement (even though those persons suspected of being associates of the Resistance movement may not have been formally associated with a political party or armed group).

The association between conflict-related deaths and periods of detention

94. The pattern of arbitrary detentions and civilian killings reported to the Commission are positively correlated over time.* In particular, both reported non-combatant killings and arbitrary detentions were overwhelmingly concentrated during the initial years of the Indonesian invasion and occupation as shown in the Figures of Reported Civilian Killings, 1974–1999 and Reported Civilian Disappearances, 1974–1999.

Number of reported acts of civilian killings, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

* The correlation coefficient for the two series is 0.83.

Number of reported acts of detention, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

95. Furthermore, of those civilians who were reported to have died for reasons related to the conflict (that is, due either to a civilian killing, death by hunger and illness or disappearance), 98.6% (10,659/10,809) were reported to have been arbitrarily detained at least once during the Commission's mandate period. As Table 5: Reported Fatal Violations & Their Detention Context by Violations shows, 3.5% (378/10,809) of these victims died while they were being held in detention. For 12.2% (1,314/10,809) of conflict-related deaths suffered by individuals who were also arbitrarily detained during the Commission's mandate period, the dates of their detention were not known. Hence the Commission was not able to discern whether or not these conflict-related deaths occurred while the individual was being detained. However, of the victims reported to have been arbitrarily detained during the conflict, 15.7% (1,692/10,809) died as a result of the conflict.

Table 4: Reported violations & their detention context by district, 1974–1999									
	Victim detained at time of violation	% detained at time of violation	Victim detained but unknown dates	% detentions with unknown dates	Victim detained - but not at time of violation	% detained - but not at time of violation	Victim never detained	% never detained	Total
Lautém	455	19.7	1,307	56.6	479	20.8	67	2.9	2,308
Viqueque	401	13.0	1,371	44.4	1,245	40.4	68	2.2	3,085
Baucau	785	31.8	891	36.1	639	25.9	155	6.3	2,470
Manatuto	271	16.0	921	54.5	465	27.5	34	2.0	1,691
Manufahi	771	23.8	1,305	40.3	924	28.5	237	7.3	3,237
Aileu	477	26.6	867	48.3	412	23.0	38	2.1	1,794
Ermera	986	24.8	1,128	28.4	1,641	41.3	216	5.4	3,971
Liquiçá	695	42.8	448	27.6	405	25.0	75	4.6	1,623
Dili	1,504	40.3	1,267	34.0	646	17.3	314	8.4	3,731
Ainaro	457	21.6	1,005	47.5	582	27.5	72	3.4	2,116
Covalima	886	41.5	401	18.8	729	34.1	119	5.6	2,135
Oecussi	366	12.6	249	8.6	2,201	76.0	81	2.8	2,897
Bobonaro	992	32.7	793	26.1	1,133	37.3	116	3.8	3,034
Indonesia	48	9.0	76	14.3	390	73.2	19	3.6	533
	9,094	100.0	12,029	100.0	11,891	100.0	1,611	100.0	34,625

Source: Database of Narrative Statements Given to the CAVR

96. Of the fatal violations reported to the Commission which occurred while the victim was being held in detention, 96.6% (365/378) were civilian killings or disappearances

and 3.4% (13/378) were deaths due to hunger and illness. Whereas, the distribution by cause of death for those individuals who died of conflict-related causes outside of detention was substantially different: 49.0% (4,390/8,967) of the victims documented by the Commission died as a result of killings or disappearances whereas the remaining 51.0% (4,577/8,967) were deaths due to hunger and illness. Hence, the Commission's quantitative data are consistent with the hypothesis that persons were at a relatively higher risk of being killed or of disappearing while being held in detention than when they were not being detained.

Table 5: Reported fatal violations & their detention context by violations, 1974–1999

	Victim detained at time of violation	% detained at time of violation	Victim detained but unknown dates	% detentions with unknown dates	Victim detained - but not at time of violation	% detained - but not at time of violation	Victim never detained	% never detained	Total
Civilian Killings	295	5.8	807	15.8	3,887	76.1	118	2.3	5,107
Death due to Deprivation	13	0.3	273	5.6	4,577	94.0	6	0.1	4,869
Disappearance	70	8.4	234	28.1	503	60.4	26	3.1	833
	378	100.0	1,314	100.0	8,967	100.0	150	100.0	10,809

Source: Database of Amnesty International Reports on East Timor

97. The pattern of conflict-related deaths and their relationship to detention-periods varied over the phases of the conflict. As shown in the Reported Fatal Violation and Detention, Based on Phases, 1974–1999 Table reported deaths in detention were overwhelmingly concentrated in the first and last phase of the conflict. Conflict-related deaths which occurred outside of detention (for those victims who had been arbitrarily detained during the Commission's mandate period) were overwhelmingly concentrated in the first phase of the conflict: 85.3% (7,651/8,967) of these conflict-related deaths occurred in the first phase of the conflict, whereas 8.5% (762/8,967) occurred in 1999.

Table 6: Reported fatal violations & their detention context by phase, 1974–1999									
	Victim detained at time of violation	% detained at time of violation	Victim detained but unknown dates	% detentions with unknown dates	Victim detained - but not at time of violation	% detained - but not at time of violation	Victim never detained	% never detained	Total
Phase 1 (1974–1983)	216	2.4	1,172	12.8	7,651	83.8	88	1.0	9,127
Phase 2 (1984–1998)	48	6.5	114	15.3	554	74.6	27	3.6	743
Phase 3 (1999)	114	12.1	28	3.0	762	81.2	35	3.7	939
	378	100.0	1,314	100.0	8,967	100.0	150	100.0	10,809

Source: Database of Amnesty International Reports on East Timor

Non-fatal violations

Introduction

98. In this section we present an analysis of non-fatal violations which were reported to the Commission. This analysis does not include overall estimations of the total extent, pattern, and trend of non-fatal violations, as the analysis is based on a convenience sample of narrative statements collected by the Commission. However, the analysis presents the statistical patterns of non-fatal violations reported to the Commission and notes hypotheses which the data support. In addition we compare the statistical patterns and trends observed in the Commission's data on non-fatal violations to data collected contemporaneously by Amnesty International and also data collected by the East Timorese NGO, Fokupers, immediately after the UN-sponsored Popular Consultation.

Overview of statistical findings on non-fatal violations

99. This section summarises the main findings of the Commission's descriptive statistical analysis of the almost 8,000 narrative statements collected in all 13 districts of Timor-Leste.

- Non-fatal violations reported to the Commission were overwhelmingly concentrated in the period of the initial invasion and occupation by the Indonesian military forces and around the time of the UN-sponsored Popular Consultation: 56.3% (33,224/60,047) of documented non-fatal violations occurred between 1975 and 1984, and 21.0% (12,634/60,047) occurred in 1999.
- In almost all districts, except for Oecussi, detention, torture and ill-treatment were the most frequently reported violations, accounting for between 69.4% and 82.7% of the reported violation counts in districts. In Oecussi, physical integrity violations (such as detention, torture and ill-treatment) accounted for 43.0% of the district's violation count. Relative to other districts, in Oecussi, property and economic violations were reported in higher proportions, comprising 30.8% (1,271/4,133) of the district's total violation count.
- The patterns of non-fatal violations during the first and last phases of the conflict varied from region to region. While the initial violence around the time of the Indonesian invasion in 1975 was most intense in the Western and Central Regions, after 1976 the focus of non-fatal violations shifted to the Eastern Region.
- The documented age-sex distribution counts for arbitrary detention, torture and ill-treatment are remarkably similar, each showing that the most frequently documented victim group for these types of violations were young men of military age (between the ages of 20 and 39). Very few documented acts of detention, torture and ill-treatment were experienced by female victims. By contrast, women experienced the overwhelming majority of sexually-based violations: 90.1% (769/853) of the sexually-based violations documented by the Commission involved female victims.
- The Commission's data on non-fatal violations show a general upward trend in the ratio of adults to children over time, that is, the number of adult victims relative to child victims is larger in the latter part of the conflict.
- Contemporaneous reports from Amnesty International show three distinct waves of detentions of identified individuals in 1985, 1989-93 and 1994-99 of 402, 891 and 811 respectively, whereas retrospective narrative statements given to the Commission suggest that the bulk of arbitrary detentions occurred in 1999 and around 1975-84.
- The Commission's comparative analysis between its own statistical data and contemporaneous reports by Amnesty International show that although international human rights groups, such as Amnesty International, meticulously documented the human rights situation in Timor-Leste throughout the 1980s and 1990s, there was substantial underreporting of the overall magnitude of non-fatal violence at the time, especially during the initial invasion and occupation years.
- The Commission's statistical evidence is consistent with the hypothesis that the detention practices of the Indonesian military shifted from a focus on both individual and group victims in the early occupation years of 1977-84 to a

more targeted strategy focused on individual detainees from 1985 to 1999. The Commission's statistical evidence also suggests a positive correlation between acts of torture committed against group victims and individual victims over time.

- The pattern of reported detentions and torture over time was strongly positively correlated. Over time violence became increasingly coordinated and the magnitude of reported acts of torture increased over time (between the late 1970s and mid-1980s) relative to the number of reported detentions. The Commission's statistical evidence also suggests that over time (and particularly after 1984) the practice of arbitrary detention became more targeted and was used more regularly in combination with acts of torture.
- The abuses which were most often committed during known periods of detention were torture (38.4%, 4,267/9,094), ill-treatment (33.2%, 27,998/9,094) and threats (21.3%, 634/9,094). Furthermore, torture and ill- treatment are reported much less frequently among victims who never have been held in detention: of the torture violations documented by the Commission, 16.4% (1,820/11,123) were suffered by victims who never experienced detention. The Commission's statistical evidence is consistent with the hypothesis that victims who are held in detention were at an increased level of risk of being subjected to torture or ill-treatment than individuals who had never been detained during the Commission's reference period.
- Districts which reported relatively higher proportions of torture and ill-treatment tended to also report higher proportions of abuse within detention.
- Children and older people were detained substantially less often, and when they were detained they were subjected to proportionally lower levels of abuse.
- Data collected independently by the Commission and Amnesty International confirm that large groups of people were detained on the island of Ataúro in the period between 1980 and 1984, in addition to continued large-scale detentions in other parts of Timor-Leste.
- 88.7% (68,943/77,748) of non-fatal violations reported to the Commission were violations against the civilian population. However, as the pro-independence movement grew more organised and open in the lead-up to the UN-sponsored Popular Consultation in 1999, increasing numbers of civilians with pro-independence affiliations appear to have suffered non-fatal violations.
- The overwhelming majority of non-fatal violations reported to the Commission were attributed to the Indonesian military and police: 62.2% (37,343/60,047) of documented non-fatal violations were attributed to the Indonesian military and police, 38.7% (23,253/60,047) to the East Timorese auxiliaries of the Indonesian occupation force and 11.9% (7,157/60,047) to the Resistance movement.*

* Note that for some reported violations, perpetrator responsibility was attributed to multiple institutions. Hence the percentage share of attributed institutional perpetrator responsibility does not sum to 100%.

- The Commission's quantitative analysis of arbitrary detentions is consistent with the hypothesis that coordination and cooperation between the Indonesian occupation force and their East Timorese auxiliaries was particularly strong after the Indonesian military had secured large parts of Timor-Leste and started consolidating its occupation of the territory, and then again in 1999 in the lead-up to and the aftermath of the UN-sponsored Popular Consultation.
- The Commission's statistical data is consistent with the hypothesis that in 1999 the Indonesian military and police aided and abetted their East Timorese auxiliaries (principally the pro-autonomy militias) in the widespread use of arbitrary detention in the lead-up to and the aftermath of the UN-sponsored Popular Consultation.

In-depth descriptive statistical analysis of non-fatal violations

Overall distribution of reported non-fatal violations

100. The overall statement-taking process implemented by the Commission was unprecedented in scale compared with all previous human rights documentation projects carried out in Timor-Leste.

101. As is shown in the Non-Fatal Violations Based on Data Sources, 1974–1999 Figure, the types of non-fatal violations documented by the Commission, Amnesty International and Fokupers differed significantly. This is reflective of both the differing nature of the three projects and the different social networks to which the three institutions' data collection strategies gave them access. Of all the non-fatal violations reported to the Commission, 42.3% (25,347/59,972) were detentions, 18.5% (11,123/59,972) were acts of torture and 14.1% (8,436/59,972) were acts of ill-treatment. By contrast, a substantially lower proportion of detentions (23.4% (184/788)) and tortures (7.5% [59/788]) were reported to Fokupers compared with those reported to the Commission, although approximately similar proportions of displacements and ill-treatments were reported to Fokupers as to the Commission.

102. As a women's rights NGO, Fokupers documented a significantly larger proportion of rapes than both the Commission and Amnesty International: 7.7% (86/1,115) of all their documented non-fatal violations were rapes. By contrast, of the violations documented in the available Amnesty International reports, 59.7% (3,272/5,479) were detentions, 18% (986/5,479) were unfair trials and 11.5% (631/5479) were acts of torture.

Table 7: Non-fatal violations by datasource, 1974–1999							
Violation type	CAVR Statements Database	Fokupers Database	Amnesty Database	% CAVR	% Fokupers	% Amnesty	Total
Attempted Civilian Killing	1,966	49	215	3.3	6.2	3.5	2,230
Detention	25,383	184	3,672	42.3	23.3	60.1	29,239
Torture	11,135	59	666	18.5	7.5	10.9	11,860
Rape	393	84	12	0.7	10.6	0.2	489
Sexual Slavery	98	25	1	0.2	3.2	0.0	124
Sexual Violence	221	31	43	0.4	3.9	0.7	295
Ill-Treatment	8,443	98	0	14.1	12.4	0.0	8,541
Forced Marriage	131	4	0	0.2	0.5	0.0	135
Impediments to Reproductive Rights	10	1	0	0.0	0.1	0.0	11
Unfair Trial	213	0	1,155	0.4	0.0	18.9	1,368
Destruction of Homes	2,231	51	25	3.7	6.5	0.4	2,307
Destruction of Livestock	409	6	0	0.7	0.8	0.0	415
Extortion	2,095	44	19	3.5	5.6	0.3	2,158
Threats	2,987	136	64	5.0	17.2	1.1	3,187
Forced Recruitment	2,157	10	7	3.6	1.3	0.1	2,174
Forced Labour	2,175	9	0	3.6	1.1	0.0	2,184
Other	0	0	227	0.0	0.0	3.7	227
Total	60,047	791	6,106	100.0	100.0	100.0	66,944

Source: Database of CAVR, Fokupers and Amnesty International Statements and Reports

103. The broad relative distributions of victims per violation for the different violation types was fairly similar for the Commission, Fokupers and Amnesty International projects, as shown in Figures below. The Commission tended to document slightly more violations per victim than the Fokupers and Amnesty International projects. On average, 2.36 violations per victim were reported to the Commission, compared with 2.01 and 1.53 respectively for Fokupers and Amnesty International. This difference reflects the different character of the different projects. The Commission documented violations across the entire mandate period, including the initial invasion years, while Amnesty's work was concentrated mostly on the consolidation years of the occupation and was compiled during the conflict when communication between Timor-Leste and the rest of the world was limited. The Fokupers project focused almost exclusively on the third phase of the conflict around the time of the UN-supervised Popular Consultation. Fokupers relied exclusively on female deponents and was focused on documenting sexual violations.

Table 8: Relative distributions of victims per violation, CAVR data

Violation type	Count of violations	Percent of violations	Count of victims	Percent of victims	Violations per victim
Detention	25,347	42.3	17,169	67.4	1.48
Torture	11,123	18.5	8,508	33.4	1.31
Ill-Treatment	8,436	14.1	6,872	27.0	1.23
Property/ Economic Violations	4,735	7.9	3,851	15.1	1.23
Other	4,339	7.2	4,030	15.8	1.08
Threats	2,982	5.0	2,653	10.4	1.12
Forced Recruitment	2,157	3.6	1,988	7.8	1.09
Sexually-Based Violations	853	1.4	657	2.6	1.30
	59,972		25,460		2.36

Note: the victim proportions sum to more than 100% because the same victim may suffer more than one violation type
Source: Database of Narrative Statements Given to the CAVR

Table 9: Relative distributions of victims per violation, Fokupers data					
Violation type	**Count of violations**	**Percent of violations**	**Count of victims**	**Percent of victims**	**Violations per victim**
Detention	184	23.4	168	42.7	1.10
Sexually-Based Violations	145	18.4	104	26.5	1.39
Threats	136	17.3	119	30.3	1.14
Property/ Economic Violations	99	12.6	86	21.9	1.15
Ill-Treatment	98	12.4	92	23.4	1.07
Torture	59	7.5	59	15.0	1.00
Other	57	7.2	54	13.7	1.06
Forced Recruitment	10	1.3	10	2.5	1.00
0	788		393		2.01

Note: the victim proportiotns sum to more than 100% because the same victim may suffer more than one violation type
Source: Database of Narrative Statements Given to Fokupers

Table 10: Relative distributions of victims per violation, Amnesty International data					
Violation type	**Count of violations**	**Percent of violations**	**Count of victims**	**Percent of victims**	**Violations per victim**
Detention	3,272	59.7	3,073	86.0	1.06
Other	1,412	25.8	1,383	38.7	1.02
Torture	631	11.5	600	16.8	1.05
Threats	61	1.1	59	1.7	1.03
Sexually-Based Violations	55	1.0	43	1.2	1.28
Property/ Economic Violations	44	0.8	43	1.2	1.02
Forced Recruitment	4	0.1	4	0.1	1.00
0	5,479		3,572		1.53

Note: the victim proportions sum to more than 100% because the same victim may suffer more than one violation type
Source: Database of Amnesty International Reports on East Timor

The three phases of large-scale violence in Timor-Leste

104. The Commission defines three phases of conflict during April 1974-September 1999. The first phase includes the initial Indonesian invasion and occupation of Timor-Leste, spanning 1975 to 1984. The second phase is the consolidation and normalisation of the occupation, from 1985 to 1998. The third phase of conflict includes the first three quarters of 1999, the period surrounding the UN-sponsored Popular Consultation process.

105. As can be seen in the Reported Number of Non-fatal Violations, 1974–1999 Figure, there were high levels of non-fatal violations during the initial invasion and occupation. During the second phase, in general there were relatively lower levels of non-fatal violations, and a concentration of acts of detention, torture and killings around the time of the 1991 Santa Cruz Massacre. The second phase of "normalisation" included a new wave of targeted detentions and physical abuse of suspected members and collaborators with the Resistance movement. Finally the last phase of the conflict, which includes the lead-up to the Popular Consultation and also the period between the Popular Consultation and the deployment of the multinational Interfet (International Force in Timor-Leste), produced two distinct waves of killing, displacement and looting and destruction of property. This final phase was characterised by large-scale violations concentrated in a short period of time overwhelmingly carried out by "pro-autonomy militias" supported, trained, armed and directed by the Indonesian military.

Number of reported acts of non-fatal violations, 1974–1999

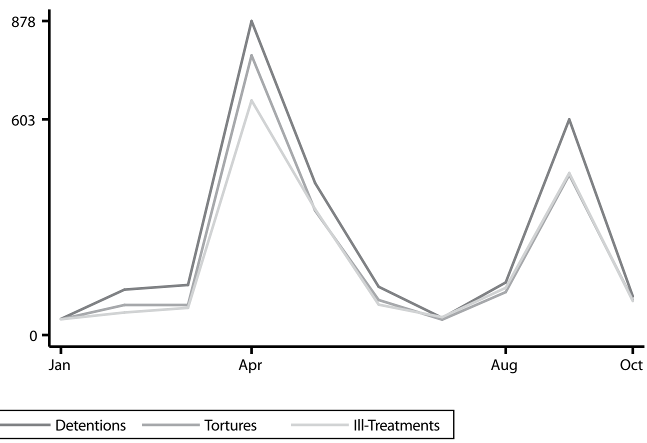


Source: Database of Narrative Statements Given to the CAVR

106. The pattern of massive non-fatal violations during the initial invasion and occupation years, followed by relatively low-level violence during the "consolidation and normalisation" years and then an increase of violence in 1999 is also mirrored in the pattern of fatal violations over time, as discussed above.

107. During 1999, reported violations were overwhelmingly concentrated in April and September. As the Number of Reported Detentions, Tortures and Ill-treatments, 1974–1999 Figure shows, the reported pattern of detention, ill-treatment and torture are positively correlated over time, that is, when any one of the violations increases, the others also tend to increase, and vice versa. All three violation types have reported peaks in April with a slightly smaller peak being reported in September, although both peaks are of a similar magnitude. In 1999 reported violence was concentrated into two main bursts before and after the process leading to the UN-sponsored Popular Consultation. This pattern is consistent with the hypothesis that physical intimidation was used in a coordinated fashion to intimidate the East Timorese population in the lead-up to the arrival of the UN mission, UNAMET, that was authorised to conduct the Popular Consultation and as further intimidation and retribution in the immediate aftermath of the ballot.

Count of reported acts of detention, torture & ill-treatment, 1999



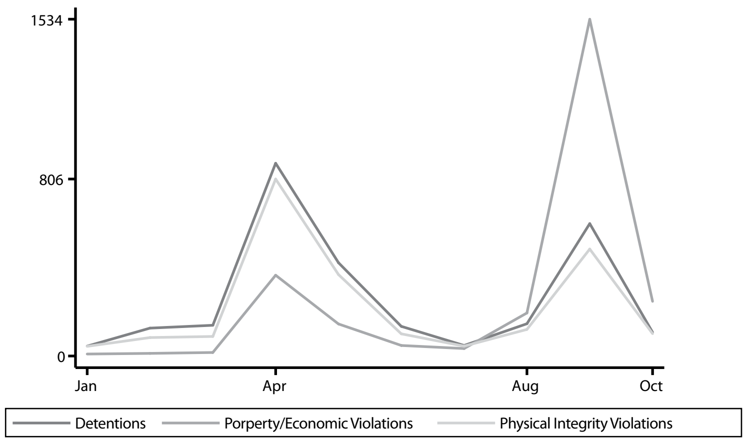
Source: Database of Narrative Statements Given to the CAVR

Note: 4.4% of reported detentions, 3.4% of reported tortures and 4.3% of reported ill–treatments in 1999 were missing month information

108. There was a substantial shift in practice by the Indonesian-backed militias and the Indonesian military before and after the Popular Consultation (see also Vol. III, Part 7.9: Economic and Social Rights). As the Violations Over Time Figure shows, the most frequently used form of repression used before the ballot were physical integrity violations (such as detention, torture and ill-treatment). Immediately after the ballot, looting and forms of property and economic violations were used most frequently. After the ballot, physical integrity violations occurred at a slightly lower

level compared with the pre-ballot period, but they are overshadowed by property violations. This pattern appears to be consistent with the hypothesis that the Indonesian military and militias switched from using violations of physical integrity before the ballot to pressure the population to vote for autonomy, to retributive acts after the ballot result consisting of large-scale looting and property destruction coupled with retributive acts of physical violence, which may also have been linked with a campaign to intimidate the population into transfer to West Timor, Indonesia.

Violations over time, 1999



Source: Database of Narrative Statements Given to the CAVR

109. The Commission's empirical data on non-fatal violation patterns over time in 1999 are consistent with the hypothesis that violence was coordinated in 1999.

Reported levels of institutional responsibility for non-fatal violations

Overall distribution of attributed institutional responsibility for reported non-fatal violations

110. A number of different institutions were involved in acts of violence over the course of the conflict. The main institutional groups were the Indonesian military, Falintil, East Timorese political parties (such as Fretilin, UDT and Apodeti), East Timorese members of the civil defence forces (such as Hansip, Wanra and Ratih), militias and other East Timorese auxiliaries. This section reviews the reported levels of responsibility for the main non-fatal violations across the main institutional perpetrator groups.

111. The majority of non-fatal violations reported to the Commission were attributed to the Indonesian military and their East Timorese collaborators, as shown in the figure below: 41.2% (37,298/90,635) of the perpetrator involvement in non-fatal violations

was attributed to the Indonesian military, and 25.6% (23,230/90,635) to East Timorese auxiliaries (such as the militias, civil defence force and local officials who worked under the Indonesian administration). For 7.9% (7,146/90,635) of reported violations, institutional perpetrator responsibility was attributed to the Resistance groups and pro-independence forces.

Table 11: Non-fatal violations reported to the CAVR

Violation Type	Indonesian Military	Timorese Collaborators of TNI	Resistance Groups	Other	Civilian Population	Pro-Autonomy Groups	Unknown	Total
Detention	17,749	8,675	3,303	3,792	771	222	3,268	25,347
Torture	7,130	3,903	1,172	1,228	293	61	2,463	11,123
Ill-Treatment	4,628	3,354	1,075	1,252	214	96	2,216	8,436
Property/ Economic Violations	1,802	3,058	416	346	129	65	2,319	4,735
Other	2,367	1,634	789	735	73	34	1,020	4,339
Threats	1,458	1,590	236	251	55	28	1,143	2,982
Forced Recruitment	1,556	740	122	131	47	12	456	2,157
Sexually-Based Violations	608	276	33	26	11	1	203	853
	37,298	23,230	7,146	7,761	1,593	519	13,088	59,972

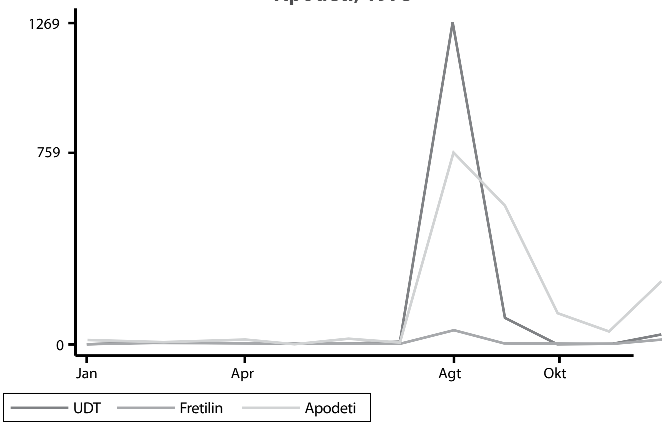
Responsibility for violations may be shared among perpetrators, and therefore, columns may not be directly summed.
Source: Database of Narrative Statements Given to the CAVR

Temporal patterns of attributed institutional responsibility for non-fatal violations

112. The levels of attributed institutional responsibility for documented non-fatal violations varied over the course of the conflict. During 1975, 51.0% (6,229/12,206) of perpetrator involvement in non-fatal violations documented by the Commission were attributed to the Indonesian military, whereas 29.9% (3,653/12,206) were attributed to East Timorese political parties.

113. Of the documented non-fatal violations which occurred in 1975, 31.2% (3,169/10,162) were attributed to Fretilin, 19.4% (1,972/10,162) to UDT and 2.6% (261/10,162) to Apodeti. As is shown in the Non-Fatal Violations Related to Fretilin, UDT and Apodeti, 1974 Figure, the overwhelming majority of documented non-fatal violations in 1975 (where the exact month of the violation is known) attributed to East Timorese political parties occurred in August and September.

Count of reported acts of non-fatal violations attributed to Fretilin, UDT and Apodeti, 1975



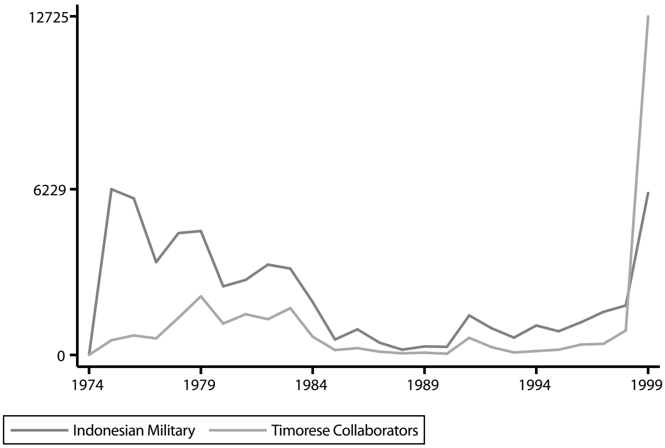
Source: Database of Narrative Statements Given to the CAVR

Note: 22.0%, 41.0% & 53.1% of non–fatal violations attributed UDT, Fretilin & Apodeti were missing month information respectively

114. As is shown in the Violations Over Time Figure, during the period in which the Indonesian military occupation developed from 1977 to 1984, the pattern of non-fatal violations attributed to the Indonesian military and its East Timorese auxiliaries is positively correlated.* Furthermore, a substantially higher relative proportion of perpetrator responsibility is attributed to the civil defence units and other East Timorese auxiliaries of ABRI between 1977 and 1984 than during the initial invasion years (1975-76) or the consolidation years between 1985 and 1998. The Commission's statistical data are consistent with the hypothesis that the Indonesian military drew heavily on its East Timorese auxiliaries between 1977 and 1984 in containing Resistance activities and normalising the occupation through physical integrity violations. Of the non-fatal violations attributed to East Timorese auxiliaries between 1977 and 1984, 54.0% (4,660/8,633) were acts of detention, 16.6% (1,435/8,663) were acts of torture and 10.9% (938/8,633) were acts of ill-treatment.

* The correlation coefficient for reported non-fatal violations attributed to the Indonesian military and police and those attributed to its East Timorese auxiliaries is 0.88.

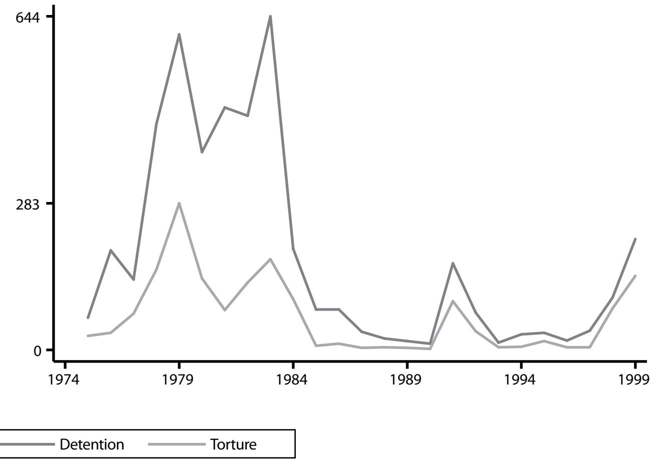
Violations over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

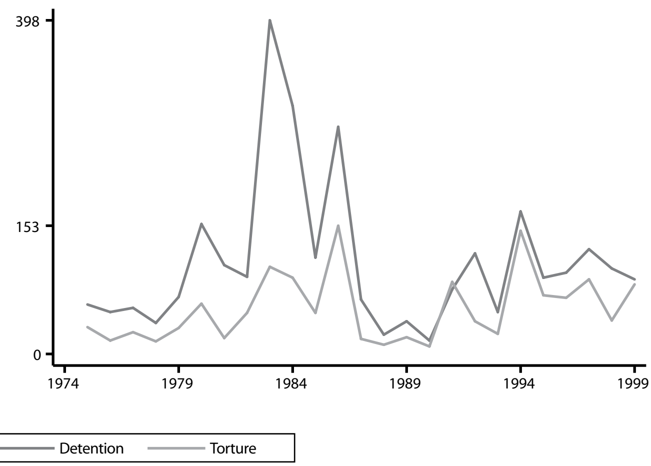
115. Deponents in the Commission's statement-taking process attributed substantial responsibility to specific units of the occupying Indonesian forces and their East Timorese collaborators at particular times during the conflict. As the Non-Fatal Violations by Civilian Defence Units Over Time, 1974–1999 Figure and the Violations by Kopassus Over Time, 1974–1999 Figure show, after the party conflict and initial invasion in 1975, there is a relative peak in attributed responsibility of detentions and tortures by the civil defence units between 1978 and 1983, after which Kopassandha/ Kopassus (Indonesian Special Forces) carried out several hundred reported detentions and acts of torture in 1984 and 1986. In the late 1990s, as can be seen in the Violations by the Police Over Time, 1974–1999 Figure, responsibility is attributed to the police for detentions and tortures. The reported magnitude of detentions and tortures attributed to the civil defence forces in 1983 is 1.6 times bigger than detentions and acts of torture attributed to Kopassandha in the same year and 2.0 times bigger than those attributed to the police in 1999.

Non-fatal violations over time committed by Civil Defense Forces, 1974–1999



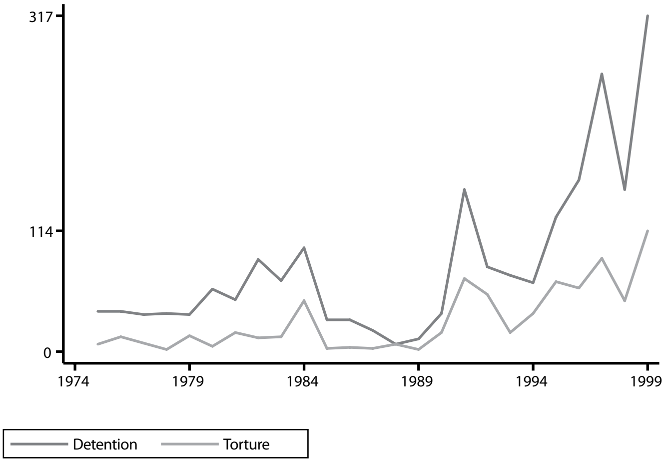
Source: Database of Narrative Statements Given to the CAVR

Violations over time committed by Kopassus, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

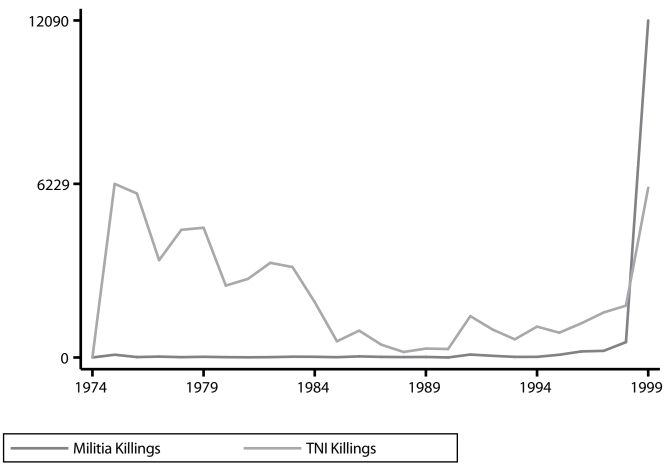
Non-fatal violations over time committed by Police, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

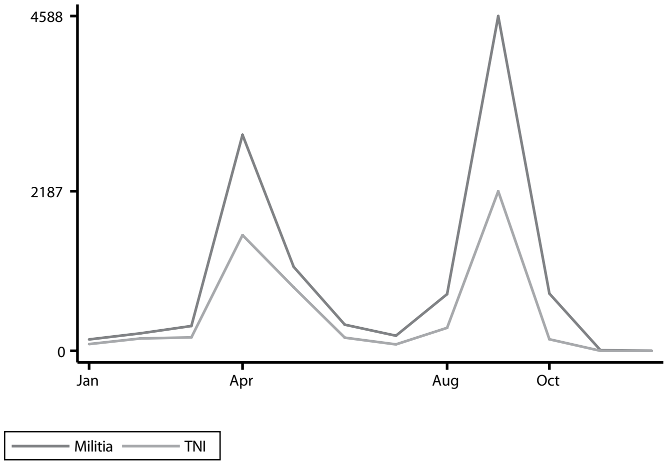
116. By contrast in 1999, overwhelming responsibility for non-fatal violations is attributed to the militias and the Indonesian military – with the militias being associated with more than twice as many non-fatal violations as the Indonesian military, as is shown in the Violations Over Time Figure, 1974–1999 and Violations Over Time Figure 1999.

Violations over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Violations over time, 1999

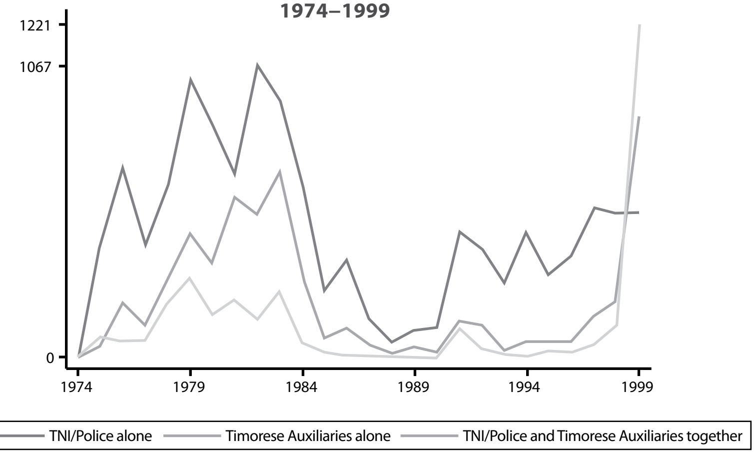


Source: Database of Narrative Statements Given to the CAVR

117. Sometimes non-fatal violations were attributed to the Indonesian military and police acting alone, other times to East Timorese auxiliaries acting alone and other times to the Indonesian military and police acting in concert with their East Timorese auxiliaries. The pattern of shared and individual responsibility between the Indonesian forces and their East Timorese auxiliaries differed by violation type and varied over time.

118. Of the acts of arbitrary detention documented by the Commission, 82.3% (20,867/25,347) were attributed to the Indonesian security forces, their East Timorese auxiliaries or both. As the Acts of Detention Related to TNI, the Police, and Their East Timorese Auxiliaries, 1974–1999 Figure shows, reported acts of arbitrary detention attributed to the Indonesian military and police alone, East Timorese auxiliaries, or both forces acting together, are positively correlated over time. In particular, periods in which substantial documented acts of detention are attributed to both forces acting together (as well as each acting individually) include the period of the initial invasion and occupation (particularly between 1978 and 1983) and around the time of the UN-sponsored Popular Consultation. Hence the Commission's quantitative analysis of arbitrary detentions is consistent with the hypothesis that coordination and cooperation between the Indonesian occupation force and their East Timorese auxiliaries was particularly strong after the Indonesian military had secured large parts of Timor-Leste and started consolidating its occupation of the territory and then again in 1999 in the lead-up to and the aftermath of the UN-sponsored Popular Consultation.

Reported acts of detention attributed to TNI, Police and Timorese Auxiliaries, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

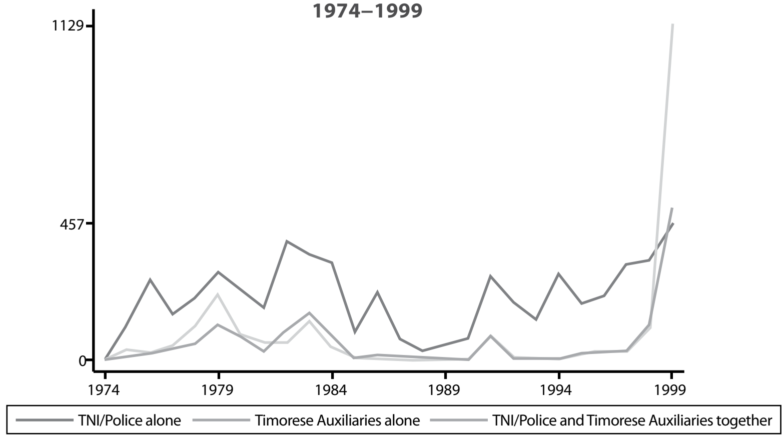
119. Between 1975 and 1998, substantially more acts of arbitrary detention are attributed to the Indonesian military acting alone relative to acts of detention which were attributed solely to East Timorese auxiliaries, or jointly to both the Indonesian occupying force and their East Timorese auxiliaries. However, in 1999, most acts of detentions were attributed to East Timorese auxiliaries. Of the acts of arbitrary detention in 1999 documented by the Commission, 75.7% (2,104/2,779) were attributed to either the East Timorese auxiliaries acting alone or in collaboration with the Indonesian military and police, while 19.2% (534/2,779) of documented acts of detention which occurred in 1999 were attributed to the Indonesian military alone. Almost all these acts were reported to have occurred in the months of April, May and September of 1999, as shown in the Acts of Detention Related to TNI, the Police, and Their East Timorese Auxiliaries, 1974–1999 Figure. The resulting statistical pattern is suggestive of prior planning and operational coordination between both forces in their use of arbitrary detention. During these months the Indonesian government was reassuring the United Nations that its military was trying to bring the violence in Timor-Leste under control. The Commission's statistical data, however, are consistent with the hypothesis that in 1999 the Indonesian military and police, rather than seeking to control their East Timorese auxiliaries (principally the pro-autonomy militias), aided and abetted them in the widespread use of arbitrary detention in the lead-up to and the aftermath of the UN-sponsored Popular Consultation.

120. The pattern of responsibility attributed both solely and jointly to the Indonesian security forces and their East Timorese auxiliaries has some notable similarities to arbitrary detentions, despite acts of ill-treatment and torture being used in a more targeted fashion.* A similar proportion (namely 82.5% (16,135/19,559) of the

* For a detailed explanation on the more targeted nature of torture and ill-treatment relative to acts of detention, refer to the section on the three phases of large-scale violence in Timor-Leste above.

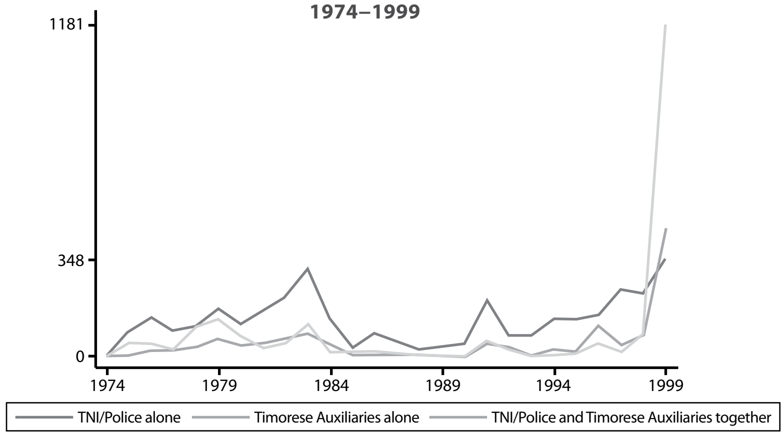
documented ill-treatments and tortures) are attributed to the Indonesian occupation forces and their East Timorese auxiliaries. Also, similar to acts of arbitrary detention, in 1999, 75.8% (3,278/4,324) of reported acts of ill-treatment and tortures were attributed to East Timorese auxiliaries (either acting alone or in collaboration with associates of the Indonesian military and police). However, a greater proportion of acts of ill-treatment and tortures were reported to have occurred in 1999 than between 1974 and 1998 relative to documented cases of arbitrary detention, as can be seen when comparing the Acts of Torture Related to TNI, the Police and Their East Timorese Auxiliaries, 1974–1999 Figure, and the Acts of Ill-Treatment Related to TNI, the Police and Their East Timorese Auxiliaries, 1974–1999 Figure to the Acts of Detention Related to TNI, the Police and Their East Timorese Auxiliaries, 1974–1999 Figure.

Reported acts of torture attributed to TNI, Police and Timorese Auxiliaries, 1974–1999



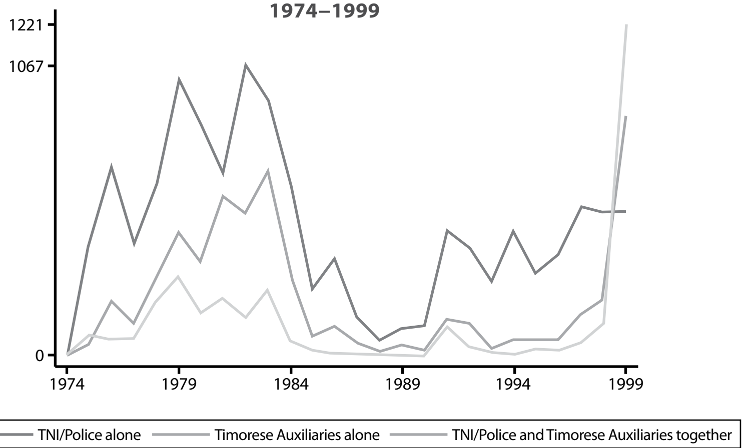
Source: Database of Narrative Statements Given to the CAVR

Reported acts of ill-treatment attributed to TNI, Police and Timorese Auxiliaries, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

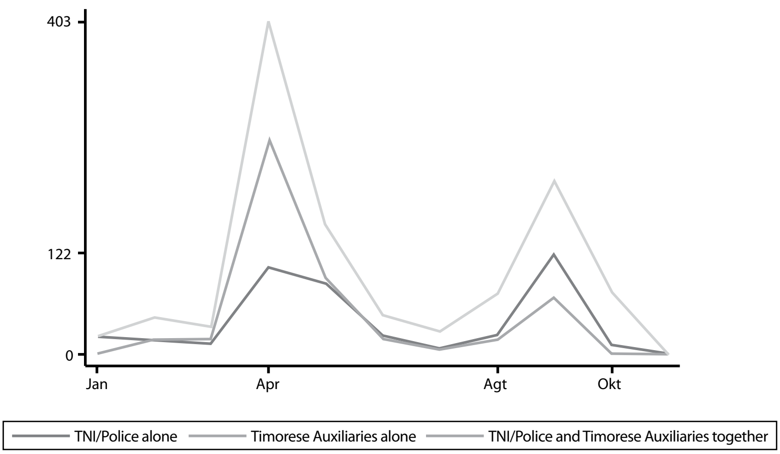
Reported acts of detention attributed to TNI, Police and Timorese Auxiliaries, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

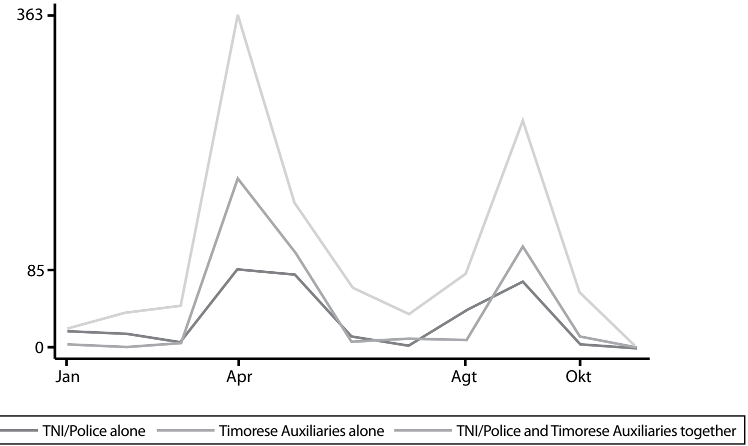
121. In 1999 the pattern and magnitude of documented acts of torture and ill-treatment attributed to the Indonesian occupying forces and their East Timorese auxiliaries both solely and jointly is similar to that of documented acts of detention in 1999, as can be seen in the Recorded Acts of Torture Related to TNI, the Police and Their East Timorese Auxiliaries, 1999 Figure and the Recorded Acts of Ill-Treatment Related to TNI, the Police and Their East Timorese Auxiliaries, 1999 Figure.

Reported acts of torture attributed to TNI, Police and Timorese Auxiliaries, 1999



Source: Database of Narrative Statements Given to the CAVR

Reported acts of ill-treatment attributed to TNI, Police and Timorese Auxiliaries, 1999



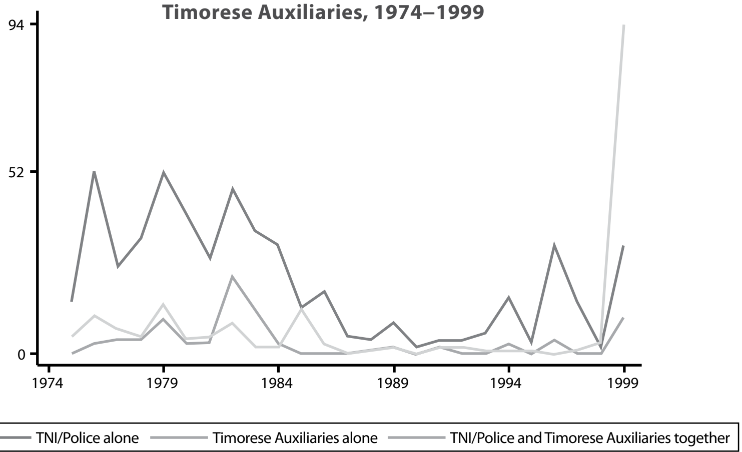
Source: Database of Narrative Statements Given to the CAVR

122. Hence as is the case for arbitrary detentions, the Commission's statistical data on ill-treatment and torture are consistent with the hypothesis that coordination and cooperation between the Indonesian forces and their East Timorese auxiliaries was particularly strong after the Indonesian military had secured large parts of Timor-Leste and started consolidating its occupation of the territory, and then again in 1999 in the lead-up to and aftermath of the UN-sponsored Popular Consultation.

123. The nature and pattern of attribution of perpetrator responsibility for documented sexually-based violations and property/economic violations were both notably different than for documented detentions, tortures and ill-treatments.

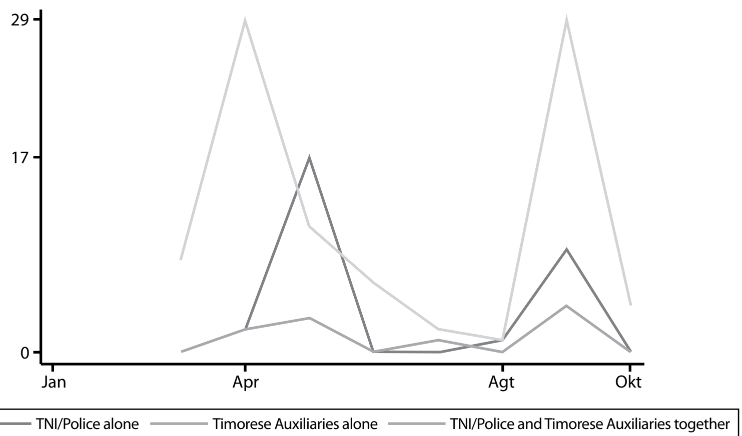
124. A higher proportion of sexually-based violations were attributed to the Indonesian military acting alone, whereas a much smaller proportion of sexually-based violations was attributed to the Indonesian occupation forces acting together with their East Timorese auxiliaries. In particular, 61.0% (520/853) of documented sexually-based violations were attributed to the Indonesian military and police acting alone, 22.0% (188/853) to East Timorese auxiliaries acting alone and 10.3% (88/853) to both forces acting together. As for all other non-fatal violations, the higher counts of sexually-based violations were attributed to Indonesian military alone between 1975 and 1998 than those attributed solely to East Timorese auxiliaries or jointly to both forces; whereas for 1999 the majority of sexually-based violations (66.2% (94/142) reported to the Commission were solely attributed to East Timorese auxiliaries. These temporal patterns are shown in the Recorded Acts of Sexually-Based Violation Related to TNI, the Police and Their East Timorese Auxiliaries, 1974–1999 Figure and the Recorded Acts of Sexually-Based Violation Related to TNI, the Police and Their East Timorese Auxiliaries, 1999 Figure.

Count of reported acts of sexually-based violations attributed to TNI, Police and Timorese Auxiliaries, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Count of reported acts of sexually-based violations attributed to TNI, Police and Timorese Auxiliaries, 1999

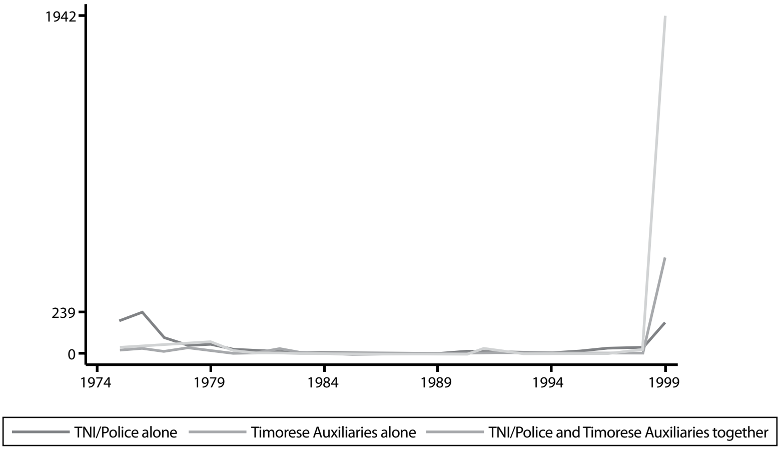


Source: Database of Narrative Statements Given to the CAVR

125.Of the documented property/economic violations attributed to the Indonesian occupying forces and/or their East Timorese auxiliaries acting alone or jointly, 65.1% (2,673/4,105) occurred in 1999. As can be seen in the Recorded Economic/Property Violations Related to TNI, the Police and Their East Timorese Auxiliaries, 1974–1999 Figure, 70.2% (1,942/2,766) of the documented property/economic violations in 1999 were attributed solely to East Timorese auxiliaries, 20.0% (553/2,766) were attributed to both forces

acting together and 6.4% (178/2,766) to the Indonesian military and police acting alone. The Commission's quantitative analysis is consistent with the hypothesis that most property and economic destruction was carried out in 1999 and was usually carried out by the militias acting alone or in collaboration with the Indonesian military and police.

Count of reported acts of property/economic violations attributed to TNI, Police and Timorese Auxiliaries, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Variations in reported non-fatal abuses across space

126. The Commission's narrative data cannot be used to assess directly the differences in the magnitude of violations between regions and districts. Data based on convenience samples are representative only of the total extent of violence from region to region in so far as the deponents whose statements were taken are representative of their local population and were selected in proportion to the violence suffered in each district. As described above, the narrative information collected by the Commission, Fokupers and Amnesty International all are subject to a number of biases. Consequently, patterns of non-fatal violations across space are presented in this section in order to gain insight into the social processes of data collection by the Commission, Fokupers and Amnesty International, and to assess whether the reported patterns across space are consistent with relevant qualitative analysis and argument.

127. The Violations Based on Districts Figure shows the counts of each violation by district reported during the Commission's statement-taking process. Dili District has a significantly higher number of reported violation counts than any other district, comprising 14.0% (8,389/59,972) all violations in the country. The districts with other relatively high violation counts are Ermera, Manufahi, Viqueque and Lautém. In almost all districts, except for Oecussi, detention, torture and ill-treatment were the mostly

frequently reported violations, accounting for between 69.4% and 82.7% of the reported violation counts in districts. In Oecussi, physical integrity violations accounted for 43.0% of the district's violation count. Relative to other districts, in Oecussi, property and economic violations were reported in higher proportions, comprising 30.8% (1,271/4,133) of the district's total violation count.* Property and economic violations in other districts were reported significantly less frequently, on average comprising 7.4% (3,464/56,574) of reported violations.

Table 12: Violations by district (1)

Violation	Lautém	Viqueque	Baucau	Manatuto	Manufahi	Aileu	Ermera	Total
Detention	2,696	2,412	2,366	1,414	2,237	1,520	2,010	14,655
Physical Integrity Violations	909	905	976	695	1,094	658	1,281	6,518
Property/ Economic Violations	80	610	289	103	189	123	578	1,972
	1,319	1,570	1,205	893	1,954	1,013	2,112	10,066
	5,004	5,497	4,836	3,105	5,474	3,314	5,981	33,211

Violations by district (2)

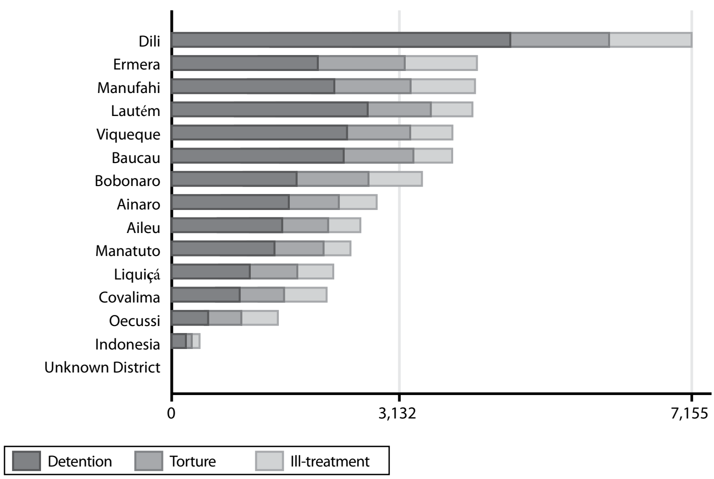
Violation	Liquiçá	Dili	Ainaro	Covalima	Oecussi	Bobonaro	Indonesia	Total
Detention	1,074	4,658	1,611	935	501	1,718	195	10,692
Physical Integrity Violations	662	1,367	743	641	460	1,035	90	4,998
Property/ Economic Violations	103	229	232	227	1,271	505	196	2,763
	858	2,135	1,141	1,267	1,166	1,494	247	8,308
	2,697	8,389	3,727	3,070	3,398	4,752	728	26,761

Source: Database of Narrative Statements Given to the CAVR

* 96.8% (1,230/1,271) of these property violations in Oecussi were reported to have occurred in 1999. Furthermore 94.0% (3,194/3,398) of reported violations in Oecussi occurred in 1999. Hence it appears that, unlike other districts, the violence in Oecussi was almost exclusively in 1999.

128. Although physical integrity violations reported to the Commission constituted 61.5% (36,911/60,047) of all documented non-fatal violations, detention, torture and ill-treatment were not documented in the same proportions in each district, as shown in the Recorded Violations Based on Types and Districts Figure. In particular Dili has a higher proportion of documented detentions relative to the number of its documented acts of ill-treatment and torture, whereas Bobonaro, Ainaro, Aileu, Manatuto, Liquiçá and Covalima have proportionally lower numbers of documented detention compared with their respective proportions of ill-treatment and torture. The Commission's data are consistent with the hypothesis that policies and practices of detention and physical abuse varied across regions. In particular the Commission's empirical analysis found that while detentions were used more often in Dili, ill-treatment and torture were used less frequently there relative to the rest of the country.

Count of reported violations, by type and district (1)



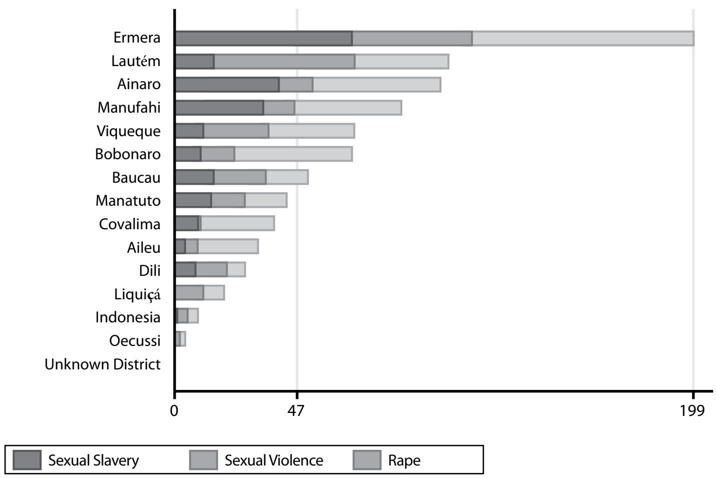
Source: Database of Narrative Statements Given to the CAVR

129. Sexually-based violations documented by the Commission comprised 1.4% (853/59,972) of all reported violations. However, in Ermera, Ainaro and Lautém the Commission found a relatively higher proportion of sexual violations at 3.3% (199/5,981), 2.7% (102/3,727) and 2.1% (105/5,004) of the total reported violations respectively. Sexual violations were reported less frequently in Dili and Oecussi representing 0.3% (27/8,389) and 0.1% (4/3,398) of the total respectively.

130. The types of documented sexually-based abuses varied across districts, as shown in the Recorded Violations Based on Types and Districts Figure below. Across Timor-Leste, of all the sexual violations documented by the Commission, rape accounted for 46.1% (393/853), other sexual violence 27.1% (231/853) and sexual slavery 26.8% (229/853). Rapes accounted for a higher proportion of sexual

violations in Aileu and Bobonaro than the national average: 71.9% (23/32) and 66.2% (45/68), respectively; whereas sexual slavery accounted for a higher proportion of sexually-based violations in Manufahi and Ainaro than the national average: 39.1% (34/87) and 39.2% (40/102), respectively. Similarly, other sexual violence accounted for 57.9% (11/19) and 51.4% (54/105) of all documented sexual violations in Liquiçá and Lautém, respectively.

Count of reported violations, by type and district (2)



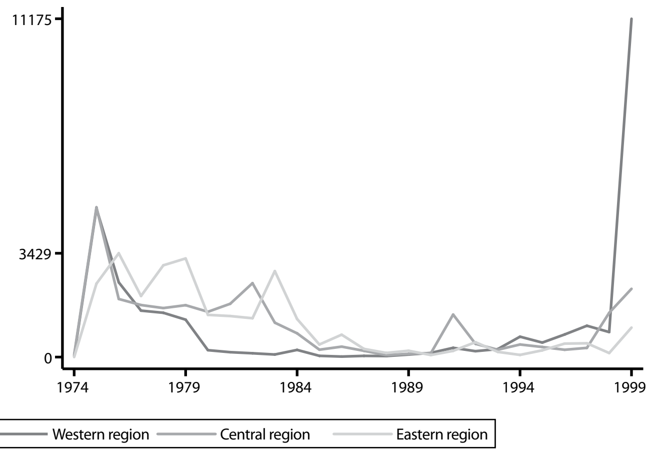
Source: Database of Narrative Statements Given to the CAVR

Non-fatal violations over time and space

131. Broadly speaking, violence in Timor-Leste occurred in distinct phases, as discussed above. However, the patterns of non-fatal violations during the first and last phases of the conflict varied from region to region as shown in the Non-Fatal Violations Based on Regions Over Time, 1974–1999 Figure. In particular, violence associated with the initial Indonesian invasion and the East Timorese political party conflict in 1975 was more intense in the Western and Central Regions relative to the Eastern Region. However, as the occupation continued, reported non-fatal abuses in the Western Region decreased from its initial high levels in 1975 to a relatively low level by 1980, whereas in the Central Region violence also decreased after the initial invasion period to a level of intensity of about half that experienced in 1975. In the Eastern Region the level of documented violence in 1975 was only about as half as much in absolute terms as that reported in the Western and Central Regions. However, across Timor-Leste, throughout the late 1970s and early 1980s violence continued at around the same levels as was experienced in 1976 without any substantial decrease until 1984. While the initial violence around the time of the Indonesian invasion in 1975 was most intense in the Western and Central Regions, after 1976 the focus of non-fatal violations shifted to the Eastern Region.

132. Apart from the Santa Cruz Massacre and its aftermath in 1991 in Dili, reported violence during the "consolidation years" from 1984 through to 1998 took the form of sporadic low-level violence in all three regions. During the final phase of the conflict in 1999, 75.1% (9,494/12,634) of reported non-fatal violations occurred in the Western Region. The Commission's data are consistent with the claim that populations close to the West Timor border and in Oecussi in 1999 were subjected to higher levels of violence as the pro-autonomy militias and Indonesian military withdrew towards West Timor.

Count of all reported non-fatal violations by region over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Age-sex victim demographics of reported non-fatal violations

Reporting levels of age and sex information for victims

133. The Commission examined several hypotheses that might establish whether or not victims were targeted on the grounds of age and sex. This section describes the notably different demographic age-sex patterns for reported victims of the main non-fatal violations. This analysis includes only victims whose age and sex at the time of the violation was known.

134. Of the 60,047 non-fatal violations reported to the Commission, 34,047 (63.4%) contained exact age information of identified victims. Unfortunately there is no way of knowing what the distribution of unknown ages is for these data. Hence it is not possible to assess how representative the age distribution of victims with known ages is of the age distribution of all reported victims.

135. The Commission considered a child to be any person under the age of 18 years old. This definition conforms to the definition set out in the United Nations Convention on the Rights of the Child.[6] The majority, 89.8% (30,574/34,047), of

non-fatal violations documented by the Commission, where the victim's age was known, were perpetrated against adults. 10.2% (3,473/34,047) of violations where the victim's age was known were suffered by child victims.

136. Of the 60,047 non-fatal violations documented by the Commission, 99.4% (59,715/60,047) were against victims whose sex was known. Of these violations 14.0% (8,355/59,715) were committed against females and 86.0% (51,360/59,715) were committed against males. 25,476 victims (including those whose sex was not known) experienced these documented violations, of whom 15.7% (4,002/25,476) were females and 83.6% (21,308/25,476) were male.

137. The Commission documented 3,473 violations against children, of which 3,451 violations have known information about the sex of the child. Of these violations, 27.5% (950/3,451) were against girl victims and 72.5% (2,501/3,451) were against boy victims. There were 22 children whose sex was either unknown or not reported by the witness. Of the 30,446 documented violations against adults where the sex of the victims is known, 12.7% (3,870/30,446) were females and 87.3% were males. Thus, the proportion of documented violations against female children is greater than the proportion of documented violations against female adults. Hence, both adult and child victims tended to be males. Relative to males, female victims tended to be younger.

Victim analysis by sex

138. The types of violations perpetrated against males and females are substantially different. In the Figure below, it is clear that females suffer the overwhelming majority of sexual violations: for every one sexually-based violation against a male, the Commission documented ten violations against females. Whereas for every act of torture and forced recruitment against a female victim, the Commission documented around 12 or 13 acts of torture and forced recruitment against males. Other types of violation, such as threats, property and economic violations, ill-treatment and detention were documented in an average proportion of about 5.8 male victims for each female victim.

Table 13: Pattern of victims by sex

Violation Type	Violations against Males	Violations Against Females	Violations against Unknown Sex	% Female Victims	Proportion Male to Female Victims	Total
Property/ Economic Violations	3,792	908	35	19.2	4.2	4,735
Physical Integrity Violations	10,205	1,247	64	10.8	8.2	11,516

	15,602	2,678	94	14.6	5.8	18,374
Detention	21,687	3,521	139	13.9	6.2	25,347
	51,286					59,972

Source: Database of Narrative Statements Given to the CAVR

139. In the Figure below, analysis of the pattern of victims by sex over time is provided. There is significant variation in the ratio of male to female victims across the different years of the conflict: the male-to-female ratio varies from a low of 2.7 in 1981 to a high of 43.1 in 1991. Higher than average male-to-female ratios are recorded in 1975, 1987 and 1999. These findings are consistent with the hypotheses that substantial numbers of females were transported to Ataúro in 1981 and that the nature of the post-Santa Cruz crackdown by the Indonesian military forces was that it was largely directed against males.

Table 14: Pattern of victims by sex over time

Year	Violations against Males	Violations Against Females	Violations against Unknown Sex	% Female Victims	Proportion Male to Female Victims	Total
1974	94	0	0	0.0		94
1975	5,526	489	29	8.1	11.3	6,044
1976	2,986	554	13	15.6	5.4	3,553
1977	2,287	352	30	13.2	6.5	2,669
1978	2,516	523	23	17.1	4.8	3,062
1979	3,471	633	23	15.3	5.5	4,127
1980	2,071	389	20	15.7	5.3	2,480
1981	1,768	664	7	27.2	2.7	2,439
1982	2,440	708	4	22.5	3.4	3,152
1983	2,949	679	41	18.5	4.3	3,669
1984	1,788	239	2	11.8	7.5	2,029
1985	532	128	0	19.4	4.2	660
1986	856	204	2	19.2	4.2	1,062
1987	430	41	0	8.7	10.5	471
1988	189	16	0	7.8	11.8	205
1989	311	20	11	5.8	15.6	342

1990	302	7	8	2.2	43.1	317
1991	1,658	185	6	100	9.0	1,849
1992	1,009	54	20	5.0	18.7	1,083
1993	551	84	2	13.2	6.6	637
1994	974	158	14	13.8	6.2	1,146
1995	927	38	6	39	24.4	971
1996	1,170	154	6	11.6	7.6	1,330
1997	1,580	123	1	7.2	12.8	1,704
1998	2,075	164	4	7.3	12.7	2,243
1999	10,826	1,748	60	13.8	6.2	12,634
	51,286					59,972

Source: Database of Narrative Statements Given to the CAVR

140. Although a district breakdown shows less variation across space in male-to-female victim ratios than over time, higher than average ratios were documented in Liquiçá (11.4), Oecussi (9.4), Aileu (8.3) and Dili (8.2), whereas Lautém (3.7), Ainaro (4.5) and Ermera (4.5) recorded lower than average male-to-female ratios. These findings are shown in the Figure below.

Table 15: Pattern of victims by sex between district

District	Violations against Males	Violations Against Females	Violations against Unknown Sex	% Female Victims	Proportion Male to Female Victims	Total
Lautém	3,915	1,069	20	21.4	3.7	5,004
Viqueque	4,766	685	46	12.5	7.0	5,497
Baucau	4,049	745	42	15.4	5.4	4,836
Manatuto	2,566	511	28	16.5	5.0	3,105
Manufahi	4,829	621	24	11.3	7.8	5,474
Aileu	2,934	352	28	10.6	8.3	3,314
Ermera	4,872	1,086	23	18.2	4.5	5,981
Liquiçá	2,475	217	5	8.0	11.4	2,697

Dili	7,441	906	42	10.8	8.2	8,389
Ainaro	3,034	681	12	18.3	4.5	3,727
Covalima	2,624	426	20	13.9	6.2	3,070
Oecussi	3,057	325	16	9.6	9.4	3,398
Bobonaro	4,097	631	24	13.3	6.5	4,752
Indonesia	627	99	2	13.6	6.3	728
	51,286					59,972

Source: Database of Narrative Statements Given to the CAVR

Victim analysis by age

141. This section examines victims' age by violation types, time and space.

142. The counts of specific violations by adults and children are given in the table below. For almost all the violation types documented by the Commission, for every one violation suffered by a child, approximately 7-10 violations against adults are documented. However, for sexual violations the proportion of adult to child victims was substantially lower than other violation types: for every sexually-based violation documented by the Commission against a child, 3.4 violations against adults were documented. Hence, the adult-to-child ratio was about 2.5 times lower for sexual violations than for other non-fatal violations.

Table 16: Pattern of victims by age

Violation Type	Violations against Adults	Violations Against Children	Violations against Unknown Age	% Child Victims	Proportion Adult to Child Victims	Total
Property/ Economic Violations	2,882	323	1,530	6.8	8.9	4,735
Physical Integrity Violations	6,255	639	4,622	5.5	9.8	11,516
	9,543	1,088	7,743	5.9	8.8	18,374
Detention	11,849	1,427	12,071	5.6	8.3	25,347
			25,966			59,972

Source: Database of Narrative Statements Given to the CAVR

143. The figure below shows the counts of violations against adults and children by year. The Commission's data on non-fatal violations show a general upward trend in the ratio of adults to children over time, that is the number of adult victims relative to child victims is larger in the latter part of the conflict. However, since there is a substantially larger amount of victims' ages not recorded in the earlier part of the conflict, it is difficult to make comparisons between the adult-to-child victim ratio in the early and late periods of the conflict.

Table 17: Pattern of victims by age over time, 1974–1999

Year	Violations against Adults	Violations Against Children	Violations against Unknown Age	% Child Victims	Proportion Adult to Child Victims	Total
1974	5	0	89	0,0		94
1975	2,616	402	3,026	6.7	6.5	6,044
1976	1,582	293	1,678	8.2	5.4	3,553
1977	1,087	185	1,397	6.9	5.9	2,669
1978	1,302	226	1,534	7.4	5.8	3,062
1979	2,015	260	1,852	6.3	7.8	4,127
1980	1,155	173	1,152	7.0	6.7	2,480
1981	1,174	293	972	12.0	4.0	2,439
1982	1,381	199	1,572	6.3	6.9	3,152
1983	1,653	200	1,816	5.5	8.3	3,669
1984	1,017	78	934	3.8	13.0	2,029
1985	307	40	313	6.1	7.7	660
1986	527	93	442	8.8	5.7	1,062
1987	194	27	250	5.7	7.2	471
1988	121	6	78	2.9	20.2	205
1989	234	17	91	5.0	13.8	342
1990	196	45	76	14.2	4.4	317
1991	1,099	62	688	3.4	17.7	1,849
1992	509	28	546	2.6	18.2	1,083
1993	308	47	282	7.4	6.6	637

1994	568	53	525	4.6	10.7	1,146
1995	457	43	471	4.4	10.6	971
1996	680	39	611	2.9	17.4	1,330
1997	1,073	88	543	5.2	12.2	1,704
1998	1,070	55	1,118	2.5	19.5	2,243
1999	8,199	525	3,910	4.2	15.6	12,634
			25,966			59,972

Source: Database of Narrative Statements Given to the CAVR

144. On average the Commission documented 8.8 adult victims for every one child victim. However, there is variation in the adult-to-child victim ratio between districts, as is shown in the table below. In Bobonaro a relatively high number of child victims were documented, as is shown by the reported adult-to-child victim ratio of 4.8, whereas in Covalima, Indonesia and Oecussi noticeably higher than average adult-to-child victim ratios were documented.*

Table 18: Pattern of victims by age between districts

District	Violations against Adults	Violations Against Children	Violations against Unknown Age	% Child Victims	Proportion Adult to Child Victims	Total
Lautém	2,498	347	2,159	6.9	7.2	5,004
	2,119	226	3,152	4.1	9.4	5,497
Baucau	2,597	314	1,925	6.5	8.3	4,836
Manatuto	1,347	191	1,567	6.2	7.1	3,105
Manufahi	2,505	246	2,723	4.5	10.2	5,474
Aileu	1,488	166	1,660	5.0	9.0	3,314
Ermera	3,107	315	2,559	5.3	9.9	5,981
Liquiçá	1,810	166	721	6.2	10.9	2,697
Dili	4,089	448	3,852	5.3	9.1	8,389
Ainaro	1,811	232	1,684	6.2	7.8	3,727
Covalima	1,942	112	1,016	3.6	17.3	3,070

* On average, the adult-to-child victim ratio documented by the Commission was 17.3 in Covalima, 15.3 in Indonesia and 14.1 in Oecussi.

Oecussi	2,278	161	959	4.7	14.1	3,398
Bobonaro	2,510	525	1,717	11.0	4.8	4,752
Indonesia	428	28	272	3.8	15.3	728
			25,966			59,972

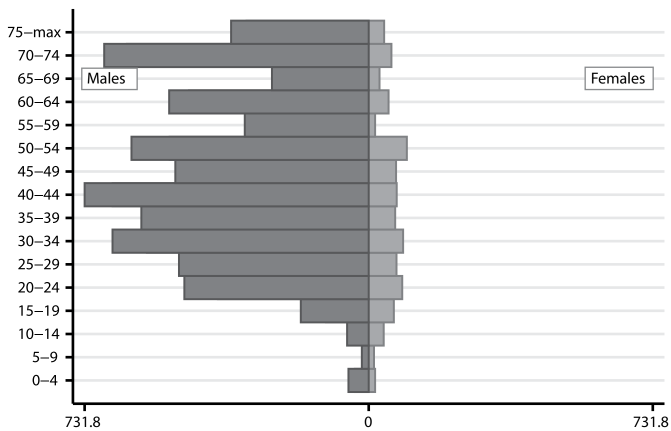
Source: Database of Narrative Statements Given to the CAVR

Victim analysis by age and sex

145. This section describes the distribution of victims by both age and sex. The analysis is presented as both counts and in terms of population-based rates of each violation's occurrence. The population-based rates are calculated using the 1990 Indonesian Population Census.[7]

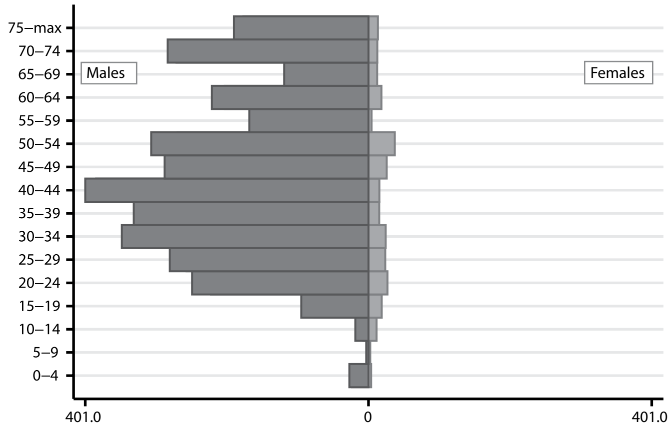
146. The Age-Sex Specific Level of Detention (per 10,000 people), 1974–1999 Figure; the Age-Sex Specific Level of Torture (per 10,000 people), 1974–1999 Figure; and the Age-Sex Specific Level of Ill-Treatment (per 10,000 people), 1974–1999 Figure present counts of documented age-sex violations for detention, torture and ill-treatment. The documented age-sex distribution counts for these three violation types are remarkably similar, each showing that the most frequently documented victim group for these types of violations were young men of military age. Very few documented acts of detention, torture and ill-treatment were experienced by female victims.

Age-sex specific detention rate (per 10,000 persons), 1974–1999



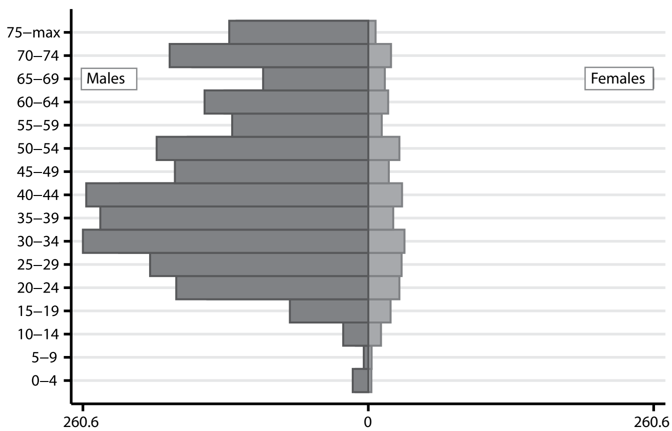
Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 47.8% of the records are missing age or sex of the victim

Age-sex specific torture rate (per 10,000 persons), 1974–1999



Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 40.6% of the records are missing age or sex of the victim

Age-sex specific ill-treatment rate (per 10,000 persons), 1974–1999

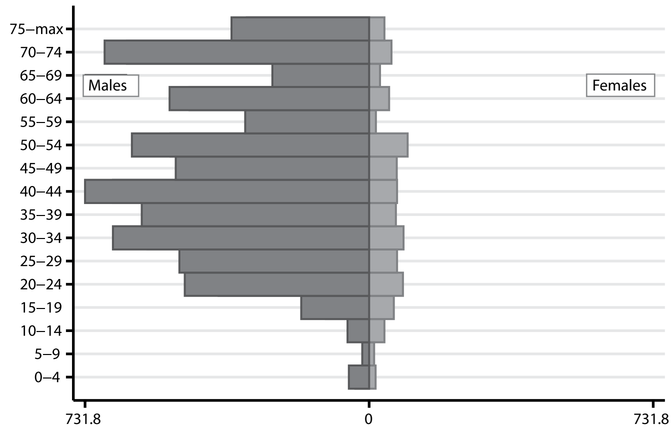


Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 42.0% of the records are missing age or sex of the victim

147. When analysis moves from simple violation counts to population-based violation rates, it can be seen that relative to the overall East Timorese population middle-age males experienced the highest rates of these forms of violence. Furthermore, old males above the age of 70 experienced these forms of violence at a similar rate to middle-aged males. These patterns are shown in the Age-Sex Specific Level of

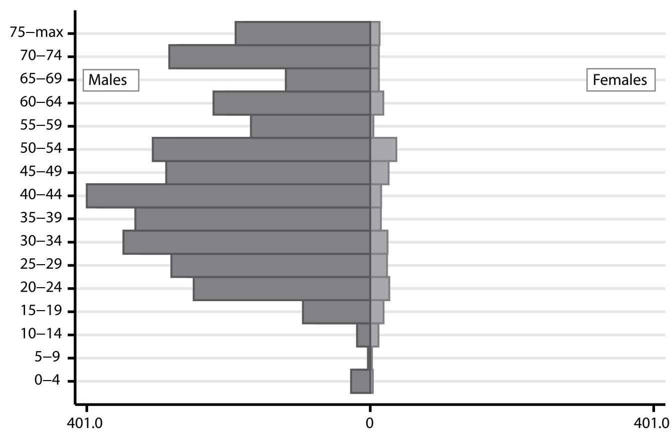
Detention (per 10,000 people), 1974–1999 Figure; the Age-Sex Specific Level of Torture (per 10,000 people), 1974–1999 Figure; and the Age-Sex Specific Level of Ill-Treatment (per 10,000 people), 1974–1999 Figure.

Age-sex specific violation rate of detention (per 10,000 persons), 1974–1999



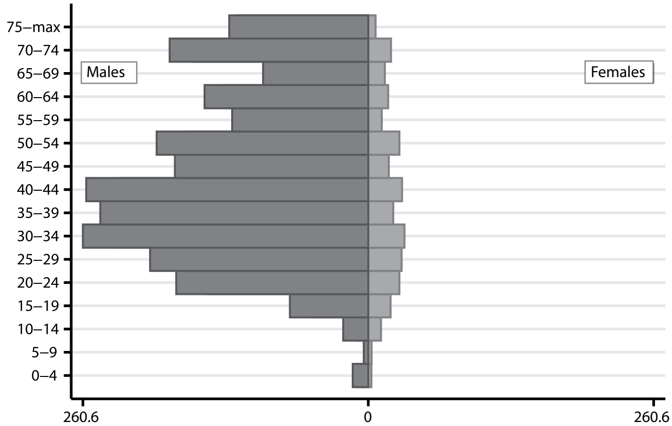
Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 47.8% of the violation records are missing age or sex of the victim

Age-sex specific violation rate of torture (per 10,000 persons), 1974–1999



Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 40.6% of the violation records are missing age or sex of the victim

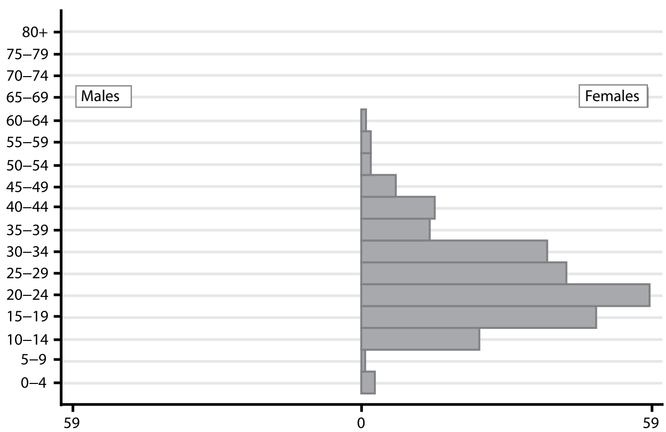
Age-sex specific violation rate of ill-treatment (per 10,000 persons), 1974–1999



Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 42.0% of the violation records are missing age or sex of the victim

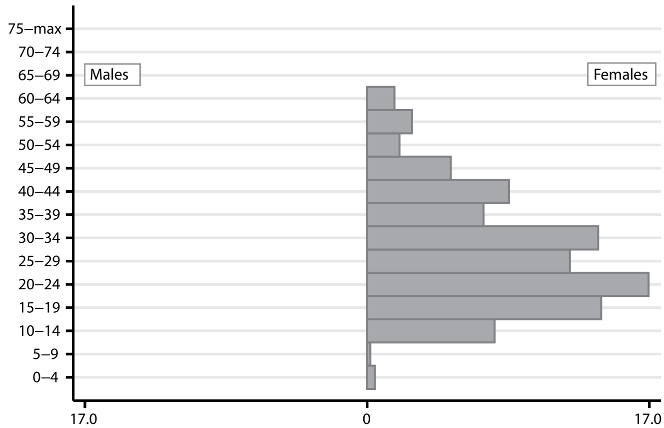
148. The age-sex distributions of victims of sexual violations documented by the Commission are substantially different to those for physical integrity violations. This can be seen in the Recorded Acts of Rape Based on Age and Sex, 1974–1999 Figure; and the Age-Sex Specific Level of Acts of Rape (per 10,000 People), 1974–1999. Furthermore, there are notable differences in the age-sex distribution of victims for the different forms of sexual violations. The Commission documented rapes of women in all age categories under 65 years old. However, the highest frequency of documented rape and highest population-based rates of rape were for young women of reproductive age. 15-24 year-old women appear to have been the sub-population at most risk of rape.

Number of reported acts of rape, by age and sex, 1974–1999



Source: Database of Narrative Statements Given to the CAVR
Note: 34.9% of the records are missing age or sex of the victim

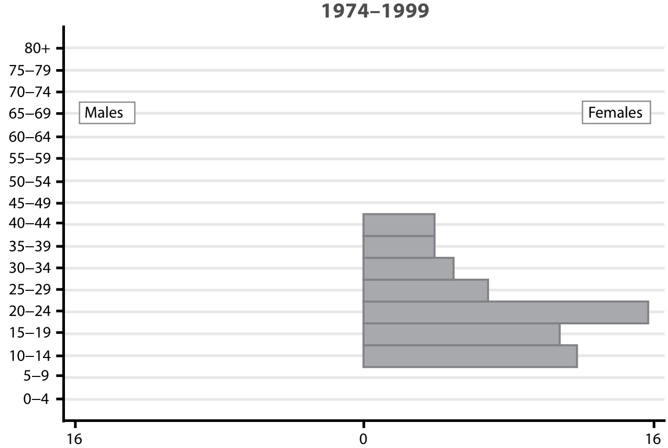
Age-sex specific violation rate of rape (per 10,000 persons), 1974–1999



Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 34.9% of the violation records are missing age or sex of the victim

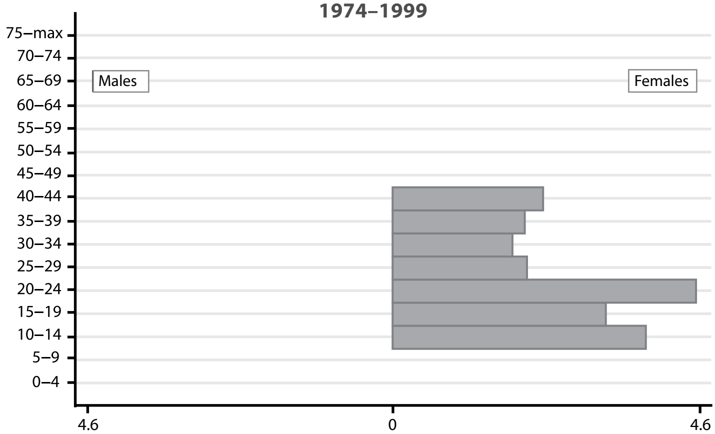
149. By contrast only women between the ages of 10 and 44 were among the documented victims of sexual slavery. Of these victims women between 20 and 24 years old experienced both the highest counts and highest rates of sexual slavery. As was the case for rape, no cases of sexual slavery of men were documented by the Commission.

Number of reported acts of sexual slavery, by age and sex, 1974–1999



Source: Database of Narrative Statements Given to the CAVR
Note: 39.8% of the records are missing age or sex of the victim

Age-sex specific violation rate of sexual slavery (per 10,000 persons), 1974–1999

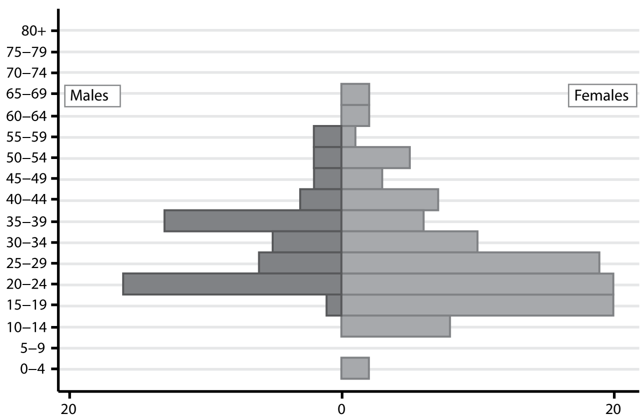


Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia

Note: 39.8% of the violation records are missing age or sex of the victim

150. However, the Commission documented cases of other sexual violence against both men and women. This form of violence was most commonly directed against men in the 20-24 and 35-39 age groups and women between the ages of 15 and 29 years-old.

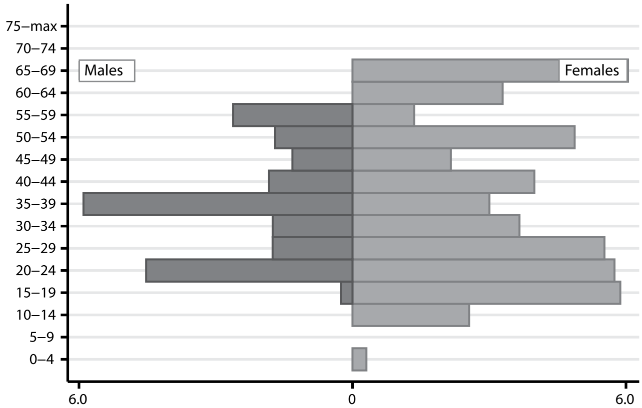
Number of reported acts of sexual violence, by age and sex, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Note: 29.9% of the records are missing age or sex of the victim

Age-sex specific violation rate of sexual violence (per 10,000 persons), 1974–1999



Sources: (i) Database of Narrative Statements Given to the CAVR, (ii) 1990 Population Census, Statistics Indonesia
Note: 29.9% of the violation records are missing age or sex of the victim

151. Hence, the Commission's quantitative analysis suggests that young women experienced the overwhelming majority of sexual violations. Furthermore, rape and sexual slavery were exclusively reported to have been suffered by women.

Comparison of retrospective and contemporaneous human rights monitoring

152. This section compares the extent and pattern of non-fatal violations reported by the Commission with the extent and pattern reported by Amnesty International. It shows how isolated Timor-Leste was from the international community and the paucity of information and limited extent to which knowledge of violations in Timor-Leste were known during the early and harshest periods of the conflict.

153. As discussed above, access to the territory during the Indonesian occupation was extremely limited, especially for international human rights groups such as Amnesty International. As a result the geographic coverage of contemporaneous reports by Amnesty International is significantly different to that reported to the Commission and Fokupers in their retrospective statement-taking processes.

154. 35.6% (1,953/5,479) of reported non-fatal violations documented by Amnesty International did not contain information about the location where the respective violation took place, as is shown in the Data Distribution Table below. This appears to be consistent with the limited information flow out of Timor-Leste during the occupation (particularly from remote, mountainous villages and sub-districts). Furthermore, the nature of contemporaneous reporting to the international community was more focused on reporting the nature of the human rights situation in Timor-Leste rather

than describing the differing conditions in different parts of the territory. However, 32.3% (1,770/5,479) of the non-fatal violations reported by Amnesty International occurred in Dili; a higher proportion than was reported in the retrospective projects conducted by Commission and Fokupers, in which violations in Dili accounted for 14.0% (8,389/59,972) and 4.6% (36/788) respectively).

Table 19: Data distribution based on CAVR, Fokupers, Amnesty International databases

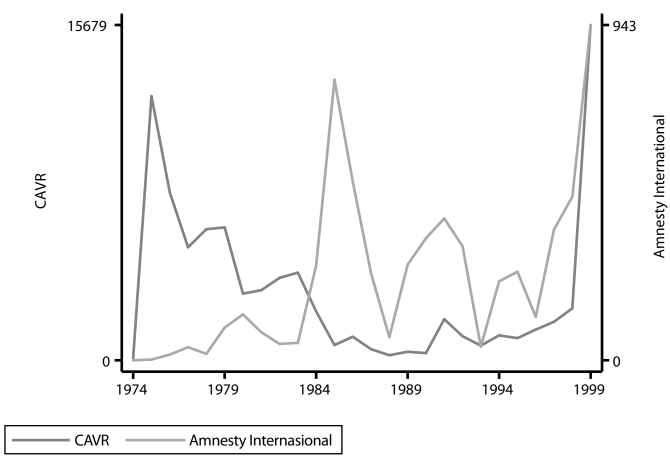
District	CAVR Statements Database	Amnesty Database	Fokupers Database	% CAVR	% Amnesty	% Fokupers
Lautém	5,004	6	111	8.3	2.0	0.8
Viqueque	5,497	6	114	9.2	2.1	0.8
Baucau	4,836	1	210	8.1	3.8	0.1
Manatuto	3,105	27	22	5.2	0.4	3.4
Manufahi	5,474	63	60	9.1	1.1	8.0
Aileu	3,314	18	57	5.5	1.0	2.3
Ermera	5,981	113	25	10.0	0.5	14.3
Liquiçá	2,697	88	246	4.5	4.5	11.2
Dili	8,389	36	1,770	14.0	32.3	4.6
Ainaro	3,727	84	54	6.2	1.0	10.7
Covalima	3,070	90	65	5.1	1.2	11.4
Oecussi	3,398	10	19	5.7	0.3	1.3
Bobonaro	4,752	190	184	7.9	3.4	24.1
Indonesia	728	52	589	1.2	10.8	6.6
Unknown Districts	0	4	1,953	0.0	35.6	0.5
	59,972	788	5.479	100.0	100.0	100.0

Source: Database of CAVR, Fokupers and Amnesty International Statements and Reports

155. As indicated in the Violations Over Time Figure below, contemporaneous reports from Amnesty International show three distinct peaks in detentions of identified individuals in 1985, 1989-93 and 1994-99 of 402, 891 and 811 respectively; whereas retrospective reports given to the Commission suggest that the bulk of arbitrary detentions occurred in 1999 and between 1975–1984. Furthermore, these reports

suggest that at least 2,779 separate acts of arbitrary detention occurred in 1999 and at least 16,509 of such acts between 1975 and 1984. These comparisons are evidence of the difficulty of documenting human rights abuses in Timor-Leste during the Indonesian occupation. The Violations Over Time Figure shows that although international human rights groups such as Amnesty International meticulously documented the human rights situation in Timor-Leste throughout the 1980s and 1990s, there was substantial underreporting of the overall magnitude of non-fatal violence at the time. The Figure also shows the substantial difference in social understanding gained from retrospective reports compared with contemporaneous reports about the early invasion years: of the violations documented by Amnesty International, 10.9% (734/6,717) occurred in the early invasion years between 1975 and 1984. By comparison, of the violations reported to the Commission, 64.0% (47,390/74,024) occurred between 1975 and 1984. Given that retrospective reporting by the Commission is subject to notable "memory-loss" (due to some people who could have reported about violations in the early invasion years dying in the late 1980s and 1990s), the Commission's narrative statement data are themselves subject to a temporal bias against violations which occurred in the earlier years of the Commission's mandate. The Commission finds that, due to the limited access to Timor-Leste during the initial occupation years, contemporaneous reporting of violations between 1975 and 1984 were subject to notable underreporting of the overall pattern and magnitude of violations.

Violations over time, 1974–1999



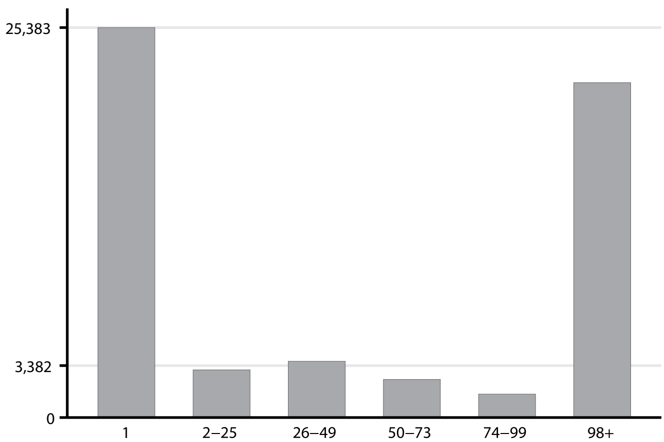
Source: Database of CAVR, Fokupers and Amnesty International Statements and Reports

The nature of abuses against individuals and groups

156. Some non-fatal violations were reported to the Commission as being perpetrated against a lone individual, whereas some other violations were reported as being perpetrated against several individuals at the same time. The Acts of Detention Based on Victim Group Size, 1974–1999 Figure; the Acts of Torture Based on Victim Group Size, 1974–1999 Figure; and the Acts of Ill-Treatment Based on Victim Group Size, 1974–1999 Figure show the distribution of violations by victim group size for torture, detention and ill-treatment.*

157. The nature of the abuses committed against single individuals tended to be distinct from the nature of those committed against groups. As The Act of Detention Victims Based on Victim Group Size, 1974–1999 Figure and the Act of Ill-treatment Victims Based on Victim Group Size, 1974–1999 Figure show, arbitrary detention and ill-treatment were more commonly reported as having been perpetrated against individuals or groups of 50 or more – with fewer people being detained or suffering ill-treatment in groups of 2-49 persons. Nearly all reported acts of torture were committed against individual victims one-by-one. This empirical finding appears to be consistent with the hypothesis that the use of torture as a form of oppression was used in a more targeted fashion (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).

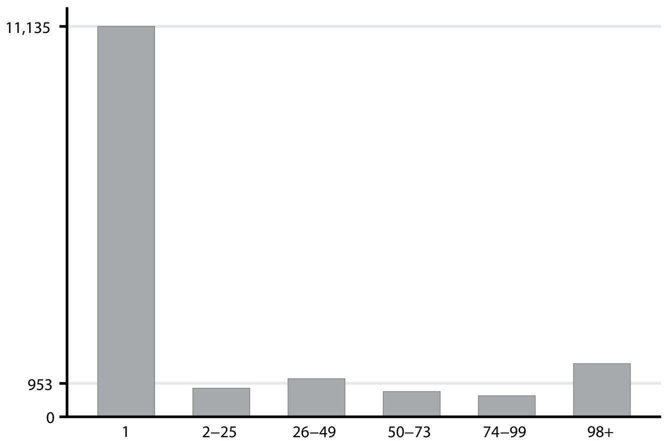
Count of victims of acts of detention by victim group size, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

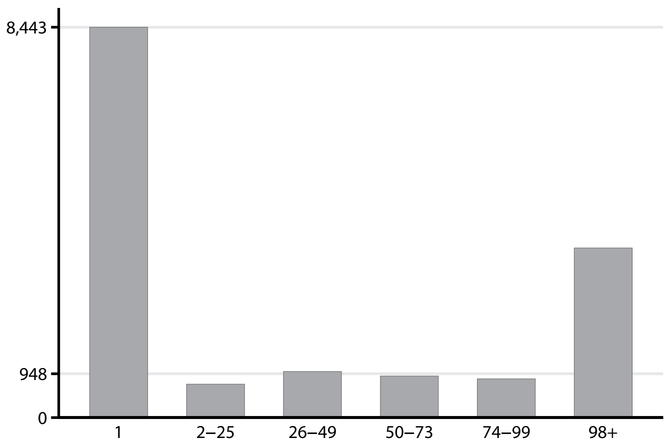
* As is the case with reported violations against individual victims, violations against victims in groups can be reported by more than one deponent. The Commission matched group victim records to identify duplicate reports of the same violation and victim in multiple statements. The methods used for matching are described in the Statistical Annexe.

Count of victims of acts of torture by victim group size, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Count of victims of acts of ill-treatment by victim group size, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

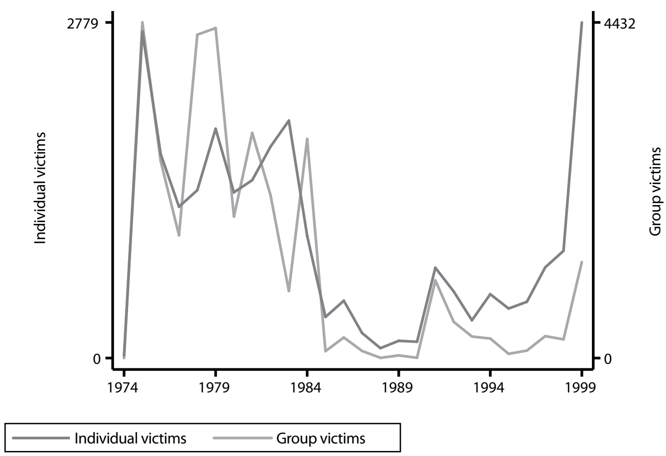
158. The Violations Over Time, 1974–1999 Figure shows that in statements given to the Commission, the detention of individual victims and groups of victims were positively correlated. When reported detentions against individuals increased, so did reported detentions against groups of victims.* Furthermore, there is a substantial difference between the extent of reported detentions of individual and groups of

* The correlation coefficient for the two series is 0.74.

victims. Between 1974 and 1984, reported detentions against group victims are almost always substantially higher than detentions of individual victims.* Two possible explanations for this pattern are the following:

- The pattern could reflect the increasingly targeted nature of the Indonesian military's detention practices over the course of the occupation and its increased ability in the 1980s and 1990s to target individuals who were contributing to the Resistance movement's activities.
- Alternatively, deponents to the Commission's statement-taking process may have had more difficulty specifically identifying individual detainees detained in the earlier occupation years relative to detainees in later years. Consequently, deponents reporting on the earlier period may more frequently describe earlier detentions as anonymous groups.

Violations over time, 1974–1999



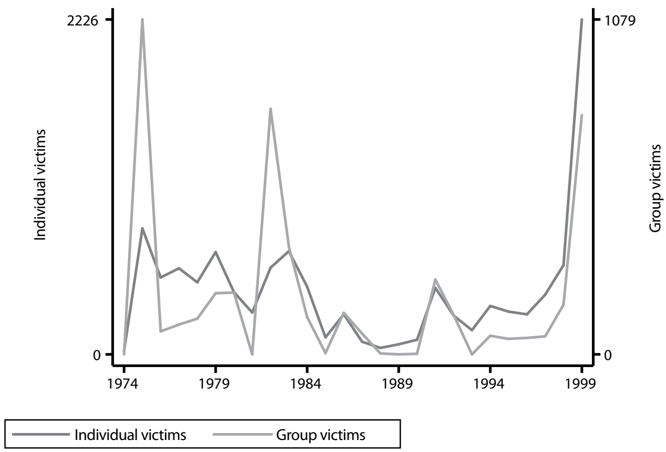
Source: Database of Narrative Statements Given to the CAVR

159. However, it seems unlikely that the pattern among detentions is an artefact of respondent recall because none of the other violation types (namely torture, ill-treatments, threats and property violations) exhibits any evidence of such a recall bias – as is shown in the Recorded Act of Violations over Time, 1974–1999 Figure; Violations over Time, 1974–1999 Figure; Recorded Acts of Threat over Time, 1974–1999 Figure; Recorded Acts of Sexually-Based Violence over Time, 1974–1999 Figure. Hence the statistical evidence on detentions documented by the Commission is consistent with the hypothesis that the detention practices of the Indonesian military shifted from a focus on both individual and group victims in the early occupation years from 1977 to 1984 to a more targeted strategy focused on individual detainees from 1985 to 1999.

* The only year in this period where reported detentions against groups of victims were fewer than reported detentions against individual victims was 1983.

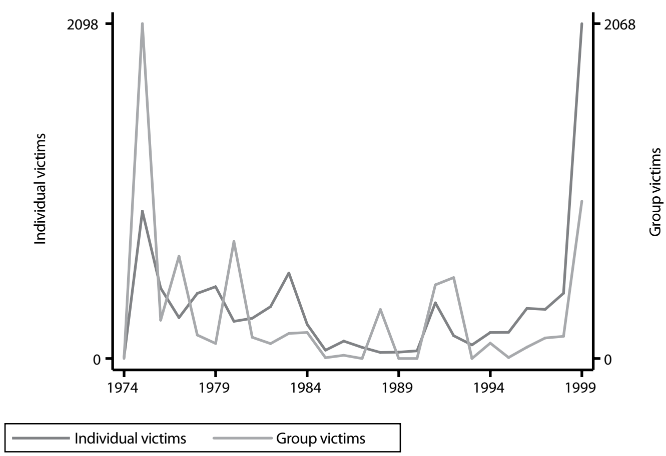
160. The Commission's statistical evidence also suggests a positive correlation between acts of torture committed against group victims and individual victims over time.* Furthermore, as shown in the Recorded Acts of Torture over Time, 1974–1999 Figure, peaks in reported acts of torture against group victims occurred in 1975, 1982 and 1999. Hence, the Commission's data suggest that the bulk of mass violence against groups was heavily concentrated in time.

Reported acts of torture over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

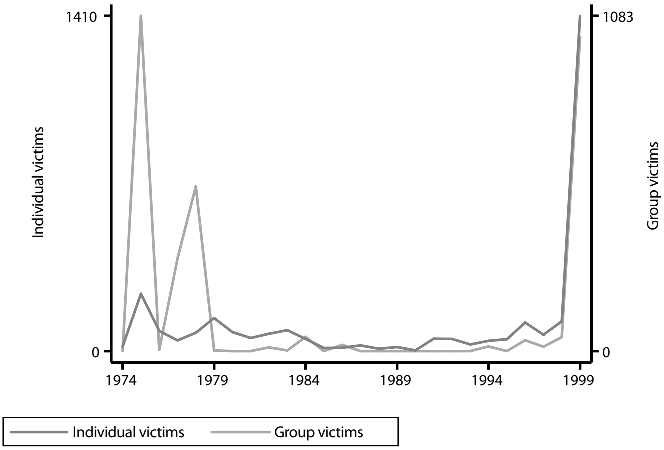
Violations over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

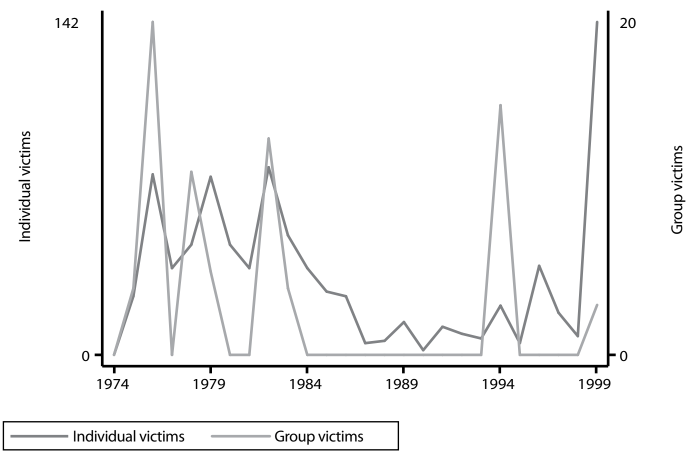
* The correlation coefficient for the series is 0.69.

Reported acts of threats over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Reported acts of sexual base violence over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

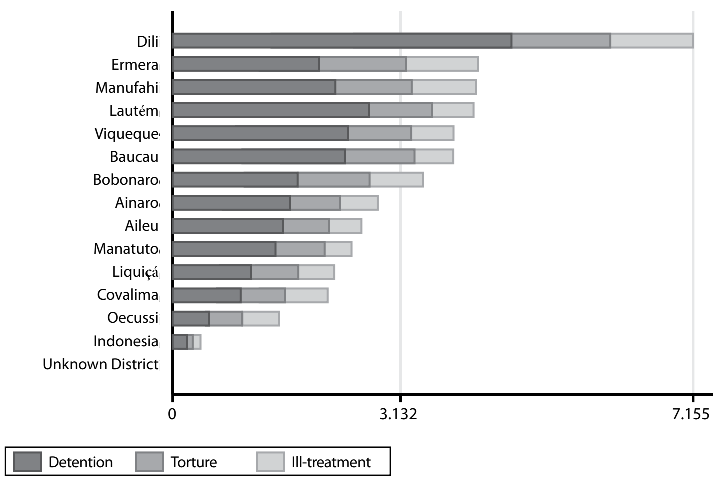
The use of detention and the nature of violations committed during detention periods

161. Throughout the Indonesian occupation of Timor-Leste arbitrary detentions and displacement were employed throughout the territory. As the phenomenon of displacement is discussed above, this section focuses on the nature and use of detention during the Commission's mandate period.

The relationship between detention and forms of physical abuse

162. In general, reported acts of detention, torture and ill-treatment appear to be positively correlated. Detentions often occurred in the same events with physical abuse throughout the territory. This is reflected in the Recorded Violations Based on Types and Districts Figure. The total number of reported acts of detention, torture and ill-treatment in Dili were higher than in any other district because the major detentions centres on the island of Ataúro and in the Comarca (Prison) Balide were both located in Dili.

Count of reported violations, by type and district



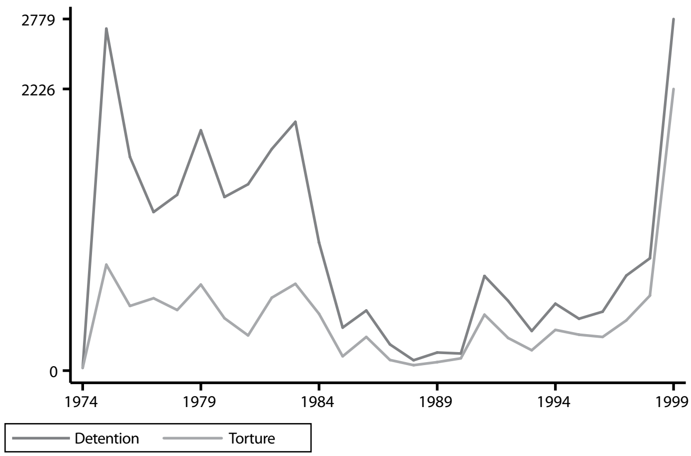
Source: Database of Narrative Statements Given to the CAVR

163. Furthermore, reported detentions and torture over time are strongly positively correlated.* The Violations over Time, 1974–1999 Figure also shows that, over time, violence became increasingly coordinated and the magnitude of reported acts of torture increased (between the late 1970s and mid-1980s) relative to the number of reported detentions. This pattern might reflect the perpetrators' increasing capacity to target

* The correlation coefficient between reported tortures and detentions by year between 1974 and 1999 is 0.81.

specific victims as the Indonesian occupation moved from its preliminary phase in the late 1970s and early 1980s to the consolidation phase from 1985 onwards. In the early invasion years there are approximately three reported cases of detention for each reported case of torture. After 1985, the two violations appear to be more closely linked, with approximately the same number of reported detentions and reported acts of torture each year. The resulting statistical pattern suggests that over time (and particularly after 1984) the practice of arbitrary detention became more targeted and was used more regularly in combination with acts of torture.

Violations over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Patterns of violations committed during periods of detention

164. Of all the documented violations reported to the Commission during its narrative statement-taking process, detentions were the most frequently reported, representing 42.3% (25,383/60,047) of documented non-fatal violations. However, the use of detention was often combined with other forms of abuse: of the main forms of physical abuse reported to the Commission, at least 28.3% (7,174/25,383) were committed while the victim was held in detention. This empirical finding indicates that during detention victims were often vulnerable to other forms of physical abuse. This section explores the patterns of non-fatal forms of physical abuse committed during periods of detention and those committed while the victim was not detained.

165. The Commission's information on detentions and non-fatal violations often contains imprecise location and/or date information. In particular, 33.9% (20,334/60,047) of non-fatal violations were missing information about the month and day on which the violation occurred, while 52.9% (31,739/60,047) were missing

information about the day (date) on which the violation occurred. 2.3% (1,379/60,047) of non-fatal violations were missing information about the sub-district in which the violation occurred, while 31.2% (18,722/60,047) of non-fatal violations were missing information about the suco in which the violation occurred. Hence, the following analysis of forms of physical abuse and their relationship to the victim's status as a detainee is limited by the lack of precise dates and locations in the reported data.

166. Some forms of physical abuse were reported to have occurred more frequently in detention than others. In particular, the Recorded Violations and the Detention Context, Based on Types of Violations, 1974–1999 Figure shows that the abuses which were most often committed during known periods of detention were torture (38.4%, 4,267/9,094), ill-treatment (33.2%, 27,998/9,094) and threats (21.3%, 634/9,094). Furthermore, torture and ill-treatment are reported much less frequently among victims who never have been held in detention: of the torture violations documented by the Commission, 16.4% (1,820/11,123) were suffered by victims who never experienced detention. Of the acts of ill-treatment documented by the Commission, 26.4% (2,227/8,436) were suffered by victims who never experienced detention. This is suggestive of the increased vulnerability of victims who are held in detention to being subjected to torture or ill-treatment.

167. The statistical data alone cannot clarify whether the association between detention and physical abuse was part of a formal policy by perpetrators to combine physical abuse with arbitrary detention, or whether the correlation reflects opportunistic behaviour by military, police and other officials. However, the Commission's qualitative and historical research is informative in this regard. The Commission's qualitative research has identified evidence of policy and practice which encouraged the use of detention and special interrogation methods during detention (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).

Table 20: Reported violations and their detention context, based on types of violations, 1974–1999

	Victim detained at time of violation	% detained at time of violation	Victim detained but unknown dates	% detentions with unknown dates	Victim detained - but not at time of violation	% detained - but not at time of violation	Victim never detained	% never detained	Total
Torture	4,267	38.4	4,569	41.1	1,820	16.4	467	4.2	11,123
Ill-Treatment	2,798	33.2	3,061	36.3	2,227	26.4	350	4.1	8,436
	634	21.3	723	24.2	1,442	48.4	183	6.1	2,982
	166	7.7	851	39.5	1,049	48.6	91	4.2	2,157

Sexually-	109	12.8	354	41.5	367	43.0	23	2.7	853
Property/ Economic Violations	313	6.6	810	17.1	3,355	70.9	257	5.4	4,735
Other	807	18.6	1,661	38.3	1,631	37.6	240	5.5	4,339
	9,094	100.0	12,029	100.0	11,891	1000	1,611	100.0	34,625

Source: Database of Narrative Statements Given to the CAVR

168. The cases documented by the Commission indicate a change in the relationship between non-fatal violations and detention as the conflict moved into its last phase. As the Recorded Violations and the Detention Context Based on Phases, 1974–1999 Figure shows, 56.7% (5,592/9,855) of non-fatal violations in 1999 were committed against victims who were not in detention and had never been detained before. In 1999 the proportion of reported non-fatal violations which were committed outside places of detention is more than double that for the two earlier phases. Hence, it appears that in the first two phases of the conflict the use of detention had a stronger association with the commitment of other non-fatal violations.*

Table 21: Reported violations and their detention context, based on phases, 1974–1999

	Victim detained at time of violation	% detained at time of violation	Victim detained but unknown dates	% detentions with unknown dates	Victim detained - but not at time of violation	% detained - but not at time of violation	Victim never detained	% never detained	Total
Phase 1 (1974 – 1983)	2,963	18.8	8,006	50.8	4,357	27.6	446	2.8	15,772
Phase 2 (1984 – 1998)	3,407	37.9	3,011	33.5	1,942	21.6	638	7.1	8,998
Phase 3 (1999)	2,724	27.6	1,012	10.3	5,592	56.7	527	5.3	9,855
	9,094	100.0	12,029	100.0	11,891	100.0	1,611	100.0	34,625

Sumber: Basis Data Pernyataan Naratif yang Diberikan kepada CAVR

* It is difficult to make conclusive findings about the relative magnitude of non-fatal violations committed in detention in Phases 1 and 2 of the conflict, given that 50.8% (8,006/15,772) of detentions during Phase 1 and 33.5% (3,011/8,998) of detentions during Phase 2 lack sufficiently precise date information to determine whether they are associated with other violations suffered by the victim.

169. Of the reported violations committed during a known period of detention, 16.5% (505/9,094) occurred in Dili. Hence, relative to other districts, a notably higher proportion of the reported violations occurring in detention were committed in Dili. While 42.8% (695/1,623) of violations in Liquiçá were reported to have been committed during periods of detention, and 41.5% (886/2,135) in Covalima, the figure for Dili is 40.3% (1,504/3,731); whereas, of the non-fatal violations suffered by persons in Oecussi and Indonesia, 76.0% (2,209/2,897) and 73.2% (390/533) respectively were suffered by victims who had never been detained. Hence, districts which reported relatively higher proportions of torture and ill-treatment tended to also report higher proportions of abuse within detention.

Table 22: Reported violations and their detention context, based on districts, 1974–1999

	Victim detained at time of violation	% detained at time of violation	Victim detained but unknown dates	% detentions with unknown dates	Victim detained - but not at time of violation	% detained - but not at time of violation	Victim never detained	% never detained	Total
Lautém	455	19.7	1,307	56.6	479	20.8	67	2.9	2,308
Viqueque	401	13.0	1,371	44.4	1,245	40.4	68	2.2	3,085
Baucau	785	31.8	891	36.1	639	25.9	155	6.3	2,470
Manatuto	271	16.0	921	54.5	465	27.5	34	2.0	1,691
Manufahi	771	23.8	1,305	40.3	924	28.5	237	7.3	3,237
Aileu	477	26.6	867	48.3	412	23.0	38	2.1	1,794
Ermera	986	24.8	1,128	28.4	1,641	41.3	216	5.4	3,971
Liquiçá	695	42.8	448	27.6	405	25.0	75	4.6	1,623
Dili	1504	40.3	1,267	34.0	646	17.3	314	8.4	3,731
Ainaro	457	21.6	1,005	47.5	582	27.5	72	3.4	2,116
Covalima	886	41.5	401	18.8	729	34.1	119	5.6	2,135
Oecussi	366	12.6	249	8.6	2,201	76.0	81	2.8	2,897
Bobonaro	992	32.7	793	26.1	1,133	37.3	116	3.8	3,034
Indonesia	48	9.0	76	14.3	390	73.2	19	3.6	533
	9,094	100.0	12,029	100.0	11,891	100.0	1,611	100.0	34,625

Source: Database of Narrative Statements Given to the CAVR

170. Male victims experienced the bulk of detentions, constituting 85.6% (21,273/25,383) of the total. Relative to female victims, males were twice as likely to be subjected to another violation during their detention. As the Recorded Violations and the Detention Context Based on Sex, 1974–1999 Figure shows, of the male victims of detention, at least 28.1% (8,323/29,599) suffered another non-fatal violation, compared with 14.8% (716/4,833) for females who suffered another violation while detained.

Table 23: Reported violations and their detention context, based on sex, 1974–1999

	Victim detained at time of violation	% detained at time of violation	Victim detained but unknown dates	% detentions with unknown dates	Victim detained - but not at time of violation	% detained - but not at time of violation	Victim never detained	% never detained	Total
Females	716	14.8	1,671	34.6	2,304	47.7	142	2.9	4,833
Males	8,323	28.1	10,303	34.8	9,505	32.1	1,468	5.0	29,599
Unkonown	55	28.5	55	28.5	82	42.5	1	0.5	193
	9,094	100.0	12,029	100.0	11,891	100.0	1,611	100.0	34,625

Sumber: Basis Data Pernyataan Naratif yang Diberikan kepada CAVR

171. According to the non-fatal violations data documented by the Commission, people of different ages suffered different levels of abuse while in detention. In particular, of those victims who suffered a known non-fatal violation during a period of detention, 55.5% (5,044/9,094) were young or middle-aged adults (that is, persons between 15 and 49). Children and older people were detained substantially less often, and when they were detained, they were subjected to proportionally lower levels of abuse.

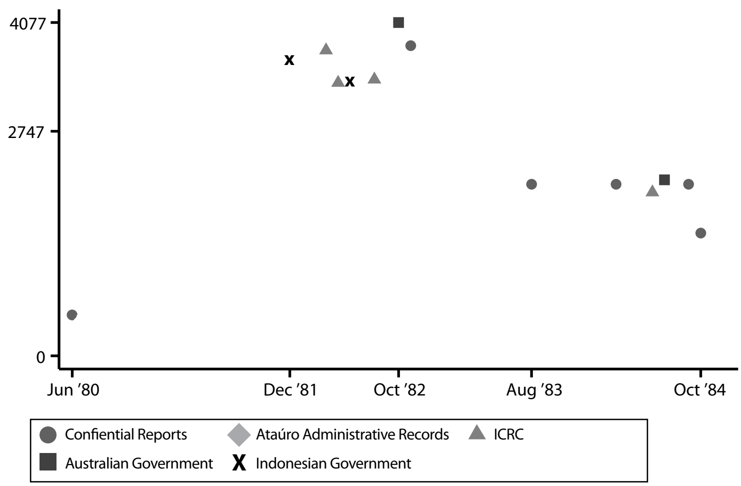
Table 24: Reported violations and their detention context, based on age, 1974–1999									
	Victim detained at time of violation	% detained at time of violation	Victim detained but unknown dates	% detentions with unknown dates	Victim detained - but not at time of violation	% detained - but not at time of violation	Victim never detained	% never detained	Total
0-4	89	15.4	202	34.9	277	47.8	11	1.9	579
5-9	20	10.9	45	24.6	113	61.7	5	2.7	183
10-14	62	11.7	219	41.2	241	45.4	9	1.7	531
15-19	384	26.4	564	38.7	451	31.0	58	4.0	1,457
20-24	942	32.4	1,070	36.8	725	24.9	171	5.9	2,908
25-29	1,080	34.4	924	29.4	960	30.6	174	5.5	3,138
30-34	1,058	31.8	1,049	31.5	1,049	31.5	173	5.2	3,329
35-39	719	28.2	789	30.9	889	34.8	154	6.0	2,551
40-44	564	26.4	704	33.0	755	35.4	111	5.2	2,134
45-49	315	23.0	512	37.4	450	32.9	91	6.7	1,368
50-54	235	19.7	513	43.1	402	33.8	40	3.4	1,190
55-59	82	17.4	176	37.3	188	39.8	26	5.5	472
60-64	93	20.9	188	42.2	147	33.0	17	3.8	445
65-69	32	17.7	78	43.1	67	37.0	4	2.2	181
70-74	18	9.7	95	51.4	64	34.6	8	4.3	185
75-79	12	19.7	23	37.7	24	39.3	2	3.3	61
80+	12	18.5	23	35.4	29	44.6	1	1.5	65
	3,377	24.4	4,855	35.1	5,060	36.5	556	4.0	13,848
	9,094	100.0	12,029	100.0	11,891	100.0	1,611	100.0	34,625

Source: Database of Narrative Statements Given to the CAVR

Reported statistical patterns of detention on Ataúro

172. While arbitrary detention was used throughout the conflict in Timor-Leste, detentions on the island of Ataúro were reported to have been used mainly between 1980 and 1984. This is consistent with information collected by the Commission directly through its statement-taking process and in the secondary source reports collected from various sources by Amnesty International. However, there is a considerable difference in the level of documented detentions between these two data sources. The sources gathered by Amnesty International suggest that the detainee population on Ataúro grew from about 500 in mid-1980 to around 4,000 in September 1982 before declining to around 1,500 in October 1984, as shown in the Reported Detainees in Ataúro, June 1980-October 1984 Figure.

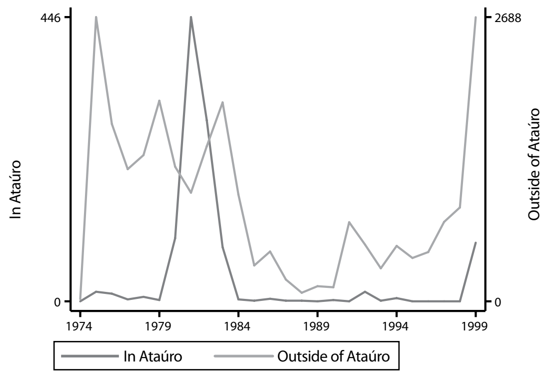
Reported number of detainees on Ataúro, June 1980–October 1984



Reference: Amnesty International, 'East Timor – Violations of Human Rights' *(1985)*

173. According to the Commission's data, reported detentions on Ataúro peak at 446 detainees in 1982, as is shown in the Reported Detainees in Ataúro. June 1980-October 1984 Figure. Given that Amnesty International's data were collected from multiple sources, including by the International Committee of the Red Cross, Australian government officials and Indonesian administrative records, it is likely that the Commission's data significantly underreport detentions on Ataúro. However, both the Amnesty International and Commission data confirm that large groups of people were detained on the island of Ataúro in the early 1980s, in addition to continued large-scale detentions in other parts of Timor-Leste.

Count of reported detentions, in and out of Ataúro, 1974–1999



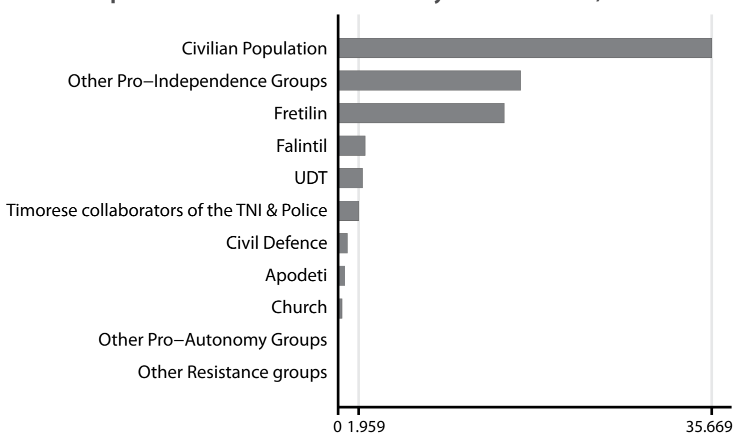
Source: Database of Narrative Statements Given to the CAVR

Patterns of violations by political affiliations of reported victims

174. A number of hypotheses examined by the Commission considered whether systematic and targeted campaigns were based on the victims' political affiliations. This section describes the reported extent and pattern of violations against civilians, armed-Resistance fighters and political activists.

175. 88.7% (68,943/77,748) of non-fatal violations reported to the Commission were violations against the civilian population, including both those civilians who were not known to have a political affiliation and those who were formally part of a pro-independence group or political party, as can be seen in the Reported Non-Fatal Violations Based on Victims' Affiliations, 1974–1999 Figure.

Reported acts of non-fatal violations by victim affiliation, 1974–1999

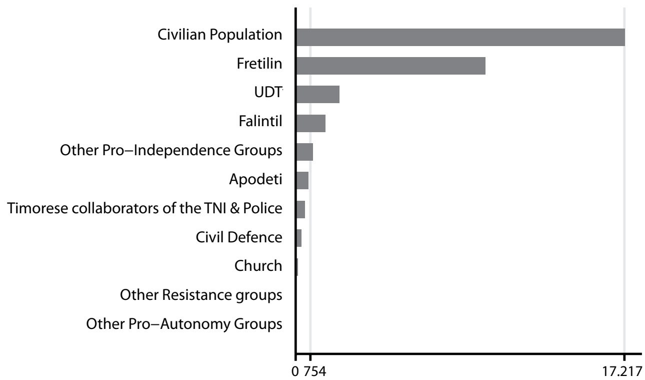


Source: Database of Narrative Statements Given to the CAVR

Note: some violations may be counted more than once because responsibility may be shared among perpetrators

176. As the pro-independence movement grew to be more broadly-based during the 1990s, increasing numbers of civilians with pro-independence affiliations appear to have suffered non-fatal violations, as is seen in the Reported Non-Fatal Violations Based on Victims' Affiliations, 1974–1979 Figure; the Reported Non-Fatal Violations Based on Victims' Affiliations, 1980–1989 Figure; the Reported Non-Fatal Violations Based on Victims' Affiliations, 1990–1998 Figure; and the Reported Non-Fatal Violations Based on Victims' Affiliations, 1999 Figure.*

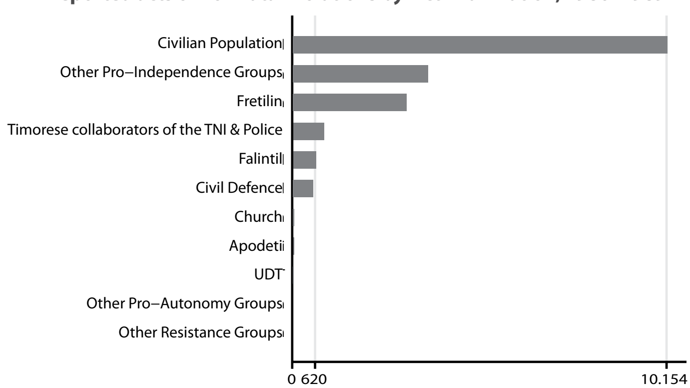
Reported acts of non-fatal violations by victim affiliation, 1974–1979



Source: Database of Narrative Statements Given to the CAVR

Note: some violations may be counted more than once because responsibility may be shared among perpetrators

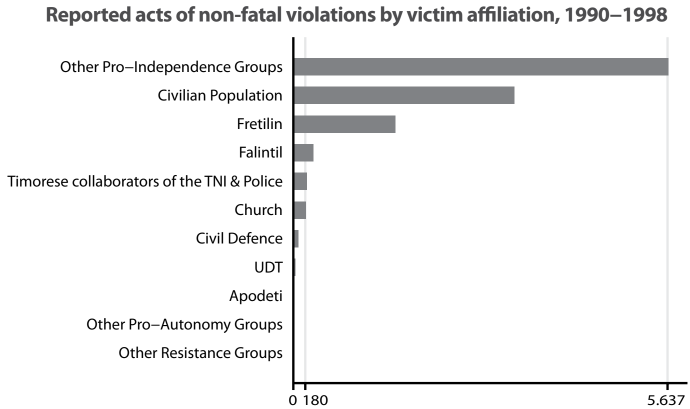
Reported acts of non-fatal violations by victim affiliation, 1980–1989



Source: Database of Narrative Statements Given to the CAVR

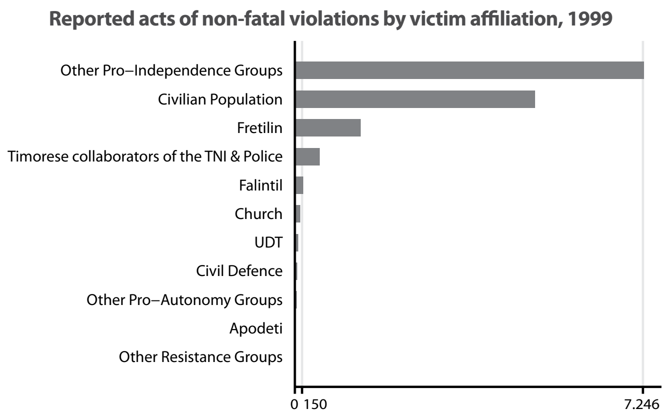
Note: some violations may be counted more than once because responsibility may be shared among perpetrators

* It must be noted, though, that only 87 statements were collected in West Timor refugee camps, and the Commission's district-based socialisation process was often convened in collaboration with local officials. As a result, people with pro-autonomy political affiliations may be under-represented in the Commission's statement-taking process.



Source: Database of Narrative Statements Given to the CAVR

Note: some violations may be counted more than once because responsibility may be shared among perpetrators



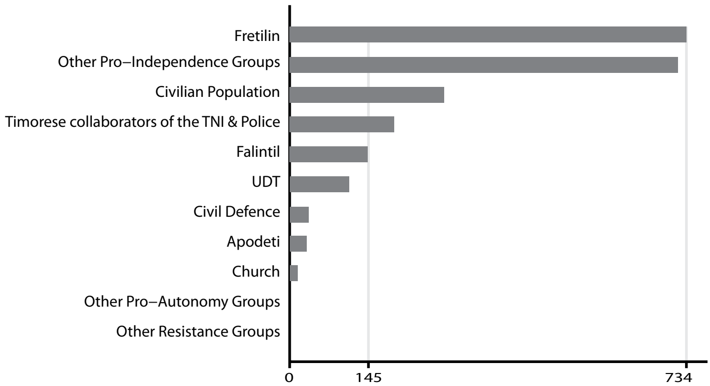
Source: Database of Narrative Statements Given to the CAVR

Note: some violations may be counted more than once because responsibility may be shared among perpetrators

177. For the major non-fatal violation types (detention, torture, ill-treatment, forced labour, threats and property/economic violations), there are no substantial differences in the proportion of documented victims with political/social affiliations, as shown in the Reported Non-Fatal Violations Based on Victims' Affiliations Figure, Reported Acts of Torture Based on Victims' Affiliations Figure, Reported Acts of Ill Treatment Based on Victims' Affiliations, 1974–1999 Figure; Reported Acts of Property/Economical Violation Based on Victims' Affiliations, 1974–1999 Figure: civilians without any known political affiliations accounted for between 40% and 48% of the documented victims, whereas persons with a pro-independence

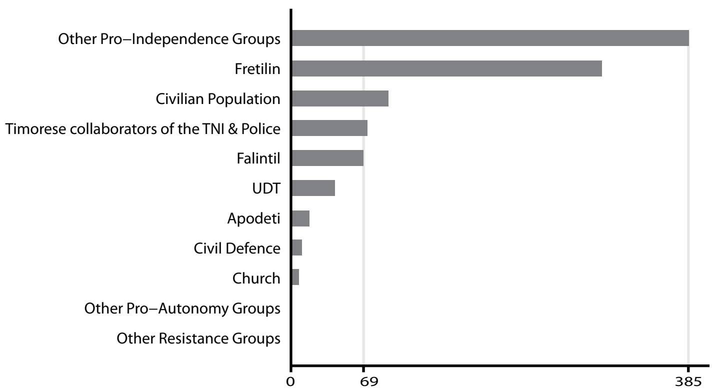
affiliation accounted for between 43% and 55% of documented violations. For sexual violations, civilians without a known political affiliation accounted for a slightly higher proportion (56%, 441/770, of sexually based violations) than civilians known to be aligned with pro-independence groups and parties (43.1%, 427/770).

Number of reported acts of detention, by victim affiliation



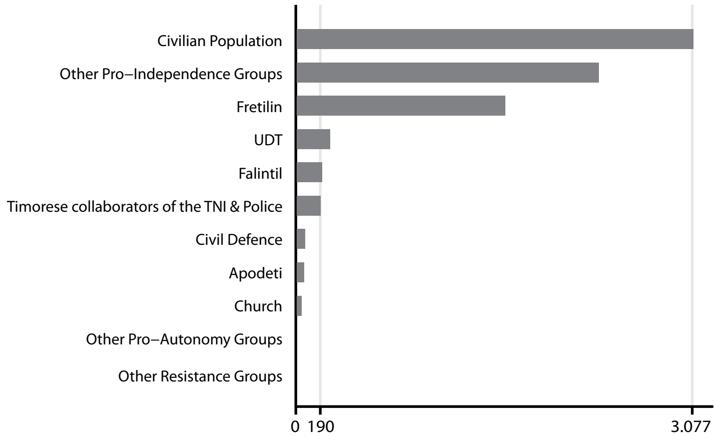
Source: Database of Narrative Statements Given to the CAVR

Number of reported acts of torture, by victim affiliation



Source: Database of Narrative Statements Given to the CAVR

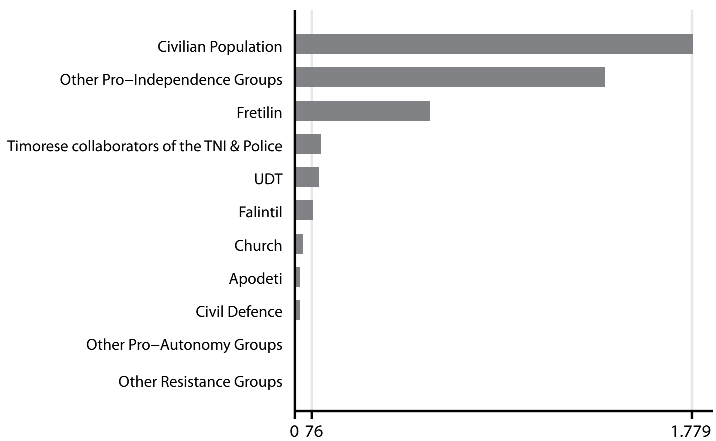
Reported acts of ill-treatment by victim affiliation, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Note: some violations may be counted more than once because responsibility may be shared among perpetrators

Reported acts of property/economic violations by victim affiliation, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

Note: some violations may be counted more than once because responsibility may be shared among perpetrators

Mau Chiga case study

Introduction

178. This section presents a detailed case study on the nature and pattern of violations experienced by the people of Mau Chiga (Hato Builico, Ainaro) in the early 1980s. The case study takes the form of a descriptive statistical analysis based on data collected by two village leaders from Mau Chiga.

Background to documentation effort

179. Over a period of 18 years village leaders from Mau Chiga documented displacements, detentions and killings arising from a crackdown by the Indonesian military in connection with attacks organised by the Resistance in the area in August 1982. The Mau Chiga Documentation Project was completed in August 2004 when village leaders handed over tabulated lists compiled from their narrative interviews to the Commission during a Public Hearing held by the Commission in Mau Chiga.

180. The purpose of the project was to develop an accurate historical record of the extent, pattern, trend and nature of violations experienced by members of the community of Mau Chiga during the early 1980s. Deponents were invited and encouraged to talk about any displacement, detention or fatal violation experienced by anyone they knew in connection with the August 1982 uprising (*levantamento*).

Limitations of the data

181. The data on which this case study are based were collected through a convenience sample of persons willing to report and share their experiences of human rights violations (namely displacements, arrests and detentions and conflict-related deaths) connected to the August 1982 uprising and counter-Resistance crackdown. Abilio dos Santos and Olga da Silva collected this data in two separate phases of data collection.* The first phase of data collection, from February 1986 until April 2003, involved Abilio dos Santos and Olga da Silva periodically carrying out narrative interviews in the different *aldeias* in the village of Mau Chiga. The two visited the following *aldeias* during their data collection and documentation work: Mau Chiga, Hatuquero, Goulora, Leotelo-1 and Leotelo-2. Deponents were selected based on the interviewers' own social networks and referrals by other interviewees. The second phase of data collection, from May 2003 to July 2004, consisted of the compilation of lists of victims of detention, displacement, and conflict-related deaths. During this second

* Abilio dos Santos is the Village Secretary of Mau Chiga. Olga da Silva is a teacher at the primary school in Mau Chiga. The Commission has chosen to follow the official RDTL spelling of "Mau Chiga", though it is known to many also as "Mauxiga".

phase, a number of respondents who had given information in the first phase of data collection were re-interviewed to fill in gaps in the narrative information which had been collected.

182. The project restricted the information it collected to the specific violations of arbitrary detentions, displacement and conflict-related deaths which were directly connected to the events of 20 August 1982 and the crackdown that followed. It therefore did not document other forms of abuse, such as property destruction and sexual violence, nor did it document abuses which were connected to events other than those that occurred in connection with the 20 August uprising.

183. Provision was made for duplicate reporting on the same victim by multiple deponents at two stages in the documentation process. First, the data collection team periodically scanned their lists for duplicate reports of victims. Second, once the data was entered into an electronic database, computerised searches and analytical tests were conducted to identify names which could be duplicate reports of the same victim.*

Historical background

184. On 6 July 1982, members of Falintil and of the local clandestine movement began planning a series of attacks on Indonesian military posts in the area surrounding Mau Chiga. An informer betrayed their plans to the Indonesian military. On 10 July, members of the Indonesian army and Hansip from Hato Builico began house-to-house searches in Goulora, Mau Chiga and Hatuquero. They arrested over 30 people, including 13 who had attended the 6 July meeting. Those arrested were taken directly to the district military headquarters (Kodim) in Ainaro Town. Over the following days, the Indonesian military arrested more people, whom they brought to the Hato Builico Sub-district headquarters (Koramil).

185. Despite the arrests, on 20 August 1982, at about 4.30am Falintil, together with a number of men from Dare and Mau Chiga, attacked several ABRI posts around Mau Chiga, including the Dare Koramil. The same day ABRI soldiers and Hansip from the posts that had been attacked as well as other posts in the area retaliated. During the following days additional ABRI troops from outside the area, including units of Battalions 745 and 746, were also deployed around Mau Chiga. Between 20 August and 24 August Indonesian troops and Hansip destroyed and looted property. A large proportion of the population of the village of Mau Chiga were either forcibly displaced or fled the village out of fear for their safety. The Indonesian military forcibly transferred villagers to several different locations, including the island of Ataúro (Dili), Dotik (Alas, Manufahi) and Dare (Hato Builico, Ainaro).

* This process uncovered seven duplicated reports of fatal violations.

Descriptive statistical analysis of violations reported to Mau Chiga Documentation Project

Reported displacements and detentions suffered by Mau Chiga residents

The demographic profile of victims of reported displacements and detentions

186. The project documented 1,803 acts of displacement involving Mau Chiga residents between July 1982 and January 1986. These 1,803 displacements were experienced by 464 individual residents of Mau Chiga: 48.7% (226/464) of whom were females and 38.8% (180/464) were children.*

187. These 464 victims of displacement and detention amounted to approximately 20.4% (464/2,269) of the total population of Mau Chiga Village.† Hence, the project's findings are consistent with the hypothesis that displacement was widespread in Mau Chiga during the 1980s.

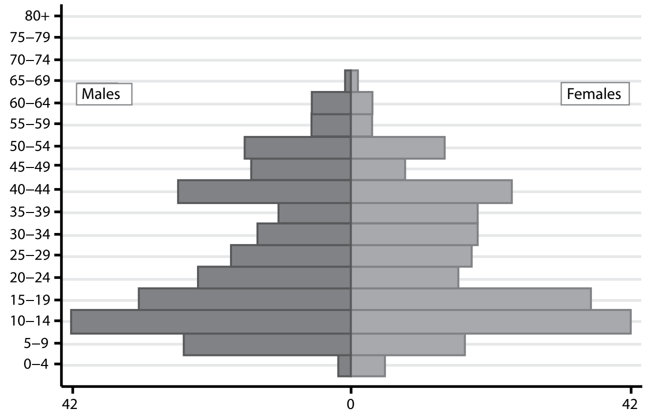
188. Of the reported victims of displacement, 80.0% (371/464) of reported victims were initially arrested and displaced with their families. The remaining 20% (93/464) of documented victims of displacement were initially detained by themselves (and not along with their families).‡ As the Recorded Displacement Victims Based on Age and Sex, 1974–1999 Figure shows, 41.2% (191/464) of the displaced were between the ages of ten and 24. As was and still is the case in most parts of Timor-Leste, the population of Mau Chiga was over-represented by persons under 25. Hence the findings of the Mau Chiga Documentation Project are consistent with the hypothesis that the Indonesian military actively sort to eliminate the social and operational base of the resistance movement in Mau Chiga by forcibly deporting the general population (including women, children and the elderly).

* The Commission used the internationally-recognised standard that defines children as persons under the age of 18 (see Article 1 of the UN Convention on the Rights of the Child [UN Doc A/44/49 (1989)], which was adopted by General Assembly Resolution 44/25, 20 November 1989 (entered into force on 2 September 1990).

† The 2001 Timor-Leste Suco Survey was used for the population base for Mau Chiga.

‡ Those who were deported as individuals were displaced in this manner, as they were captured by the Indonesian military while they were alone, usually either in their agricultural gardens, or in other places away from their place of residence.

Number of reported displacement victims, by age and sex, 1974–1999



Source: Database of Narrative Statements Given to the CAVR
Note: 0.4% of the records are missing age or sex of the victim

Accountability for the large-scale displacement and acts of detention of Mau Chiga residents

189. All of the reported acts of displacement of these 1,803 individuals, documented by the Mau Chiga Documentation Project, were attributed to the Indonesian military. In some specific cases, deponents reported the involvement of specific units of the Indonesian military or of the civil defence forces. The Hato Builico Hansip were reported to have taken part in 31.7% (571/1,803) of reported acts of displacement involving Mau Chiga residents. In these same acts of displacement it was reported to the Mau Chiga Documentation Project that the Hato Builico Hansip were working in collaboration with and under the direction of the Sub-Regional Command (Korem) in Dili, the District Military Command (Kodim) in Ainaro and the Hato Builico Sub-district Military Command (Koramil). All of these acts occurred either on 7 July 1982, 29 August 1982 or 30 August 1982.

The pattern of reported acts of displacement and detention over time

190. Reported acts of displacement are concentrated in two main time-periods: the third quarter of 1982, when 51.0% (919/1,803) of displacements were reported, and in the fourth-quarter of 1985 when 40.6% (732/1,803) of displacements were reported. It was during these two periods that most of the Mau Chiga residents who were interned on Ataúro were transferred from Mau Chiga to Ataúro and sent back to Mau Chiga from Ataúro. At both of these times, individuals were first temporarily transferred to transit locations for short periods of time varying between one day and a few weeks.

The pattern of reported acts of displacement and detention over geographic space and by duration of detention

191. As can be seen in the Figure below, the duration of detention periods reported to the documentation project varied widely, lasting from one day to 1,005 days. Around 41.0% (739/1,803) of all reported displacements lasted for ten days or less, 22.1% (399/1,803) of displacement events lasted between 101 and 300 days, and 20% (368/1,803) between 701 and 900 days. The data collected by the Mau Chiga Documentation Project are consistent with the hypothesis that although Mau Chiga residents were displaced several times (on average each individual was displaced 3.9 times), around half of these displacements were short-term (of duration less than a week), whereas the other half were substantially longer (ranging from three to 33 months).

Table 25: Distribution of reported duration periods of displacement events of Mau Chiga residents, 1982–1985

Duration	Count	% Share
1 day	192	10.7
2-10 days	547	30.3
11-100 days	113	6.3
101 – 300 days	399	22.1
301-500 days	87	4.8
501-700 days	8	0.4
701-900 days	368	20.4
901-1005 days	87	4.8
Unknown	2	0.1
Total	1.803	100.0

Source: Data collected by the Village Secretary of Mau Chiga.

192. The Indonesian military held Mau Chiga residents in long-term detention in a number of locations, including the island of Ataúro, Dotik, Ainaro Town and Dare. 79.3% (368/464) of the Mau Chiga residents documented by the Mau Chiga Documentation Project were held in long-term detention on Ataúro.* Smaller groups of Mau Chiga residents were reported to have been held in long-term detention in Dotik and Ainaro Town: 80 individuals were held for two years and six months years in Dotik starting in November 1982, and seven individuals were held for two years and nine months in Ainaro Town starting in April 1983. Follow-up interviews conducted by

* The Indonesian military sent 360 of these 368 Mau Chiga residents to Ataúro on 30 August 1982. The remaining eight Mau Chiga residents were sent to Ataúro on 5 September 1982 after being interrogated for one week in Lesuhati.

the Commission with Mau Chiga residents in 2005 in Mau Chiga indicated that those individuals who were held in long-term detention in Dotik and Ainaro were held there due to overcrowding on Ataúro.*

193. The broad reported pattern of displacement to and from long-term detention locations for Mau Chiga residents was as follows: victims were usually arrested and detained in Mau Chiga and then deported to nearby locations where they were kept for anywhere between one day to ten days. Because these locations were usually transit stops en route to long-term detention centres or back to Mau Chiga, periods of detention in them usually occurred in quick succession. The places where people were held for these short periods included Ainaro Town, Bonuk (Hato Udo, Ainaro), Dare (Hato Builico, Ainaro), Lesuhati (Hato Builico, Ainaro), Same (Manufahi) and the Comarca prison in Dili. Others were held in other locations, such as Dotik, Ainaro Town and Dare, before or after their long-term detention periods. Mau Chiga residents were also detained for several months in Dare, Dotik, Same, Ainaro Town and Bonuk en route to or from their long-term internment locations.

Table 26: Cross-tabulation of reported duration periods of displacement events of Mau Chiga residents by location, 1982–1985

	1 day	2 – 10 days	11-100 days	101-300 days	301-500 days	501-700 days	701-900 days	901-1005 days	Not known	Total
Ainaro	2	0	16	22	0	0	0	7	0	47
Ataúro	0	0	0	0	0	8	368	0	1	377
Bonuk	0	355	22	0	0	0	0	0	0	377
Comarca	13	0	0	0	0	0	0	0	0	13
Dare	172	0	0	377	80	0	0	0	1	630
Dotik	0	0	6	0	7	0	0	80	0	93
Lesuhati	1	182	0	0	0	0	0	0	0	183
Same	4	10	69	0	0	0	0	0	0	83
Total	192	547	113	399	87	8	368	87	2	1,803

194. The data collected by the Mau Chiga Documentation Project are consistent with the hypothesis that the Indonesian military used long-term detention on Ataúro and in Dotik and Ainaro Town of supporters and suspected supporters of the Resistance movement as a strategy to eliminate the social and operational support base of the Resistance in Mau Chiga. These data also show that Mau Chiga

* CAVR Interviews with Olga da Silva, Abilio dos Santos, Xavier do Amaral and Antonio Pires, Mau Chiga, 16 April 2005.

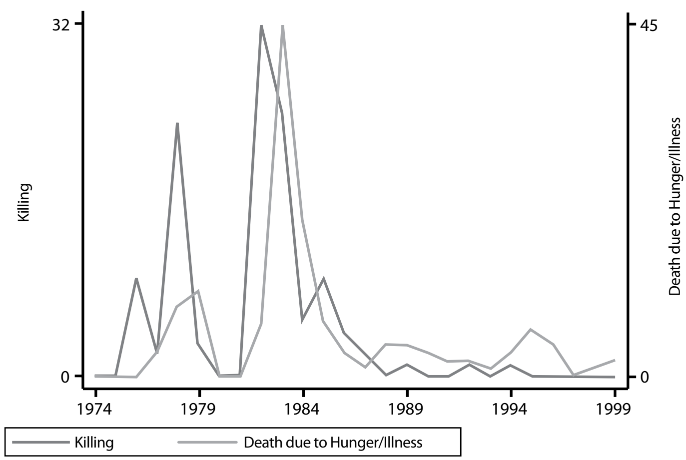
residents experienced a series of displacements and detentions before and after their long-term period of detention on Ataúro, or in Dotik and Ainaro Town.

Reported fatal violations suffered by Mau Chiga residents

The distribution of reported fatal violations suffered by Mau Chiga residents over time and by cause-of-death

195. The Mau Chiga Documentation Project documented 262 unique conflict-related deaths of Mau Chiga residents during the Commission's reference period: 44.7% (117/262) of these were killings, and the remaining 55.3% (145/262) were deaths due to illness or hunger. As the Fatal Violations over Time, 1974–1999 Figure shows, 68.3% (179/262) of these fatal violations occurred during the period of Indonesian military's initial invasion and occupation between 1978 and 1984. Furthermore, the reported patterns of killings and illness/hunger-related deaths of Mau Chiga residents are positively correlated.* Hence the data documented by the Mau Chiga Documentation Project are consistent with the hypothesis that conflict-related killings and illness/hunger deaths in Mau Chiga were overwhelmingly concentrated during the Indonesian military's counter-Resistance operations.

Fatal violations over time, 1974–1999



Source: Data collected by the Village Secretary of Mau Chiga

196. While the pattern of killings and illness/hunger-related deaths are correlated over time, there are some notable differences between the two phenomena. Documented killings are concentrated mostly in 1978 and 1982-83 (with 19.7% [23/117] occurring in 1978 and 47.9% [56/117] in 1982-83), whereas 44.8% (65/145) of illness/hunger-related deaths are concentrated in 1983-84 when Mau Chiga residents experienced mass deportations from their homes.

* The correlation coefficient for these two series is 0.57.

The pattern of attributed responsibility for reported fatal violations of Mau Chiga residents

197. Of the killings documented by the Mau Chiga Documentation Project, 83.8% (98/117) were reported to be the sole responsibility of the Indonesian military, 6.0% (7/117) the sole responsibility of East Timorese auxiliaries and for 10.3% (12/117) institutional perpetrator responsibility was not reported. No reported killings were attributed to the Indonesian military and East Timorese auxiliaries acting together, nor were any killings attributed to individuals associated with the Resistance. This pattern of attributed responsibility appears to distinguish Mau Chiga from other parts of Timor-Leste, where a substantial proportion of killings were attributed to Indonesian forces and East Timorese auxiliaries acting together (see above).

198. Of the documented killings of Mau Chiga residents attributed to the Indonesian military, 66.3% (65/98) were suffered by individuals associated with the Resistance and the remaining 33.7% (33/98) by members of the civilian population.

The pattern of fatal violations against Mau Chiga residents by the victim's political affiliation

199. The distribution of documented killings and illness/hunger-related deaths varied substantially by the political affiliation of victims. As is shown in the Table below, 64.1% (75/117) of killings were reported to have been committed against individuals formally associated with the Resistance. By contrast all but one death due to illness or hunger was reported to have been experienced by an unarmed civilian. This is consistent with the hypothesis that that although killings were mostly targeted against Resistance and clandestine members, the Indonesian military and its associates killed a substantial portion of civilians during its counter-Resistance operations.

Table 27: Distribution of reported fatal violations by political affiliation of victim, 1974–1999

Victim's affiliation	Killings		Illness/Hunger-Related Deaths	
	Count	%	Count	%
Unarmed civilian	42	35.9	144	99.3
Resistance/ Clandestine member	75	64.1	1	0.7
Total	117	100.0	145	100.0

Source: Data collected by the Village Secretary of Mau Chiga.

200. The geographic distribution of reported killings of Mau Chiga residents differed from that for deaths from hunger and illness. As the table below shows, documented illness/hunger-related deaths were almost uniformly distributed between the sub-districts of Ainaro Town (Ainaro), Alas (Manufahi) and Ataúro (Dili), whereas reported killings were mostly concentrated in Ainaro Town (Ainaro), Alas (Manufahi) and Same (Manufahi).

Table 28: Distribution of reported fatal violations by political affiliation and geographic location, 1974–1999

Sub-district in which violation occurred	Killings		Illness/Hunger related deaths		Total	
	Count	%	Count	%	Count	%
Ainaro, Ainaro	45	38.5	43	29.7	88	33.6
Maubisse, Ainaro	4	3.4	0	0	4	1.5
Bobonaro, Bobonaro	1	0.9	0	0	1	0.4
Alas, Manufahi	31	26.5	47	32.4	78	29.8
Fatuberliu, Manufahi	4	3.4	0	0	4	1.5
Same, Manufahi	31	26.5	0	0	31	11.8
Laleia, Manatuto	1	0.9	0	0	1	0.4
Ataúro, Dili	0	0	55	37.9	55	21.0
Total	117	100	145	100	262	100

Source: Data collected by the Village Secretary of Mau Chiga.

The pattern of reported fatal violations against Mau Chiga residents by the age and sex of the victim

201. As was the case for killings throughout Timor-Leste, males in Mau Chiga suffered the overwhelming majority of killings reported to the Mau Chiga Documentation Project (92.3% [108/117] of reported killings were against males and the balance of 7.7% [9/117] was against females). When we move from simple violation counts to population-based violation rates, it can be seen that, on average, relative to their share of the population of Mau Chiga Village, the population-based rate at which men were killed was more than ten times higher than that for women. Ninety-five men per 1,000 were reported to have been killed during the Commission's reference period compared with eight women per 1,000.*

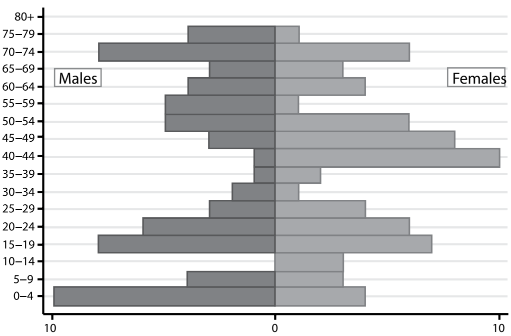
* These population-based rates are derived using population figures from the 2001 Timor-Leste Suco Survey.

202. 41.0% (48/117) of documented killings were against young males between the ages of 15 and 29. This is consistent with the hypothesis that as part of its counter-Resistance strategy the Indonesian military targeted young males of military age.

203. By contrast documented deaths due to illness and hunger were more evenly distributed across the sexes: 50.3% (73/117) of these were male deaths and 49.7% (72/117) were female deaths. In terms of population share, equal population-based rates of deaths due to illness/hunger were observed for males and females: 64 per 1,000 males in Mau Chiga were reported to have died due to hunger/illness during the Commission's reference period, as was also the case for females.*

204. As can be seen in the Figure below, the residents of Mau Chiga who were most frequently reported as suffering deaths due to hunger and illness were young infants and the elderly. This pattern of vulnerability to famine-related deaths of the very young and the elderly is similar to that which was documented by the Commission throughout Timor-Leste.

Number of reported hunger/illness deaths, by age and sex, 1974–1999



Source: Data collected by the Village Secretary of Mau Chiga

Note: 1.4% of the records are missing age or sex of the victim

Summary and conclusion

205. The Commission collected and utilised a wide array of empirical data sources. It collected nearly 8,000 narrative statements from East Timorese people regarding their experiences over 25 years of conflict, conducted a household survey which inquired into mortality and displacement from almost 1,400 households, conducted a census of public graveyards in all 13 districts of Timor-Leste, and developed datasets from information collected from other organisations and groups.† The purpose of this statistics chapter has been threefold:

* These population-based rates are also derived from population figures in the 2001 Timor-Leste Suco Survey.

† External information which was compiled into datasets included reports and other material from Amnesty International, narrative interviews collected by the East Timorese women's rights organisation Fokupers and lists tabulated by village leaders in the village of Mau Chiga.

- To present multiple, independent, scientific estimates of the total extent, pattern and trend of mortality and displacement which were experienced during the Commission's reference period;
- To outline and interpret the descriptive statistics regarding the nature and extent of violations, the behaviour of perpetrators, and the characteristics of victims that were gathered from multiple independent data sources; and
- To document the statistical methods employed in reaching the Commission's statistical findings.

206. In order to achieve this depth and breadth of analysis, the Commission and the Benetech Human Rights Data Analysis Group jointly developed multiple data projects which involved large-scale data collection, data coding, database representation, record linkage and statistical analysis. The resulting statistical analysis helps to uncover and clarify social and historical knowledge of political violence in Timor-Leste between 1974 and 1999. However, as one part of its overall findings, the Commission's statistical findings need to be combined and integrated with its qualitative, historical and legal findings.

End notes

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7. Biro Pusat Statistik, Sensus Penduduk Indonesia, 1990, Jakarta, 1994.

After looking at forty truth commissions world-round, I concluded that the truth commission of East Timor was among the five strongest. It was an impressive, passionate and scrupulous exercise. And its report, *Chega!*, stands in testament to this careful and rigorous exercise, honestly re ecting the victims' stories as well as the far-reaching conclusions that emerged from this work. It is wonderful that this will now be available, in full, in English; it will be an important reference for others embarking on a similar path.

Priscilla Hayner,
Author, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd ed., 2011)

"The extensive CAVR Report is an encyclopedia of our history, rich in both teachings and suffering. We must utilise its great teachings to better understand today's crisis and to help prevent future crises."

Jose Ramos-Horta,
Nobel Peace Laureate, former President and Prime Minister of Timor-Leste (July 2006)

"*Chega!* is troubling testimony. This report will jolt Indonesian readers who think that under the Soeharto regime everything was peaceful in Indonesia's then 27th province. Page after page recounts the stories of victims of massacres, rape, forced disappearances, torture and other unimaginable crimes ... Indonesia can learn from *Chega!* This report is an important contribution to democratisation and security sector reform in Indonesia."

Ifdhal Kasim,
Chair, Indonesian Commission on Human Rights (August 2010)

"The CAVR Report constitutes an important milestone in the search for justice, truth and reconciliation in Timor-Leste. It is my sincere hope that (it) will be an enduring contribution to building the Timorese nation and will help to prevent the recurrence of such tragic events in Timor-Leste and elsewhere."

Kofi Annan,
UN Secretary-General (July 2006)

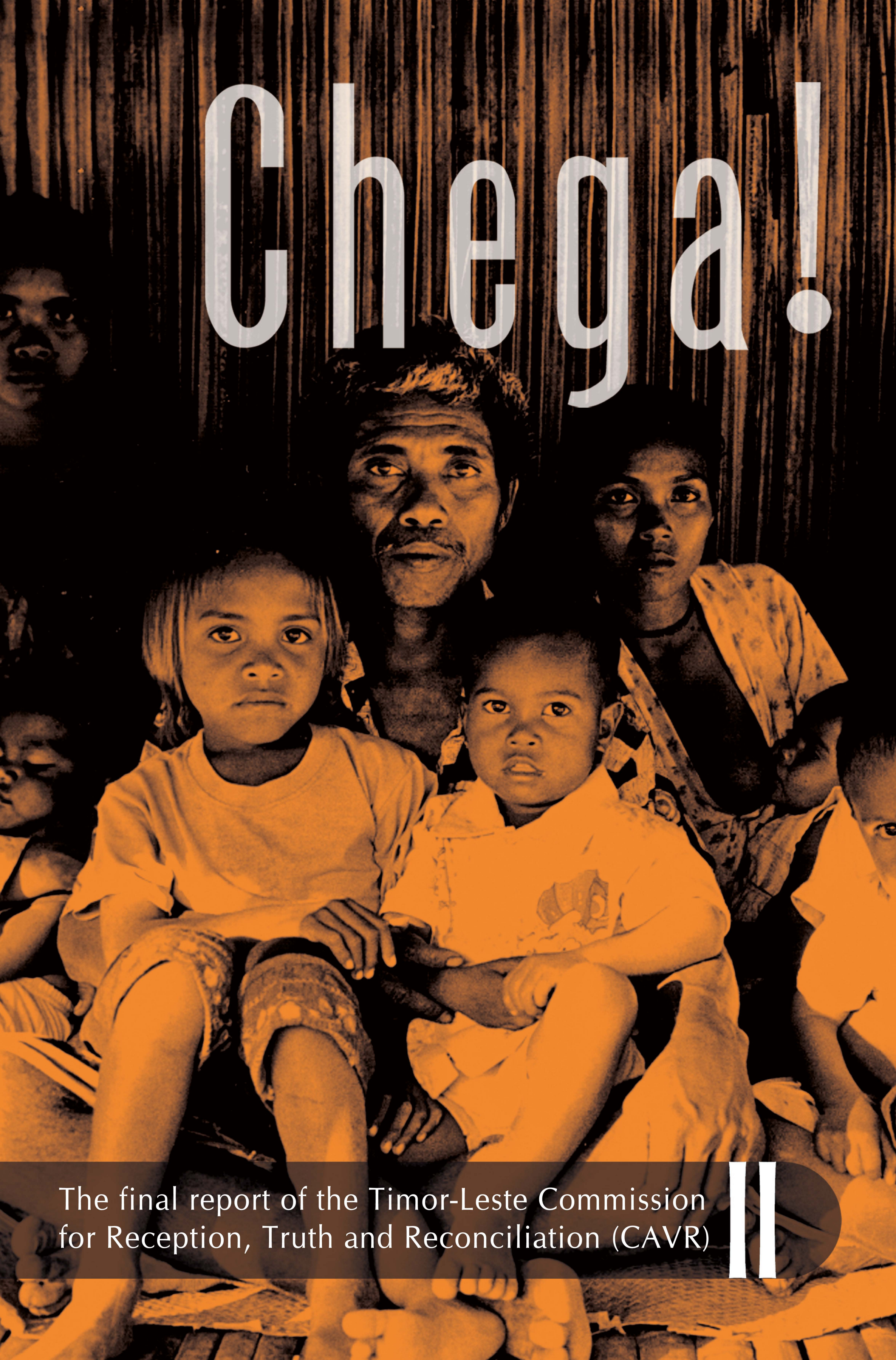


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Chega!

The final report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)

II

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Volume II

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The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)

Volume II

JAKARTA
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Chega!

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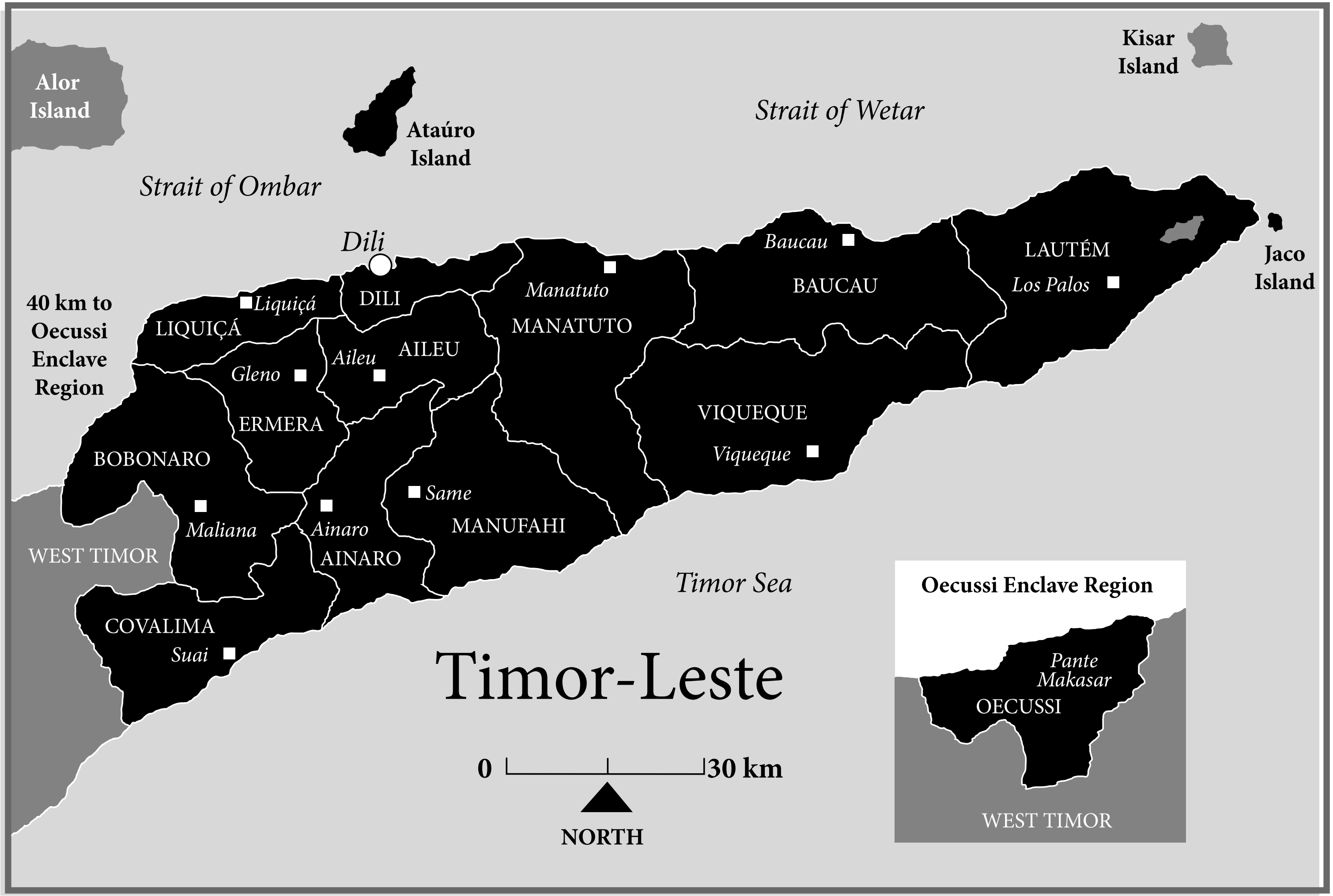
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AINARO
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COVALIMA
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Chega!

Part 7.1.

The Right to Self-Determination

Part 7.1 The Right to Self-Determination

Table:

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7.1 The Right to Self-Determination

Introduction

Preface

1. This part focuses on the right of the people of Timor-Leste to self-determination and the extent to which that right was upheld or denied particularly within the international community.

2. The right to self-determination is a fundamental and inalienable human right. It forms Article 1 of the two major human rights instruments (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) because of its importance to the international order and the protection of individual rights. The International Court of Justice has recognised the right to self-determination as one of the most important human rights, and as "the concern of all states".[1]

3. Self-determination is fundamental because it is a collective right of a people to be itself. The struggle to enjoy this right above all others was the central defining issue of the CAVR mandate period. This period began with the decision of the colonial power in 1974 to recognise this right after 14 years of denial and ended with the decision of the occupying power to recognise it in 1999 after 24 years of denial. In the interim, the people of Timor-Leste made extraordinary sacrifices to realise this right. It was essential to the survival, identity and destiny of Timor-Leste.

4. This part examines the record of key international institutions and governments in meeting internationally agreed obligations to protect and promote the right to self-determination of the people of Timor-Leste. These comprise the three main external stakeholders in the issue – Portugal, Indonesia and Australia – plus the United Nations Security Council and its five Permanent Members, namely China, France, Russia, the United Kingdom and the United States. Japan is also examined because it was an elected

member of the Security Council in the crucial years 1975 and 1976 and was Indonesia's principal regional economic partner. This part also reports on the important role of the Vatican and on the decisive contribution to the realisation of self-determination by Timor-Leste's diplomats and diaspora carried out in partnership with international civil society.

The right of the people of Timor-Leste to self-determination

5. The right of the people of Timor-Leste to self-determination was clear-cut and formally acknowledged by the international community. The United Nations Security Council and General Assembly affirmed the existence of this right and the responsibility of all states to respect it on many occasions from 1960 on.[2] The acknowledgment of this right established the legitimacy of the "Timorese cause" in international law and sharply distinguished it from disputed claims to self-determination by some other peoples.

6. Self-determination is a collective right that "all peoples" have to determine their destinies. This right entitled the people of Timor-Leste to three things: a) to freely decide their political status; b) to freely pursue their economic, social and cultural development; and c) to freely dispose of their natural wealth and resources.[3]

7. The right to self-determination entitled the Timorese people to bring their colonial situation to an end by choosing freely between independence, free association with an existing state, or integration with an existing state. This decision was required to be made through a free and genuine expression of their will. To be internationally acceptable and valid, a people's decision about its future must be the outcome of an informed, fair and democratic process, free of outside intervention and threats, conducted impartially and preferably supervised by the United Nations. Because this right belonged collectively to all the people of Timor-Leste and not a particular group, its exercise was also required to be representative. The people of Timor-Leste also had the right to struggle for self-determination and to seek and receive support for their struggle. States were entitled to respond to such requests for moral and material assistance.[*] States are not permitted to use inadequacy of political, economic, social or educational preparedness as a pretext to delay independence.[4]

8. The right of the Timorese people to self-determination also encompassed a right to be free from foreign subjugation and entitlement to freely determine how their natural resources should be dealt with and disposed of.

* These two assertions are based on General Assembly Resolution 2105, 20 December 1965 and the *UN Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the UN*, General Assembly Resolution 2625 (XXV), General Assembly Plenary Session 1883, 24 October 1970. See Suzannah Linton, Consultant Legal Advisor to CAVR, "The Right to Self-Determination in International Law", a submission made to the CAVR *National Public Hearing on Self-determination and the International Community*, 15–17 March 2004.

Obligations of states

9. As a result of the right held by the people of Timor-Leste to self-determination, certain obligations fell on state members of the United Nations. As the administering power, Portugal had particular obligations. It was required under Article 73 of the UN Charter to accept as a "sacred trust" its obligation to promote to the utmost the well-being of the Timorese people and:

- to ensure the political, economic, social and educational advancement of the East Timorese people, and protect them from abuses;
- to develop self-government, take account of the political aspirations of the people and assist them in developing free political institutions; and
- to regularly transmit information to the UN Secretary General regarding the situation in the territory.

10. In addition, all states have certain obligations in respect of the right to self-determination. All states must respect and promote the right of peoples to self-determination[5] and to take positive action to facilitate its realisation.[6] In particular all states "must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination."[7] States must refrain from any forcible action that deprives a people of its right to self-determination.[8]

11. Where the right of a people to self-determination is being denied, all other states are obliged to recognise that situation as unlawful, and must not take any action that aids or assists in its maintenance.[9]

12. In 1975, and again in 1976, the UN Security Council called upon "all states" to respect the inalienable right of the people of Timor-Leste to self-determination and the territorial integrity of Portuguese Timor.[10] All members of the United Nations are bound to comply with these resolutions of the Security Council.[11] The Security Council also imposed specific obligations on Indonesia and Portugal, which were both bound by those resolutions. It called upon Indonesia to withdraw its troops from East Timor,[12] and on Portugal to co-operate with the United Nations to enable the Timorese people to freely exercise their right to self-determination.[13]

13. The Commission concludes that the obligations on states were as follows:

- To respect the right to self-determination and to promote its realisation.
- Not to use force to suppress the right to self-determination.
- Not to do anything that may weaken the right of a people to self-determination.
- To provide assistance to peoples engaged in struggles for self-determination.
- Not to provide assistance to a state that is involved in suppressing the right to self-determination.
- Not to recognise as lawful a situation arising out of the denial of a people's right to self-determination.

The international context

14. The international community had agreed on the principles and procedures that should govern the decolonisation of Portuguese Timor but many key governments took a different approach to the issue in the 1970s than they did in the late 1990s.

15. A number of external factors worked against Timor's interests and due process in the 1970s. These included preoccupation with unprecedented ideological conflict at the international level and domestic crises of varying degrees of significance within the countries most closely involved with Timor-Leste. These issues were immensely important in their own right and affected countless human lives. However, they also impacted on Timor-Leste by diverting attention from the issue and colouring, if not distorting, official attitudes.

16. The dominant issue of the day was the Cold War. This was the open, yet restricted, rivalry that developed after the Second World War between the US and its Western allies and the Soviet Union and its allies, until the collapse of the Soviet Union (USSR) in 1991. This East-West rivalry was an ideological contest between the capitalist and communist systems, but was also commercial and military. It divided Europe, symbolised most vividly by the Berlin Wall that isolated West Berlin from communist-controlled East Berlin and East Germany. It also divided the Third World, after it became an arena of superpower competition following the establishment of a balance of power in Europe. The Soviet Union championed decolonisation. The competition did not result in direct military conflict between the US and the USSR, but it did involve military action or proxy wars in a number of countries, including in the Asian region. The rivalry generated great tension that was felt at every level of society in many countries and influenced public opinion on many questions. It also led to massive military expenditure and an arms race which included a build up of missiles and nuclear weapons that threatened the future of the world. The international community divided into Eastern, Western and Non-Aligned blocs around the issue and voted on many questions at the UN in line with geopolitical dictates rather than the merits of the issue under consideration.

17. Against this background, communist gains in Asia, which peaked in 1975 with the defeat of the US in Vietnam and communist victories in Laos and Cambodia, alarmed the US and its allies and worked against Timor-Leste's interests. Indonesia and other strongly anti-communist governments in the region, including Australia, New Zealand and members of ASEAN, were determined to work together to contain further advances. Left-wing developments in Portugal and Portuguese Timor were viewed with varying degrees of apprehension, particularly in Indonesia. But they also worked in favour of Indonesia which was able to exploit the issue against Fretilin, to maximise Indonesia's importance to the West as a bulwark against communism and to gain strong political, military and commercial backing from the US and the West.

18. The political ferment of the 1960s and 1970s also indirectly benefited Timor-Leste. The period witnessed the emergence of new political and civil society movements for peace, human rights, disarmament, development and social justice – due in large part

to disillusionment with the Soviet Union and Cold-War related tragedies such as US involvement in the Vietnam War. They demanded a say or participatory democracy and were motivated by concern for the future of the planet if decision making was left to the superpowers and big government and business. This search for alternatives was also felt in faith communities across the world, including in the Catholic Church following the Second Vatican Council in the 1960s. These movements became the backbone of international civil society support for Timor-Leste.

19. Lack of official enthusiasm for Timorese independence was compounded by a sense that mainstream decolonisation had run its course. Most of the large colonies of the European powers – Britain, France, the Netherlands, Germany, Italy and Belgium – were already independent or, in the case of Portugal, in the process of becoming independent. Decolonisation started in the Middle East in the 1920s and was followed by a second wave in Asia in the 1940s and 1950s when India gained independence from Britain and Indonesia from the Netherlands. The process peaked in the 1960s with the third wave of emancipation when no fewer than 42 countries, mostly in Africa, gained independence and membership of the United Nations. In this context, issues like Timor and Macau were seen in some quarters as vestiges of colonialism that were unsustainable as independent states and best dealt with through incorporation into a larger entity, in some cases former colonies, with which they shared a border and other features. Goa's absorption into India was often referred to in this connection. From this perspective, Timor's future was historically inevitable and only conceivable as part of Indonesia even though, in reality, the territory was larger than some of Portugal's African colonies and many newly independent states.

20. At the level of national politics, the three key stakeholders – Portugal, Indonesia and Australia – experienced varying degrees of internal challenge and instability during this critical 1974-75 period. These domestic issues added to the preoccupations of key policy-makers and, at least in the case of Portugal, were demonstrably harmful to Timor-Leste.

21. During this period, Portugal experienced a left-wing military coup, attempted counter-coups and several changes of government. In addition to being deeply preoccupied with its own fate, it was also very engaged with the decolonisation of its major colonies in Africa. Indonesia was threatened with economic collapse due to the Pertamina crisis over many months at this time. This occurred when Pertamina, Indonesia's state-owned oil company headed by Lieutenant General Ibnu Sutowo, had trouble repaying substantial foreign borrowings. The crisis threatened the oil-dependent Indonesian economy and foreign investor confidence. Rising oil prices had brought Indonesia from poverty to modest prosperity and were crucial to President Soeharto's political programme. Presidential advisers said that Timor was of relatively minor importance compared to the Pertamina crisis and that the latter absorbed ninety per cent of the President's time in the months before the Indonesian invasion.[14] President Soeharto's health, always an issue in a highly centralised government, was also problematic towards the end of 1975 when he had a gall bladder removed. Australia, too, experienced some uncharacteristic political instability during this

period. The Labour Government of Gough Whitlam was dismissed in November 1975 following a constitutional crisis leaving a caretaker government in power at the time of the Indonesian invasion. Foreign policy was a marginal issue in the bitter general election held on 13 December 1975.

Sources

22. The Commission based its research on primary sources as far as possible. The Commission advised most of the governments and institutions referred to in this part of its inquiry and sought their input. The Commission wrote to the Secretary-General of the United Nations, the President of Indonesia, the Prime Ministers of Portugal and Australia, and the Governments of Japan, the United States of America, France, the People's Republic of China, and the United Kingdom. No official replies were received but the Commission received considerable assistance from a number of the representatives of these Governments based in Timor-Leste. The Commission also made inquiries in Moscow and the Vatican regarding access to documentation.

23. A general problem faced by both the Commission and Governments was the challenge of finding records dating back some 30 years. Locating and accessing records from the pre-computer 1970s is an administrative and financial challenge, compounded by the need to provide precise identification of particular documents and dates. In most cases, a comprehensive search remains to be done and in cases where freedom of information legislation does not exist or access is heavily restricted, this may not succeed.

24. However, the decision of some governments to release at least some of their confidential records on Timor-Leste greatly assisted the Commission to fulfil its responsibility to establish the truth. The documentation released by the Australian Government for the period 1974-76 was particularly valuable as was the two-volume *Relatórios da Descolonização de Timor* on 1974-75 made available by the Government of Portugal. The Commission also benefited from declassified records released to The National Security Archive by the US Government and Ford and Carter Presidential Libraries, four volumes of declassified material from the Government of New Zealand, and documents released by the United Kingdom and provided to the Commission by Hugh Dowson. The Commission also drew extensively on the records of informative debates and hearings on Timor held by the UN, the US Congress and the Australian Parliament and the collection of basic documents on the Timor question edited by Heike Krieger and published by the University of Cambridge. These were enriched by a report on self-determination prepared for the Commission by Professor Geoffrey C. Gunn, Nagasaki University, Japan and written and oral testimony given to the Commission by former diplomats who served in the UN and the US and Australian Governments.*

25. These records are an important part of Timor-Leste's patrimony which most East Timorese are only seeing now for the first time. The Commission is grateful for the co-

* The Commission is also deeply grateful to John Waddingham, Julia Davey and Peter Carey for their advice and contributions to the research for this part.

operation it has received in assembling this material and, in keeping with its mandate, has preserved and organised these archives for future reference. The Commission hopes that Governments which have not yet done so will either contribute their records or allow Timorese and other researchers access to official archives for this purpose.

The United Nations and the three major stakeholders

> Indonesia had undertaken a study of likely international reaction to Indonesian intervention in Portuguese Timor… It had been concluded that the other ASEAN countries would not protest. There would be no significant reaction from the United States or the Soviet Union. Relations with Portugal were not important to Indonesia. Any reference of the matter to the United Nations would be handled by Indonesia satisfactorily. The Black African countries would react but this would not be serious for Indonesia. Only two countries would protest vigorously – China and Australia. In China's case, the protest would be routine and stereotyped ("an obligatory reaction"). As for Australia, certain groups and the press would create a commotion. The Australian Government would feel compelled to protest. This would be regretted by Indonesia. But it would all die down in due course.[15]

The United Nations

26. The United Nations (UN) was established in 1945 after the Second World War to maintain international peace and security, to develop co-operation between nations and to promote social progress and human rights. Its members are bound by the UN Charter, an international treaty that spells out their rights and duties as members of the international community.

27. The UN Charter recognises the principle of self-determination and, under Chapter XI, requires members with responsibility for non-self-governing territories or colonies to accept as a "sacred trust" the obligation to promote the advancement of these peoples and their political institutions and to report to the world community on steps to prepare for self-determination.

28. The movement against colonialism gathered extra momentum following the Second World War. Both captive peoples and colonial powers concurred that colonialism, as a system based on domination and inequality, was inconsistent with the fundamental principles of the UN and unsustainable in a changing world. In 1960, to accelerate the process, the UN promulgated the Declaration on the Granting of Independence to Colonial Countries and Peoples. It was adopted by the overwhelming majority of UN members. The Declaration states:

> All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

29. The importance of this document for Timor-Leste is clear from the fact that it was to introduce every General Assembly and Security Council resolution on the issue.

30. The same day, the General Assembly enunciated the different ways in which a full measure of self-government could be achieved by non-self-governing territories. Resolution 1541 (XV) provided three options: independence, free association, or integration with an independent state. It required that integration could only occur when the territory in question had advanced free political institutions and integration was the result of the people's freely expressed wishes based on universal adult suffrage.†

31. In 1961 the UN created a Special Committee on Decolonisation to reinforce the Declaration.‡ Its principal role is to advise the General Assembly on ways to promote decolonisation and independence and to alert the Security Council to developments in non-self-governing territories that could threaten international peace and security. It has no powers to enforce its resolutions or recommendations, but is mandated to travel widely, to hold hearings and to gather first-hand information about the situation in territories, including the wishes of the people about their future. Deliberation on decolonisation is also conducted in the General Assembly's Fourth Committee.

32. As a result of these initiatives, the decade of the 1960s is often described as the decade of decolonisation and independence. No fewer than 42 countries, mostly in Africa, gained independence and membership of the UN during the 1960s, more than any other decade during the history of the UN. However, Timor-Leste was not to join them for another 40 years.

33. The right of the people of Timor-Leste to self-determination was recognised on 15 December 1960, when the UN General Assembly listed Portuguese Timor by name as a non-self-governing territory, along with Portugal's other colonies.[16] This was the first time that the East Timorese were expressly recognised by the General Assembly as a people with a right to self-determination. Portugal refused to accept the decision and remained intransigent in the face of international challenges until the change of regime in 1974. The UN decision, however, was profoundly significant. Although it took time to be implemented in practice and was obstructed in many ways until 1999, the

* GA Resolution 1514 (XV). UN Doc. A.RES/1514 (XV) Nine members abstained: Australia, Belgium, Dominican Republic, France, Portugal, Spain, Union of South Africa, United Kingdom and the United States.

† Principles which should guide members in determining whether or not an obligation exists to transmit the information called for in Article 73e of the Charter of the United Nations, Principle IX, Annexed to GA Resolution 1541 (XV), 15 December 1960.

‡ The Committee is also referred to as the Committee of 24 in reference to the number of members. Its full title is Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

decision radically redefined Timor's relationship with Portugal and the international community. It elevated the fate of a small people from colonial obscurity to an issue of international responsibility and made the UN and its organs the primary forum of accountability for their future.

Portugal

34. Portugal joined the UN in 1955. An amendment in 1951 to the Portuguese Constitution of 1933 abolished the Colonial Act of 1930 and incorporated the colonies as "overseas provinces". The indigenous inhabitants were not consulted about this change in their *de jure* status. Portugal abstained when the General Assembly adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960, refused to report to the UN under Chapter XI of the UN Charter, and resisted other UN initiatives including Security Council resolutions in 1963 which criticised it for non-compliance and upheld Portuguese Timor's right to self-determination. The Salazar-Caetano regimes insisted that Portugal was a "pluri-continental" state in which its peoples exercised self-determination through participation in the Portuguese political process. The Portuguese Prime Minister, Dr António de Oliveira Salazar, also believed that the global decolonisation process was being driven by Third World and communist countries intent on the disintegration of Western Europe and that the West was appeasing the majority through the UN.[17] This stalemate continued until 1974.

35. The socio-economic situation in Portuguese Timor was backward and largely stagnant during this period. Australia's consul to the territory, James Dunn, reported in 1963:

> Portuguese Timor is a poor and extremely under-developed territory. It has no secondary industries, poor mineral resources and low-level subsistence production in agriculture. Very little has been done by the Portuguese to remedy these weaknesses and there is no evidence of any genuine effort to overcome them in the foreseeable future.

36. Dunn believed the situation was so alienating that Timorese might prefer to join newly independent but impoverished Indonesia. He wrote:

> The Portuguese in Timor have little real support from the indigenous population… the majority would probably favour Indonesian rule as the alternative to the continuation of Portuguese rule.[18]

37. Some improvements occurred in the early 1970s under Governor Fernando Alves Aldeia. But the system was essentially bankrupt, leading José Ramos-Horta to comment on his return from exile in Mozambique:

> I found my beloved country much the same as I had left it (in 1970). East Timor, under the Portuguese, seemed to sit still in history. The clock of development didn't tick there.[19]

38. In November 1975 the UN described the socio-economic situation in similarly depressing terms.

> According to an official Portuguese publication, among factors hindering the development of the territory are a low per capita income, inadequate transport and energy infrastructures, lack of a commercial tradition among the indigenous population, shortages of technically qualified personnel at all levels in both the public and private sectors, lack of financial means, a trade deficit, and heavy concentration of production on a single product, namely coffee.[20]

39. The depressed condition of the people was given further currency in international circles by diplomats who visited the territory after 1975. Following a visit to the island in early 1976 by Vittorio Winspeare Guicciardi, Special Representative for Portuguese Timor of the UN Secretary-General, the Australian Government reported:

> Winspeare expressed surprise at the 'backwardness' of the limited number of people he saw in rural areas near towns and said it was hard to imagine them understanding the issues involved in an act of self-determination. He had been 'amazed' at how 'primitive' the conditions were of some people, for example, whom he saw in Enclave of Oecussi. He said he believed their lives would have been fundamentally unchanged by 500 years of Portuguese rule.[21]

40. Following the change of regime on 25 April 1974, the new Portuguese Government accepted its obligations under the UN Charter, and on 24 July 1974 annulled Article 1 of the 1933 Constitution which classified Timor-Leste as national territory, and acknowledged its right to self-determination and independence. Portugal formally communicated this radical change of policy to the UN four times between August and December 1974.[22] In its resolution adopted in 1974, the General Assembly welcomed the acceptance by Portugal "of the sacred principle of self-determination and independence and its unqualified applicability to all the peoples under Portuguese colonial domination".[23]

41. In keeping with the central tenet of this policy, viz respect for the free choice of the people, the Portuguese Governor, Colonel Mario Lemos Pires, consistently attempted to treat each of the political parties equally during 1975. He disapproved of the actions of Colonel Maggiolo Gouveia, the Portuguese Police Commander, in joining UDT at the beginning of the civil war and on two occasions declined to recognise Fretilin as the sole legitimate representative of the Timorese people – in September after Fretilin became the *de facto* administration and again in November after Fretilin declared independence. For the same reason, Portugal also did not recognise the four party declaration of integration with Indonesia.[24]

42. Following its admission in November that it lacked "the means to assure normalisation of the situation in Timor",[25] Portugal referred the issue to the UN to be

dealt with according to UN principles and procedures. After the Indonesian invasion it cut diplomatic relations with Indonesia and appealed to the Security Council to obtain an immediate cessation of Indonesia's military intervention and a "peaceful and negotiated settlement of the conflict and of the decolonisation process under the auspices of the United Nations".[26] Though physically withdrawn from Timor, it acknowledged its duty as administering power to promote self-determination and laid this down explicitly in the Constitution.[*]

43. This principle was maintained throughout the conflict[†] and was endorsed on several occasions in the face of political pressures to the contrary. Two examples can be given. In June 1976, the Portuguese General, Morais da Silva, held secret negotiations with representatives of the Indonesian Government, General Benny Moerdani and Harry Tjan, over the release of 23 Portuguese prisoners held in Indonesia since the civil war, an issue of public concern in Portugal. In exchange for the prisoners, Morais da Silva offered the possibility of recognition by Portugal of Indonesian sovereignty in Timor. He was over-ruled by President-elect, General António Ramalho Eanes, and the incoming Prime Minister, Mario Soares, who insisted that negotiation on sovereignty was conditional on an internationally acceptable act of self-determination.[27] On another occasion, in 1987, consideration was given by both Portugal and the United Nations to observing the Indonesian general elections in Timor-Leste as a way of measuring Timorese attitudes towards integration. After a protest campaign by civil society, Portugal instead renewed its commitment to self-determination.

44. In 1991 Portugal further confirmed its commitment to the principle when it instituted proceedings against Australia in the International Court of Justice (ICJ) on the grounds that Australia's Timor Gap treaty with Indonesia infringed, inter alia, on Timor-Leste's right to self-determination. The Court ruled that it could not adjudicate the dispute, but noted that in the view of both Portugal and Australia the territory of East Timor remained a non-self-governing territory whose people had the right to self-determination.[28]

45. Portugal's decision to decolonise Timor, to maintain in principle support for self-determination and to withhold recognition of Indonesian sovereignty over 25 years were of critical importance to Timor-Leste's fate. However, despite its repeated policy commitments from 1974 on, Portugal generally failed to translate its principles into sustained practical support until late in the conflict. It mismanaged the decolonisation process in 1974 and 1975 and was generally ineffective as the "administering power" for a significant part of the Indonesian occupation.

* Article 307 of the Constitution of the Portuguese Republic, 2 April 1976, stated: "Portugal shall remain bound by its responsibility, in accordance with international law, to promote and safeguard the right to independence of Timor-Leste." On 7 July 1989, Article 293 was amended to read "to promote and safeguard the right to self-determination and independence of East Timor", Krieger, p. 36.

† Portugal's acceptance of its international obligations for Timor-Leste contrasted with its acceptance of India's takeover of Goa in 1961 and Spain's relinquishment of Western Sahara to Morocco in November 1975. Both occurred without a process of self-determination.

46. Lieutenant-Colonel Lemos Pires testified to the Commission that many factors were involved in the breakdown of the decolonisation process in 1974-75, including aggression by Indonesia and political immaturity on the part of Timor's new political parties. A key underlying factor, however, was Portugal's failure to engage the international community both before and after 1974.

47. The former governor explained that the decision to decolonise was a sudden revolutionary event that took both Portugal and Timor-Leste by surprise. Both were unprepared and ill-equipped for their respective roles and thrown into turmoil by the decision. This was due in large part to the Salazar-Caetano regime's failure to comply with its international obligations to prepare itself and its colonies for self-government in a systematic, positive way as explained above. Its neglect of its responsibilities and obstinate maintenance of the status quo in violation of UN policy frustrated legitimate decolonisation and contributed to its own downfall and to upheaval both at home and in its overseas territories. It also contributed to the view in Portugal that independence was not a viable political and economic option for Timor-Leste and that the territory should integrate with Indonesia, albeit through a process of self-determination.

48. Although its decision to decolonise was made according to international principles, Portugal declined to internationalise the process by seeking the assistance of the United Nations. In February 1975, for example, a delegation of the Portuguese Government in Timor met with the National Commission for Decolonisation in Lisbon and stressed "the urgent need to clearly define a policy [and] defended the internationalisation of the Timor issue through the UN, especially an appeal to the Third World countries as the only safeguard against Indonesian military intervention".[*] The Commission decided that an appeal to the UN to dissuade Indonesia should only be used as a last resort. Portugal opted instead to proceed to a third round of secret talks with Indonesia.[†] This refusal to engage with the United Nations, at least until after the Indonesian invasion, was a costly error. The former Governor Mario Lemos Pires told the CAVR:

> *The United Nations should have been the principal player in this process… I think it would have been better for Portugal [and] for the East Timorese decolonisation process if Portugal had internationalised the problem from the moment that the need for self-determination was recognised in 1974… The Portuguese Government did not ask the United Nations to be present in the territory… I think that was a mistake.*[‡]

* João Loff Barreto, *The Timor Drama*, 1981, pp. 25-26. In June 1975 the Commission again declined to internationalise the issue and in September, Portugal assured Indonesia it would only go to the UN as a last resort. Barreto, p. 53. Lieutenant-Colonel Lopes Pires, a military observer at meetings of the National Decolonisation Commission, wrote: "I understood this (internationalisation) to be the only course capable of avoiding what we all desired to avoid, given the systematic deterioration of the situation." Barreto, p. 63. The Australian Minister for Foreign Affairs, Don Willesee, told Parliament on 8 October 1975: "As of this moment, the Portuguese Government… has not put forward any formal proposal for UN mediation in Portuguese Timor."

† Portuguese and Indonesian officials met secretly in Lisbon on 14 October 1974, in Paris on 14 November 1974 and in London on 9 March 1975.

‡ Mario Lemos Pires, testimony given to the CAVR National Public Hearing on the Internal Political Conflict 1974–1976, 15–18 December 2003. The UN followed the process and held a meeting of its Special Committee on Decolonisation in Lisbon in June 1975, but Portugal did not hand over the issue until December 1975.

49. Instead of seeking international assistance, Portugal opted to manage the process on its own with few military and financial resources, without a plan and while overwhelmed with the break-up of its African empire and conflict at home. Due to endemic political instability in Portugal, Timor suffered for want of decisive leadership at times of crisis. Government in Portugal was effectively crippled, for example, during the August UDT coup and again in November on the eve of the Indonesian invasion. Lieutenant-Colonel Lemos Pires told the Commission:

> *There was not a decolonisation policy for Timor-Leste. The financial support that was given was very limited… The military forces that were allocated were minimal…*[29]

50. The shortage of Portuguese troops was understandable in the context of the Movement of the Armed Forces' (Movimento das Forcas Armadas, MFA) revolution, but it left the Governor relatively helpless at the time of the civil war and left the territory more vulnerable to Indonesian aggression.[*] The hapless situation in which Portugal found itself was vividly highlighted by the Governor's retreat, first to Ataúro then to Portugal.

51. Portugal was fully aware of Indonesia's increasingly aggressive plans to integrate Timor and sought to moderate its actions through diplomatic channels. Throughout this period, however, it appeared to regard Indonesia as part of the solution rather than part of the problem. Its dealings with Indonesia until the invasion on 7 December 1975 were generally secret and co-operative, with an understanding of Indonesia's interests, including assurances that the issue would not be internationalised, and notably devoid of public criticism of Indonesian military objectives and interference in Portuguese Timor's internal affairs.

52. Foreign Minister Melo Antunes reportedly did not use the opportunity of the Rome talks with Indonesia on 1–2 November 1975 to present evidence provided by the Portuguese journalist, Adelino Gomes, that Indonesia had massed troops in West Timor and crossed into Portuguese Timor.[30] The communiqué from the meeting described the talks as "frank" but made no mention of Indonesian military activity. It focused instead on the need for talks with the Timorese political parties "aimed at ending armed strife" and safeguarding "the interests of Indonesia". In statements issued on 28 and 29 November 1975, Portugal blamed Fretilin for the situation and did not mention Indonesia by name.[31] Only after the full-scale invasion on 7 December 1975, when it was too late, did Portugal directly protest Indonesia's military actions, sever diplomatic relations and take the issue to the Security Council.

53. The former Governor, Lemos Pires, told the Commission that he believed Australia should have been more helpful to Portugal and Timor at this time. He, members of the Australian Parliament, UDT and Fretilin made repeated requests in 1975 for the Australian consulate, which was closed in 1971, to be re-opened in Dili in order to

* Portugal downsized troop levels from about 3,000 in 1974 to about 200 by mid-1975. José Ramos-Horta has written: "In my view, the troop reduction was the single most damaging error committed by the Portuguese in 1974." *Funu: The Unfinished Saga of East Timor*, Red Sea Press, Trenton, New Jersey, 1987, p. 48.

provide an international presence and direct reporting to Australia on the situation. David Scott testified to the Commission that this request was refused on six occasions by the Australian Government.[32] According to Gough Whitlam who was Australian Prime Minister at the time, "at no stage did (Portugal)… make specific proposals to Australia or other regional powers".[33]

54. Portugal was relatively passive in the international arena during the 1970s and early 1980s. Richard Dalton, an official in the UK Mission to the UN, observed in 1976:

> Portugal remains quiet. They indicate privately that they will accept anything that is acceptable to the UN as a whole. They are not trying to get anything done.[34]

55. This lack of initiative contrasted sharply with Indonesia's diplomatic aggression and contributed to a loss of votes at the UN and a weakening of support for Timor-Leste. The Portuguese Government was sometimes slow or unresponsive to critical events in Timor-Leste. It failed, for example, to protest the Indonesian military offensive in Timor-Leste that followed the breakdown of the ceasefire in 1983. This provoked withering criticism from José Ramos-Horta:

> [Portugal's] criminal negligence and political cowardice is what have contributed in the last eight years to the erosion of the voting block in support of the right of the people of East Timor to self-determination and independence. After a brief period of one year, under the Government of Prime Minister Pinto Balsemão, during which the Portuguese Government did make some serious efforts to alert the international community to the tragedy of the people of East Timor, we are now returning to the silence and desertion that has been the attitude of the Portuguese authorities from 1974 until 1981.[35]

56. Some late but positive signs of commitment appeared in the 1980s and gathered momentum in the 1990s. In 1982, under President Ramalho Eanes, Portugal began to address the question systematically and to mobilise its foreign office and diplomats. Also in 1982, the Portuguese National Assembly created the Special Committee for the Accompaniment of the Situation in East Timor. Apart from demonstrating cross-party consensus on the issue, the Committee facilitated the internationalisation of the Timor-Leste question by Portuguese deputies in various fora, including the UN Special Committee on Decolonisation.

57. A major step forward occurred in June 1986 when Portugal joined the European Economic Commission (EEC) and the European Parliament the following year. This was Portugal's first involvement in a significant supra-state organisation. Led by President Mario Soares, and encouraged by the developing unity within the Timorese Resistance, Portugal took advantage of these opportunities to develop support

amongst its European partners, particularly Ireland,* Greece and Italy. Official activity increased during the 1990s, stimulated *inter alia* by the public response in Portugal to the demonstrations that accompanied the visit by Pope John Paul II, the emotional impact of young Timorese praying in Portuguese during the 1991 Santa Cruz massacre and the award of the Nobel Peace Prize in 1996. In 1993, for example, Portugal was largely responsible for the adoption of a positive resolution on Timor-Leste by the UN Commission of Human Rights. In what was described by a US diplomat as "one of the most dramatic moments of this year's session", Portugal, with the help of its former colonies, gained the support of the US, Canada and Australia for the resolution. The US mission in Geneva reported:

> The passage of the East Timor resolution represents the successful culmination of a tremendous effort by the Portuguese Government, which played a very tough role in the EC-Indonesia dialogue fending off considerable pressures – including from its closest friends – to accept compromise language.[36]

58. Portugal returned to centre stage alongside Indonesia in the negotiations leading up to the 5 May 1999 Agreements. Talks between Portugal and Indonesia based on General Assembly Resolution 37/30 had made little progress since 1983, but following Kofi Annan's decision to activate the process in 1997, Portugal worked closely with the Secretary-General's Personal Representative for Timor-Leste, Jamsheed Marker, and held firm to its oft-repeated policy of self-determination. According to Ambassador Marker, Prime Minister Guterres and Foreign Minister Jaime Gama insisted that "they could not accept a solution that was not based on the freely expressed choice of the East Timorese people".[37] This was achieved through the Agreements of 5 May 1999 and the August ballot in both of which Portugal played a significant role.

59. Portugal did not formally sign off as "administering power" in Timor-Leste. After some debate in Lisbon it was decided not to make an issue of the matter lest it jeopardise or delay the sensitive negotiations preceding the 1999 act of self-determination. Instead, it was agreed that Portugal's endorsement of the juridical and internationally accepted acts that led to independence would together constitute the termination of its status as "administering power". These were the signing of the 5 May 1999 Agreements (conditional on due process being observed), support for the establishment and functioning of UNTAET as the transitional administration,[38] and recognition of the Democratic Republic of Timor-Leste.

60. On 8 May 2002 the General Assembly decided "to remove East Timor from the list of Non-Self-Governing Territories upon its accession to independence."[39]

* Following television footage of the Santa Cruz massacre and community activity led by the East Timor Ireland Solidarity Campaign (ETISC), which was established in Dublin in 1992, Ireland rallied to the Timor-Leste cause from the president down. The Irish Foreign Minister, David Andrews, played an active role in the EU and was appointed as the EU special envoy to Timor-Leste.

Conclusion

61. Portugal had principal responsibility to prepare and facilitate decolonisation in Timor consistent with its obligations to the United Nations and the Timorese people. Its failure under the Salazar-Caetano regimes to discharge this responsibility and prepare the Timorese for a future without Portugal was reprehensible and a violation of the right to self-determination. This also undermined the right to independence by contributing to the widely held view that an independent Timor-Leste was not economically or politically viable and could only subsist through incorporation with Indonesia.

62. Portugal's change of policy in 1974 to support self-determination was critical to the fate of Timor-Leste as was Portugal's adherence to this principle throughout the Indonesian occupation. However, Portugal failed to discharge its responsibilities to the people of Timor-Leste during the critical period 1974-75 and beyond. Although the third largest of Portugal's six territories, Timor was low on the list of Portuguese priorities. For Portugal, this period appeared to mark the end of its role rather than the active assumption of new responsibilities. The central government did not provide adequate resources to its local representatives, did not secure the territory in the face of clear external aggression, was too accommodating of Indonesia's position, and declined to internationalise the issue. The human cost of these mistakes was severe. This passivity and ambivalence continued to characterise its diplomatic activity until the mid-1980s despite its constitutional and international obligations and constant petitioning by the people of Timor-Leste and Portuguese civil society for a more credible defence of its former colony's interests.

63. Mario Lemos Pires, the last Portuguese Governor of Timor-Leste, discharged his duties in 1974 and 1975 in an honourable and principled manner in the face of extraordinary challenges. The Commission wishes to acknowledge his role during this critical time.

Indonesia

64. Indonesia received UN support in its struggle for independence from the Netherlands and joined the world body in 1950. Under President Sukarno, it was a vocal champion of decolonisation. The preamble to the 1945 Indonesian Constitution reads:

> That in reality, Independence is the right of every nation and, therefore, colonialism in this world must be abolished because it is not in conformity with humanity and justice. (*Bahwa sesungguhnya Kemerdekaan itu ialah hak segala bangsa dan oleh sebab itu, maka penjajahan di atas dunia harus dihapuskan, karena tidak sesuai dengan peri-kemanusiaan dan peri-keadilan*).*

* This is taken from President Soeharto's address to representatives of the Provisional Government of East Timor in response to their petition to integrate with Indonesia, 7 June 1976. Krieger, p. 48.

65. The Indonesian Government under both President Sukarno and President Soeharto officially supported the right of the East Timorese people to self-determination and disavowed any territorial claims to the colony.

66. In a series of statements to the General Assembly between 1954 and 1962 relating to the dispute over West Irian between Indonesia and the Netherlands, Indonesian officials stressed repeatedly that the national boundaries of Indonesia were those of the former Netherlands East Indies. In 1961, for example, the Indonesian Foreign Minister, Mr Subandrio, stated:

> In regard to the large island of Borneo…whose northern part is British territory, and likewise as regards one-half of the island of Timor, which is Portuguese, we have no territorial claims at all; because what we consider to be Indonesian and Indonesian territory is nothing else but the entire territory of the former colony: the Netherlands East Indies.[40]

67. In 1960 Indonesia voted in support of both the UN Declaration on the Granting of Independence to Colonial Countries and Peoples and the General Assembly resolution recognising Portuguese Timor as a non-self-governing territory. It supported subsequent UN resolutions critical of Portugal's colonial practices and its failure to comply with its obligations under the UN Charter. The deputy chief of President Sukarno's Advisory Council, Roeslan Abdulgani, told a rally held in Jakarta in 1961:

> "Fill your hearts with hatred not only for Portuguese colonialism, but for all colonialism still existing on Asian and African soil," adding that Indonesia's "eyes and heart are directed towards Portuguese Timor and Goa (which) are still under the power of colonialism."[41]

68. The Australian Government was convinced that the continuing presence of a colonial regime within the Indonesian archipelago would provoke President Sukarno to eliminate this last vestige of colonialism in his neighbourhood, and urged Portugal to develop the territory and Indonesia not to use force. However, Sukarno's interest in Timor was largely rhetorical and did not compare with his "crush Malaysia" or West Irian campaigns. During a visit to Lisbon in 1961, he reportedly told the Portuguese Prime Minister, Dr Salazar, that Indonesia respected Portuguese sovereignty in the territory.[42]

69. These policies were continued under President Soeharto (1966-98). In October 1974, during the first debate in the UN Fourth Committee since the change of regime in Portugal, the Indonesian representative stated:

> Indonesia would like to see the people of Portuguese Timor exercise their right to self-determination in an orderly and peaceful manner in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples.

70. He added that Indonesia was open to integration but that "such an association should be in conformity with the 1945 Constitution of Indonesia which, inter alia,

laid down that Indonesia was a unitary state".[43] The Indonesian Ambassador to the United Nations, Anwar Sani, reiterated these sentiments at a meeting of the UN Special Committee on Decolonisation held in Lisbon in June 1975.

71. In reality, however, Indonesia decided before the end of 1974 that only one outcome from self-determination was acceptable. In December, the Indonesian Foreign Minister, Adam Malik, was quoted in the official Indonesian news agency Antara as saying that the Timorese had only two options: "remain under the Portuguese or combine under Indonesia". He then ruled out remaining with Portugal because that choice "besides adding to Portugal's burden, would also constitute a new form of colonialism" and stated that independence was "not realistic" because of "the backwardness and economic weakness of the population".[44]

72. A key Soeharto adviser, Harry Tjan, confirmed this decision to the Australian Government. In February 1975 he informed an Australian Embassy official that:

> A decision had been taken by the Indonesian Government that sooner or later Portuguese Timor must form part of Indonesia. This was a unanimous decision by all the leading Indonesian personalities involved, including the President. All that remained to be decided was when, and how, this should be brought about. As he had said, it would not happen in the very near future. But it would happen. The Indonesian Government would first try every conceivable means before turning to a military solution. He described this as the 'ultimate act'.[45]

73. The Australian Ambassador to Indonesia, Richard Woolcott, reiterated this in a major confidential analysis of the issue written in January 1976 for the new Australian Prime Minister, Malcolm Fraser. He wrote:

> Indonesia will not be deterred from this fundamental policy objective (of incorporation). Indonesia has held this attitude consistently since some months before I arrived at this post last March.[46]

74. This was a fateful decision. It conflicted with the Soeharto Government's public commitment to respect the freely expressed wishes of the Timorese people. It also set Indonesia on a potential collision course with the two major Timorese parties, UDT and Fretilin, both of whom advocated independence, and presented the international community with a major diplomatic challenge.

75. The implementation of this objective was entrusted to Special Operations (Operasi Khusus, Opsus), the military intelligence body which established a covert Timor project for the purpose code-named Operasi Komodo. This operation was directed by Major-General Ali Moertopo, the head of Special Operations, and Lieutenant-General Yoga Sugama, the head of Bakin (the Intelligence Coordinating Body). Its main executive was Liem Bian Kie (Moertopo's private secretary) and its principal adviser was Harry Tjan from the Centre for Strategic and International Studies (CSIS), an Opsus think tank. This was not a new challenge. Special Operations, under Ali Moertopo, managed the 'Act

of Free Choice' in West Irian in 1969 and successfully ensured that the process resulted in a pro-integration vote. Several other figures in the campaign to integrate Timor also had experience in the takeover of West Irian. They included President Soeharto, then a Major-General who commanded the 1962 Mandala military campaign to liberate West Irian from Dutch control, General Benny Moerdani and Colonel Dading Kalbuadi.* As it evolved, Operasi Komodo developed a number of functions, including international diplomacy (directed mainly at Portugal), intelligence, subversion and later preparation for the use of military force (see Vol. I, Part 3: The History of the Conflict).

76. At the end of August 1975, Indonesia hardened its position and decided on military intervention to secure integration. This followed Fretilin successes in the civil war and vague intimations by the Portuguese Minister for Inter-territorial Coordination, Dr António de Almeida Santos, that Portugal might hand over power to Fretilin. At a meeting on 5 September, President Soeharto and General Moerdani canvassed seven possibilities ranging from an invitation to Indonesia from Portugal to intervene directly, to United Nations involvement in which Indonesia would participate. The President ruled out all options except the Special Operations plan which he described as the "classical way". Under General Moerdani's command, the Special Operations plan would provide well-armed "volunteers" to back up UDT and other anti-Fretilin Timorese forces in a bid to prevent a complete Fretilin takeover of Timor.[47]

77. Indonesia, however, explained its military intervention to the United Nations in terms of its obligation to uphold Timor-Leste's right to self-determination. In a statement to the Security Council on 15 December 1975, Indonesia's representative, Anwar Sani, reiterated that Indonesia had no claim on the territory, that Timor was in a state of anarchy, and that it had intervened at the request of political parties who represented the majority of the people "to restore peaceful conditions to the Territory in order to enable the people freely and democratically to exercise its right to self-determination".[48]

78. The General Assembly and the Security Council rejected Indonesia's justification. Both bodies deplored Indonesia's military intervention, called for it to withdraw without delay, and urged Portugal as the administering power to co-operate with the United Nations "so as to enable the people of East Timor to exercise freely their right to self-determination". The Security Council also requested that a UN representative be sent to the territory, inter alia, to establish "contact with all the parties in the Territory and all States concerned in order to ensure the implementation of the present resolution".[49] The Secretary-General appointed Mr Vittorio Winspeare Guicciardi for this task.

79. Indonesia's initial response to the UN resolutions was to declare, inter alia, that Portugal had forfeited the right to carry out a decolonisation program in the territory and that a plebiscite was not necessary since self-determination had already taken place in the form of the 30 November declaration of integration with Indonesia. This position,

* An account of then Captain Moerdani's involvement in West Irian and Timor-Leste can be found in Julius Pour, *Benny Moerdani: Profile of a Soldier Statesman*, The Yayasan Kejuangan Panglima Besar Sudirman, Jakarta, 1993. Moerdani was responsible for the military role of Operasi Komodo. Kalbuadi was field commander of the Indonesian assault inside Portuguese Timor on 16 October 1975.

which was clearly at odds with the UN resolution and Indonesia's own commitment, was abandoned in response to Guicciardi's mission. The Indonesian-appointed Provisional Government of East Timor (PGET) told the UN envoy that "in deference to the wishes of the United Nations the first task of the (People's Representative) Council will be to ratify the decision of the people for complete integration with the Republic (of Indonesia)" and that representatives of the United Nations would be invited to observe the process.[50]

80. A four-stage programme was instituted by Indonesia in the hope that a credible process would legitimise integration in the eyes of the international community and remove the question of Timor-Leste from the UN agenda.

81. The first and most important step was to hold an act of self-determination. This took the form of a Popular Representative Assembly held in Dili on 31 May 1976 and resulted in a unanimous petition to integrate with Indonesia. This was followed by a visit to the territory on 24 June by an Indonesian Government fact-finding mission to verify that the request accurately represented the wishes of the people. Following the positive report of this mission, the Indonesian Parliament approved a bill of integration on 15 July 1976. As a fourth and final step, the statute of integration was signed into law and formally promulgated by President Soeharto on 17 July 1976.

82. In his address accepting the petition on 7 June 1976, the Indonesian President sought to justify integration in cultural and historical, rather than legal terms and as a triumph over European colonialism consistent with Indonesia's Constitution. Speaking more to the Timorese delegation than the international community, he said the petition was an "historic occasion" because it represented reunion and reintegration after generations of separation by artificial borders:

> I do not feel as though I am greeting strangers today. I feel that I am meeting my own brothers again, who were separated for…hundreds of years by the artificial barriers of the colonial Governments.[51]

83. The integration process enabled Indonesia to claim that the East Timorese people had expressed their will once and for all and that the territory was now legally and constitutionally a province of Indonesia. From this point, calls by Portugal and others for self-determination were rejected as interference in Indonesia's internal affairs. This was also the basis for Indonesian resistance to any direct involvement of East Timorese political leaders in negotiations.

84. The international community did not recognise the 1976 process. Though little was said by individual states at the time, it was generally agreed that the Assembly failed to meet the fundamental test of freedom of choice due in particular to the presence of Indonesian troops, the absence of alternative options and the doubtful representative status of participants. General Assembly resolution 31/53, adopted on 1 December 1976, rejected "the claim that East Timor has been integrated into Indonesia, inasmuch as the people of the Territory have not been able to exercise freely their right to self-determination and independence".[52] The People's Assembly did not comply with the

procedures laid down in UN General Assembly resolution 1541 (XV) of 15 December 1960, which emphasise that the process must be informed, free and democratic. A US Government legal adviser, George H. Aldrich, told the US Congress:

> We actually know very little about the selection process for these delegates, although the process itself took place at a time of military occupation by Indonesia during which considerable fighting was still going on.[53]

85. Alison Stokes, who represented the New Zealand Embassy in Jakarta at the event, reported that foreign observers were allowed less than two hours in Dili and the session lasted about one hour. She wrote:

> My assessment is that the People's Representative Council of East Timor, in a serious, business-like and formal way, unanimously endorsed integration with Indonesia. But for the outside observer there were two serious flaws in this act of self-determination. (A) Who were these representatives taking this decision, how had they been elected and did they indeed represent the wishes of the people of East Timor. (B) Only one option for future political status, that of integration, was ever mentioned. I was told that in Dili the district election has been on the basis of one man one vote and a journalist told me that in Baucau it had also been on that basis. Elsewhere they had been in accordance with local traditional practice of village elders making the selection.
>
> When I asked the Indonesians with us why the Popular Assembly addressed itself to only one option, that of integration, they said that the choice must be seen in the whole context of events in recent months during which the other options of links with Portugal or independence had been discarded by the East Timorese. In addition, there were disappointing aspects to the day: (A) On the plane we were given a leaflet entitled 'East Timor' put out by the PGET which *inter alia* stated that 'The East Timor people are fully behind the Provisional Government in the preparation for full integration of East Timor into the Republic of Indonesia…': this prejudgement struck the wrong note. (B) The Assembly's proceedings were in Portuguese and only parts were translated into English. A Timorese sitting near me provided me at my request with a running commentary in English on the proceedings but this was second best to an official translation. (C) We did not meet any members of the PGET or the Popular Assembly. There was no press conference. (D) The street carnival and cheering were over-organised and lacked spontaneity.[54]
>
> Few of the international community attended. Indonesia expressed regret that invitations to the Secretary-General, the Security Council and the Special Committee on Decolonisation were not accepted and

> that only seven UN member states sent observers.* Among those invited who did not accept were Australia, Japan, the Philippines, Singapore and the US. Fretilin denounced the Assembly as unrepresentative and asserted that it represented the majority of the people.[55]

86. Despite the invalidity of the process, over 30 UN member states explicitly or implicitly recognised Timor-Leste as part of Indonesia by 1990 while at the same time acknowledging that Timor-Leste had not exercised a genuine act of self-determination. Some, such as Australia, India, Papua New Guinea and the US, recognised the incorporation through explicit public statements. Australia was alone in explicitly expressing its support for *de jure* recognition, a practice it abandoned in 1990s. Others confirmed their recognition by way of explanation of their vote at the UN General Assembly. These included Bangladesh, Canada, Jordan, Malaysia, Oman, the Philippines, Singapore, Sweden and Thailand. A third cluster of countries can be said to have effectively given recognition, in some cases confirming an existing endorsement, by signing treaties with Indonesia after 1976 which did not exclude Timor-Leste from the definition of 'Indonesia'. These included Austria, Brunei, Bulgaria, China, Denmark, Finland, France, Germany, Hungary, Italy, Japan, South Korea, New Zealand, Norway, Pakistan, Saudi Arabia, Sweden, Switzerland and the United Arab Emirates.†

87. Francesc Vendrell, who had worked on the Timor-Leste question within the UN Secretariat, explained to the Commission how it was possible for Indonesia to gain such diverse international backing despite its violation of due process in Timor. He told the Commission at its public hearing on Self-determination and the International Community:

> *Although the immediate reaction of most countries was to condemn the annexation of East Timor, bit by bit, and fairly fast, within a couple of years most countries were no longer willing to be critical of what was happening in East Timor.*[56]

88. Mr Vendrell explained that Indonesia's political and economic links with a number of key groupings influenced this pragmatic shift in attitude. Indonesia under President Soeharto had support in the West as "an anti-communist country". It also enjoyed support in ASEAN and the Islamic world, in both of which it was the largest member, and within the non-aligned movement of which it was a founding member.[57]

89. The Indonesian Government continued to defend the validity of the 1976 process against a rising international challenge to its presence in Timor-Leste, particularly in the aftermath of the Santa Cruz massacre. In 1992 the Foreign Minister, Ali Alatas, felt obliged to take Indonesia's case to the National Press Club in Washington. In a speech

* The seven states represented were: India, Iran, Malaysia, New Zealand, Nigeria, Saudi Arabia and Thailand. UN Secretariat report, Annexe 1. A/AC.109/L.1098 and Add. 1.

† A listing of States whose signing of taxation and other treaties with Indonesia could be construed as recognition of integration can be found in Krieger, pp. 291-297.

entitled "De-bunking the Myths around a Process of Decolonisation" he reiterated the oft-stated position that Indonesia had had no territorial claim to Timor-Leste and had abided by the decision of the East Timorese about their future given in a proper and fair process.[58]

90. On 21 May 1998, B.J. Habibie became the third President of Indonesia. His agenda of urgent reforms included addressing the issue of Timor-Leste which the Foreign Minister Ali Alatas had openly acknowledged was "a pebble in Indonesia's shoe", an impediment to development. The President is reported to have told colleagues:

> Why do we have this problem when we have a mountain of other problems? Do we get any oil? No. Do we get any gold? No. All we get is rocks. If the East Timorese are ungrateful after what we have done for them, why should we hang on?[59]

91. In June he announced that Indonesia would consider a "special status" for Timor-Leste, a policy change that President Soeharto had repeatedly rejected including as recently as 1997. On 27 January 1999, concerned that autonomy would inevitably lead to independence at great cost to Indonesia, President Habibie gained Cabinet approval for a clear-cut resolution of the issue through a choice between autonomy and independence. Following the Cabinet meeting, the Information Minister, Yunus Yosfiah, announced that:

> A regional autonomy plus will be awarded to East Timor. If this is not accepted by the mass in East Timor we will suggest to the new membership of the People's Consultative Assembly (MPR), formed as a result of the next elections, to release East Timor from Indonesia.*

92. On 30 August 1999 the East Timorese people freely exercised the right to self-determination under UN auspices that they had first been promised in 1960. The Indonesian military continued the policy of subversion that had characterised their approach from 1974, but their attempts at sabotage and intimidation were offset by democratic forces in the Indonesian government and civil society. The result was clear cut: 21.5% in favour of special autonomy, 78.5% against.

93. In his statement announcing the vote result, the UN Secretary-General, Kofi Annan, counselled:

> Those who voted to accept the proposed special autonomy must not consider this outcome a loss. Nor indeed should the majority consider it a

* Quoted in *East Timor in Transition 1998–2000: An Australian Policy Challenge*, Department of Foreign Affairs and Trade, Canberra, 2001 [henceforth, *East Timor in Transition*, DFAT], p. 38. A number of prominent Indonesians had been calling for this policy change for some years (see section on Indonesian civil society in this part, paragraphs 500-522). After Habibie became President, people such as Adi Sasono, Dewi Fortuna Anwar and Ginanjar Kartasasmita also influenced his thinking. See Clinton Fernandes, *Reluctant Saviour*, Scribe Publications, Carlton North, Victoria, 2004, pp. 40-41. A recommendation in favour of self-determination from the Australian Prime Minister, John Howard, was also an important factor.

victory: for there are no winners and no losers today. Rather, this moment heralds the opportunity for all East Timorese to begin to forge together a common future in what is to become an independent East Timor.[60]

Conclusion

94. The Soeharto Government violated the right of the people of Timor-Leste to self-determination. This was also a breach of international law and the spirit of Indonesia's Constitution, anti-colonial tradition and policies. The Indonesian military was principally responsible for this violation. The Indonesian people were not consulted or informed and bear no responsibility.

95. The Soeharto Government had a legitimate interest in the outcome of Timor's decolonisation and proper channels were available to communicate these interests, but it chose to ignore due process.

96. This violation followed a high level, secret decision taken in 1974 to integrate the then Portuguese colony into Indonesia. Publicly the Soeharto Government supported the Timorese right to a free choice between three options as provided for by UN General Assembly Resolution 1541 (XV) of 1960, and presented itself as a good international citizen. In practice it worked to engineer only one of those choices, that of integration, and to undermine and deny the right to independence that was the goal of Timor-Leste's two major political parties. It attempted to justify its takeover on the grounds of humanitarian responsibilities, regional security, self-defence, pre-colonial cultural, historical and ethnic ties, and Timor-Leste's lack of economic viability. These claims were not valid reasons to override the East Timorese people's inalienable right to self-determination and were incompatible with the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples which Indonesia professed to uphold.

97. This process of subversion became progressively aggressive. President Soeharto made it clear to his advisers and to foreign governments that he preferred to bring about integration by political means but he did not rule out military force. He authorised the use of force in 1975 when it became clear that developments in Timor-Leste favoured independence. Although influential sections of the international community accommodated this decision, the United Nations condemned Indonesia's intervention and rejected the validity of the subsequent annexation. It continued to uphold the right of the people of Timor-Leste to self-determination and independence despite official Indonesian claims to the contrary.

98. The Soeharto Government's military intervention and mismanagement of Timor-Leste were a disaster for the people of Timor-Leste and for Indonesia itself, including for thousands of young Indonesian soldiers and their families and loved ones. The continuing local violence caused the failure of diplomacy at the international level. It led to the very outcome – an independent Timor-Leste led by Fretilin – that Indonesia and its neighbours had sought to avoid in 1975.

99. President Habibie's decision in 1999 to free Indonesia from Timor-Leste through a UN supervised act of self-determination, and the honouring of that process by President Abdurrahman Wahid, were the actions of true statesmen that accorded with international law and helped restore Indonesia's standing in the international community.

Australia

100. Australia was not a party principal to the Timor-Leste conflict, but successive Australian Governments took a close interest in the issue and Australia was viewed as a key player by Portugal and Indonesia, and also by the East Timorese Resistance. Australia's proximity to Timor and middle power status in the region, combined with active civil society, parliamentary and media interest in Timor-Leste's situation, made involvement unavoidable despite attempts by government at various times to distance itself from the issue.

101. The major Western powers also expected Australia to play a key role. Following the Second World War, the US and Britain pressed Australia to take more responsibility for regional affairs, including Portuguese Timor after it became an international issue in 1960. Cabinet discussions in 1963 on the future of the territory made reference to "proposals by the United States Administration to the effect that Australia should take more defence and diplomatic initiative in South-East Asia, thus sharing responsibility more, rather than, as at present, limiting itself to the support of leads of the United States or Britain".[61]

102. After Portugal's decision in 1974 to decolonise the territory, Western governments looked to Canberra for intelligence and policy advice on the issue. Aware of its European neighbour's influential role, the Soeharto Government paid special attention to its relationship with Australia and kept Australian officials closely informed about Indonesia's developing position.* This included discussions on the issue between President Soeharto and Australian Prime Minister, Gough Whitlam, on two occasions in 1974 and 1975. The importance of Australia's role to both Indonesia and Western governments is well illustrated by the impact of Australia's decision to vote against Indonesia on the question at the UN General Assembly in December 1975. At the time, Harry Tjan, a key adviser on Timor-Leste to President Soeharto, angrily informed the Australian government that its vote was damaging because so many countries had looked to Australia for a lead. The Americans, he said, had already told the Indonesian

* In addition to its official communication links with Bakin (the Intelligence Coordinating Body) and the Indonesian Department of Foreign Affairs, Australia had a privileged link through Harry Tjan to the inner workings of Operasi Komodo. A communication from an embassy official in July 1975 described how much Australia valued Tjan's openness and connections: "He frequently reads to us from the actual records of secret meetings on Portuguese Timor. He has in his possession classified documents on the subject. He sometimes receives phone calls from leading personalities (Ali, Yoga) while we are in his office…Tjan respects us, and is confident in us. He speaks to us as he speaks to no one else." Document 157, Jakarta, 21 July 1975, in Wendy Way (Ed.), *Australia and the Indonesian Incorporation of Portuguese Timor 1974–1976*, Department of Foreign Affairs and Trade (henceforth, DFAT), Melbourne University Press, Victoria, 2000, p. 295.

Government that Australia's voting intentions had played a large part in their own consideration of how they should vote. Indonesia had also learnt that the Nine (including Britain) had been similarly influenced by Australia. No doubt there were many others. Australia's general approach in the United Nations on this issue had been 'extremely harmful' to Indonesia.[62]

Australian policy to 1974

103. The main features of Australia's policy on the question were developed in the 1960s after Portuguese Timor was listed by the UN as a non-self-governing territory. The policy emerged not as a response to Timor's newly acknowledged right, but out of concern that Portugal and Indonesia were on a collision course over the issue and this might lead to conflict in Australia's near north. Policymakers in Canberra believed that Salazar's refusal to co-operate with the United Nations and to make even minimal concessions to Third World sentiment would provoke Sukarno to take military action against the Portuguese similar to his response to the British over the formation of Malaysia and the Dutch over West Irian. The Australian Prime Minister, R G Menzies, wrote to the Portuguese Prime Minister, Dr António de Oliveira Salazar, several times between 1961 and 1964 in a bid to head off this predicted crisis.

104. The clash did not eventuate, but in response to the prospect a number of key policy positions were developed. In one or other form, these policies and concerns, which were taken before the advent of the Soeharto Government or the establishment of Fretilin, were to characterise Australia's handling of the Timor problem throughout the conflict.

105. As formulated by the Minister for External Affairs, Garfield Barwick, they included the following:[63]

- Australia supports the principle of self-determination.*
- Timor has no future under Portugal.
- The territory is not capable of political independence.
- Australia would accept incorporation by Indonesia provided it was peaceful and in accordance with the freely expressed wishes of the Timorese people.
- Australia would oppose Indonesian military aggression in the territory and support action by the UN in response.
- Australian public opinion would not accept violence by Indonesia against Timor.
- Any Australian initiative on the issue must take into account the importance of good relations between Australia and Indonesia. The 1963 Cabinet Minutes referred to above stated:

* How self-determination might be implemented was the subject of debate in the official circles. A departmental Working Group reported: "…the Government would certainly wish cession (by Portugal) to be accompanied by some process of self-determination. Moreover, we would expect that the Indonesians themselves would want some expression of self-determination to protect them from the accusation of neo-colonialism by making deals with a colonialist power. Perhaps in theory the problem of self-determination is not insurmountable and might be overcome by a West New Guinea type of arrangement." "The Future of Portuguese Timor" in Wendy Way (Ed.), DFAT, p. 31.

> Cabinet indicated that (it would not) wish to take initiatives which might lead to the point where Australia came to be seen by Indonesia or other countries as a standing adversary. The objective in relations with Indonesia must be to achieve the greatest available degree of mutual understanding.[64]

106. Barwick ruled out a proposal advanced by US Assistant Secretary of State Harriman that Portugal be assisted to establish a ten-year development programme which would culminate in a Timorese act of self-determination.

107. The fate of Portuguese Timor was not an issue during the early years of the New Order. The Soeharto Government showed little interest in the territory and Australia shut down its consulate in Dili in 1971. Australia welcomed the New Order and was highly appreciative of its emphasis on stability, anti-communism, economic growth, domestic issues and positive regional relations which, in its view, contrasted sharply with the aggressive foreign policy and domestic turbulence of the Sukarno Government. Strengthening and broadening Australia's relationship with Indonesia became a priority objective. The Australian Embassy reported in 1973:

> President Soeharto…is very well disposed towards Australia…This provides a unique opportunity for Australia, with its own national interests to the forefront, to develop closer relations with a country in which we have a great stake.[65]

108. During this period, Australian officials continued to counsel in favour of the incorporation of Timor into Indonesia. In 1970, the Australian Prime Minister, William McMahon was informed:

> There is no early prospect that Indonesia would seek to take over Portuguese Timor…(but) in the long term the sensible disposal of the colony would be by incorporation in Indonesia.[66]

109. In 1973, the Australian Prime Minister, Gough Whitlam, was informed:

> The people of Portuguese Timor would probably be marginally better off under Indonesian rule than under any other conceivable dispensation (the Indonesian half of the island is better run than the Portuguese colony and its prospects as a separate entity would be poor).[67]

Australian policy, 1974–1975

110. Australian policy on Timor-Leste after the Carnation Revolution in Portugal was chiefly determined by the Australian Prime Minister, Gough Whitlam (1972-75). His Labour Government, the first after more than two decades, introduced a range of important domestic reforms, but also gave paramount importance to Australia's place in Asia and its relationship with Indonesia.

111. Mr Whitlam's policy on Timor-Leste was similar to that inherited from the Menzies Government, with one notable difference. It placed a higher priority on co-operation with Indonesia and particularly with President Soeharto himself whose replacement of Sukarno and positive attitude towards Australia were welcome new factors. Mr Whitlam decided the policy without discussion in Cabinet.[68] However, the broad thrust of the policy was shared by leaders on both sides of politics. The Secretary of the Department of Foreign Affairs, Alan Renouf, told Malaysian officials in October 1975:

> The Prime Minister (Whitlam), most of the Cabinet, as well as Mr Fraser (Leader of the Opposition) and Mr Peacock (Shadow Foreign Minister), sympathise with Indonesia's integrationist aspirations.[69]

112. Mr Whitlam discussed Timor policy face-to-face with President Soeharto on two occasions: on 5-8 September 1974 in Yogyakarta, Indonesia, and on 4 April 1975 in Townsville, Australia. President Soeharto made it clear that he gave the first meeting special status and expected to hear an authoritative statement on Timor-Leste from the Australian Prime Minister.

113. In summary, Mr Whitlam made three main points to the Indonesian President:

1. He reduced the three options available to the Timorese people under international law to one, namely incorporation into Indonesia, provided that this was freely chosen by the Timorese people. According to the official record of the meeting:

   > The Prime Minister said that he felt two things were basic to his own thinking on Portuguese Timor. First, he believed that Portuguese Timor should become part of Indonesia. Second, this should happen in accordance with the properly expressed wishes of the people of Portuguese Timor.

2. Independence was not an option. He told the President:

   > Portuguese Timor was too small to be independent. It was economically unviable. Independence would be unwelcome to Indonesia, to Australia and to other countries in the region, because an independent Portuguese Timor would inevitably become the focus of attention of others outside the region.

   He told the President that Australia would support Indonesia's position in Lisbon:

   > Our own objective in Lisbon would be to put to the Portuguese Government the view that Portuguese Timor was part of the Indonesian world.

3. He emphasised the importance of protecting bilateral relations and not alienating Australian public opinion:

> He hoped that the President would keep in mind the need for support from among the Australian public for the incorporation into Indonesia of Portuguese Timor, based on respect for democratic expression of the wishes of the people.[70]

> He repeated this point at a second meeting with the President on the same day.

114. President Soeharto expressed essentially the same position. Major-General Ali Moertopo, the head of the covert Special Operations project for Timor, told the Australian Ambassador to Portugal on 14 October 1974 that the meeting had confirmed Indonesia's commitment to integration:

> Ali said that until Mr Whitlam's visit to Djakarta, they had been undecided about Timor. However the Prime Minister's support for the idea of incorporation into Indonesia had helped them to crystallise their own thinking and they were now firmly convinced of the wisdom of this course.[71]

115. Mr Whitlam's policy formulation reversed the priorities set out in the briefing on self-determination approved by the Minister for Foreign Affairs, Senator Willesee, before the Whitlam-Soeharto meeting. This emphasised a process of self-determination open to each of the three options available rather than the outcome of the process. It also did not rule out independence on economic grounds.[72] The Foreign Minister and the Secretary of his department, Alan Renouf, shared Mr Whitlam's belief that ultimate integration with Indonesia was the best outcome, but believed that priority should be given to Timorese self-determination. In their view, this would be more acceptable to Australian public opinion and would ensure that unacceptable features of the "Act of Free Choice" in West Irian were not repeated in Timor. In November 1991, Mr Willesee acknowledged his disagreement with Mr Whitlam:

> I believed we ought not to play God, but let the Timorese decide.*

116. Mr Whitlam repeated his position at a further meeting with President Soeharto in Townsville on 4 April 1975. In reply, President Soeharto said he was aware of speculation in Australia about the possibility of an Indonesian invasion of Portuguese Timor but that "Indonesia would never contemplate such a course of action."[73]

117. Following the outbreak of the civil war in August, the Australian Ambassador to Indonesia, Mr Richard Woolcott, advised that the Prime Minister should not write another letter on Timor-Leste to President Soeharto. He wrote:

* David Jenkins, "Whitlam can't maintain outrage over East Timor", *The Sydney Morning Herald*, 30 November 1991. Mr Whitlam and Senator Willesee agreed on the need to prepare Timor for self-determination. In July 1975, the Foreign Minister approved an Australian aid program for Timor-Leste, but it was not implemented due to the UDT-Fretilin civil war. (Australian Senate Report, East Timor, December 2000, p. 140.)

> Soeharto will be looking to Australia for understanding of what he, after very careful consideration, decides to do rather than what he might regard as a lecture or even a friendly caution…From here I would suggest that our policies should be based on disengaging ourselves as far as possible from the Timor question; getting Australians presently there out of Timor; leave events to take their course; and if and when Indonesia does intervene act in a way which would be designed to minimize the public impact in Australia and show privately understanding to Indonesia of their problems.

118. The Ambassador suggested that the gap in Australia's Timor sea border could be more easily finalised with Indonesia than with Portugal or independent Timor-Leste and concluded:

> I know that I am recommending a pragmatic rather than a principled stand but this is what national interest and foreign policy is all about.[74]

119. Following this advice, Mr Whitlam told the Australian Parliament on 26 August 1975 that Australia was not a party principal in Portuguese Timor:

> We have no national obligations or interest in getting re-involved in colonial or postcolonial affairs in Portuguese Timor…We continue to hold that the future of the territory is a matter for resolution by Portugal and the Timorese people themselves with Indonesia also occupying an important place because of its predominant interest.[75]

120. Indonesia made known to Mr Whitlam its appreciation of his assistance and understanding:

> General Moerdani said that he, the President and others owed Mr Whitlam a great debt for the understanding he had shown of Indonesia's position and for the helpful position he had adopted. The President greatly valued this. But he also appreciated the difficulties the Government faced. If the Australian Government could not support Indonesia publicly in the months ahead, then he hoped that we would adopt the third option and keep quiet.[76]

121. Australia did not formally protest Operasi Flamboyan, the Indonesian incursion into Portuguese Timor which resulted in the deaths of five Australian-based newsmen on 16 October 1975. Mr Woolcott had advised from Jakarta:

> Although we know it is not true, the formal public position of the Indonesian Government is still that there is no Indonesian military intervention in East Timor. If the Minister (Senator Willesee) said or implied in public the Indonesian Government was lying we would invite a hurt and angry reaction.[77]

122. Mr Whitlam was replaced as Prime Minister on 11 November 1975, but his successor, Malcolm Fraser, continued the same policy line.* At Mr Fraser's request, Ambassador Woolcott met secretly with President Soeharto at his residence on 25 November 1975 to reassure him that the caretaker Australian leader placed the same high importance on Australia's relations with Indonesia and personal ties with the President as Mr Whitlam had, that he would be "seeking to build up further those relations" and would not receive José Ramos-Horta or any Fretilin representatives should they come to Australia.

123. Mr Fraser also asked the Ambassador to tell the President "that he recognizes the need for Indonesia to have an appropriate solution for the problem of Portuguese Timor". Mr Woolcott reported that the President was very pleased to know of Australia's understanding and that when he asked the Ambassador to clarify the Prime Minister's meaning, Mr Woolcott had replied:

> I would assume that by appropriate solution the Prime Minister would have in mind a solution which accommodated Indonesia's policy interests.

124. Neither the Prime Minister nor the President made any direct reference to the use of force.

> The President made no reference to direct Indonesian involvement although I assume he must be aware that I know of it.†

125. Out of office Mr Whitlam campaigned privately on behalf of Indonesia. Following a visit to Timor-Leste in 1982, on which he reported directly to President Soeharto, he was instrumental in having Dom Martinho da Costa Lopes removed as the head of the Catholic Church in Timor-Leste and later that year he appeared before the UN Special Committee on Decolonisation and petitioned it to have the question of Timor-Leste removed from the UN agenda.

126. Throughout the 1970s Australian Governments followed a policy of 'business as usual' in dealings with Indonesia, including defence co-operation. The Whitlam Government initiated a defence co-operation program with Indonesia in July 1972 worth A$20m which included provision of 16 sabre jets, training and intelligence co-operation. This was renewed in 1975 and increased by the Fraser Government. The aid was provided on the proviso that it could not be used in Timor-Leste or for internal repression.

* Malcolm Fraser was appointed caretaker Prime Minister following the dismissal of the Whitlam Government on 11 November 1975. The role of a caretaker government is essentially to maintain the ordinary process of administration without introducing any new policies. Fraser became Prime Minister after his Liberal Party won a general election in a landslide on 13 December 1975 and continued in office until 1983. His Government's pre-election Timor policy was maintained.

† Document 343, Canberra, 20 November 1975 and Document 344, Jakarta, 25 November 1975, in Wendy Way (Ed.), DFAT, pp. 579-80. Mr Fraser told ABC TV on 12 September 2000 that he was not briefed as caretaker Prime Minister by the Department of Foreign Affairs about Indonesia's invasion plans. (Alan Ramsey, "East Timor the secret that never was", *Sydney Morning Herald*, 16 September 2000.)

Australian policy, 1975–1998

127. Australia's two-pronged policy created a political dilemma when Timor-Leste was debated at the UN General Assembly in response to the Indonesian invasion. Australia elected to uphold the right of the East Timorese people to self-determination, consistent with UN principles and Indonesia's own position, but tried to have references to Indonesia deleted from the resolution. This failed and the resolution adopted on 12 December 1975 deplored Indonesia's military intervention and called for the immediate withdrawal of its troops. To Indonesia's annoyance, Australia was its only neighbour to vote in support of the resolution.*

128. Australia continued to acknowledge Timor's right to self-determination and to note its disapproval of the way in which Indonesia incorporated the territory. It declined an invitation from Indonesia to attend the People's Representative Assembly in Dili on 31 May 1976 and did not recognise the assembly as a valid act of self-determination. This policy was continued throughout the conflict. In its official account of the issue, the Government states:

> Through to 30 August 1999, Australia's position was that the people of East Timor had yet to exercise their right to self-determination.[78]

129. However Australia did not uphold the right in practice. It did not support succeeding resolutions in favour of self-determination at the UN General Assembly between 1976 and 1981 and voted against the mild 1982 General Assembly Resolution which did not reaffirm the right and instituted talks under UN auspices to resolve the conflict. Australia also indirectly suppressed the right. In January 1978 Australia gave *de facto* recognition to Indonesian control over Timor-Leste. This was extended to *de jure* recognition from 14 February 1979 when Australia began negotiations with Indonesia over the seabed boundary with Timor-Leste. These policies and the programme of co-operation with Indonesia which followed, including military co-operation, had the effect of consolidating and legitimising Indonesia's sovereignty in Timor-Leste.

130. This policy of recognition, given first by the conservative Fraser Government, was continued by the Labour Government. On 17 August 1985 – Indonesia's national day – the Australian Labour Prime Minister, Bob Hawke, confirmed unequivocally that Australia recognised the sovereign authority of Indonesia in Timor-Leste and considered the people of Timor-Leste to be citizens of Indonesia. On 11 December 1989 his Foreign Minister, Senator Gareth Evans, and the Indonesian Foreign Minister, Ali Alatas, signed the Timor Gap Zone of Co-operation Treaty despite objections by Portugal that it violated the right of the Timorese people to self-determination.

* The New Zealand Embassy in Canberra had reported in October how the Australian Government planned to deal with the issue once "the invasion becomes public knowledge". They informed Wellington: "They (Indonesia) will also be told that the Australian Government has no choice but to be critical, but that the bilateral relationship with Indonesia is of primary importance. In other words 'we have to clobber you but please understand us and sit it out'. It follows that any Australian statement, both here and, if necessary, in the UN, will be cast in the mildest terms the Government feels it can get away with." 17 October 1975, in New Zealand Government East Timor Official Information Act (OIA) Material (henceforth NZ OIA Material), Volume 1.

131. The Labour Government led by Prime Minister Paul Keating from December 1991 maintained and developed the policies of the Hawke Government. Following a visit to Indonesia, Mr Keating told the Australian Parliament:

> I deliberately chose Indonesia for my first overseas visit to demonstrate that it is at the forefront of our priorities.[79]

132. He recommended that human rights abuses in Timor-Leste be addressed through long-term reconciliation.

133. Since 1975, sections of the Australian Labour Party (ALP) had been critical of the party leadership for either ignoring party policy which supported self-determination for Timor-Leste or diluting that policy. In opposition, the ALP Foreign Affairs spokesperson, Laurie Brereton, conducted a review of party policy on Timor-Leste in the context of the emergence of an indigenous democracy movement in Indonesia and other developments, including the UN-sponsored talks, Portugal's advocacy on the issue and strengthening public concern in Australia. His policy paper concluded that "no lasting solution to the conflict in East Timor is likely in the absence of negotiation through which the people of East Timor can exercise their right of self-determination".[80] The revised policy was adopted at the 1998 ALP National Conference and within the Federal Caucus. Mr Brereton used the policy to challenge the status quo policy of the Howard Government, which came to power in March 1996, at every opportunity.

Australia's policy shift

134. The political demise of President Soeharto was immediately recognised by the Australian Government as an opportunity for progress on the question of Timor-Leste but within the framework of continuing Indonesian sovereignty.

135. Following President Habibie's offer of autonomy on 9 June 1998, the Australian Foreign Minister, Alexander Downer, held talks in Jakarta on the issue and, in a sharp break with past practice, authorised direct consultations with the East Timorese. These included visits to Timor-Leste by Ambassador John McCarthy, meetings with the gaoled Resistance leader Xanana Gusmão and a call for his release, and, based on a suggestion by the UN envoy Jamsheed Marker, a survey of Timorese opinion both inside and outside Timor-Leste. Australia's Ambassador to the UN, Penny Wensley, and Ambassador McCarthy became key members of core groups established by Jamsheed Marker in New York and Jakarta to take the issue forward.

136. The survey of Timorese opinion was conducted in July–August 1998 and was instrumental in redirecting Australian policy. It covered all sides of the political debate and found that most Timorese respondents were in agreement that the status quo was not acceptable, that any solution, including autonomy, should ultimately receive the people's endorsement, either through a referendum or some other consultative process, and some international guarantee, and that Xanana Gusmão was essential to a resolution. Australia shared the results with the Indonesian Government.[81]

137. On 19 December 1998 the Australian Prime Minister, John Howard, wrote to President Habibie and emphasised the urgency of talking directly to the East Timorese to secure their support for autonomy within Indonesia. He also noted the growing support in Timor-Leste and internationally for self-determination and suggested that an act of self-determination might be held following a substantial period of autonomy, similar to the approach agreed to in New Caledonia.

138. President Habibie took offence at the suggestion that Indonesia's presence in Timor-Leste was comparable to France's colonisation of New Caledonia, but acknowledged Australia's proposal of self-determination. At a Cabinet meeting on 1 January 1999, it was agreed that Indonesia would consult the people of Timor-Leste about their future and allow them to become independent if they rejected the offer of special autonomy.

139. Prime Minister Howard's intervention was intended to promote reconciliation and to confirm Timor-Leste as part of Indonesia through the free consent of the people. The initiative had the opposite effect. It became a trigger for independence and the end of the integrationist policy which had been the central plank of Australian policy on Timor throughout the decolonisation process. The Deputy Secretary of the Department of Foreign Affairs and Trade, John Dauth, told an Australian Senate Committee on 6 December 1999 that the Government only finally abandoned its declared preference for Timor-Leste to remain as an autonomous territory within Indonesia when the people of Timor-Leste voted for independence:

> We made clear always to the Indonesian government throughout the course of this year that we respected their sovereignty until such time as the processes which President Habibie put in train delivered a different outcome.[82]

140. The Australian Government and its diplomats played a leading role in promoting and backing the act of self-determination politically, financially and organisationally. Following the ballot on 30 August 1999 and the eruption of violence, Australia organised and led the Security Council mandated International Force in East Timor (Interfet) which assisted in bringing the UN process back on track and ensured that the decision of the people for independence was respected and implemented.

Conclusion

141. The people of Timor-Leste had high expectations of Australia based on its proximity, its presence during the Second World War, its relationship with Indonesia and its reputation as a good and influential international citizen.

142. These expectations were not fulfilled until 1999. Australia gave nominal support to the principle of self-determination throughout the decolonisation process, but did not uphold it for most of this period. It favoured only one option, that of integration with Indonesia, even though the weight of evidence from 1974 was that an act of self-determination would oppose integration. Mr Whitlam's comment to Foreign Affairs officers in 1974 that "I am in favour of incorporation but obeisance is to be made to

self-determination" was true for each of the five Australian governments that held office during the Soeharto era.*

143. Australia made it known to Indonesia at the highest levels that it opposed the use of force in Timor-Leste but once the decision to use force was made in mid-1975 it knew and accepted it. It was quick to acknowledge the Indonesian military's occupation of Timor-Leste and to offer legitimacy through *de jure* recognition of Indonesian sovereignty. Apart from one occasion, Australia voted against Timor-Leste at the United Nations, was dismissive of Portugal's responsibility as administering power,† and by its stance and actions undermined international support for Timor-Leste.

144. The former Australian foreign affairs official, Dr Kenneth Chan, testified to the Commission:

> *While I have sought to give a balanced account of the developments of Australian policy towards East Timor, my overall assessment of that policy during the 25 years under consideration is that it was mostly a failure. There was failure to support an underlying principle of the United Nations and of international law and justice: the right of all people to self-determination. And there was failure to work to restrain Indonesia from the path of military intervention and aggression in 1975, especially after Fretilin took control of East Timor and made its unilateral declaration of independence.‡*

145. The people of Timor-Leste welcomed and benefited from Australia's strong practical support for a genuine act of self-determination in 1999.

The Security Council, its permanent members and Japan

The Security Council

146. The Security Council, based in New York, is the most powerful organ of the

* In a private conversation, Mr Whitlam told Foreign Affairs officers: "I am in favour of incorporation but obeisance is to be made to self-determination. I want it incorporated, but I do not want this done in a way which will create argument in Australia which would make people more critical of Indonesia", Document 37, Canberra, 24 September 1974, in Wendy Way (Ed.), DFAT, p. 111.

† Australia argued before the International Court of Justice that Portugal had no status as the administering power over Timor-Leste because it had abandoned the territory in 1975, was not referred to as the administering power in General Assembly resolutions 1976, 1977 and 1978, and had maladministered the territory before 1974. Krieger, pp. 371-477.

‡ Testimony to CAVR National Public Hearing on Self-determination, 15–17 March 2004. Dr. Chan served in the Australian Department of Foreign Affairs and Trade from 1972 to 1993. He represented Australia at the UN from 1979–1982 where he dealt mainly with decolonisation issues. He was Administrator of the Cocos (Keeling) Islands when the people of that territory voted in 1984 to become part of Australia.

United Nations. It is charged with maintaining peace and security between nations in accordance with the UN Charter. It has 15 members. Five are permanent, namely the five countries which were victorious in the Second World War: the People's Republic of China, France, the Russian Federation (formerly the Soviet Union), the UK and the US. The other ten members are elected by the General Assembly for two-year terms.

147. Portuguese Timor was the subject of Security Council deliberations in the 1960s in which Portugal was criticised for failing to comply with its obligations under the Charter. This changed after 1974 and, in response to a request by Portugal, the Security Council convened on 15 December 1975 to debate Indonesia's intervention in the territory.

148. On 22 December 1975, the Council adopted a resolution which called on all states to respect the territorial integrity of Portuguese Timor as well as the right of its people to self-determination.[83] The resolution deplored Indonesia's military intervention and regretted that Portugal did not discharge fully its responsibilities under Chapter XI of the UN Charter. It called on Indonesia to withdraw all its forces from the territory without delay and on Portugal, as administering power, to co-operate fully with the UN to enable the people of Timor-Leste to exercise freely their right to self-determination. The resolution also called on all states and other parties to co-operate with the UN to achieve a peaceful solution to the present situation and to facilitate decolonisation and requested the Secretary-General to send a special representative to the territory as a matter of urgency to make an on-the-spot assessment and contact all parties and states to ensure implementation of the resolution.[84] The resolution was adopted unanimously.

149. The Security Council did not condemn Indonesia for aggression or the unlawful use of force. It described Indonesia's action as an "intervention" not an "invasion", limited itself to calling on Indonesia to withdraw and did not recommend or impose sanctions for its behaviour.

150. The Special Representative of the Secretary-General (SRSG), Vittorio Winspeare Guicciardi, visited Timor-Leste and the region in January. Due to Indonesian obstruction he was unable to meet Fretilin representatives and his report was inconclusive.[85]

151. Following receipt of the report, the Security Council met on 22 April 1976 and adopted a further resolution. Its contents were essentially the same as the December text, including a request for the SRSG to continue his assignment, except for two omissions: the paragraphs "deploring" Indonesia's armed intervention and "regretting" Portugal's failures were dropped.[86] It was passed 12 votes to one with two abstentions: Japan and the US.*

152. Indonesia failed to comply with both Security Council requests to withdraw its troops and no sanctions were imposed for this refusal. The request for the SRSG to return to Timor-Leste and pursue consultations with the parties concerned was not acted on by the Secretary-General, Kurt Waldheim. A British diplomat at the UN,

* One member (Benin) did not participate in the voting.

Richard Dalton, reported that José Ramos-Horta challenged the Secretary-General for failing to implement Resolution 389. Dalton wrote:

> Winspeare is under orders not to take any initiatives. He has indicated that he is available if the parties want to talk to him, but he is not making any efforts to bring them together. According to Schlittler-Silva, the Brazilian who accompanied Winspeare and who is still concerned with the subject in the Secretariat, if the Secretary-General is challenged as to why he has not followed up Resolution 389, he is quite prepared to argue that it is because none of the members of the Council has yet urged him to do so.*

153. The Security Council remained "seized of the situation" but did not return to the issue until 1999.

154. In 1982 the Secretary-General was again called on to play a direct role. General Assembly Resolution 37/30 requested Secretary-General Javier Perez de Cuellar "to initiate consultations with all parties directly concerned, with a view to exploring avenues for achieving a comprehensive settlement of the problem…"† Under his good offices, talks between Indonesia and Portugal began in July 1983. They made little progress and the Timorese Resistance was not included as one of the "parties directly concerned". Nevertheless, the persistence of the Secretariat with what appeared to be an intractable issue was a signal in the symbolic world of diplomacy that, though dormant, the issue remained alive on the UN agenda.

155. In late 1992 the talks between Portugal and Indonesia resumed after they had been broken off by Portugal following the Santa Cruz massacre. At the same time, the experienced UN diplomat, Francesc Vendrell, became Director for South-East Asia and the Pacific and subsequently Director for Asia and the Pacific in the UN Secretariat. His involvement and the appointment of Tamrat Samuel to the Timor-Leste dossier significantly strengthened the Secretary-General's capacity between 1993 and 1999.‡

156. The two officials focused on promoting East Timorese participation in the negotiations. At their suggestion the Secretary-General obtained permission from Indonesia for a Special Envoy, Amos Wako, then Attorney-General of Kenya, to meet

* 11 June 1976, in UK unclassified documents, Dowson File 7.25, Secretary-General Waldheim did not rule out a West Irian style act of self-determination for East Timor. He informed Mr Luard, Parliamentary Under-Secretary of State, Foreign and Commonwealth Affairs that: "He could envisage some kind of act of self-determination under UN auspices but it was not clear what form it would take. The Indonesians clearly wished the UN to legalise their *Anschluss*…A process similar to that employed in West Irian could be considered if the Indonesians would accept it." British FCO Record of Conversation, 15 May 1976, in UK unclassified documents, Dowson File 4.

† 23 November 1982, in Krieger, p. 128. Javier Perez de Cuellar engaged in separate bilateral contacts with Indonesia and Portugal from early 1982 when he became Secretary-General. He was assisted in this work by Under-Secretary-General Rafeeuddin Ahmed.

‡ Arnold Kohen describes Francesc Vendrell as "the UN official who has played the most significant role on the East Timor issue since 1975". *From the Place of the Dead: Bishop Belo and the Struggle for East Timor,* Lion Publishing, Oxford, 1999, p. 289.

Xanana Gusmão who was in prison and was said to have agreed to integration. Francesc Vendrell told a CAVR public hearing:

> *I can now tell you that when Mr Wako and Mr Tamrat Samuel, who was also with him, went to the prison to meet Xanana, Xanana smuggled a letter addressed to the Secretary-General in which he declared and reiterated his commitment to the self-determination and the freedom of his homeland.*[87]

157. Commenting on whether it was appropriate for a UN official to bear such a document, Mr Vendrell said he believed that it was his duty to ensure that the views of the Timorese found their way into the negotiations. He told the hearing:

> *People might say that the team was not being neutral. However, we saw ourselves as objective. Objectivity is not the same as neutrality. The issue of East Timor went to the core of the values and principles of the United Nations and of international law and the Universal Declaration of Human Rights. If you are working for the United Nations you cannot be neutral on these issues…We were working for the right of the Timorese people to exercise their right to self-determination…The two parties to the negotiation were Indonesia, the occupying power, and Portugal, the legal administering power. The people of East Timor were not represented.*[88]

158. In keeping with this objective, Vendrell and Tamrat Samuel met Bishop Belo, priests and nuns in Dili in 1994 and were impressed by the degree of support for self-determination and faith in the United Nations:

> *One of the most moving things was the enormous faith that everybody had in the United Nations. Tamrat and I had a feeling of responsibility that we had to do our best on behalf of a people who could only turn to the UN for support.*[89]

159. The UN-sponsored ^IAll-Inclusive Intra-East Timorese Dialogue (AIIETD) resulted from this experience. Francesc Vendrell and Tamrat Samuel suggested to the Secretary-General that he ask the Foreign Ministers of Portugal and Indonesia to accept the idea of the dialogues to bring together Timorese from inside Timor-Leste and Timorese in exile:

> The idea was if they came together and they were left on their own, they might find that they had a great deal in common and might reach a joint proposal on East Timor.[90]

160. This was agreed and with the support of the Government of Austria a series of meetings was held. They did not have a political outcome, but in Franscesc Vendrell's judgment the meetings did help the Timorese who participated to realise they had more in common than what separated them.

161. On assuming his post as Secretary-General in 1997, Kofi Annan gave increased attention to the question of Timor-Leste. Coming soon after the award of the Nobel

Peace Prize to José Ramos-Horta and Bishop Carlos Ximenes Belo in December 1996, his appointment of Jamsheed Marker of Pakistan as his Personal Representative for Timor-Leste further invigorated the UN's efforts. In what was an innovation by Kofi Annan, Ambassador Marker and his associates formed a "core group" of countries to work on the Timor issue. The group comprised Australia, Japan, New Zealand, the UK and the US. The officials also engaged in intense shuttle diplomacy between New York, Jakarta, Lisbon and Timor-Leste that involved consultations with all the main actors and increased in tempo after the fall of President Soeharto and the decision by President Habibie in June 1998 to grant Timor-Leste "wide-ranging autonomy".

162. Jamsheed Marker has paid the following tribute to Kofi Annan for his decision to give priority to the Timor issue within the UN:

> Thinking back on this sequence of events, I am reaffirmed in my conviction that without Kofi's initial decision to activate a negotiating process on East Timor and not only to keep it alive but to vigorously push it at all times, the United Nations would not have been in a position to seize the opportunities offered by the devolution of political events in Indonesia. In other words, we kept the ball in our possession, and ran with it as soon as we got the chance.[91]

163. The UN got its chance to run with the ball when the Habibie Government announced on 27 January 1999 a "second option" for the people of Timor-Leste: the choice between autonomy and independence. On 11 March the Secretary-General met with the Foreign Minister of Indonesia, Ali Alatas, and the Foreign Minister of Portugal, Jaime Gama, and agreed on a direct, UN-administered Popular Consultation on the "second option", then dispatched a UN assessment mission to Timor-Leste headed by Francesc Vendrell, Jamsheed Marker's deputy, throughout the negotiations.

164. In view of the violent situation prevailing in the territory, the most critical issue for the UN was security and how to ensure that the Popular Consultation was carried out peacefully and freely. At the next tripartite meeting on 22 April, the Indonesian Foreign Minister, Ali Alatas, flatly rejected UN proposals that Indonesian troops be cantoned or confined to designated areas one month before the consultation. At their summit in Bali on 27 April, President Habibie similarly rejected a proposal by the Australian Prime Minister to accept an international peacekeeping presence.

165. On 5 May 1999 a final tripartite meeting was held in New York between Kofi Annan and Foreign Ministers Alatas and Gama and three Agreements relating to the Popular Consultation were signed. Inter alia, the Agreements allowed for a direct, secret and universal ballot and the establishment of a UN mission to carry out the consultation, and entrusted security to Indonesia.[92] They were endorsed by the Security Council on 7 May 1999, the first time it had discussed the question of Timor-Leste since April 1976.[93] On 11 June, the Security Council established the UN Mission in East Timor (UNAMET). Ian Martin was appointed Special Representative of the UN Secretary-General for East Timor and head of UNAMET.*

* Ian Martin was Secretary-General of Amnesty International 1986-92. Before serving as head of UNAMET, he occupied various UN human rights positions in Haiti, Rwanda and Bosnia-Herzegovina.

166. Though historic, the Agreements received a mixed reception. On the one hand, they were a triumph of international diplomacy and, against the background of the 1969 bogus "Act of Free Choice" in West Irian and the East Timor Popular Assembly of May 1976, welcome evidence that Indonesia was democratising. On the other hand, there were grave misgivings that leaving Indonesia in charge of security was a recipe for disaster. In the weeks before the ballot, which was postponed twice on security grounds, José Ramos-Horta predicted violence and called on the international community to take preventative steps:

> The worst-case scenario – which is real – is that there is violence, that the violence is targeted at the UN, that they extract themselves and there is a catastrophic bloodbath in East Timor. They – not only the UN but countries that really matter, like Australia – must create the conditions to ensure this does not happen.[94]

167. In his testimony to the CAVR National Public Hearing on Self-determination and the International Community, Ian Martin, the head of UNAMET, acknowledged that the major criticism made of the Agreements was that security was left in the hands of the Indonesian military. Though not part of the negotiations, he said:

> *I have reflected a great deal on that. I share the judgement of the negotiators that no amount of pressure on President Habibie in early 1999 could have brought about acceptance of an international peacekeeping force. If so, it was right to take the risk involved in the Agreements, rather than lose the opportunity for self-determination which had been closed for 24 years, and which might not remain open after Habibie.*[95]

168. In his testimony to the Commission, Ian Martin also addressed the criticism that UNAMET was allegedly biased in favour of an independence outcome to the ballot and that the violence which followed was provoked by the anger of pro-integration East Timorese at an unfair process and result. He said:

> *I think this view exists exclusively within Indonesia and East Timorese pro-integration groups and has no credibility elsewhere, but it is important that it is answered. In my opinion not enough has been done to answer it in Indonesia, especially when it has been advanced at the trials before the Ad Hoc Human Rights Court in Jakarta, by the prosecution as well as the defence. TNI witnesses at those trials have gone unchallenged when they told the most blatant falsehoods, saying, for example, that UN civilian police had taken over responsibility for security in East Timor, that ballot boxes were discovered at the house of Bishop Belo, and so on.*

169. Mr Martin explained:

> *UNAMET was not pro-independence: it was committed only to enabling the East Timorese to exercise (their) internationally-recognised right to*

self-determination …The registration and polling procedures we put in place and operated were highly scrutinised by an Independent Electoral Commission, which held a public hearing of the complaints in the days after the ballot, and by a wide range of international observers. All impartial observers judged the ballot to have been fairly and efficiently conducted, despite difficult conditions and time constraints.

170. He then stated that aspects of the Popular Consultation were unfair to supporters of independence.

It was biased against the supporters of independence because the Indonesians failed to fulfil the commitments they had been given. These required that Indonesian government officials should remain neutral, and that East Timorese government officials should campaign only in their personal capacity, without use of public funds or government resources, or "recourse to pressure of office". These requirements were flagrantly violated, despite UNAMET's protests.[96]

171. The ballot was conducted relatively peacefully and was a day of subdued triumph for most East Timorese. Following the outbreak of violence, President Habibie, under intense international pressure, agreed to invite the UN to dispatch an international force to restore order. This was authorised by the Security Council on 15 September 1999.[97]

172. On 20 October 1999, Indonesia's supreme legislative body, the Indonesian People's Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR), recognised the result of Timor-Leste's Popular Consultation and revoked the MPR decree of 1978 which incorporated Timor-Leste into Indonesia.* The same day, President Habibie, the man who let Timor-Leste go its own way, stepped down from the presidency to make way for Abdurrahman Wahid.

173. On 25 October 1999, the Security Council welcomed the MPR decision and established the UN Transitional Administration in East Timor (UNTAET). The resolution was passed unanimously and empowered UNTAET to exercise all legislative and executive authority, including the administration of justice, and to assist Timor-Leste to prepare for self-government. Kofi Annan appointed Sergio Vieira de Mello of Brazil as his new Special Representative for East Timor and head of the Transitional Administration.†

* Some Indonesian legislators believe that it was for the legislature, not the President, to take decisions relating to matters of sovereignty and that in authorizing the 5 May Agreements President Habibie did not follow proper procedure.

† At the time of his appointment, Sergio Vieira de Mello was UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief. He had previously served as UN Assistant High Commissioner for Refugees. He was serving as SRSG in Iraq when he was tragically killed on 19 August 2003 during a bombing assault on the UN offices.

174. The passage of the Security Council resolution on 25 October 1999 marked the transfer of authority over Timor-Leste from Indonesia to the UN. (Regarding the formal end of Portugal's role, see section on Portugal in this part; paragraph 59.)

China

175. The People's Republic of China (PRC) joined the United Nations in 1971 and is one of the five permanent members of the Security Council.* Reflecting its own often humiliating colonial background, China has traditionally taken a very strong position on issues of sovereignty, self-reliance, self-determination and the rights of the Third World. China is particularly sensitive to what it regards as undue Western influence on the international system, including outside interference in a country's internal affairs in the name of humanitarian intervention and human rights, and the imposition of an overly individualistic interpretation of human rights.

176. China opposed Portuguese colonialism in Africa and planned to absorb Macau,† but was and remains firmly opposed to independence for Taiwan and Tibet.

177. Indonesia recognised the People's Republic of China in 1950 and China-Indonesia relations during the Sukarno period were generally positive. They deteriorated sharply after 1965 when Indonesia broke off diplomatic relations with China after the pro-Beijing Indonesian Communist Party (PKI) allegedly attempted a coup in Jakarta. Under President Soeharto, Indonesia imposed discriminatory restrictions on Chinese cultural and religious practices which included suppressing the use of Chinese names and the banning of Chinese texts and the teaching of Chinese in schools. The Soeharto Government's support for pro-Moscow Vietnam also rankled China.

178. The Soeharto Government worried that China might intervene in Portuguese Timor. In 1974-75 President Soeharto and his advisers repeatedly expressed concerns that an independent, left-leaning, but economically weak Timor-Leste would look to China for support. Indonesian officials agreed when the Secretary of the Australian Department of Foreign Affairs, Alan Renouf, told them in October 1974 that:

> He expected China's intentions would be of particular concern to Indonesia. He noted that there are 10,000 Chinese in Portuguese Timor and that although they were presently oriented towards Taiwan, their allegiance might be changeable.[98]

179. President Soeharto raised the issue of China on both occasions that he discussed Timor-Leste with the Australian Prime Minister, Gough Whitlam.

180. Mr Renouf and Mr Whitlam both sought to allay Indonesia's concerns. In a letter to President Soeharto, Mr Whitlam wrote:

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* Following the Chinese communist revolution in 1949 and the emergence of the Cold War, Taiwan occupied the 'China' seat in the UN. In 1971, the UN recognised the PRC as the sole legitimate representative of China and it replaced Taiwan in the UN.

† Portugal transferred Macau to China in December 1999. It is now called the Macau Special Administrative Region (SAR) and has autonomy except in matters of foreign affairs and defence.

> We know of no evidence to support anxiety on this score. At present we have the impression that there is little interest in Portuguese Timor on the part of China or the Soviet Union, or indeed of other great powers; and our judgment is that those powers which might be tempted to meddle there would hesitate to jeopardise their relations with Indonesia.[99]

181. Diplomats in other countries and the UN agreed with this judgment and made known their views to the Soeharto Government.*

182. Fretilin included China in its international strategy to gain recognition and support, but the initiative was used by Indonesia to support its claim that the Fretilin was communist. The government-controlled press and the military newspaper *Berita Yudha* carried stories claiming Communist Chinese infiltration into Timor, funding of demonstrations and Maoist involvement, including talk of a secret visit by four Chinese Generals to Timor-Leste via Australia. The President of UDT, Francisco Lopes da Cruz, claimed in April 1975 that UDT's "agents in Indonesia and Taiwan" had confirmed China's links with Timor.†

183. The PRC was the only significant country in Asia to support Fretilin and the only permanent member of the Security Council to recognise the unilateral declaration of independence and the establishment of the Democratic Republic of Timor-Leste in November 1975. China supported the two UN Security Council resolutions adopted in response to the Indonesian invasion and strongly condemned Indonesia's actions. China's representative, Huang Hua, told the Security Council in December 1975:

> The Indonesian Government's naked aggression against the Democratic Republic of East Timor has fully revealed its wild ambition to exterminate the patriotic forces of the people of East Timor, strangle the new-born Democratic Republic of East Timor and thus realize its long-premeditated scheme of annexing East Timor. The above acts of the Indonesian Government constitute a gross violation of the purposes and principles of the Charter of the United Nations. The Chinese delegation cannot but express indignation at this and condemns it."[100]

184. China's recognition of the RDTL meant that it accepted that Fretilin's unilateral declaration of independence was an act of self-determination. This did not prevent it, however, from giving its support, with one exception, to General Assembly resolutions on Timor-Leste between 1975 and 1982.

* The Chinese Under-Secretary-General for Political Affairs, Trusteeship and Decolonisation in the UN, Tang Ming-Chao, told Mr Whitlam during a visit to Canberra in September 1975 that although he was an international civil servant, he could confirm "that China had no interest in Portuguese Timor". Document 227, Canberra, 12 September 1975, in Wendy Way (Ed.), DFAT, pp. 406-408.

† Document 131, Jakarta, 12 May 1975, in Wendy Way (Ed.), DFAT, p. 259. James Dunn dismisses these stories from November 1974 as propaganda. He is particularly critical of the "outright lies" circulated by Francisco Lopes da Cruz in September 1975 such as, for example, his claim that 20 North Vietnamese "military trainers" had been instructing Fretilin soldiers. James Dunn, *East Timor: A Rough Passage to Independence*, Longueville Books, 2003, pp. 72, 183.

185. China also provided practical assistance to Fretilin. José Ramos-Horta has written:

> While Moscow kept Fretilin at arm's length, Beijing extended lavish hospitality and active diplomatic support. I personally visited the People's Republic of China early in 1976, as did other Fretilin representatives. China provided us with strong words of support at the United Nations, as well as financial contributions.[101]

186. This did not include military assistance, although Fretilin requested it through its Minister of Defence, Rogério Lobato, who visited China soon after the Indonesian invasion and met with General Ch'en His-lien, a senior commander in the People's Liberation Army (PLA), and visited a PLA unit. The Australian Ambassador to China, Stephen Fitzgerald, was asked by Canberra to verify claims of military assistance with Chinese officials and concluded that:

> The present Chinese stand seems dictated by the moral imperative that Indonesia should be condemned for open aggression, where previously China had no wish or intention of becoming involved. Once the Indonesian invasion forced them, reluctantly, to take a stand and issue statements, Fretilin was apparently the indigenous party most easily identified with, as it allowed consistency with their own policies.*

187. Ambassador Fitzgerald believed that China had not ruled out military assistance at that point, but decided that the remarks of the Chinese Foreign Minister, Ch'iao Kuan-hua, at the welcoming banquet on 29 December 1975 that "the East Timorese people…would surely win the final victory on national independence so long as they persevere in self-reliance and hard struggle" meant "no".

188. The British Government believed that China's strong language in the Security Council should not be taken at face value. In a cable to London on 2 January 1976, the British Ambassador to Indonesia, John Ford, wrote:

> Apropos the Fretilin delegation's visit to Peking and the Chinese ostensible support of Fretilin, the Chinese had apparently commented to the effect that too much notice should not be paid to their support of Fretilin: there were occasions when cannons need to be fired even if only paper balls were shot.[102]

189. In July 1976, China gave the Australian Prime Minister, Malcolm Fraser, an assurance that it would not interfere in Indonesia's internal affairs.[103]

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* Document 396, Peking, 7 January 1976, in Wendy Way (Ed.), DFAT, pp. 663-64. This understanding of China's position is confirmed by the SRSG Winspeare Guicciardi who said that before he left New York for his visit to Timor-Leste and the region in January 1976 he had been told by Tang Ming-Chao, the Under-Secretary-General for Decolonisation, that as far as China was concerned "Winspeare's mission would have value only insofar as he told the Indonesians to 'scram'." Report by Australian Government official, 10 February 1976. Documents, op.cit. p. 705.

190. Indonesia benefited from the relationship with China though it denounced Fretilin for seeking the same thing. China's support for Timor-Leste weakened during the 1980s due to gradually improving relations with Indonesia and a sense that independence was a lost cause. Indonesia reduced its pro-Vietnam position and China adopted a more neutral stance on Timor-Leste. In 1985, Indonesia relaxed restrictions on trade relations with China which resulted in spectacular financial flows to its benefit and increased bilateral exchanges. In August 1990 the two countries normalised relations and, as evidence of the dramatically improved relations, President Soeharto made a state visit to Beijing in 1991. To accommodate objections from nationalist and military quarters, the Soeharto Government obtained agreements from China that it would not provide aid for subversive activities or interfere in Indonesia's internal affairs.

191. China supported Security Council Resolutions in 1999 that authorised the UN administered act of self-determination. In line with its in-principle opposition to intervention on humanitarian and human rights grounds, China rallied the Asian bloc in support of Indonesia in 1999 to oppose an inquiry by the UN Human Rights Commission into violations committed in Timor that year. This was unsuccessful. China succeeded, however, in eliminating some references to human rights investigations before allowing the Security Council to authorise the Interfet intervention in September 1999.

France

192. France is a founding member of the United Nations, a permanent member of the Security Council and a major donor to the organisation's budget. The French Government is committed to co-ordinating its foreign policy with the purposes and principles of the UN which have much in common with France's republican tradition.

193. France did not support decolonisation initiatives taken by the UN in the 1960s. It abstained from supporting both the historic Declaration on the Granting of Independence to Colonial Countries and Peoples on 14 December 1960 and its related principles for reporting on colonies. During the same period, France joined Portugal in opposing the listing of Timor by the General Assembly as a non-self-governing territory.

194. The French Government supported Security Council Resolution 384 which was adopted unanimously on 22 December 1975 in response to the Indonesian invasion of Timor-Leste. France upheld the right of the people of Timor-Leste to self-determination and independence and called on Indonesia to withdraw its troops, but took a conciliatory approach to the issue. Speaking in the Security Council debate on 18 December, the French representative, M LeCompt, urged co-operation rather than laying blame:

> The mission of the Council in this case is not to lay blame, and even less to attribute it to a single one of the parties involved. We know that historic situations are rarely simple enough for good and evil to be discerned from a single vantage point. Timor is no exception to that rule.[104]

195. France also voted in favour of the second Security Council resolution, adopted on 22 April 1976. It again upheld the right to self-determination and independence, but regretted that the resolution did not include recommendations from Japan to recognise Indonesia's goodwill and undertaking to withdraw its troops. In an ambiguous statement of explanation, the French representative, M Travert, told the Council:

> Rather than dwelling on the past and apportioning blame here or there, it is to the future that we must now look. The future of East Timor must be characterised by national reconciliation, subject to a total cessation of hostilities and to a coming together of the various parties, whose divergencies seem to us less fundamental than their common aspiration, namely, the accession of the people of Timor to well-being and independence.[105]

196. In keeping with this position, France abstained from supporting the first General Assembly Resolution adopted following the Indonesian invasion because the resolution was not even-handed and put all the blame on Indonesia.[106] The French Government abstained on all subsequent General Assembly resolutions stating that the resolutions "ignored the reality of the situation in Timor-Leste".[107] In 1979, the Giscard d'Estaing Government signed a tax treaty with Indonesia. In the view of the Australian Government this implied *de jure* recognition of Indonesian sovereignty over Timor-Leste because the treaty was signed after the 1976 annexation and contained a clause defining Indonesia as the territory determined by Indonesian law.[108]

197. Military equipment supplied to Indonesia by the Giscard d'Estaing Government was employed in Timor-Leste, including tanks and Puma and Allouette helicopters. The Puma helicopters were produced in Indonesia in 1979. More Allouettes were supplied by France in 1982. The Timorese Resistance claimed this equipment was used in battle. José Ramos-Horta wrote:

> The Allouette is Fretilin's major fear. Its versatility and speed allows it to operate effectively in jungle and mountain areas to chase retreating guerrilla forces or flush them out of their bases.[109]

198. The New Zealand Embassy in Jakarta confirmed in January 1978 the presence of Puma and Allouette helicopters in Dili but believed these were not armed.

> The Army and Air Force are currently operating about ten light helicopters (BO-105, Puma and Allouette), which are based at Dili. From what we saw they are used for reconnaissance and limited evacuation only. None appeared to be fitted for use as gunships.*

* Report by Ambassador Roger Peren and Col MacFarlane, Defence Attaché, 13 January 1978. *New Zealand Documents on East Timor*, Vol. 1. MacFarlane was the first Western defence attaché permitted to visit Timor-Leste after the invasion.

199. The East Timorese Resistance and French civil society organisations hoped that France would support Timor-Leste at the UN after Francois Mitterrand became the country's first socialist president in 1981. In opposition, the socialists had vigorously criticised the silence of the conservative Giscard d'Estaing Government (1974-81) on the issue as morally unacceptable and Mitterrand had referred to the "abandoned Timorese people, victims of forces that would wipe them out".[110] Mitterrand was president from 1981 to 1995 and, under the French Constitution, had a major role in shaping foreign policy. In December 1981, he told Portuguese television that the East Timorese were undergoing "an extremely harsh repression…that it was unacceptable for the strong to crush the weak and undertake physical eliminations which could end up wiping out a people" and that "if the UN did not take the initiative to defend Timorese rights, France would take on this duty."[111]

200. In practice, France under Mitterrand continued the policy of the previous government and even abstained from supporting the mildly worded 1982 General Assembly Resolution which only called for the Secretary-General to try and find a solution through dialogue. In 1983 the French Government formally notified Portugal that it would oppose a vote that year if the issue came up.[112] Answering a question on human rights in Timor-Leste in 1986, the Minister for Foreign Affairs, Roland Dumas, said that information on the issue was fragmentary and contradictory and that in 1982 most East Timorese had voted for the Soeharto Golkar party. France made a brief reference to Timor-Leste in the debate on self-determination at the UN Human Rights Commission in February 1987. East Timorese activists sought asylum in the French Embassy in Jakarta three times in 1995-96; their requests to leave for Portugal were respected.

201. France was a major donor to Indonesia during the Soeharto period. In 1991 it ranked as the second largest bilateral donor and maintained its support during the Asian economic crisis from 1997 on. Contrary to some expectations, France increased its military co-operation with Indonesia under President Francois Mitterrand. Indonesian purchases in the 1990s included cannons and amphibious scout vehicles. From 1994, driven by an aggressive government-business strategy, French sales to Asia eclipsed traditional markets such as the Middle East for the first time and the Thompson group of companies, for example, supplied a range of military and communications material to Indonesia. Co-operation also included exchanges of military personnel. In 1997, France awarded B.J. Habibie a medal for his role in promoting French-Indonesian relations and industrial development in Indonesia.

202. France intervened on the question of Timor-Leste for the first time in 1999. Under President Jacques Chirac, France supported the self-determination process in keeping with its previous policy statements and was one of 22 nations that contributed to the International Force for East Timor (Interfet), particularly enhancing its aerial and maritime capability.

Russia (USSR)

203. The former Union of Soviet Socialist Republics (USSR)* was a self-professed friend of colonial peoples, superpower and permanent member of the Security Council. Indonesia and the West feared it might intervene in Timor-Leste and monitored its activity closely. In reality, it played a minor role and, like other powers, took a pragmatic approach based on its strategic interests in Indonesia.

204. Following the Bolshevik Revolution of 1917, the Soviet Union promoted itself as the champion of colonial peoples and revolutionary movements. This activity increased after the Second World War and the collapse of European empires and peaked in the 1970s with, inter alia, Soviet intervention in Angola in 1975, the Ogaden War (1976-78)† and the ill-fated invasion of Afghanistan (1979-89).

205. In 1960 the USSR proposed and drafted the original text of the historic UN Declaration on the Granting of Independence to Colonial Countries and Peoples. The text was substantially modified, but the initiative was an important contribution to decolonisation, including for Timor-Leste. The USSR supported the two Security Council Resolutions on Timor-Leste adopted in response to the Indonesian invasion and all General Assembly Resolutions on the question between 1975 and 1982.

206. Soviet interest in Timor-Leste was not as strong as this voting pattern suggests or some anticipated. In the highly-charged context of the Cold War, and following the fall of Vietnam to the Viet Cong, fears were held in many quarters, including Indonesia and Timor-Leste, that the Soviets might intervene and establish an "Asian Cuba" in Timor-Leste, possibly even with Soviet-supplied missiles targeting Jakarta. The UN envoy Jamsheed Marker has referred to a "persistent view" that Washington pushed Soeharto to intervene in Timor to pre-empt such a possibility. According to this scenario, observes Marker, "the acquisition of Dili would supplement the existing Soviet facilities in Cam Ranh Bay and provide Moscow with a significant strategic naval presence in the region".‡

207. The Commission has not been able to access Russian archives, so it is difficult to determine the truth of these dramatic, but important, beliefs.§ Available evidence strongly suggests, however, that these claims were often politically motivated on the Indonesian side and had no basis in reality because the Soviet Union was more interested in its relationship with Indonesia than Timor-Leste's fate.

* The USSR dissolved in 1991 when 15 of its members became independent. It is now known as the Russian Federation or Russia.

† Somalia and Ethiopia fought this war for control of the Ogaden region of Ethiopia. The USSR initially backed Somalia then switched its support to Ethiopia.

‡ Jamsheed Marker, *East Timor: A Memoir of the Negotiations for Independence*, McFarland & Company, Inc., London, 2003, p. 9. The USSR provided military assistance to North Vietnam in its war with South Vietnam and the US, and after North Vietnam's victory in 1975 became Vietnam's largest donor of military and economic aid. Based on a treaty in 1978, Vietnam granted the Soviet Union access to facilities in Da Nang and Cam Ranh Bay thereby significantly increasing Soviet naval presence in the region which until then had been limited to the Soviet Far East.

§ One possible source of documentation is the Storage Centre for Contemporary Documentation (TKhSD) in Moscow.

208. Governments well disposed to Indonesia rejected the claims. In a report on 8 October 1975, the New Zealand defence attaché in Jakarta, Colonel AG Armstrong wrote:

> The Indonesians have claimed on a number of occasions that Fretilin is receiving outside help but they have been able to produce no hard evidence of this.

209. His report refers to an Indonesian navy (TNI-AL) claim to have located "a Red Chinese submarine cruising off Dili" and that its identity as a Russian-built submarine then used by China was confirmed from the "signature" of its motors. The Colonel reported that his informant doubted that the Indonesian navy was "capable of identifying the class of submarine from its engine noise" and that the alleged make of the vessel post-dated the Sino-Soviet split. He concluded:

> A submarine may well have been sighted, but its positive identification as Chinese, Russian or otherwise must be discounted.[113]

210. Australian officials were also sceptical about alleged communist designs on Timor-Leste. The Australian Prime Minister, Gough Whitlam, personally told President Soeharto on several occasions that there was no basis to such claims. The Department of Foreign Affairs correctly predicted in November 1974 that the Soviet Union would not "have any ambitions there, for the…reason that this could damage what must be assessed by Moscow as a more important relationship with Indonesia."[114]

211. The Soviet attitude towards Timor-Leste is well illustrated by the following episode recounted by the Australian Ambassador to Indonesia, Richard Woolcott:

> I recall asking the Soviet ambassador how the Soviet Union would react if Indonesia moved to incorporate East Timor. We went through a revealing charade. Taking me over to the map of Indonesia on his office wall, he said: "Where is East Timor?" Playing my part, I pointed to it on the map. "It is very small and surrounded by Indonesia, isn't it?" he said, and then changed the subject.[115]

212. Mr Woolcott commented that the episode revealed an ugly aspect of great power attitudes and noted that the USSR acquiesced in India's invasion of Goa in 1961.

213. Statements at the UN by Soviet representatives supported the East Timorese right to self-determination but were worded in general terms and refrained from direct criticism of Indonesia.[116] José Ramos-Horta reported that Soviet diplomats gave little encouragement to the Fretilin delegation:

> Unlike the hospitable Chinese, the Russians never invited our delegation to their Mission for a meeting, let alone a meal.[117]

214. Writing in February 1976, the British Ambassador to Indonesia, John Ford, commented about the Russian attitude:

> This has been notably *pianissimo* and I have the impression that the Russians decided from the very beginning that the Indonesians would get away with their action and were not going to risk their growing influence in Indonesia. Had they led the pack against Indonesia they might well have found themselves booted out and their magnificent new Embassy premises a white elephant.[118]

215. Moscow turned down repeated requests by Fretilin representatives to visit the USSR. They did not grant a visa until 1985, ten years after the invasion, and then only to take part in a cultural event.

216. The USSR and Indonesia established diplomatic relations in 1953. The Soviet Union backed Indonesia in the dispute over West Irian and from 1960 Indonesia was the largest non-communist recipient of Soviet bloc military aid. The relationship survived the suppression of the political left by the Soeharto forces in 1965 and, though ideological opposites, both sides saw mutual advantage in its continuation. The Soviet Union particularly valued the strategic utility of the relationship and worked to ensure it diminished the influence of the US and China in South-East Asia. In its cold war with the US, Moscow appreciated that Indonesia, unlike South Korea and the Philippines, did not host US military bases and allowed Soviet nuclear submarines passage through its archipelago. The relationship also served to counter-balance China's growing regional influence which threatened the interests of both countries in different ways.

217. Apart from keeping its support for self-determination *pianissimo*, the Soviet Union reportedly softened its position on Timor-Leste further in 1979 in return for Indonesia's support for the replacement of the pro-China Khmer Rouge by the pro-Soviet Heng Samrin Government as Cambodia's representative at the UN. It is also claimed that the Soeharto Government made the repayment of some US$2bn from the Sukarno period conditional on Soviet acceptance of Indonesian sovereignty in Timor.[119]

218. Soviet foreign policy changed direction when Mikhail Gorbachev became President in March 1985. He emphasised conflict resolution through negotiation rather than force, which should have favoured Timor-Leste, but Timor's remoteness from the USSR's focus and Indonesia's importance worked against this. President Soeharto visited Moscow in September 1989 and Indonesia relaxed restrictions on Soviet trade and visits resulting in improved economic ties.

219. The break-up of the Soviet Union in 1991 and liberation of the "captive nations" was a source of great inspiration to the East Timorese Resistance. The boost to morale derived not from a wish to see Indonesia similarly disintegrate but because it demonstrated that the *status quo* was not immutable even where a superpower was involved. This was immensely empowering for Timorese who had been subjected to relentless indoctrination from all sides that the cause of self-determination for a small people was futile.* In speeches at the time emphasising that nothing is irreversible, José

* Indonesia claimed in a publication in 1980 that: "There is no power in this world which is capable of dividing the people of East Timor from Indonesia." in *The Province of East Timor: Development in Progress*, Department of Information, Republic of Indonesia 1980, p. 8.

Ramos-Horta often told the story of the Soviet cosmonaut whose return to earth had to be delayed because the landing site designated by mission control was no longer part of the Soviet Union.

220. Russia's support for the UN administered Popular Consultation in 1999 and for Interfet was critical in view of its veto powers in the Security Council. This support was given making it possible for Timor-Leste to exercise the right of self-determination that the former Soviet Union had championed several decades before.

United Kingdom

221. The United Kingdom is a permanent member of the UN Security Council and a close ally of both Portugal and Indonesia based on a long history of relationships with both peoples dating back several hundreds of years. However, successive British Governments took only a limited interest in the question of Timor-Leste during most of the territory's nearly 40-year history of decolonisation.

222. Britain has a 600-year old alliance with Portugal and did not actively challenge the Salazar regime's failure to develop or decolonise Portuguese Timor in accordance with the UN Charter. It abstained when the UN General Assembly adopted the Declaration on Decolonisation and classified Timor as a non-self-governing territory in 1960. It also abstained in 1964 when the UN Special Committee on Decolonisation criticised Portugal for failing to implement General Assembly and Security Council resolutions from the previous three years.[120]

223. Following Portugal's decision to decolonise in 1974, British Embassy officials in Jakarta reported on developments to the government in London. An embassy official visited the territory in July 1975 and based on his report, the British Ambassador, John Archibald Ford, made the following recommendations to the Foreign and Commonwealth Office (FCO) in London:

> Even without Soviet or Chinese intervention the territory seems likely to become steadily more of a problem child, and the arguments in favour of its integration into Indonesia are all the stronger…Certainly as seen from here it is in Britain's interest that Indonesia should absorb the territory as soon as and as unobtrusively as possible: and that if it comes to the crunch and there is a row in the United Nations, we should keep our heads down and avoid siding against the Indonesian Government.[*]

224. The Australian Embassy confirmed the British approach. In a secret letter to Canberra on 21 July 1975, an official wrote:

* 21 July 1975. Quoted by Australian Ambassador, Richard Woolcott. Brian Toohey and Marian Wilkinson, *The Book of Leaks*, Angus and Robertson, London, 1987, p. 176. Ford was Britain's Ambassador to Indonesia 1975-78.

> The British Embassy's views are…interesting…They know what is inevitable, and they attach a higher importance to their long term interests in Indonesia. They want to stand at a comfortable distance. [121]

225. Australia confirmed to the British Government in October 1975 that President Soeharto had decided on military intervention. Ambassador Ford reported this to London:

> Australian Embassy have now confirmed (but have asked us not to play this back to them in Canberra or to tell others) that President Soeharto has authorised the stepping up of clandestine operations (including the use of ships and aircraft)…The aim is a total encirclement of Dili by 15 November.[122]

226. His cable concluded with a further recommendation of non-involvement:

> The American Ambassador said at Sir Michael Palliser's dinner on 21 October that Timor was high on Kissinger's list of places where the US do not want to comment or get involved. I am sure we should continue to follow the American example.[123]

227. His recommendation was adopted by the Labour Government's Foreign Secretary, James Callaghan.*

228. The British Government took no action on the deaths in Balibó on 16 October 1975 of Nine Network television reporter Malcolm Rennie and cameraman Brian Peters, both of whom were British subjects.[124] Ambassador Ford informed London on 24 October that:

> We understand that the newsmen were killed, almost certainly inadvertently, in the course of an attack by Indonesian/UDT forces and that their bodies were immediately disposed of by the local commander, probably by burning…Since no protests will produce the journalists' bodies I think we should ourselves avoid representations to the Indonesians about them. They were in the war zone of their own choice.[125]

229. Britain's policy in the event of an Indonesian takeover of Portuguese Timor by force was reported to Canberra by the Australian High Commission in London:

> Male (Deputy Under-Secretary, FCO) said today, that if Indonesia were to take over Timor by force, the British Government would wish to resist pressures which would inevitably and quickly build up here not only for oral condemnation of Indonesia but also for practical measures such as cutting off aid. To help contain such pressures, a British Government

* Callaghan was foreign secretary from 1975-76, then prime minister from 1976-79.

> statement would quickly be issued at the time (a) drawing attention to Indonesia's long and remarkable display of patience and forbearance, (b) disclaiming any notion that Timor was even in a marginal sense Britain's problem, and (c) observing that those countries in the region who did have real reason to be interested in Timor were not too concerned by developments.[126]

230. Britain's decision to keep "our heads down" was largely dictated by the importance it attached to its long-standing commercial interests in Indonesia. These date back to the 17th and 18th centuries when the English East India Company competed with the Dutch East India Company for control of the spice trade in the archipelago. In the early 20th century, British investments in the Netherlands Indies were second only to the Dutch. Britain headed the Allied Command in the region during the Second World War, restored the Dutch colonial government in Java, then helped mediate a settlement between the Netherlands and the Indonesian republican forces before independence. Relations deteriorated in the early 1960s when Sukarno challenged British plans for Singapore and Malaysia. Soeharto quickly ended Sukarno's policy of konfrontasi, and economic relations revived under Soeharto who hosted a visit by Queen Elizabeth II in 1974. Deregulation in the 1980s led to the entry of many of Britain's biggest companies and Britain again became Indonesia's second largest investor.[127]

231. Ambassador Ford advised his Government in London of his view that Indonesia's actions were justified on security grounds. In a confidential memo after the invasion, he wrote:

> My guess is that had the Indonesians allowed Fretilin to establish a hostile government in East Timor and make East Timor a home for dissidents from the Maluccas (sic) and outer islands, this would have been much more costly. I suspect that the Indonesians have in fact bought security at a not unreasonable price though they could have had it cheaper had they been more efficient.[128]

232. In February 1976, the Foreign Office recommended against the British Minister, Lord Goronwy-Roberts, meeting José Ramos-Horta:

> It has been the policy of HMG to avoid becoming involved in the Timor issue as far as possible. Our role at the UN has been devoted primarily to restating our support for the principle of self-determination. We decided in late November not to grant recognition to Fretilin's UDI. To receive a call by Mr Ramos-Horta (a) would imply a greater degree of British interest in the problem than we have; (b) would give a degree of recognition to Fretilin's "government" that we have not in the past been prepared to bestow; (c) would almost certainly damage our relations with Indonesia, relations which in any case are inevitably slightly strained as a result of our support for the recent UN Security Council resolution.[129]

233. At the same time British representatives were supporting aspects of Indonesia's campaign by meeting with and advising Indonesian officials on the management of the issue. Ambassador Ford reported in January 1976:

> I told them (Indonesian officials) that we had tried to do our best for Indonesia in the UN and that I thought that we had successfully managed to keep the heat out of the Timor business in New York.[130]

234. The cable goes on to report the Ambassador's advice on how to handle reports of atrocities emanating from the Indonesian invasion. Other cables were critical of Indonesia's ineptitude and bungling, not from concern for Timor, but because incompetence made it more difficult for Britain and others to defend Indonesia.

235. Based on its low-profile policy, the British Government abstained on all General Assembly resolutions on the question of Timor-Leste between 1975 and 1982. It supported UN Security Council Resolutions 384 (1975) and 389 (1976) which recognised Timor-Leste's right of self-determination and called on Indonesia to withdraw its troops. On 22 April 1976 the British representative, Mr Murray, informed the Security Council that Britain had voted for Resolution 389 "because of the great importance we attach to the principle of self-determination."[131] He also stated that Britain did not accept that an act of self-determination had taken place in Timor-Leste because three essential requirements had not been satisfied: peace and order, absence of pressure from outside forces, and appropriate procedures.

236. In line with this policy, Britain did not endorse the Indonesian-organised "act of self-determination" conducted by the People's Representative Assembly in Dili on 31 May 1976. The prospect of being invited to Dili for the occasion caused considerable consternation among Western diplomats in Jakarta who were reluctant to endorse what they knew was a spurious process. A Foreign Office official wrote:

> The Indonesian aim is clearly to acquire a veneer of respectability for a speedy takeover of East Timor by associating distinguished foreigners with the "act of choice".[132]

237. To avoid upsetting the Indonesian Government, Ambassador Ford elected to inform officials that he had another engagement that day. When the Indonesian Government sent another invitation requesting his participation in a mission to verify popular support for the integration petition, the British Foreign Secretary, Anthony Crosland, added another reason for ruling out any association with the process:

> For reasons connected with our interests in the Falkland Islands, Belize and Gibraltar, we attach importance to maintaining the principle of UN involvement in self-determination exercises. We are strongly inclined, therefore, to instruct you to decline the invitation.[133]

238. The British Government reiterated its recognition of Timor-Leste's right to self-determination on a number of occasions. In a statement to the Fourth Committee of

the General Assembly in 1982, the British representative confirmed his government's support for the principle and went on to say that Portugal and Indonesia "alone could settle the problem" and that Britain, as a friend of both, hoped this could be done in accord with the wishes of the East Timorese people.[134] In 1992 the Government repeated the commitment in the context of the UN Secretary-General's search for a settlement. Baroness Trumpington told the House of Lords on 16 July 1992:

> The United Kingdom has not recognised the annexation of East Timor, nor has the Community. The United States, Canada and Australia have recognised it. We firmly believe that East Timor's future is best addressed through bilateral contacts between those directly involved – Portugal and Indonesia. The UN Secretary-General's efforts to bring them together with a view to reaching a settlement deserve and receive our support.[135]

239. This policy allowed the British Government to separate the Timor issue from its bilateral relationship with Indonesia while leaving open the possibility of self-determination should the opportunity arise. Britain maintained a significant aid and military co-operation programme with Indonesia during Indonesia's occupation of Timor-Leste. The Government expressed concern over human rights abuses in Timor-Leste, including at the time of the Santa Cruz massacre in 1991, but argued that dialogue would achieve more than "facile gestures, such as cutting off aid."[136] Calls to have the human rights situation in Indonesia and Timor-Leste included on the agenda of the aid consortium, the Inter-Governmental Group on Indonesia (IGGI), were rejected.

240. Indonesia has only a small arms industry and has been obliged to import most of its military equipment. Britain became a major arms supplier during the occupation of Timor-Leste and in the period 1994–2004 most of Indonesia's military equipment came from Britain.[137] Much of this trade was conducted after the international arms race associated with the Cold War had ended. The British Government approved export licences for British companies to sell a range of equipment to Indonesia, including combat aircraft and vessels, armoured vehicles, large and small calibre guns, ammunition, bombs, rockets, missiles, riot control agents and equipment for military training. Senior Indonesian military officials were also given training in British military establishments.

241. The British Government defended military co-operation with Indonesia. Baroness Trumpington of Sandwich told the House of Lords in 1992 that Indonesia had a right to protect its independence, that military training by Britain improved respect for democracy and human rights, and that applications for export licences were rejected if the military equipment in question was likely to be used for repression. She stated:

> We do not believe that British military equipment sold in the past to Indonesia has been used against the East Timorese.[138]

242. The military attaché at the Indonesian Embassy in London admitted in 1999 that British made Saracen and Saladin armoured vehicles were deployed in Timor-Leste.* The Timorese resistance claimed that Indonesian forces also used British-supplied Hawk attack aircraft, particularly at the height of the war in 1978-79. The British Embassy in Jakarta confirmed to CAVR in July 2003 that eight Hawk aircraft were supplied to Indonesia in 1978 but said they were older models suitable only for training, not air-to-ground combat. Both the British Government and British Aerospace (BAe) have denied the planes were used for counterinsurgency.† The issue generated controversy in Britain, particularly after the Government authorised further sales in the 1990s (see paragraphs 431-499 on International Civil Society, below).

243. Whether or not British-made military equipment was used in specific violations in Timor-Leste, the provision of military assistance helped Indonesia upgrade its military capability and freed up the potential for the Indonesian armed forces to use other equipment in Timor-Leste. More importantly, the provision of military aid to Indonesia by a major Western power and member of the Security Council was a signal of substantial political support to the aggressor in the conflict, and outraged and bewildered Timorese who knew of Britain's professed support for self-determination. In May 1976, the then British Ambassador to Jakarta, John Ford, commented that Timor-Leste was too backward for western-style self-determination. East Timorese are entitled to ask what was so civilised about Britain's support, whether direct or not, for Indonesian aggression.[139]

244. Under the leadership of the Foreign Secretary, Robin Cook, the British Labour Government made amends to some extent by actively supporting the negotiations which culminated in Timor-Leste's act of self-determination in August 1999. Jamsheed Marker, the Secretary-General's Personal Representative for Timor-Leste, paid tribute to the British Ambassador to the UN, Stewart Eldon, and the British Ambassador to Indonesia, Robin Christopher, for their contributions to the core group of countries which collaborated with the UN process. Ambassador Christopher sheltered Xanana Gusmão at the Embassy in Jakarta after his release from detention in September 1999. Both as British Foreign Secretary and as representative of the EU, Robin Cook was part of the decision taken at the APEC meeting in Auckland on 9 September 1999 in favour of an urgent international force to restore order in Timor-Leste after the ballot. On 11 September 1999, Jeremy Greenstock, Britain's representative on the Security Council, visited Timor-Leste as part of the Security Council mission that preceded the international force and described Dili as "hell on earth". Britain contributed Ghurkha troops and funds to the Interfet force.

* 29 January 1999. Mark Thomas Show, Channel 4. Hendro Subroto reported that Ferret Mk.2 Scout cars, VF 603 Saracen-armoured personnel carriers and VF 603 Saladin (with 76 mm guns) vehicles were used in the 1975 Indonesian invasion. *Eyewitness to Integration of East Timor*, Pustaka Sinar Harapan, Jakarta, 1997.

† In December 1995, the New Zealand Embassy in Jakarta reported allegations that Hawks were used in bombing raids against Fretilin at the beginning of 1995. The British defence attaché and British technicians who helped maintain the aircraft made checks of log books and for evidence that bombs had been fired, and concluded in the negative. New Zealand, OIA Material, Vol. 4, 13 December 1995.

United States

245. The US, once a colony itself, was a key architect and founding member of the UN in 1945 following the Second World War and is a permanent member of the Security Council and superpower. The name "United Nations" was coined by US President Franklin D Roosevelt. Its forerunner, the League of Nations, was established in similar circumstances following the First World War (1914–1918). It owed much to US President Woodrow Wilson's reaction of shock that an advanced civilisation could have engaged in the extreme savagery and devastation that characterised the Great War. In his famous Fourteen Points speech in 1918, President Wilson listed what he considered were the basic premises for the peaceful resolution of conflict. In addition to the creation of an association of nations, these included an early formulation of the principle of self-determination which was later adopted into the UN Charter.*

246. The US did not support the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the UN in 1960, but it reversed its position in 1961 and also recognised Portuguese Timor as a non-self-governing territory with the right to self-determination.

247. US policy on Timor-Leste was further developed during this period in response to fears of a clash between Portugal and Indonesia over the territory. Like Australia, the US was concerned that Prime Minister Salazar's rejection of UN demands to decolonise would lead to intervention by President Sukarno in the name of anti-imperialism. To avoid a clash, the US Department of State proposed that the US should refer the issue to the UN Decolonisation Committee and should also oppose the possible use of force by Indonesia on the grounds that force could not be justified by Portugal's failure to decolonise and would harm the United Nations. A Department of State policy document in 1963 stated:

> The one failure does not justify the other…We ought not to view such Indonesian action as the second act in a drama which began with Goa and which will end with the death of the UN…We cannot condone any effort to take over territory by force. Such action would be a violation of the UN Charter obligations that Indonesia has undertaken. We would have to oppose Indonesia diplomatically and in the UN in such a circumstance.[140]

248. The Department of State also expressed the view that Portuguese Timor was not capable of self-determination and should unite with Indonesia:

* Point V of President Wilson's *Fourteen Points* refers to colonial claims and the need for "a strict observance of the principle that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight". Other Points included the need for the reduction of armaments by countries "to the lowest point consistent with domestic safety".

> We and the Portuguese have to recognise that self-determination for Portuguese Timor is meaningless for the indefinite future…Realistically, it has only one possible future, as a part of Indonesia.[141]

These policy guidelines did not have to be acted on because the predicted conflict did not materialise. The Department of State's pessimistic analysis of Timor-Leste's limited options was understandable at the time given the refusal of the Salazar regime to prepare the territory for independence. However, when the issue resurfaced a decade later the view that Timor-Leste's only option was integration with Indonesia became, in conjunction with Cold War factors, the dominant policy determinant that overrode all other considerations. The other recommendations from the 1960s were to be effectively ignored until the end of the Cold War towards the end of the 1980s.

249. Gary Gray, a former official in the US Department of State, testified to the Commission that US policy on Timor-Leste from 1974 was significantly shaped by the global and regional context of the times and the desire on the part of both Indonesia and the US to strengthen their relationship following communist gains in Indochina. He said:

> *One could plausibly see 1975 as the peak of communist power in the world and the perception of threat to the US and what was then called the free world…communist regimes had been installed in Laos, Cambodia and Viet Nam in March and April 1975, active communist insurgencies still plagued Thailand and Malaysia, and the concept of a monolithic communist threat to South-East Asia and the domino theory remained very much alive. At the same time there was a strong consensus in Washington that the counterweight of an anti-communist Indonesia was vital against the expansion of communism in Asia, both in regional terms and in Indonesia itself.*[142]

250. The mutual importance of the relationship was already well established from early in President Soeharto's term and emphasised at the highest level. This included US support for the Indonesian takeover of West Irian and the bogus "Act of Free Choice" there in 1969.* In a memo to President Gerald Ford in September 1974, the US Secretary of State, Henry Kissinger, recommended that he meet the Indonesian

* The US Embassy in Jakarta reported in July 1969: "The Act of Free Choice (AFC) in West Irian is unfolding like a Greek tragedy, the conclusion preordained. The main protagonist, the Government of Indonesia, cannot and will not permit any resolution other than the continued inclusion of West Irian in Indonesia. Dissident activity is likely to increase but the Indonesian Armed Forces will be able to contain, and, if necessary, suppress it." President Nixon visited Indonesia just before the Act of Free Choice. His National Security Adviser, Henry Kissinger, told him: "You should tell (Soeharto) that we understand the problem they face in West Irian". Brad Simpson (Ed.), *Indonesia's 1969 Takeover of West Papua Not by "Free Choice"*, posted 9 July 2004, http://www.gwu.edu/~nsarchiv/NSAEBB/ NSAEBB128/index.htm, at July 2005. Dr Kissinger became a director and stockholder in the US Freeport McMoran gold and copper mine after it won concessions in West Irian in 1967.

Foreign Minister, Adam Malik "to assure the Suharto Government that you attach great importance to Indonesia as a major regional power in East Asia and that you intend to continue US economic and military assistance to Indonesia".[143] The briefing then outlined Indonesia's "high strategic significance to us" by virtue of its geography, population, resources and constructive regional role, both in Vietnam and in ASEAN as a balance to pressures from the Soviet Union and China. For his part, President Soeharto wanted his Foreign Minister to meet the new US President to inform him of his wish to establish a close personal relationship, to invite him to visit Indonesia and to provide military and economic assistance. The two presidents met twice in 1975: in July when President Soeharto visited the US and again in December when President Ford visited Indonesia.*

251. The US government was aware of Indonesia's plans to incorporate Timor-Leste. From at least February 1975 it also knew that force might be employed and this would involve the use of US-supplied military equipment. For example, US officials agreed that Indonesian joint military exercises conducted in Lampung, South Sumatra on 11 February 1975 were almost certainly part of preparations to seize Timor-Leste. Commenting on the event, the US Consulate in Surabaya wrote:

> Political officer Zingsheim and I were both struck by similarities in terrain and style of this exercise, and what would be involved in Indonesian operation to seize Dili. Exercise included vertical envelopment of Branti airstrip, amphibious assault of nearby beach area, and naval bombardment and strafing…and rear area air drops.†

252. Indonesia denied at the time that the exercise was related to Timor-Leste, but the invasion of Dili ten months later followed the pattern described above. On both occasions, the shore bombardment was conducted by the US-supplied warship, KRI Martadinata. Cables between Australian and US officials at the time expressed fears that the forceful seizure of Timor-Leste using US and Australian equipment would damage relations with Indonesia.[144]

253. During this same period, the New Zealand opposition leader, Robert Muldoon, visited Jakarta and was briefed on Timor-Leste by Indonesian leaders. The US Embassy reported to Washington:

* It has been claimed that a major factor in the US decision to support Indonesia's takeover of Timor-Leste was to guarantee that the deep water strait between Timor and Wetar remained in friendly hands, as the strait allowed for unimpeded passage between the Pacific and the Indian oceans for US nuclear submarines. See Michael McGuire, "The Geopolitical Importance of Strategic Waterways in the Asian-Pacific Region", *Orbis* 19 (3), Fall 1975, pp. 1058-76 and Michael Richardson, "Jakarta Rules the Way: Why Indonesian Goodwill is Vital to America's Indian Ocean Submarine Force", *The Age*, 4 August 1976. The CAVR has not been able to confirm this specific claim. It is clear, however, that the US was concerned that the Soeharto Government's support for the "archipelago principle" in the law of the sea negotiations might restrict US transit through the archipelago. See Secretary H. Kissinger's memo to President Ford, 21 November 1975. National Security Archive (NSA) Declassified Documents, 124.

† US Consulate Surabaya, 20 February 1975. NSA Documents 23. Ships used in the exercise were based in Surabaya and troops were from Malang in East Java.

> Position Suharto and Malik took with Muldoon reinforces belief that GOI has decided it must incorporate Timor, is laying political groundwork for a takeover, and is hoping friendly powers will find a way not to oppose the move.*

254. In reply to a query in March 1975 from the US National Security Council about policy should Indonesia use force in Timor-Leste, Secretary of State Kissinger approved a policy of non-action. The query included a recommendation from the US Ambassador to Indonesia, David Newsom, favouring silence:

> Ambassador Newsom has recommended a general policy of silence. He has argued that we have considerable interests in Indonesia and none in Timor. If we try to dissuade Indonesia from what Suharto [sic] may regard as a necessary use of force, major difficulties in our relations could result.[145]

255. This policy was applied for the Ford-Soeharto summit at Camp David on 5 July 1975. Secretary Kissinger made no reference to Portuguese Timor in his briefing for President Ford before the meeting and the US did not raise the issue or warn about the use of force or US equipment during the meeting, although President Soeharto provided an opportunity when he volunteered that Indonesia would not use force. In reply to President Soeharto's presentation on the issue, the US President limited himself to asking whether Portugal had set a date for the Timorese people to make their choice. Earlier in the meeting, the US President announced a package of military assistance to Indonesia.

256. US officials told Indonesia through diplomatic channels that the US preferred peaceful integration through self-determination and expressed concerns that force and the use of US equipment would generate an adverse reaction in Congress and harm relations.† Official policy, however, was to remain publicly aloof and non-committal. Informed at a meeting on 8 October 1975 that Indonesia had begun military operations in Timor-Leste, Secretary Kissinger responded:

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* US Embassy Jakarta, 25 February 1975. NSA Documents 28. According to the US communication: "Adam Malik told Muldoon that administration of Portuguese Timor is communist-influenced and that pro-independence Timorese have offered USSR and PRC bases in return for support for independence movement. Malik said that refugees from leftist terror in Portuguese Timor fleeing across border into Indonesian territory…Soeharto said that, given the serious situation in Timor, GOI hopes friendly countries such as Australia and New Zealand 'will understand' Indonesia's position, which New Zealanders interpreted as a request that NZ 'understand' a possible Indonesian takeover of Portuguese Timor."

† Ambassador Newsom told the head of Bakin (the Intelligence Coordinating Body), Lieutenant-General Yoga Sugama, on 20 August 1975: "GOI should be aware if US equipment were used in forcible seizure of Portuguese Timor [since] this could call into effect sections of Foreign Assistance Act and could place military assistance program in jeopardy. Thus, the best solution would be peaceful incorporation of Portuguese Timor in Indonesia." US Embassy Jakarta, 21 August 1975. NSA Documents 73. In October, President Ford's National Security Adviser, Lieutenant-General Brent Scowcroft, was advised by staff to warn Ali Moertopo of political complications if US equipment was used. NSA Documents 104.

> I'm assuming you're going to really keep your mouth shut on this subject…on Indonesia. Also at the UN…make sure the US Mission doesn't make a statement.[146]

257. On 5 December 1975, in response to Indonesia's pre-invasion assaults, the President of both Fretilin and the newly proclaimed Democratic Republic of East Timor, Xavier do Amaral, sent an urgent telegram to the US president asking the US to intervene:

> My Government believes the voice of the US could prevent a war which would be long, bloody and destructive…For the sake of peace we implore you to intervene.

258. The US Government ignored the appeal. The National Security Council record of correspondence shows that on 15 December the letter was filed with a note:

> No action necessary. No reply should be sent – this is a sensitive matter.[147]

259. Presidents Ford and Soeharto met again in Jakarta on 6 December 1975, the day before Indonesia's full-scale invasion of Timor-Leste. According to Department of State records, the meeting took place at 8am and the American delegation left for the airport at 10:30am. Also present at the meeting were Secretary of State Kissinger, Foreign Minister Malik, Minister of State Sudharmono, Ambassador Newsom and an interpreter. In the course of their discussion, which focused principally on Indochina and the containment of communism, President Soeharto raised the situation in Timor-Leste which he presented as a threat to the security of Indonesia and the region following Fretilin's declaration of independence.

260. The Department of State account of the exchange records that the Indonesian President said to the Americans:

> We want your understanding if we deem it necessary to take rapid or drastic action.

261. President Ford replied:

> We will understand and will not press you on the issues. We understand the problem you have and the intentions you have.

262. The Americans said that the use of US-made arms could create problems, and Secretary Kissinger added:

> It depends on how we construe it: whether it is in self-defence or is a foreign operation. It is important that whatever you do succeeds quickly. We would be able to influence the reaction in America if whatever happens happens after we return. This way there would be less chance

> of people talking in an unauthorised way. The President will be back on Monday at 2:00pm Jakarta time. We understand your problem and the need to move quickly but I am only saying that it would be better if it were done after we returned.

263. Secretary Kissinger asked a final question:

> Do you anticipate a long guerrilla war there?

264. President Soeharto replied:

> There will probably be a small guerrilla war.*

265. Both parties avoided making explicit reference to military intervention, but it is clear from the discussion and references to the use of US arms and guerrilla war that this is what the US President knew he was agreeing to. In giving his consent, he made no reference to the right of self-determination or the humanitarian consequences of war. Consent to the use of force also meant having to ignore advice from officials about the illegality of using US weapons, because most of the Indonesian armed forces equipment was American.† Indonesia ignored the request to wait: the invasion began in the early hours of Sunday morning, 7 December, over 24 hours before the designated time of President Ford's return to the US.

266. In a White House review of the visit on 10 December 1975, neither President Ford nor Secretary Kissinger made any reference to Timor-Leste. President Ford said:

> It was important to go there (Indonesia) in the aftermath of Vietnam to show we were still an Asian power. I was impressed with Suharto who is trying to keep the country together and maintain a viable government and uphold the cause of anti-communism there.[148]

267. On 13 December, he dispatched a personal gift of golf balls to the Indonesian President.‡

* US Embassy Jakarta, 6 December 1975. NSA Documents 148. In 1977, the Carter Administration was advised to turn down a request from Congressman Donald Fraser for a copy of this report on the grounds that it was privileged and would harm US foreign relations if it became public. NSA Documents 405.

† A memorandum from Secretary Kissinger to President Ford on 21 November 1975 stated: "Indonesia's use of US-supplied weapons in an overt occupation of the territory, however, would contravene US law." NSA Documents 124.

‡ National Security Council, 13 December 1975. NSA Documents 168. Dr Kissinger subsequently defended the Ford Administration's policy on Timor-Leste. At a public forum in 2001 he told the East Timorese activist Constancio Pinto: "Timor was never discussed with us when we were in Indonesia. At the airport as we were leaving, the Indonesians told us that they were going to occupy the Portuguese colony of Timor. To us that did not seem like a very significant event because the Indians had occupied the Portuguese colony of Goa ten years earlier and to us it looked like another process of decolonisation. Nobody had the foggiest idea of what would happen afterwards, and nobody asked our opinion, and I don't know what we could have said if someone had asked our opinion. It was literally told to us as we were leaving." Slate, *Whopper of the Week: Henry Kissinger*, 7 December 2001.

268. The US voted in favour of UN Security Council Resolution 384 which was adopted unanimously on 22 December 1975, upheld the right of self-determination and called on Indonesia to withdraw its troops. It kept a low profile during that session, but tried to help Indonesia behind the scenes without getting too offside with its NATO ally Portugal whose co-operation the US depended on to maintain the US base in the Azores and support on other issues in the UN. While pushing "for an accommodation at the UN in which Jakarta could save face", the US also offered to help Portugal secure the release of 23 soldiers held in Indonesian Timor.* The US abstained on Security Council Resolution 389 (1976) adopted on 22 April 1976 because, said the US representative, the resolution failed to recognise "the important statement of the representative of Indonesia that some forces have been withdrawn and that withdrawal is continuing". He said the US abstention should not be interpreted to mean that the US "is wavering in our support of the right of the people of East Timor or of any people anywhere in the world for equal rights and self-determination".[149] The US also abstained in the General Assembly vote on the issue taken on 12 December 1975, then voted against all subsequent General Assembly resolutions until 1999.

269. Both the Indonesian and US Governments knew that US weapons were used in the invasion of Timor-Leste. The US Congresswoman, Helen Meyner, told a Congressional inquiry in 1977 that General Moerdani confirmed the use of US equipment:

> When we met in Djakarta with some of the top Indonesian military men…John Salzberg asked General Moerdani whether US weapons had been used in 1975. He said, "Of course, these are the only weapons that we have. Of course there were US weapons".[150]

270. The US National Security Council was advised on 12 December 1975 that US equipment was used in the invasion.[151] The report to the NSC stated that US-supplied equipment included the following:

- At least nine ex-US navy ships, one of which, the *KRI Martadinata*, was involved in coastal shelling from 22 November and took part in the one-hour naval bombardment that preceded the 7 December assault on Dili
- 13 planes used in the assault on Dili and Baucau
- Equipment used by the 18th Airborne Brigade that made the para-drop on Dili on 7–December and the 17th Airborne Brigade involved in the drop on Baucau on 10 December; this comprised rifles, machine guns, grenade launchers, mortars, rocket launchers, parachutes and radios; their jump masters were US-trained
- Some US radio equipment was used by the communications centre at Atambua, Indonesian Timor, which controlled Timor operations.

* National Security Council, 19 December 1975. NSA Documents 178. The US Ambassador to the UN at the time, Daniel Patrick Moynihan, wrote: "The United States wished things to turn out as they did, and worked to bring this about. The Department of State desired that the United Nations prove utterly ineffective in whatever measures it undertook. This task was given to me, and I carried it forward with no inconsiderable success." *A Dangerous Place*, Little Brown, 1980, p. 247.

271. José Ramos-Horta told the Commission that in his opinion the US has the most to answer for: "The US was the worst. Worst because it was the only single power that could have told the Indonesians, after the invasion, not only before then but after then: 'You behave, stop these killings', but they wouldn't…and they knew what was right."[152]

272. Sections of the US Congress actively pursued the issue of the Indonesian use of US-supplied military equipment. Following inquiries by Senator Gary Hart in December 1975, Senators Hubert Humphrey and Clifford Case took up the issue and a series of Congressional hearings was held in 1977 after Jimmy Carter began his term as US President in January.

273. US officials told a Congressional inquiry in March 1977 that US weapons were used during the invasion. They also testified that, in response, the Administration "suspended administratively" the provision of additional assistance between January and June 1976 "to ensure that we were in compliance with the applicable statutes", but that only some members of Congress were told privately of the suspension and the decision was not publicly announced.[153]

274. This action, which was taken at Secretary Kissinger's direction, was primarily designed to ensure continued US military support for Indonesia, rather than legal compliance. It was not intended to protect human rights in Timor-Leste and, in practice, it made no difference to the reality of US military support for Indonesian aggression.* The inquiry was informed that military equipment already in the pipeline continued to be delivered, that military aid was resumed in late June 1976 because there had been a "significant reduction of hostilities in Timor" and that Congress continued to authorise military assistance for Indonesia after the defeat of a proposed amendment urging a cut-off. Relations with Indonesia were not affected because officials in Jakarta either did not know about the suspension or were confident it was only "administrative" in character. Brent Scowcroft was advised before a meeting with Adam Malik in June 1976:

> The Indonesians have not brought up our suspense of military equipment deliveries to them…Should they mention it, you could point out that our careful handling of this matter has enabled us to turn off Congressional critics such as Senator Humphrey and at the same time allow us to resume military assistance shipments to Jakarta.[154]

275. In October 1976 the US Government confirmed the continued use of US-weapons in Timor-Leste:

> We understand that the Indonesian government has, in recent months, been endeavouring to use non-US equipment in its Timor operations. Some US-equipped units have been withdrawn. However, indications are that US-supplied equipment – particularly transport

* NSA Documents 296. Even if the Congress had stopped military aid, the Administration was committed to finding a way around it and began developing contingency plans in early 1976 to continue the support. NSA Documents 235.

> and communication equipment – is still being used. The Indonesian Government has been made aware of our continuing concern in this regard.[155]

276. Military co-operation continued to be an integral component of US support for Indonesia for the next two decades.*

277. Successive US Administrations continued the basic position on Timor-Leste established by the Ford-Kissinger Administration. This was explained to a US Senate Hearing in 1992 in the following terms:

> In 1976 US policymakers decided to accept Indonesia's incorporation of East Timor as an accomplished fact. They judged that nothing the United States or the world was prepared to do could change that fact. Thus, to oppose Indonesia's incorporation would have had little impact on the situation. With such reality in mind, previous administrations fashioned a policy which has been followed consistently on a bipartisan basis: We accept Indonesia's incorporation of East Timor without maintaining that a valid act of self-determination has taken place. Clearly, a democratic process of self-determination would have been more consistent with our values; but the realities of 1975 did not include that alternative. Accepting the absorption of East Timor into Indonesia was the only realistic option.[156]

278. The Carter Administration (1977-81) continued to place heavy emphasis on the importance of Indonesia. Zbigniew Brzezinski, President Carter's hawkish national security adviser, advocated deepening relations.[157] Vice President Walter Mondale visited President Soeharto in Jakarta in May 1978 and General Moerdani continued his regular visits to the US resulting in increased US military co-operation with Indonesia. Assistant Secretary Holbrooke summarised why the US was so positive about Indonesia at a Congressional hearing in 1981:

> The situation in East Timor is one of a number of very important concerns of the United States in Indonesia. Indonesia, with a population of 150 million people, is the fifth largest nation in the world, is a moderate member of the Non-aligned Movement, is an important oil producer – which plays a moderate role in OPEC – and occupies a strategic position astride the sea lanes between the Pacific and Indian oceans. President Suharto [sic] and other prominent Indonesian leaders have publicly called for the release of our hostages in Iran. Indonesia's position within the Association of South East Asian Nations – ASEAN – is also important and it has played a central role in supporting Thailand and maintaining the security of Thailand in the face of Vietnam's

* The US military assistance programme (MAP) to Indonesia concluded in 1978, but was succeeded by the foreign military sales (FMS) credit programme.

> destabilising actions in Indo-China. Finally, Indonesia has provided humane treatment for over 50,000 Indo-Chinese refugees and taken the initiative in offering an island site as an ASEAN refugee-processing centre. Indonesia is, of course, important to key US allies in the region, especially Japan and Australia. We highly value our co-operative relationship with Indonesia.[158]

279. The Carter Administration added a stronger emphasis on human rights and humanitarian need to the Timor policy outlined above and this was adopted by succeeding administrations. During its time in office, international agencies were permitted to operate in Timor-Leste, US officials were permitted to meet with José Ramos-Horta and the annual Department of State Country Reports on Human Rights Practices, which began in 1977, included frequent reference to abuses in Timor-Leste.

280. At the same time, however, most of the deaths in Timor-Leste occurred during this period, Indonesian troop numbers reached new levels and the Timorese resistance was almost wiped out.* Arnold Kohen testified to the Commission:

> *It is wrong to believe that the tragedy in East Timor can be placed exclusively at the doorstep of President Ford and Secretary of State Kissinger. There was a chance to change American policy toward the Indonesian occupation of East Timor in early 1977 when President Jimmy Carter took office…and called for greater emphasis on human rights in the making of US foreign policies…Such hopes were dashed.*[159]

281. The Carter Administration also failed to address the basic issue of self-determination. It recognised Indonesia's sovereignty, made no mention of self-determination in its annual human rights reports and voted against UN resolutions on Timor-Leste.†

282. Following the end of the Cold War and the Santa Cruz massacre in 1991, pressures increased on the US to play a more active role in the search for a solution. Some engagement with Portugal followed. In January 1992, a group of well-known Portuguese political and academic figures, led by former President Ramalho Eanes, delivered a harshly worded open letter to President George Bush that charged the US with responsibility, through its inaction, for human rights violations in Timor-Leste.[160] Though it had opposed the General Assembly resolution in 1982 which requested the

* The Deputy Commander-in-Chief of the Indonesian Armed Forces, Admiral Sudomo, told Ambassador Masters in July 1978 that Indonesia had 29,000 military personnel in Timor-Leste. NSA Document 602. General Moerdani denied claims that napalm and herbicides were used in Timor-Leste during this period. US Embassy report, 3 January 1978. NSA Document 502. Similarly, US officials denied Fretilin claims that US personnel participated in military engagements in Timor during this period. Secretary of State Cyrus Vance, 7 July 1978. NSA Document 599. Detail regarding Fretilin claims is found in NSA Documents 578 and 614.

† After each UN vote, Indonesia's ambassador to the UN wrote to the Carter Administration to express its "sincere thanks and appreciation for the support accorded to Indonesia's position". See, for example, NSA Documents 491 and 713.

Secretary-General to initiate consultations with all parties directly concerned, the US now stated its support for the Secretary-General's promotion of discussions between Portugal and Indonesia on the issue, and in 1992 and 1993 it supported initiatives by Portugal at the Commission on Human Rights.[161]

283. Ambassador Barry, the representative of the new Clinton Administration in Indonesia, visited Timor-Leste on 21–23 February 1993 to "have a fresh look". He reported that:

> a repressive and pervasive military presence is the main obstacle to the government's goal of integration…The Timorese resent the military's paternalism, corruption and domination of the local economy as well as their cruelty…The best description of Timorese aspirations comes from a Salesian priest who knows the situation well: "They want to be left alone."

284. The Ambassador concluded that "[i]ntegration will never be palatable as long as it is demanded at gunpoint…" but then ruled out the solutions that Indonesia itself came to a few short years later:

> Even if the Indonesians were prepared to offer self-determination (and they aren't), East Timor could not survive as a separate entity. Autonomy sounds good but is hard to define in a meaningful way in this very centralised country.[162]

285. The Clinton Administration actively supported the self-determination process in 1999, including through the Security Council. The US was one of the largest contributors to the establishment of UNAMET, and President Clinton, Secretary of State Madeleine Albright, who had met previously with Xanana Gusmão in Jakarta, and Secretary of Defence William Cohen, each pressured Indonesian counterparts to contain the violence that threatened the ballot.* In welcoming the result on 4 September 1999, Secretary Albright said the US would continue to support strongly the UN-assisted process to transform Timor-Leste into an independent nation.[163] Following the outbreak of violence, President Clinton issued strong statements on 9 and 10 September 1999 stressing the need for an international security force in Timor-Leste and US support for such a force, if Indonesia could not restore order. The US stationed 1,000 marines offshore but restricted its direct contribution to Interfet to logistical support including heavy lift for the deployment of other participating forces.

Japan

286. Japan became a member of the United Nations in 1956. It is not a permanent member of the Security Council, but it was the only East Asian non-permanent member when the Council debated the question of Timor-Leste in 1975 and 1976.

* The head of UNAMET, Ian Martin, has written that the US did not press Jakarta to accept peacekeepers before the ballot in case this endangered the process and is doubtful that security provisions could have been strengthened further (Ian Martin, *Self-determination in East Timor, The United Nations, the Ballot, and International Intervention*, Lynne Rienner Publishers, London, p. 33).

287. In 1960 Japan supported the adoption of the UN Declaration on the Granting of Independence to Colonial Countries and Peoples and the related principles for reporting on colonies.[164] It abstained, however, on GA Resolution 1542 (XV) which listed Portuguese Timor as a non-self-governing territory.

288. Following the Indonesian invasion, Japan voted in favour of Security Council Resolution 384 (1975), which was adopted unanimously on 22 December 1975. The resolution upheld the inalienable right of the East Timorese people to self-determination, deplored Indonesia's armed intervention and called for it to withdraw without delay.

289. However, Japan lobbied to weaken this resolution. The Japanese Ambassador to the United Nations at the time, Shizuo Saito, has written:

> Japan always took an active and leading initiative…(and) particularly made inputs so that Indonesia's intention to withdraw its troops would be respected and the condemnation would not irritate Indonesia too much. Other governments co-operated with this position of Japan.[165]

290. Japan's role on the issue in the Security Council is confirmed by José Ramos-Horta who represented Fretilin at the meetings:

> All through both the 1975 and 1976 Security Council debates on Timor, the Japanese delegation was conspicuous in its efforts to soften criticism of Indonesia.[166]

291. Resolution 384 was the only UN resolution supported by Japan following the Indonesian invasion. Japan abstained from voting on Security Council Resolution 389 in April 1976 stating that it believed the Security Council should acknowledge that Indonesia had started to withdraw its forces from Timor-Leste in compliance with the previous resolution. On 15 April 1976, the Japanese representative, Mr Kanazawa, told the Security Council:

> Although it appears to us that peace and order in the Territory have not yet been fully restored, we consider it encouraging that armed strife now seems to be confined to isolated areas in the Territory, and that life is gradually returning to normal.[167]

292. Mr Kanazawa went on to welcome Indonesia's statement to the Security Council "that the armed volunteers started to leave the Territory in February and that the process of withdrawal is expected to be completed within a short time."

293. Indonesia's claim that the invasion comprised "volunteers" was no more credible than its claim of withdrawals. Both were known to be false at the time. The New Zealand defence attaché in Jakarta advised his government in January 1976 that the claim of "volunteers" was a "ridiculous fiction" and commented:

> Evasion and half-truths are accepted diplomatic coinage but outright lying is less easy to overlook.[168]

294. His report on the period January–March 1976 makes no mention of withdrawals and commented that "the military situation is still sufficiently volatile to make it imperative that considerable numbers of Indonesian troops are able to be deployed...."[169] The UN Envoy, Winspeare Guicciardi, was also sceptical of Indonesian claims. In his second report on Timor-Leste, written seven months after the invasion in June 1976, he wrote that when he raised the issue of compliance with Security Council Resolutions 384 and 389 Indonesia simply reiterated previous statements that the withdrawal of "Indonesian volunteers" would be completed in a short time.[170] In another twist, Indonesia's representative at the UN told his US counterpart that Indonesia had to respect the wishes of the East Timorese Provisional Government which did not want the troops to withdraw and was asking: "How can Indonesians be withdrawn from territory already incorporated into Indonesia?"[171]

295. In other remarks to the Security Council, Mr Kanazawa supported the right of Timor-Leste to self-determination and called for continued efforts to restore peace and order and an extension of the Special Representative's mandate. Though positive, these proposals had been agreed to by Indonesia and added nothing that was new or commensurate with Japan's capacity to influence events as Indonesia's major investor and donor.

296. Japan voted against all eight UN General Assembly Resolutions on Timor-Leste between 1975 and 1982. This included the mild 1982 resolution which delegated the issue to the Secretary-General to find a solution through dialogue. During his visit to Dili in 1976, Winspeare Guicciardi saw posters thanking Japan for its UN vote in support of Indonesia.[172]

297. According to the Australian Government, Japan implicitly gave recognition to Indonesian sovereignty over Timor-Leste when in 1982 it signed a tax agreement with Indonesia whose terms did not exclude Timor-Leste from the definition of Indonesian territory.[173] Japan denies that it formally recognised the incorporation. It did not attend the Popular Assembly of 31 May 1976 whose petition for integration Indonesia claimed was a legitimate act of self-determination.* In 1991, Japanese Parliamentarians told the UN:

> The Japanese Government never formally recognised the annexation of East Timor by Indonesia. Japan's official position has been the following: "Our basic position regarding the area of East Timor is that Japan continues to observe the negotiations between the parties concerned under the good offices of the United Nations Secretary-General" and that "we are not in a

* Indonesia invited Japan to attend the Popular Assembly of 31 May 1976. In a cable on 28 May 1976, a British embassy official in Tokyo commented on the problem this created: "The Japanese are in a not unfamiliar dilemma. On the one hand they would rather have nothing to do with the invitation, but on the other they are afraid of upsetting the Indonesians. They do not wish to be represented in Dili unless they are in good company…." in UK unclassified documents, Dowson Files 7.19.

> position to judge on the jurisdiction of the island". The Japanese Government has therefore instructed publishers of school textbooks to draw the same type of line between East Timor and West Timor as the one drawn between Morocco and the West Sahara. This line indicates that an international conflict exists concerning the status of the area where it is drawn and that the conflict is still pending a settlement. The Diet Members Forum has repeatedly confirmed this position through questions on the Diet floor and through written questions to the Government.[174]

298. The overriding determinant of Japan's position on the Timor issue in the 1970s and 1980s was its economic relationship with Indonesia. Following its defeat in the Second World War, Japan focused on rebuilding its economy which has a low natural resource base and is heavily dependent on good international relations. These economic objectives dictated its foreign policy which was kept low-profile and essentially aligned with that of the US.

299. Indonesia and Japan established formal diplomatic relations in 1957, following protracted negotiations over Japan's reparations debt to Indonesia arising from its occupation of the former Dutch colony between 1942 and 1945. An expansion in Japanese investment, resource exploitation and aid followed. Indonesia, which has a vast market, natural resources and strategic location, became increasingly important to Japan's economy regardless of who holds power in Jakarta. A significant percentage of Japan's oil supplies and trade flowed through the Straits of Malacca. After the Soeharto regime took power, Japan helped establish the international aid consortium, the Inter-Governmental Group on Indonesia (IGGI), which held its first meeting in Tokyo in 1967. By the 1980s Japan was Indonesia's largest investor and aid donor, and very protective of the relationship. Japan's response to Timor-Leste was circumscribed by these priorities.

300. In 1979, Japan provided 100m yen to the joint Indonesian Red Cross-International Red Cross famine relief program in Timor-Leste. In 1991, the Government of Japan decided to make human rights and other factors such as military expenditure by the recipient country a consideration in the allocation of its massive aid programme. The Japanese Diet Members Forum on Timor-Leste welcomed the initiative stating that "if these criteria are honestly applied to Indonesia, the number one recipient of Japan's Overseas Development Assistance (ODA), discussion on the issue of East Timor will be inevitable".[175] This did not happen. The Government would appear to have backed away from this important commitment by signing, in 1993, the Bangkok Declaration on Human Rights, which stated that aid should not be linked to human rights. Although they rate Japan's domestic human rights record as the best in East Asia, Kenneth Christie and Denny Roy concluded that:

> In practice, the promotion of human rights has not been much of a factor in Japan's overseas development assistance.[176]

301. In the 1990s, Japan moved to play a relatively more positive role on the question of Timor-Leste. This was due in large measure to developments in Timor-Leste and

domestic pressures, particularly from a cross-section of civil society organisations and members of the Japanese Diet committed to upholding the right of the people of Timor-Leste to self-determination.*

302. An example of civil society advocacy was the testimony to the UN Special Committee on Decolonisation in 1987 by Mr Iwamura Shouhachi, a former Japanese army officer who served in Timor-Leste from 1942 to 1945. In his presentation, he called on Indonesia not to repeat mistakes made by Japan during the Second World War and to allow genuine self-determination:

> In Japan I am simply one elderly citizen, but I am determined never to forget the crimes Japan committed in the Second World War and to act on what I have learned from bitter experience.

303. Breaking down in tears, he told the Committee:

> It is painful to speak today of the sacrifices and burdens we forced upon the East Timorese, a people who had nothing to do with the war…The Japanese Government has never apologised or paid reparations to East Timor for what it did there in World War II: it should.†

304. In 1995, in response to persistent domestic pressure and developments in Timor-Leste, the Murayama LDP/Socialist Coalition Government changed Japan's position from one of detached observer to one of support for the UN process. At APEC conferences in 1995 and 1996 Japanese Foreign Ministers told their Indonesian counterpart, Ali Alatas, of Japan's interest in seeing the issue solved peacefully and quickly through the good offices of the UN Secretary-General.‡ This policy shift also opened the way for Japan to provide financial resources for the UN process, including

* Sister Monica Nakamura told the Commission that the principal objective of the Free East Timor Japan Coalition, the main Japanese national umbrella network, was "to support the East Timorese right to self-determination. As for humanitarian aid, we did [provide it] on some occasions, but we concentrated on the self-determination issue." CAVR National Public Hearing on Self-determination and the International Community, 15–17 March 2004. The Coalition numbered some 40 groups nationwide.

† 13 August 1987, reported in *The Australian*, 15 August 1987. The Allies and Japan both occupied Portuguese Timor from 1942 to 1945 in violation of Portuguese neutrality. Japan's troops were responsible for extensive loss of life, violations of women, and physical destruction. According to a 1996 survey in Timor-Leste, at least 700 East Timorese women were sex slaves for Japanese soldiers (*Japan Times*, 14 December 2002). Since the war, Japan has paid war reparations to regional neighbours to ease its re-integration into the region and has explicitly apologised for wartime aggression and violations. Indonesia received US$223m from Japan, plus US$400m in aid and cancellation of a US$177m trade debt. Timor-Leste was not compensated for wartime losses because Portugal, due to its neutrality during the war, was not a signatory to the 1951 San Francisco Conference which determined Japan's reparations obligations. Japanese NGOs and the Japanese Catholic Church continue to call for an official apology and reparations, including from the Asian Women's Fund established in 1995 by then Prime Minister Tomiichi Murayama, and have assisted East Timorese victims to testify in Tokyo.

‡ The meeting between Japanese Foreign Minister Kono and Ali Alatas took place during the Osaka APEC meeting in November 1995 while East Timorese youth were seeking asylum in the Japanese embassy in Jakarta. The 1996 meeting was between Foreign Ministers Yukihiko Ikeda and Ali Alatas and occurred in the Philippines after the Nobel Peace Prize was awarded to Bishop Belo and José Ramos-Horta.

the All-Inclusive Intra-East Timorese Dialogue (AIIETD) to which Japan contributed $100,000 in 1996.

305. At the same time, Japan was careful to quarantine the issue from its important economic relationship with Indonesia. Although nearly half of the Japanese Diet signed a petition criticising the Indonesian military for the 1991 Santa Cruz massacre, the Japanese Government refrained from direct criticism and limited its response to one of regret. It offered no official response to the granting of the Nobel Peace Prize to Bishop Carlos Belo and José Ramos-Horta in 1996. When José Ramos-Horta visited Japan in January 1997 at the invitation of civil society groups, the Foreign Minister was not available to meet him.* The Jakarta Post reported that Prime Minister Ryutaro Hashimoto, who was visiting ASEAN countries to discuss the Asian economic crisis, told President Soeharto that no Japanese senior officials would meet José Ramos-Horta.†

306. Following Kofi Annan's decision in 1997 to invigorate the question of Timor-Leste, Japan was one of a core group of five nations acknowledged for their supportive role by Jamsheed Marker, the Personal Representative of the Secretary-General for Timor-Leste.‡ The Japanese Government supported President Habibie's decision to allow a vote in Timor-Leste and the UN-organised Popular Consultation held on 30 August 1999. After the ballot, Japan called for the result to be respected by all parties and for Indonesia "to fulfil its responsibility for security (and) to take all necessary measures" to control the militia.[177] Japan announced it would provide as much assistance as possible for the transition, but refused to interrupt aid to Indonesia in response to the destruction and warned other donors that cutting off aid could destabilise Indonesia's economy and set back East Asia's economic recovery. Japan was prevented by its constitution from contributing troops to the International Force for East Timor (Interfet) but was the principal donor to Interfet with a contribution of $100 million to allow for troops from developing countries to participate. In line with previous undertakings, Japan also provided generous assistance to meet humanitarian and reconstruction costs in Timor-Leste.§

* José Ramos-Horta was told the Foreign Minister was occupied managing an emergency in Peru where militants had seized the Japanese Embassy.

† Japan-Indonesia economic relations suffered a setback in 1997 not because of Timor-Leste the country but "Timor" the car. When President Soeharto awarded monopoly rights for the franchise for a new Indonesian car to be called the "Timor car", Japan considered the move was detrimental to its automobile interests in Indonesia. It protested to the World Trade Organisation earning a rare rebuke from President Soeharto.

‡ The PRSG complimented Ambassador Yukio Takasu for his contribution (Jamsheed Marker, pp. 14, 74).

§ This included $2m for East Timorese refugees and substantial contributions to the Trust Fund (TFET) established for the reconstruction of Timor-Leste. Press Release, Ministry of Foreign Affairs of Japan, 4 October 1999.

Conclusion

307. It is clear from the preceding survey that for most of the mandate period the major powers, regardless of ideology, location or responsibilities for international order, shared more or less the same attitude towards the question of Timor-Leste. With the exception of China during the early years of the Indonesian occupation, governments of diverse political complexions in Europe, Asia and North America gave significantly more weight to Indonesia than Timor-Leste. Some of these governments worked harder than others to support and consolidate Indonesia's presence, but those who voted for Timor-Leste at the UN also continued to prioritise their relationship with Indonesia and were not active in support of self-determination outside the UN.

308. This attitude was widely shared by many other UN members. Western governments such as Canada and New Zealand, and Asian governments such as India, Malaysia, Singapore, Philippines, Brunei and Thailand all allied themselves strongly with Indonesia. Generally speaking, the only conspicuous exceptions to the rule were Portugal, its former African colonies and a scattering of smaller states.

309. Official international attitudes on the Timor-Leste question were coloured by a mind-set which emerged during the Salazar era and was further developed and entrenched in the 1970s. This mind-set was deeply negative in character and highly prejudicial to the aspirations and rights of the East Timorese people. Governments acknowledged the right of the people of Timor-Leste to self-determination and stated that they did not condone the manner of Indonesia's incorporation, but the overall thrust of their approach, if not intention, was to legitimise and consolidate Indonesia's takeover. The main features of this mind-set can be summarised as follows:

1. Independence for Timor-Leste is not possible or desirable. The view that an independent Timor-Leste was not economically, socially or politically viable was considered self-evident in the 1960s and was widely shared in official circles in Portugal, Indonesia, Australia and the US at that time. It became a dogma in the 1970s and after Fretilin's emergence was highly coloured by the view that a potentially weak, left-leaning mini-state within the Indonesian archipelago would be a threat to regional stability. It is likely, however, that an independent Timor-Leste led by UDT would also have been unacceptable.*

2. The eastern half of the island of Timor is a natural part of Indonesia. This view was promoted as self-evident to anyone who examined Timor-Leste's location on the map in relation to Indonesia. President Soeharto and East Timorese advocates of

* After visiting the territory in early 1978 following the Indonesian takeover, New Zealand's Ambassador to Indonesia, Roger Peren wrote: "In sum, the people are poor, small, riddled with disease and almost totally illiterate, very simple and, we were told again and again, 'primitive'…this is something that one has to think about when judging their capacity to take part in an act of self-determination or even to perform as responsible citizens of an independent country." 13 January 1978, in NZ…OIA Material, Vol. 1.

integration stressed that in their view the peoples of Timor-Leste and Indonesia were brothers and that integration was a "natural" reunion after centuries of separation by European colonialism.* Western policy makers also chose to present integration, in Henry Kissinger's terms, as "the normal evolution of the end of colonial rule".[178]

3. Indonesia was forced by circumstances to intervene. Starting in the 1960s, Indonesia constantly informed the international community that it had no legal claim or territorial ambitions in respect of Timor-Leste. The absorption of Timor-Leste would be more "a defensive reaction than a nationalistic imperative".[179] In addition to security reasons, Indonesia also sought to justify its takeover on humanitarian grounds. Yusuf Wanandi, an adviser to President Soeharto, told the Canadian press in 1984:

   "We woke up one day and realized what a mess we had right on our doorstep. The Portuguese had left a complete vacuum…The place was in chaos. I think we were more or less forced to do what we did."[180]

   This claim was echoed internationally throughout the conflict. As late as 1995, the New Zealand Foreign Minister, Don McKinnon, questioned calling Indonesia's annexation an "invasion" and stated that Indonesia intervened because of a "huge refugee problem" and to "support the weaker side" in a bloody civil war.[181]

4. Fretilin is not politically acceptable or legitimate. Indonesia and pro-integration East Timorese encouraged anti-Fretilin sentiment by demonising Fretilin as communist, terrorist, unrepresentative and power hungry. Although Western and other officials did not agree with many of the Indonesian claims, governments were often hostile to Fretilin and reluctant to deal with its representatives even though the UN accepted Fretilin as a legitimate spokesperson for Timor-Leste.

5. The Indonesian occupation is irreversible. This was considered to be mathematically self-evident because of Indonesia's overwhelming superior numbers and military strength and the word "irreversible" recurred like a mantra in official statements for many years.† Many

* This view gained currency in Indonesia and explains the sense of "hurt" felt in some quarters when the people of Timor-Leste chose independence from Indonesia. See, for example, Lela E Madjiah's book entitled *Timor Timur: Perginya Si Anak Hilang [East Timor: The Departure of the Lost Child],* Pustaka Antara Utama, 2002. Reporting on General Benny Moerdani's death in 2004, David Jenkins wrote: "Moerdani always thought East Timor belonged within Indonesia, and was consumed with bitterness when, in 1999, President Habibie, whom he'd always detested, allowed East Timor to vote itself out of the republic." *Sydney Morning Herald*, 10 September 2004.

† Jill Jolliffe proved to be correct when she observed in 1978 that "the only thing irreversible about East Timor was the killing", *East Timor: Nationalism and Colonialism*, University of Queensland Press, St. Lucia, 1978, p. 304.

governments voted against resolutions on Timor-Leste at the UN on the grounds that Indonesian sovereignty was a *fait accompli*. For the same reason, they reduced the issue in international terms to a residual bilateral problem between Portugal and Indonesia which the UN should help resolve.

The Vatican*

Preface

310. The Catholic Church was a major stakeholder in the Timor-Leste issue during the Commission's mandate period 1974-99. The struggle over Timor-Leste's decolonisation impacted deeply on the Church and it became involved at all levels, from the grassroots in Timor-Leste to the upper echelons of the Church hierarchy in Rome. The significance of the issue to the Church and the political importance of the Vatican to the Indonesian Government is clear from the fact that Pope John Paul II was the only world leader to visit the territory during the Indonesian occupation. This section examines how the Vatican responded to the robust advocacy of the East Timorese people's right to self-determination by the local Church.

Background to the Vatican

311. The Vatican has significant influence and outreach, both directly through its own official channels and indirectly through its vast membership of about one billion people and networks of institutions, many of which are strategically positioned. Based in Rome and headed by the Pope, the Vatican is the central authority of the Roman Catholic Church. Its political and diplomatic activities are directed by the Secretary of State, the most important official under the Pope. The Vatican has formal diplomatic relations with most countries and maintains about 100 permanent diplomatic missions abroad. These include Washington, Lisbon, Canberra and Jakarta where the nunciature was opened in 1965. The Vatican (or "Holy See") has had a permanent observer mission at the United Nations since 1964; as such it has a voice in UN deliberations, but not a vote. It also has diplomatic relations with the European Union and most UN Specialised Agencies. Its official radio station, Radio Vatican, is widely listened to in Europe. Its semi-official newspaper, L'Osservatore Romano, is published daily in Italian and weekly in English, Spanish, Portuguese, German and French.

312. The Second Vatican Council, which concluded ten years before the Indonesian invasion, instructed that these networks and resources should serve truth, peace and

* The Commission has drawn on numerous sources for this section, including direct testimony to CAVR. It wishes to express special appreciation to Arnold Kohen and Father Patrick Smythe for their submissions and advice. Arnold Kohen is the author of *From the Place of the Dead – Bishop Belo and the Struggle for East Timor*, Lion Publishing, Oxford, 1999. Patrick A Smythe is author of *The Heaviest Blow – The Catholic Church and the East Timor Issue*, Lit Verlag, Münster, 2004.

justice, particularly for the poor and dispossessed. Church and state have different roles, and the Catholic Church, though highly centralised, is not monolithic. As the centre of a global institution, the Vatican is faced with many policy dilemmas and pressures from competing interests, both within and outside the Catholic community. On the other hand, it is also true that it has significant resources and influence at its disposal and, in the case of Timor-Leste, was particularly well-informed about the situation and the aspirations of the local Church for which it assumed direct responsibility.

The Catholic Church in Timor-Leste

313. The Catholic Church in Timor-Leste had three leaders during the period 1974-99: Bishop José Joaquim Ribeiro, Dom Martinho da Costa Lopes and Dom Carlos Filipe Ximenes Belo SDB. During the Indonesian occupation, each leader initially sought to bring an end to violence through dialogue and direct representation to the secular authorities. When this failed, each in turn took an increasingly vocal role to protect the rights of the people. From around 1983, the Church increasingly called for self-determination in the conviction that the proper exercise of this collective right was the key to long-term peace and the enjoyment of individual rights. It was the local Church's exercise of this prophetic role and its advocacy of the political right to self-determination that presented the Vatican with its biggest challenge on the issue, even though it too supported self-determination in principle.

Bishop José Joaquim Ribeiro (1966–1977)

314. Bishop Ribeiro, a Portuguese national, was head of the Church during the last two years of the Portuguese administration and the first two years of the Indonesian occupation.

315. Prior to the Indonesian invasion, the role and status of the Church in Timor-Leste was determined by the 1940 Concordat between the Vatican and Portugal. Based on this agreement, the Church in Timor-Leste enjoyed certain privileges including state subsidies, tax exemptions, and large land grants. It also had responsibility for education and was the principal agent of Portugal's 'civilising mission'.* This privileged relationship ended with the Carnation Revolution in Portugal. As an integral part of the old colonial system, the Church was deeply challenged by the changing political environment and a period of acute anxiety and confusion ensued, exacerbated by the violence of the civil war and the looming Indonesian invasion.

316. In Timor-Leste, Fretilin's program included a critique of the Church's role in colonialism and its large land holdings. Many clergy and religious favoured UDT and were concerned about communism. Bishop Ribeiro publicly denounced Fretilin as

* In the context of the ferment in Church thinking surrounding the Second Vatican Council (1962-65) and liberation movements in Africa and Latin America, some missionaries used their teaching role to critique colonialism and to introduce their students to new ideas. This was particularly true of the Jesuit seminary in Dare which became the *alma mater* for many of Timor-Leste's future nationalist leaders.

'communistic'. In a Pastoral Letter issued on 25 January 1975, he forbade Catholics to vote for Communists or Socialists, defended private property and warned that Marxism threatened 'to extinguish the positive values of the Timorese people'.* Though modified later, his views influenced Church perceptions of Fretilin and attitudes to the Timor-Leste question in the Vatican and in countries to which East Timorese refugees fled at the time of the civil war, particularly Indonesia, Portugal and Australia.

317. The Indonesian invasion and annexation of Timor-Leste took place towards the end of the pontificate of Pope Paul VI (1963-78). Paul VI played a central role in shaping and implementing the changes introduced by the Vatican Council, including its doctrine on social justice. He strongly opposed violence, making a memorable speech to the United Nations in 1963 in which he declared 'no more war, war never again'.[182] His Vatican Secretary of State, Jean-Marie Cardinal Villot (1969-79), was well-informed about the invasion and its humanitarian impact from several sources. These included Bishop Ribeiro, who expected that Indonesia's military intervention would be benign like India's actions in Goa, but was deeply disturbed by what he witnessed. Early in 1976 he told the Indonesian Government that "your Indonesian troops, with their murders, their violations and pillaging are a thousand times worse" (than Fretilin) and added that "the Indonesian paratroopers descended from heaven like angels but then behaved like devils".[183] He continued to make representations until, disillusioned, he retired to Portugal in 1977.

318. The Commission, however, has not been able to find any evidence that Pope Paul VI made public comment on the invasion or used his office to back calls by the UN Security Council for the withdrawal of Indonesian forces.

319. The Vatican Nuncio in Jakarta, Vincenzo Farano (1974-80), was also well-informed. He believed the Church had nothing to fear from incorporation into Indonesia but, like Bishop Ribeiro, was shocked by the violence. In response, he personally provided medical aid and made frequent visits to Timor-Leste, including to Fretilin-held areas, and to the civil war refugees in West Timor. Though further removed, the Papal Nuncio in Australia was also well aware of developments from the media and sources such as the Australian Catholic Commission for Justice and Peace which issued a series of statements about Timor-Leste in 1975 and 1976.

Dom Martinho da Costa Lopes (1977–1983)

320. Bishop Ribeiro resigned on 23 October 1977. Because of the disputed status of Timor-Leste, the Vatican then assumed direct management of the local Church rather than incorporate it into the Indonesian Church. After consultation with the local

* Patrick A Smythe, *'The Heaviest Blow' – The Catholic Church and the East Timor Issue*, Lit Verlag, Münster, 2004, p. 36. The Bishop of Atambua in Indonesian West Timor, Theodore van den Tillart SVD, also described Fretilin as Marxist to Australia's Cardinal Knox and said it received help from international communism and was guilty of extensive human rights abuses. Cardinal Knox subsequently served in the Vatican. Smythe, p. 72.

clergy, it appointed Dom Martinho da Costa Lopes as Apostolic Administrator, making him the first indigenous head of the Catholic Church in Timor-Leste. He was directly accountable to Rome through the Nuncio in Jakarta.*

321. This arrangement was politically significant. It signalled the Vatican's support for a UN process of self-determination rather than Indonesia's claim that the territory's political status had been resolved. Interviewed in Rome in 1980, Vatican officials stated that they regarded Timor-Leste as an 'occupied country' in which there had been no genuine act of self-determination. They added that the Vatican would not recognise Timor-Leste as part of Indonesia until it was clear this was the decision of the people endorsed by the United Nations.[184] Consistent with this policy, the Vatican maintained direct responsibility for the local Church throughout the conflict, thereby providing some protection and international access for its officials, and rejected pressures from Indonesia for ecclesiastical integration.† However, the Vatican did not publicise or promote its position internationally. Very few Catholics or the general international public were aware that the Vatican supported the right of the East Timorese people to self-determination.

322. Monsignor Lopes tenure was relatively brief. For the first three years, he adopted a co-operative approach in his dealings with the Indonesian authorities regarding the many violations communicated to him by the priests and people. He also kept the Indonesian Bishops and the Papal Nuncio in Jakarta informed. The Commission has not been able to find any record that the Vatican made any public or significant intervention in support during this period.

323. From 1981, Monsignor Lopes' relations with the Vatican and the Indonesian military soured, and in April 1983 he resigned under pressure from both bodies. The reasons for this unfortunate breakdown with the Vatican related to fundamentally divergent views on the issue and how to manage it. This was a period of intense crisis following severe Resistance losses, famine and, in mid-1981, a new military offensive against Fretilin. The Vatican was also concerned that escalating Church involvement in the conflict would harm the Church in Indonesia.

324. The Vatican Secretariat of State under Cardinal Agostino Casaroli (1979-90) shared the view of many governments that the Indonesian takeover was irreversible both internally and diplomatically and that continued resistance was futile and harmful. Pat Walsh informed the Commission that both the Papal Nuncio in Jakarta, Monsignor Pablo Puente, and his colleague at the UN in New York, Monsignor Ettore de Filippo, told him in 1980 that the Indonesian takeover of Timor-Leste was a fait accompli, that development under Indonesia was better than under Portugal, that the Vatican's responsibility was to protect the interests of the local Church and that this could best

* Monsignor Lopes was not ordained a bishop, but because of his position, East Timorese generally referred to him as Bishop.

† In their May 1980 report to the Vatican, the Indonesian Bishops, themselves under pressure from their government, asked 'that the Holy See weigh and consider the status of the Catholic Church in Timor-Leste so that it might enter fully into the Indonesian Bishops Conference'. Smythe, p. 59.

be achieved through co-operation with Indonesia.[185] The Vatican also believed that quiet diplomacy was more productive than public diplomacy.* Positive results from this approach could be pointed to in some areas, for example, the introduction of Tetum as the language of catechesis and liturgy – a significant contribution to cultural survival – and the granting of visas to missionaries. Monsignor Puente also believed that Indonesia had accepted that the heavy-handed military approach was wrong and that they were listening to his proposals for a substantial role for the Church.

325. Monsignor Lopes took a completely different point of view, which effectively cut across the Vatican strategy and was tantamount to insubordination. After six difficult and frustrating years, he did not share the Vatican's faith in the military and integration. In May 1981 he publicly denounced military excesses for the first time, and when reproached by ABRI for not coming to them in private he responded that previous direct approaches to senior military, including the Defence Minister, General Yusuf, had not resulted in any change.† He also criticised the Church. In July 1981, he co-signed a statement to the Indonesian Church which challenged it and the Vatican for their silence. Referring to the deaths of over 200,000 people over the previous six years, the statement lamented:

> We do not understand why the Indonesian Church and the Universal Roman Church have up till now not stated openly and officially their solidarity with the Church, people and religious of Timor-Leste. Perhaps this has been the heaviest blow for us…We felt stunned by this silence which seemed to allow us to die deserted.[186]

326. He disagreed that the East Timorese should give up. He advocated non-violence, but defended Fretilin's right to self-defence and collaborated with the Resistance leader Xanana Gusmão.‡

327. In 1981, the Vatican refused a request by Monsignor Lopes to meet the Pope. In 1982, the Vatican found fault with Monsignor Lopes after he became the centre of controversy over the extent of the food problem in Timor-Leste following the 1981 military offensive. Monsignor Puente criticised the Apostolic Administrator during a meeting with the former Australian Prime Minister, Gough Whitlam, who had visited Timor-Leste and did not believe there was a food crisis. The Australian Government

* The Vatican representative to the UN, Monsignor Renato Martino, told Patrick A Smythe: "The Holy See operates in a very quiet way, a silent way…There is no trumpet call, no intention for publicity." Smythe, p. 191. Monsignor de Filippo told Pat Walsh that at that time he had a passive brief on Timor-Leste at the UN.

† Rowena Lennox quotes the Apostolic Administrator saying about this time: "Taking into account the prophetic nature of my mission, I feel an urgent need to tell the whole world…about the genocide being practiced in Timor, so that, when we die, at least the world knows we died standing." *Fighting Spirit of East Timor: The Life of Martinho da Costa Lopes*, Pluto Press, London, 2000, p. 174.

‡ At Xanana Gusmão's request, Monsignor Lopes smuggled out of Timor-Leste for delivery to the Fretilin External Delegation literature damaging to the Indonesian military and tapes and photographs of the ceasefire talks in 1983. He told a seminar in Melbourne in October 1983: "José Gusmão Xanana says Fretilin is the people and the people is Fretilin. It's true." *ACFOA East Timor Report, No. 5*.

record of the meeting states that: "Puente spoke of the Administrator in measured, but very critical, terms. Mr Whitlam said he considered that the Administrator had behaved in a 'wicked' fashion. Puente did not demur."* In a communication to the Australian Bishops, the Vatican Secretariat of State criticised Monsignor Lopes for exaggerating the food situation and, in a veiled criticism of the Administrator, asked that the delicate question of Timor-Leste be treated with discretion and prudence. In March 1983, General Benny Moerdani, a Catholic, was appointed head of the Indonesian armed forces and pressed Monsignor Puente to replace Monsignor Lopes. This occurred in April, and on 17 May Monsignor da Costa Lopes flew out of Dili accompanied by the Papal Nuncio.† Fretilin rejected calls to surrender by General Moerdani in August and a new offensive was launched by the Indonesian military.

328. Monsignor Lopes' fellow priests were angered at his treatment. Writing in April to Catholic Bishops throughout the world, a group of priests commended him for often being "the only voice raised in defence of the people on whom silence and fear are imposed and for whom the exercise of freedom of expression will only result in imprisonment or disappearance". Their statement expressed "disappointment" and "profound hurt" at the "campaign of defamation" brought against him.[187]

329. On his way to Portugal, Monsignor Lopes was received by Pope John Paul II in Rome and spoke positively of the Pope's attitude. He also met with Cardinal Casaroli and told him "you are wrong about Timor-Leste". He later travelled extensively in Europe, North America and the Pacific advocating self-determination and independence and, though discounted in some quarters as a credible witness, contributed to the mobilisation of numerous Church agencies in support of Timor-Leste. He did not return to his homeland and died in Portugal in 1991.

Dom Carlos Filipe Ximenes Belo SDB (1983–2003)

330. The Vatican's appointment of Dom Carlos Belo was made without proper consultation of the local clergy and was initially resented by them, particularly in the context of Monsignor Lopes' resignation. Monsignor Belo carefully avoided political partisanship, which damaged his relations with the Resistance, but like his two predecessors was gradually forced to become more outspoken. He explained the dynamics in a letter to the Papal Nuncio in Jakarta:

> Since 1983, the year I was appointed Apostolic Administrator, we have every year witnessed the same abuses. We have spoken to the authorities, but to no effect. The People are the ones who suffer.[188]

* Submission and additional information from Hon. E G Whitlam, Australian Senate Inquiry into East Timor, 1999, pp. 18, 97. Mr Whitlam publicised his criticisms of Monsignor Lopes widely, particularly in Australia.

† José Ramos-Horta recounts that Monsignor Lopes said his resignation was due to political pressures but that he accepted it "as God's design" and never criticised the Pope or Monsignor Puente (*Funu*, pp. 203-4). All accounts refer to General Moerdani's intervention, though it was clear that the Vatican had already lost confidence in its Administrator.

331. From early in his term, he committed himself to self-determination both as a right and as a formula for lasting peace. On 5 December 1984, he wrote to the Catholic Commission for Justice and Peace in France:

> Despite all forces against us, we continue to hold and disseminate that (the) only solution to the Timor-Leste conflict is a political and diplomatic one, and this solution should include, above all, respect for the right of a people for self-determination. We also want that the Pope John Paul's words to the Indonesian Ambassador to the Holy See, namely, respect for the cultural, ethnic and religious identity of the People of East Timor, be put into practice. As long as this is not implemented there will not be a peaceful solution for Timor-Leste.[189]

332. As a mark of its confidence, the Vatican made Monsignor Belo a Bishop in 1988. In February 1989, the new bishop repeated his support for self-determination in a private letter to the UN Secretary-General, Javier Perez de Cuellar. Similar letters were sent to the Portuguese President and the Pope. His letter challenged the Secretary-General to go beyond his contacts with Portugal and Indonesia and to consult the East Timorese people directly through a referendum. The letter explicitly rejected Indonesia's strongly held claim that Timor-Leste had fully exercised its right to self-determination and implied that claims by East Timorese political parties about Timor-Leste's status were also invalid. The Bishop wrote:

> The people of East Timor must be allowed to express their views on their future through a plebiscite. Hitherto the people have not been consulted. Others speak in the name of the people. Indonesia says that the people of East Timor have already chosen integration, but the people of East Timor themselves have never said this. Portugal wants time to solve the problem. And we continue to die as a people and as a nation.

333. In response to pressures to withdraw the letter, the Bishop stated that he was not advocating one political option over another, but affirming a democratic principle. The Papal Nuncio, Monsignor Francisco Canalini, distanced himself from the letter stating its contents were Bishop Belo's personal views only.[*] In 1987 he had stated the Vatican's official position in an interview with an Indonesian publication but indicated the policy was more a legal technicality than real. In 1990 he was asked to clarify the Vatican's position on Timor-Leste during a celebration in Dili but declined.

334. Bishop Belo's stand did much to strengthen his relations with the Resistance and earned him the Nobel Peace Prize in 1996. The prestigious award, which he shared with José Ramos-Horta, focused international attention on the primacy of self-determination and contributed to the momentum that culminated in the exercise of

* The *Reader's Digest* reported that the Papal Nuncio told Bishop Belo to stay out of politics. Paul Raffaele, "Hero of a Forgotten People", *Reader's Digest*, March 1996. The edition was banned from newsstands in Jakarta.

this right in August 1999. The President of Pontifical Justice and Peace Commission, Cardinal Roger Etchegaray, who had made a welcome visit to Timor-Leste in February that year, joined Bishop Belo at the award ceremony in Oslo.*

335. The Vatican discouraged other Bishops from speaking out on Timor-Leste. In response to Bishop Belo's letter to the UN, Dom Manuel da Silva Martins, the Bishop of Setubal in Portugal collected the signatures of 160 Bishops in a letter of support to the UN. Cardinal Casaroli forbade him to send the letter and also prohibited him from speaking publicly about the issue. He did not concur, and the ban was relaxed after the Santa Cruz massacre in 1991.† Bishop Soma of Japan, who collected 1,257 Church signatures for a similar letter of support to the UN, was also cautioned by the Vatican. Sister Monica Nakamura told the Commission:

> *Bishop Soma told me one day that after he started expressing his solidarity with Timor-Leste, he had gotten a letter from a Vatican official asking him just who had given him permission to do this sort of thing. Bishop Soma said with a broad smile that there is absolutely no need to ask permission to do the right thing.*[190]

336. In Australia Bishop Hilton Deakin also declined to refrain from making public statements.

Pope John Paul II's visit to Timor-Leste in 1989

337. Many expected that Pope John Paul II's visit to Timor-Leste in 1989 would clear up ambiguities in the Vatican's policy on the territory and establish unequivocally where the Holy See stood. Though appreciated, the Pope's previous expressions of concern were limited to recognition of the suffering in Timor-Leste, prayerful support and admonitions to the Indonesian Government and others to respect the identity of the East Timorese people.‡ Aware of his role in bringing about political change in Poland, East Timorese hoped the Pope would use the visit to support political self-determination but feared it would sanction Indonesian sovereignty. The visit did neither. The Pope acknowledged the conflict and articulated principles for a solution, but stressed the pastoral nature of his visit and stated that a political solution was a matter for the United Nations, not the Vatican.

338. In an interview on Portuguese radio in 1991, he reflected on the visit:

> I went to Timor-Leste, not as a politician but as Pope and bishop, as pastor of the Church visiting the various Catholic communities…what

* Bishop Belo commented that Cardinal Etchegaray's visit had "boosted confidence in the Vatican". *CIIR Timor Link*, March 1996.

† The Papal Nuncio barred all reference to Timor-Leste in the Portuguese hierarchy's five-yearly *ad limina* reports to the Vatican on the grounds that the Diocese of Dili was no longer Portugal's responsibility. Smythe, p. 91.

‡ For example, Pope John Paul II's Mass at Fatima in 1982 was translated into Tetum.

> I wish for that community – which I also said during my visit to Timor – is that it should be able to live in accord with its own principles and customs, its language and its own culture, its own tradition and religion. The political problem is a problem to be taken up in another place: the United Nations. And I hope – I said this there and I must say it again now – that the problem of Timor-Leste will be resolved in accord with the principles of justice and human and national rights…I have maintained contact with their Bishop, Monsignor Belo. I have also there given special homage to the victims…But one thing must be stressed: If you talk about forgetting Timor, then that does not correspond with my true feelings, because I say a prayer for that island every day.[191]

339. The East Timorese people deeply appreciated the Pope's visit. What mattered most was that he came. Alex Gusmão, one of the students who demonstrated at the close of the Papal Mass at Tacitolu, told the Commission:

> *We felt very proud. If he'd only come to Indonesia it would have meant he accepted East Timor as part of Indonesia, but he singled us out. It gave us a lot of hope.*[192]

340. East Timorese differentiated the Pope from the Vatican bureaucracy about whom they remained highly critical. The then leader of the Resistance, Xanana Gusmão, who welcomed the Papal visit, said in 1991 in response to a question about the Vatican:

> We all know about the expulsion of Monsignor Lopes and the expulsion of the Portuguese priests, and we expect that one day Monsignor Belo will also be expelled. I think that it's an immoral attitude on the Vatican's part and that they're acting in their own political interests. The statement by Father Tucci who came to prepare the Pope's visit is very revealing. He stated that the Vatican shouldn't sacrifice its interests for the sake of a few hundred thousand Catholics. I don't think that is a correct attitude. We continue to feel Jakarta's influence on the Vatican and, in consequence the influence the Vatican exerts on the Church of Timor-Leste.[193]

341. Following the visit, John Paul II placed more emphasis on the need for a peaceful and just resolution of the conflict. In keeping with this, the Vatican mission to the UN became more active and made continuous representations in favour of troop reductions, human rights and dialogue. In 1998, the Pope and the Secretary of State, Cardinal Angelo Sardono, met with the UN Secretary-General on the issue and gave their support to the UN process. The violence after the August 1999 Popular Consultation filled the Pope with disgust:

> I cannot keep quiet my profound bitterness for yet another defeat of any sense of humanity when, at the dawn of the Third Millennium, fratricidal hands are raised once more to kill and destroy without mercy…in the

> vain attempt to wipe out the desire expressed by the population and their legitimate aspirations…[194]

The Vatican's position on Timor-Leste and its relationship with Indonesia

342. The Vatican stopped short of mobilising its global resources in support of the political self-determination considered by the local Church and its Apostolic Administrator to be the key to peace. This was dictated by three related considerations: the Vatican's concept of the Church's mission, concern for the Catholic Church in Indonesia, and the Vatican's diplomatic modus operandi.

343. The Church's mission was spelled out by the Second Vatican Council (1962-65). In brief, it committed the modern church to both a spiritual and a social mission in the world, independent of any political system. The Vatican and the Church of Timor-Leste differed, however, in their interpretation of this mission in the context of the crisis in Timor-Leste. The local Church, which had been part of the Portuguese colonial system, now emphasised its community basis, independence from the state and prophetic role.* The Vatican preferred a more conciliatory approach and stressed principles without being direct or specific. It also considered that policy and management of the question was primarily its prerogative, not that of its local representative.

344. The Vatican's response was also shaped by its responsibilities for the welfare and mission of the Church in Indonesia and sensitivity to its situation as a minority in the world's most populous Muslim nation. At their first meeting in 1985, the Pope told Bishop Belo:

> I understand your position. I pray for Timor. I suffer for Timor. But, on the other hand, the Church in Indonesia also needs our attention.[195]

345. Church-state relations have been generally positive in Indonesia since Indonesian independence. As happened in Timor-Leste, independence was actively supported by many in the Catholic Church and resulted in the establishment of a secular, not an Islamic, state. This relationship deepened after General Soeharto came to power in 1965. The Church, aligned with the military and Soeharto, played a part in 'immunising' the community against communism and joined the New Order as a partner in nation-building through, inter alia, its respected network of health and educational institutions.†

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* In a press release in 1996, Bishop Belo said: "I am fully aware of the norms of the Catholic Church which demands a religious leader to stay away from the concrete political practices specific to the field of politicians. But as a bishop I have a moral duty to speak for the voice of the poor and the simple people who, when intimidated or terrorized, cannot defend themselves or make their suffering voiced." 25 November 1996. The Indonesian Catholic priest Fr Mangunwijaya supported Bishop Belo's approach and said that the Indonesian Pancasila also obliged him to speak out in the public interest.

† The role of the Catholic Church at the time of the purge of the Indonesian Communist Party (PKI) is not well documented. The Bishops were dismayed by the number of killings and asked pardon for any irresponsibility on their part that may have contributed to the bloodbath. The Catholic activists Harry Tjan and Yusuf Wanandi, who advised President Soeharto on the takeover of Timor-Leste, were actively involved in anti-communist activity and forged close links with the military.

Catholics gained a number of influential positions in the Soeharto Government which served to protect the Church against militant Islam. Like the Indonesian Church itself, the Vatican was reluctant to risk destabilising these relationships by identifying too closely or publicly with the Timor-Leste issue.* It also appreciated the benefits of harmonious relations with Indonesia for its dealings throughout the Islamic world and preferred Timor-Leste to be seen as a political, not a religious, issue which it feared might happen if the wider Church became too involved. The Indonesian Church was not insensitive to the suffering in Timor-Leste and the pleas of the local Church, but acknowledged its political constraints and restricted support to practical forms of aid and assistance. In a letter to Monsignor Belo on 17 November 1983, written after he had briefed the Bishops at their assembly, the Indonesian Bishops Conference wrote:

> The Catholic Church in Indonesia…in spite of all restrictions, has made every possible effort to express its solidarity and friendship with the Faithful and the people of Timor-Leste who are being deluged by the most bitter trials, both physically and spiritually.†

346. Some individual Indonesian priests urged a stronger stand which, if taken, may have allowed the Vatican more options.

347. As already mentioned, the Vatican does not engage in public diplomacy as a matter of policy on the grounds that confrontation limits strategic options, closes the door to dialogue and is less productive than private representation. Accordingly, its statements on Timor-Leste were general, rather than informative, in character; it did not publicise its activities or criticise the Indonesian military directly, and it sought to restrain those who did. This policy extended to other states in relation to Timor-Leste. There is no evidence, for example, that the Vatican challenged the international arms trade with Indonesia, although the Church opposes arms proliferation. This low-key policy also protected its relationship with Indonesia. On the basis of his research, Father Patrick Smythe concluded:

> Overall the Church gave limited coverage to the subject of East Timor in its own broadcasting or printed publications, thereby falling short of its proclaimed responsibility "to furnish the missing information to those deprived of it and to give a voice to the voiceless".‡

348. Transparency and accountability were not hallmarks of Vatican diplomacy on Timor-Leste. In the absence of other indicators normally used to measure official positions, such as voting behaviour, media scrutiny, aid and trade, the lack of information makes it difficult to evaluate Vatican claims of actions undertaken on behalf of Timor-Leste and

* An outbreak of sectarian attacks on Christian churches occurred following the fall of Soeharto.

† This letter is signed by Monsignor F X Hadisumarta, O.Carm and Monsignor Leo Soekoto SJ on behalf of the Indonesian Bishops Conference (Majelis Agung Waligereja Indonesia, MAWI).

‡ Smythe, p. 19. There were many local exceptions to this, particularly by Catholic peace, justice and development agencies in several countries and by some diocesan papers and television programmes.

their effectiveness. The Commission hopes the Vatican will help settle these issues by opening its archives to independent research.

Conclusion

349. The Vatican contributed to the search for self-determination in Timor-Leste and the Commission acknowledges the value of this contribution, especially during the years when Timor-Leste had few influential allies. The Vatican did not desert the Church in Timor-Leste.

350. The Vatican's contribution, however, was limited. It lay more in what it did not do than in what it did. It upheld the principle of self-determination by not determining the status of the local Church until the people of Timor-Leste had freely decided on their political future and by not giving in to pressure for integration from both the Church and Government in Indonesia. In 1989, Pope John Paul II, in a deeply appreciated gesture, included Timor-Leste in his visit to Indonesia as a guest of the Indonesian Government, but he did not sanction integration with Indonesia, as many Timorese feared he might.

351. On the other hand, the Vatican stopped short of advocating self-determination or urging others to do so and, at times, counselled integration. This was done even though the international community agreed in principle on the relevance of this right and that it had been denied in Timor-Leste and even though self-determination was the clear aspiration of the East Timorese Church and the only principled and practical way both to resolve the conflict and to regularise the affairs of the local Church. This approach enabled it to balance its responsibilities to the Church in Indonesia, but weakened its potential contribution, particularly during the early years when it was uniquely well-informed and the crisis was deepest. When others did speak out it sought to silence them. This included many in the Church, like Dom Martinho da Costa Lopes the first indigenous leader of the Church in Timor-Leste, whose loyalty to the Church, the Pope and the Timorese people was total and whose commitment was forged in the crucible of suffering and prayer, not a political party. Having discredited him, the Vatican should now acknowledge his service, both as a true son of the Church and as a representative of others in the Church, particularly those priests and nuns in Timor-Leste who stood by their people in their darkest hours, and their Church colleagues elsewhere.

The diplomacy of the resistance

352. Timor-Leste conducted its campaign for self-determination and independence on three fronts: military, diplomatic, and clandestine. This section deals with the diplomatic campaign and documents the contribution made by: (1) the political parties, including the Resistance umbrella organisations, and (2) the Timor-Leste diaspora. The work of East Timorese activists in Indonesia is documented elsewhere in the report.

Political parties and umbrella bodies

353. Of the five historic parties established in Timor-Leste after Portugal's Carnation Revolution in April 1974, only UDT and Fretilin engaged in a long-term international campaign for self-determination and independence. The three minor parties – Apodeti, KOTA, and Trabalhista – did not have the capacity to function abroad and, with the exception of Trabalhista, advocated integration with Indonesia.* However, on 25 July 1998, all five parties united in opposing the Habibie autonomy proposal and called for a referendum.[196].

354. UDT was the first, and initially the largest, party in Timor-Leste. In a statement of principles prepared in 1974, UDT committed the party to "self-determination of the Timorese people aimed at a federation with Portugal as a way to reach independence".[197] It developed a foreign policy, entrusted João Carrascalão with its foreign relations portfolio and, with the assistance of the Christian Democrat Party, established a base (Gabinete de Timor) in Central Lisbon in 1974. It published a newsletter and engaged in some international activity, but did not set out systematically to build international support for itself or self-determination until much later.†

355. UDT's work in Lisbon owed much to the dedication of several individuals including Moises do Amaral, Paulo Pires and, later, Vicente Guterres. Like others, it had few links with Timor-Leste, but in the early years, when communications were most difficult, it benefited from intermittent secret contact with UDT sympathisers in the occupied territory, including Mario Carrascalão, Bishop José Joaquim Ribeiro and Dom Martinho da Costa Lopes.[198] The party did not attract significant community support in Portugal where civil society was more focused on Fretilin, but its pro-Portugal orientation and presence in Lisbon was helpful to the East Timorese cause in the 1980s when Portugal increased its attention on the issue.

356. UDT's defeat in the 1975 civil war with Fretilin had a devastating impact on the party politically and organisationally. It never completely recovered, and this seriously weakened its contribution to self-determination for Timor-Leste. The war resulted in the dispersal of the party's leadership and members and its marginalisation in Timor-Leste. It deepened and entrenched the rift with Fretilin, with whom it shared the goal of independence and had been in coalition‡. After the invasion, representatives of the party took opposing positions internationally with party officials in Portugal

* *Partido Trabalhista* (Timor Labour Party) supported independence, but Indonesia used it for propaganda advantage and its leaders were widely seen to co-operate with Indonesia after the takeover. Pat Walsh, *East Timor's Political Parties and Groupings*, Australian Council for Overseas Aid, Canberra, April 2001, p. 22.

† For example, James Dunn reports that UDT had a strong interest in Australia in 1974-75, but "Horta had made several visits to Australia before the UDT leaders got around to it". *East Timor: A Rough Passage to Independence*, Longueville Books, NSW, 2003, p. 50.

‡ Domingos de Oliveira testified to the Commission about the bad relations with Fretilin that already existed before the civil war and were worsened by the conflict and its aftermath (CAVR National Public Hearing on Self-determination and the International Community, 15–17 March 2004). Following the Indonesian invasion, a number of UDT members were executed by members of Fretilin in Aileu, Maubisse, and Same (see Ch. 7.2: Extrajudicial Executions and Enforced Disappearances).

advocating independence while colleagues in Timor-Leste advocated integration in testimony to the UN and the US Congress. This damaged the party's credibility and caused considerable confusion and mistrust internationally.*

357. UDT became more active in the mid-1980s and from 1993, after being reorganised on democratic lines, was an effective advocate for Timor-Leste. However, the diplomacy of the Resistance during the first decade after the Indonesian invasion was mainly conducted by Fretilin.

358. Fretilin made two historic policy decisions early in its existence that had a fundamental impact on the outcome of Timor-Leste's international campaign for independence. Both decisions were born out of a realistic appreciation of Timor-Leste's weakness and vulnerability, and succeeded because they employed the strengths of others to Timor-Leste's advantage. They were the decision to engage in international diplomacy and the decision to utilise international law.

Fretilin's policy of internationalisation

359. Fretilin engaged in systematic international lobbying and networking from the beginning. From mid-1974, Fretilin representatives based at the *Casa de Timor* in Lisbon worked to win support from European politicians, governments and the public. Australian missions as far afield as Stockholm reported requests at this time from host governments, following Fretilin visits, for information about the situation in Timor-Leste.[199] Xavier do Amaral, Nicolau Lobato, Mari Alkatiri and Roque Rodrigues attended Mozambique's independence celebrations in June 1975. Following a statement of support for Fretilin by a conference of 49 Afro-Asian states in Mozambique in September 1975, Mari Alkatiri conducted a successful tour of several African states in November. Fretilin representatives in Timor-Leste focused on the region. Alarico Fernandes visited Australia. José Ramos-Horta visited Indonesia, New Zealand, Fiji and Australia – the latter more than once at this time. In return, civil society groups and journalists visited Timor-Leste, particularly from Australia but also from Portugal.

360. Foreign policy was, however, the subject of debate by the Fretilin leadership in 1975. Some considered that Western-style diplomacy was futile and believed Timor-Leste

* Mario Carrascalão, President of the UDT founding committee, defended integration with Indonesia on behalf of UDT in the first UN Security Council debate on Timor-Leste after the Indonesian invasion. In 1977 he testified to the US Congress as leader of UDT. In this testimony he attacked James Dunn's report about Indonesian atrocities at the time of the invasion as "blatant lies", accused Australians of "smuggling arms", denied there had been any "airborne invasion", claimed that many new weapons circulating in Dili were "Russian-manufactured", attacked Fretilin and stated that Timor-Leste had "gained much from our integration with Indonesia" ("Statement of Mario Carascalao [sic], Leader of Uniao Deocratica Timorese Political Party of East Timor" in *Human Rights in East Timor and the Question of the Use of U.S. Equipment by the Indonesian Armed Forces - Hearing before the Subcommittees on International Organizations and on Asian and Pacific Affairs of the Committee on International Relations*, House of Representatives, 95th Congress, First Session, 23 March 1977, U.S. Government Printing Office, Washington, 1977, pp. 47-58.). Francisco Lopes da Cruz, the first President of UDT, signed the Balibó Declaration and the Declaration of 17 December 1975 that established the Indonesian Provincial Government in Timor-Leste. Indonesia sent João Carrascalão to Africa and Paulo Pires to the Netherlands, but both were withdrawn when it was learned they used the opportunity to speak about the real situation in Timor-Leste.

should focus on self-reliance and armed struggle. Others favoured forming a front with other liberation movements in the region, including secessionist movements within Indonesia. Fretilin's official policy, however, remained pro-ASEAN and approaches from Irian Jaya and the South Moluccas were turned down.[200]

361. Following the Declaration of Independence in November 1975, the party opted to internationalise the struggle for liberation. One of the first decisions of the newly formed Cabinet of the Democratic Republic of Timor-Leste was to open a diplomatic front by dispatching a high-level mission overseas. This delegation comprised Mari Alkatiri, minister for political affairs, Rogerio Lobato, defence minister, and José Ramos-Horta, minister for external relations and information. Timor-Leste's diplomatic fate may well have been very different if their hurried departure ahead of the advancing Indonesian army had not happened.[201] They joined three other Fretilin representatives who were already overseas: Abilio Araújo, minister for economic and social affairs, Guilhermina Araújo, deputy minister for economic relations, and Roque Rodriques, ambassador designate to Mozambique. None of this group was able to return to Timor-Leste for at least 24 years allowing Indonesia to claim repeatedly that they did not represent the real situation there.

362. Though primarily intended to establish Fretilin and the Democratic Republic of Timor-Leste internationally, their activity laid the foundations for the future campaign for self-determination. They opened key diplomatic fronts in Europe, Africa, the United States and the UN. Strong and lasting links were also fostered with civil society organisations in many countries. This network was to be a critically important asset for a remote, poor country with almost no resources of its own and few state allies.

363. Led by Mari Alkatiri, the Fretilin External Delegation established its headquarters in Maputo, Mozambique. The Government of Mozambique gave Timor-Leste staunch support throughout the conflict. In addition to providing an operational base, this included giving funds, passports, diplomatic support at the UN and study opportunities.* Missions were also established in Portugal (Abilio Araújo), Angola (Roque Rodrigues, following a period as Ambassador to Mozambique), and the United Nations (José Ramos-Horta). Their task was to represent Timor-Leste abroad and to promote the struggle for liberation, both in their countries of residence and elsewhere. The solid support given to Timor-Leste in the UN by many African states owes much to this Mozambique-based diplomacy. Fretilin women members based in Mozambique were also active diplomatically and represented Timor-Leste further afield, including to the Middle East.†

364. Due to Indonesia's influence, Fretilin was not welcome in most of the Asia-Pacific region and the Australian Government banned visits by Fretilin officials from about

* Most of the Fretilin leaders and the students who joined them from Lisbon completed their tertiary education in Mozambique in disciplines such as agriculture, law and international relations. Most returned to Timor-Leste after 1999 and are using their education to serve the new nation. CAVR interview with Harold Moucho, 19 March 2005. Fretilin's official bank account was in Mozambique.

† Women members of Fretilin in Mozambique included Ana Pessoa, Filomena de Almeida, Adelina Tilman, Marina Ribeiro, Madalena Boavida. Adelina Tilman was part of the Fretilin team at the UN.

April 1976.[*] Socialist governments in East Asia which recognised the Democratic Republic of Timor-Leste were an exception. The People's Republic of China initially provided some diplomatic and financial support to Fretilin.[†] Visits were made to the Democratic Republic of Kampuchea and fraternal contact was maintained with the People's Democratic Republic of Korea and the People's Democratic Republic of Laos[‡]. The Republic of Vanuatu after independence in 1980 was an isolated exception in the South Pacific. Its leaders, Walter Lini and Barak Sope, supported Timor-Leste at the UN and sanctioned the establishment of an economic venture by Abilio Araújo in Vanuatu to fund Fretilin's diplomatic activities.[§]

365. Australia's denial of access to Fretilin officials was offset by the presence of Fretilin cadres and solidarity groups who represented Fretilin de facto. Their activities included operating the Darwin-based radio link which, until its closure in 1978, was the only direct two-way link between the Fretilin Resistance inside Timor-Leste and the diplomatic front. However, Fretilin members were slow to set up publicly. They were a minority in a mainly UDT community and, as refugees, the community feared being expelled if they sided overtly with Fretilin against Indonesia. The first demonstration at which Fretilin and RDTL flags were displayed, was held in Sydney in 1981. The political situation relaxed after the election of the Hawke Labour Government in 1983. Many East Timorese, including Fretilin organisers such as Lay Kuon Nhen, Abel Guterres and others, took part in a large public rally in Melbourne addressed by Abilio Araújo and Roque Rodriques, and attended a demonstration at the Labour Party conference in Canberra that year. The first official Fretilin Committee was established in Sydney in 1986 with as co-ordinator. By the late 1980s Fretilin was well established in many parts of Australia, including Darwin, Sydney, Melbourne and Perth and had good contact with the Resistance in Timor-Leste. Agio Pereira was the first Fretilin representative in Australia. Others were Alfredo Ferreira Borges, Estanislau da Silva and Francisco Carlos. They had responsibilities for various parts of Australia and the region, and worked hard at building links with political parties, the Church, civil society and the media in support of Timor-Leste. The Party held an Extraordinary Conference in Sydney, 14–20 August 1998.

* The Australian Prime Minister, Malcolm Fraser, informed President Soeharto in November 1975 that his Government would not receive Ramos-Horta or other Fretilin representatives if they came to Australia. Document 344, Jakarta, 25 November 1975, in Wendy Way (Ed.), DFAT, pp. 580-81. The ban was lifted in 1983 by the Hawke Labour Government.

† China recognised the Democratic Republic of Timor-Leste and spoke strongly in its defence in the UN Security Council. Mari Alkatiri and José Ramos-Horta visited China early in the conflict. Mari Alkatiri's testimony to CAVR Hearing on Internal Political Conflict 1974-76, 15–18 December 2003.

‡ Rogério Lobato, Commander-in-Chief, Revolutionary Army of East Timor, to Ieng Sary, Deputy Prime Minister for Foreign Affairs, Democratic Republic of Kampuchea, 21 December 1977.

§ Vanuatu's representative at the UN, Robert van Lierop, actively supported Timor-Leste in many forums. The economic venture failed but is evidence of the effort and creativity that was required to meet the costs of an international campaign.

Use of international law

366. Fretilin's early campaign was based on the Unilateral Declaration of Independence (UDI) of 28 November 1975 and the establishment of the Democratic Republic of Timor-Leste (RDTL). When they arrived at the United Nations in New York on 11 December 1975, Abilio Araújo and José Ramos-Horta presented themselves as RDTL ministers. In his speech to the Security Council on 15 December, José Ramos-Horta denounced UDT, described the UDI of 28 November as "a heroic act of self-determination", and called on the Council to condemn Indonesia's invasion as an act of aggression against a sovereign nation that was being recognised "by an ever-increasing number of countries."[202] On 12 April 1976, he told the Security Council that Fretilin "no longer recognises Portuguese sovereignty over East Timor", thereby rejecting the UN position that Portugal remained the administering power in Timor-Leste. RDTL, he said, was prepared to deal with both Indonesia and Portugal only "as between government and government, state and state".[203]

367. It soon became clear, however, that, in José Ramos-Horta's words, "recognition of the Democratic Republic of East Timor was a non-starter" because few countries were prepared to endorse the new creation. José Ramos-Horta told the Commission:

> *Of course in the first few weeks after the invasion, I and everybody else argued very energetically about the Democratic Republic of East Timor. But by 1976-77, we decided to change tack and concentrate on East Timor (as) a non-self-governing territory with a right to self-determination… We were in a stronger legal position if we argued on the basis of self-determination for a non-self-governing territory.*

368. At the time, a colleague who was unhappy with the decision suggested that they retain their titles of minister so that when governments received them it would mean they recognized RDTL. Ramos-Horta said he replied: "The only problem with that demand is you might never get an invitation to go anywhere!"* Though not formally revoked,† the 1975 policy was quietly put to one side.

369. Fretilin's decision to utilise the international system rather than fight it was based on a pragmatic assessment of the political realities. This strategic backdown did not yield rapid political results and it took time to translate into practicalities, but it worked to Timor-Leste's advantage in the long-term. Self-determination focused attention on the fundamental principle at stake, rather than the claims of one interest group. This enhanced the legitimacy and appeal of the issue and sharpened focus on

* CAVR interview with José Ramos-Horta, Dili, 26 May 2004. Some 20 states, mostly in Africa, recognised RDTL.

† In its judgement, the Fretilin-sponsored Permanent People's Tribunal, held in Lisbon in June 1981, recognised the legitimacy and legal validity of the formation of the Democratic Republic of Timor-Leste (*Sessão Sobre Timor-Leste,* Lisboa, 19/21 Junho 1981, Sentenca), pp. 29-30. However, invoking RDTL did not help legally. In 1980, Fretilin's case against the Dutch government over the sale of corvettes to Indonesia was rejected by the court on the grounds that neither RDTL nor Fretilin had any legal status. Krieger, p. 298.

the responsibilities of the international community, Portugal and the United Nations in particular. Over time, it made possible the building of broad partnerships – with Portugal, East Timorese who were not Fretilin, the church and civil society – and turned the struggle into a moral and human rights issue which worked against Indonesia and its principal allies, particularly Western democracies who espoused respect for the rule of law and human rights.

Diplomacy at the UN

370. As the world body responsible for upholding the right of self-determination, the UN was the principal arena for Resistance diplomacy. This work fell principally to Fretilin as UDT and independent Timorese activists did not become involved at this level until the mid-1980s. Fretilin entrusted this critical task to José Ramos-Horta who represented the party in New York for 13 years until he resigned his membership of Fretilin in 1988.

371. The work was exacting and demanded a high level of skill, creativity, commitment and resilience. "The Indonesians", José Ramos-Horta told the Commission, "were very, very much on top of it all the time".[204] It was essential to understand the workings of the UN itself and to cultivate through study and discussion a knowledge of world affairs and the politics of key member states. On a day-to-day basis, it involved constant lobbying, vigilance, monitoring of information, and the building and maintenance of links with a large number of countries, officials, journalists and members of civil society. The work was more intense at certain points in the UN calendar, particularly when a lot was at stake for Timor-Leste. Other members of the External Delegation joined José Ramos-Horta on these occasions. To ensure complementarity and consistency, this work at the centre also had to be co-ordinated with Resistance diplomacy in particular countries which also required similar skills but on a smaller and usually less intense scale.

372. Apart from the monumental scale of the assignment in political terms, José Ramos-Horta and his Fretilin colleagues had to contend with many practical and organisational challenges. The delegation had few human and financial resources. At the beginning, the Guinea-Bissau mission had to make room in its office for the Fretilin representatives, and staff support, never adequate, was provided by volunteers.* Contact with Timor-Leste was indirect and intermittent. The delegation was not given recognition as a government or observer status as a liberation movement.† It had nothing to offer by way of votes, aid or trade in return for support. It depended on the goodwill of a handful of friendly states, in particular Mozambique, Guinea-Bissau and

* David Scott helped establish the mission with assistance from the UN Methodist Women's Centre. One of the last Australians to leave Timor-Leste on the eve of the Indonesian invasion, he went almost immediately to New York on behalf of the Australia East Timor Association to help Fretilin lobby the Security Council. Testimony given to the CAVR National Public Hearing on Self-determination and the International Community, 15–17 March 2004.

† Unlike Palestine and the South African organisations ANC and PAC, Fretilin was not given observer status at the UN. However, it was acknowledged by name in the preamble of General Assembly resolutions between 1976 and 1982. In the 1981 Resolution 36/50, Fretilin was described as "the liberation movement of East Timor" (Krieger, p. 27).

the other former Portuguese African colonies, themselves newly independent. This was supplemented in the early period by support from Tanzania's Ambassador to the UN, Salim A Salim, Chair of the Special Committee on Decolonisation and Huang Hua, the People's Republic of China representative.

373. Portugal was supportive in UN debates but not otherwise active. Indonesia, on the other hand, had available to it the resources of a fully established embassy, and regardless of voting patterns on the floor of the UN, the diplomatic support of most Western, Muslim and Asian countries, plus significant Western economic and military assistance. James Dunn commented: "In the United Nations it was a constant struggle of a Timorese David against an Indonesian Goliath."* Coordination with other Fretilin diplomats was expensive and difficult, and the delegation was handicapped by internal ideological differences and the damaging perception, sometimes confirmed by its rhetoric and alliances, that it had taken sides in the Cold War against the West.† In addition, Fretilin had to counter systematic attempts to undermine its credibility by Indonesia and by East Timorese who testified to the United Nations in support of integration. They told the Security Council that Fretilin was unrepresentative of majority opinion in Timor-Leste, arguing that it was the only one of Timor's five parties that opposed integration, and that it had engaged in terrorism in Timor-Leste.‡

374. Voting in the Security Council and General Assembly initially favoured Timor-Leste and upheld the right to self-determination by solid majorities. But the numbers did not reflect the reality of Indonesia's political and economic strength or the growing belief that the occupation of Timor-Leste was irreversible. Despite Fretilin's efforts, the text of resolutions gradually weakened between 1975 and 1981 and the number of member states either voting against or abstaining, grew. In 1981 member states voting for Timor-Leste numbered 54, those against 42 and abstentions 46, that is, only 34% of the world body supported Timor-Leste's case.

375. Different strategies were tried, with varying degrees of success. Fretilin succeeded in having a UN fact-finding mission sent to Timor-Leste in 1976, but Indonesia blocked

* José Ramos-Horta, Foreword in *Towards a Peaceful Solution in East Timor*, East Timor Relief Association (ETRA), NSW, Australia, 1996, p. 7. The Biblical story of David and Goliath (1 Samuel, 17:1-58) is a fitting image for Timor-Leste. David learned his courage and fighting skills as a shepherd boy defending his flocks from wild animals, including lions and bears. In his free time, he developed two other skills – music and poetry. He took on Goliath, the Philistine giant, on his own and overcame Goliath's superior strength with a sling.

† David Scott wrote: "Abilio Araújo saw the struggle in the Marxist-Leninist context he had acquired in Lisbon. He and José Ramos-Horta discussed and argued in Portuguese over policy approaches and terminology. Abilio wanted us to use Marxist language in media statements; José preferred to use a more politically neutral, factually focused approach." Unpublished manuscript, 2004.

‡ Indonesia's first statement to the UN Security Council on Timor-Leste, delivered by Anwar Sani on 15 December 1975, included several accusations of terrorism by Fretilin (Krieger, p. 60). East Timorese who testified on Indonesia's behalf to this session of the Security Council were Mario Carrascalão (UDT), José Gonçalves (Independenti) and José Martins (KOTA). Their statements, which included attacks on Fretilin and José Ramos-Horta, worked against Fretilin's credibility and advocacy within the UN and strengthened the international perception that Timor-Leste society was deeply divided and unstable (Krieger, pp. 70-77). José Martins formally "defected" in March 1976 and presented the United Nations with a confidential report detailing Indonesia's designs on Timor-Leste.

the envoy, Vittorio Winspeare Guicciardi, from meeting Fretilin Resistance leaders and the visit was inconclusive. UN Secretary-General Kurt Waldheim, did not follow up and Timor-Leste did not return to the agenda of the Security Council until 1999. To buy time and strengthen Timor-Leste's legal position, José Ramos-Horta proposed that the General Assembly be persuaded to request an Advisory Opinion from the International Court of Justice on whether or not a proper act of self-determination had been conducted as claimed by Indonesia. Portugal, however, did not agree and the idea was abandoned.* With the assistance of Francesc Vendrell in the UN Secretariat, José Ramos-Horta succeeded in having the General Assembly make reference to the humanitarian situation in Timor-Leste in resolutions adopted in 1979-81. These resolutions included calls for access by UNICEF, UNHCR and the WFP to provide assistance and, indirectly, served to alert the international community to the negative impact of Indonesia's occupation and to challenge its embargo on access. Indonesia, however, permitted access only to UNICEF.†

376. One way of measuring the success of Resistance diplomacy, both in-country and at the UN, was to count references to Timor-Leste in UN debates. José Ramos-Horta told the Commission that he sat through countless sessions of the UN General Assembly hoping to hear mention of the issue, particularly by a senior government figure, but was often disappointed.

> *You count what you hear in the General Assembly. When a head of state, a prime minister or foreign minister, brings an issue to the plenary of the General Assembly it is significant. Each year I would be sitting there, listening, counting, and every time I heard even a small reference – wow, that's it! But there were very few.*[205]

377. Fretilin's external delegation experienced serious ideological and leadership struggles during this period. These coincided with purges within Fretilin in Timor-Leste and were exacerbated by military setbacks, including the death of the Fretilin leader, Nicolau Lobato, and Timor-Leste's difficult diplomatic situation. They came to a head in 1978 in Maputo when Mari Alkatiri, Marina Ribeiro, José Ramos-Horta and Ana Pessoa were placed under house arrest by Fretilin colleagues. Ramos-Horta was charged with "capitulationism" and describes the affair as "ugly and violent".[206] He told the Commission:

> *I was accused of wanting to negotiate with Indonesia, simply because I did not agree with the slogan in Timor at that time…from the Central Committee, that 'Negotiations Never'.*[207]

* Portugal believed that Timor-Leste had not exercised its right and that it should not put this conviction in question by asking the ICJ for an opinion. In a separate action in 1991, Portugal took Australia to the ICJ for violating, *inter alia*, Timor-Leste's right of self-determination through its treaty with Indonesia to jointly exploit oil and gas resources in a section of the Timor Sea.

† In June 1982, UNICEF commenced a programme with the Indonesian Red Cross for children, mothers and their families. As part of the programme, UNICEF taught Indonesian to East Timorese women on the grounds that they needed to know Indonesian to understand feeding and other health information. The use of Indonesian attracted strong criticism from José Ramos-Horta. CAVR interview, 26 May 2004. UNHCR contributed financially to some repatriations to Portugal and Cape Verde.

378. He said that he argued that flexibility to enter dialogue, including with Indonesia, should not be equated with surrender and was essential to end the conflict. He said that Abilio Araújo orchestrated the affair with support from Rogério Lobato and the Australian activist Denis Freney, who was also present at the meetings.* The issue was resolved with assistance from Frelimo representatives.

379. The affair damaged Fretilin internally and set back its international campaign, though it was not widely publicised. Tied up in Mozambique from September 1978 to February 1979, José Ramos-Horta had to cancel a visit to New Zealand, which solidarity groups had succeeded in organising after a public struggle with their government, and was unable to represent Timor-Leste during the UN General Assembly debate that year. Eight countries deserted Timor-Leste during that session. The downward trend was marginally reversed the following year when, after much hard work by the Fretilin delegation, Timor-Leste regained three lost votes.

The 1982 vote at the UN

380. The 1982 UN General Assembly session was a test of strength for the main protagonists and a critical moment for Timor-Leste. Under Prime Minister Pinto Balsemão, Portugal showed some signs of re-engagement with the issue following a Council of Ministers statement in 1980 in favour of self-determination for Timor-Leste and a diplomatic initiative. For its part, Indonesia gained, *inter alia*, further support from Australia. Several days before the General Assembly vote, the former Australian Prime Minister, Gough Whitlam, told the UN Special Committee on Decolonisation:

> It is high time that the question of East Timor was voted off the United Nations agenda and ceased to preoccupy and distract the nations of South-east Asia and the Pacific.[208]

381. In response, José Ramos-Horta proposed that the issue be referred to the "good offices" of the UN Secretary-General, then Javier Perez de Cuellar (1982-91). He prepared a draft resolution along these lines in his small basement apartment on East 55th Street, New York, and hoped that member states would accept it because they could not be seen to say no to talks. He believes that his drafting of this resolution was his "greatest contribution" to the Timor-Leste cause.†

382. Indonesia worked hard in opposition. With the support of Roque Rodriques, José Luis Guterres, and Timor-Leste's main allies – Angola, Cape Verde, Guinea-Bissau, Mozambique, São Tomé and Principe, Portugal, Brazil, Vanuatu, Zimbabwe, Benin and Algeria – the Resolution was carried by a mere four votes. Ramos-Horta told the

* José Ramos-Horta acknowledged Denis Freney's contribution to Timor-Leste in his Nobel Peace Prize Acceptance Speech in Oslo on 10 December 1996. However, he was critical of Denis Freney's "destructive" behaviour at this time and described him as "very dedicated to Timor, but dedicated through his own ideological beliefs and Abilio was the real trusted ideological comrade". CAVR interview, 26 May 2004.

† General Assembly Resolution 37/30, 23 November 1982. CAVR interview with José Ramos-Horta, Dili, 29 July 2004.

Commission that "the Timor cause would never have recovered if that vote had been lost".[209] Over half of the votes for Timor-Leste came from countries in Africa where the Fretilin delegation was based.*

383. Operationally, the Resolution was a gamble because it involved entrusting Timor-Leste's fate to two institutions in which Fretilin had had little confidence to that point: the Government of Portugal and the UN Secretary-General.† The reference in the Ramos-Horta draft to consulting Fretilin and other Timorese was replaced with a vague reference in the final text to "all parties directly concerned" which left it to the Secretary-General, Javier Perez de Cuellar, to decide whom he would consult and to Portugal to ensure that Timorese views were heard in the process.

384. The first signs gave little cause for optimism. Nearly 12 months after the issue had been referred to the Secretary-General, José Ramos-Horta publicly accused Portugal of indifference, apathy and betrayal.[210] And a further 12 months on, in August 1984, Lord Avebury, Chair of the British Parliamentary Human Rights Group, felt compelled to point out to the Secretary-General that his Progress Report referred only to contacts with Portugal and Indonesia and contained "no indication that any attempt was made to consult with the Revolutionary Front for the Independence of East Timor (Fretilin) or any other Timorese parties".[211]

385. The decision to use the system, however, was to prove correct. The issue was kept on the UN agenda, but spared a potentially fatal vote in the General Assembly, and some hope of a diplomatic solution was kept alive until the winds of change finally turned in Timor-Leste's direction in the 1990s. The Resistance kept the focus clearly on the UN and gave increased attention to other UN forums, particularly the annual meetings of the UN Commission on Human Rights in Geneva and the UN Special Committee on Decolonisation in New York, both of which allowed for debate on self-determination. In addition to lobbying and making its own statements, the Resistance encouraged civil society participation to considerable effect (see section on international civil society below, paragraph 429-526).

Rebuilding the parties

386. From the 1980s, Fretilin and UDT underwent a series of changes that affected their international diplomacy and, step by step, contributed to the building of at least a partial new coalition to promote self-determination.

387. In 1981, following near annihilation, Fretilin established the Revolutionary Council of National Resistance (Conselho Revolucionária de Resistência Nacional, CRRN). The Council was set up inside Timor-Leste with input from Abilio Araújo in Lisbon. From the point of view of the diplomatic campaign, the important contribution of the

* 27 countries in Africa voted for Timor-Leste, 6 against and 13 abstained.

† José Ramos-Horta believes that the UN Secretary-General, Kurt Waldheim (1972-81), must share the blame for the failure of the Security Council to follow up its 1976 resolution on Timor-Leste. The Security Council did not address the issue again until 1999 (*Funu: The Unfinished Saga of East Timor*, The Red Sea Press, 1987, p. 122).

new body was that it demonstrated the resurgence of Fretilin and that the Resistance inside was reconnected with its external representatives after several years of enforced mutual isolation. Little was known about CRRN itself outside Timor-Leste, but Xanana Gusmão's meeting with the Indonesian commander, Colonel Purwanto, in March 1983 at Lariguto, facilitated by Mario Carrascalão, was well publicised internationally and did much to rejuvenate support for Timor-Leste.* Fretilin's Peace Plan, launched internationally by José Ramos-Horta in June 1984 on the basis of initiatives from inside Timor-Leste, gave a new focus to international solidarity work with the specific objective of having Timor-Leste directly represented in the UN-sponsored search for a comprehensive settlement. The demand to be included in the UN process alongside Portugal and Indonesia as the party most "directly concerned" became a major focus of Resistance and civil society advocacy and was made in numerous documents and forums by Timorese leaders.†

388. The rebuilding of UDT took place principally outside Timor-Leste and initially involved building up the party in Australia. The party established a national presence in Australia after João Carrascalão migrated to Sydney from Portugal in 1978 and joined many UDT members and supporters who had settled in Australia as refugees following the civil war. Supported by Domingos de Oliveira, Lucio Encarnacão, António Nascimento, Fausto Soares and others, the UDT leadership had to overcome many individual and political challenges. João Carrascalão informed the Commission that life in Australia was very hard to start with and that his first job in Sydney was in a plastic factory, working 12 hours a day on a rotating shift and that later he had to take a second job cleaning buses and offices to save money to travel abroad on behalf of Timor-Leste. Other UDT refugees in Australia had similar experiences. He also had to contend with mistrust of UDT by civil society organisations and sections of the diaspora.

> *I was very much involved with the Resistance outside. At the beginning a lot of people didn't believe that I was not pro-integrationist. Because my brother was the Governor and UDT was suffering the effects of the original propaganda saying that UDT wanted integration…So it was not very easy, many people didn't believe. Probably even my colleagues from the leadership of the Resistance didn't believe that I had never sided with the Indonesians.*[212]

389. Once established, UDT added its voice to calls for self-determination. In 1982, João Carrascalão was one of two East Timorese to testify to an Australian Senate Hearing on

* An audience of 1500 people attended a public meeting in Melbourne in 1983 to welcome Abilio Araújo and Roque Rodrigues on Fretilin's first official visit to Australia after the lifting of a ban by the Australian Government and to hear their report on the Lariguto peace talks between Fretilin and Indonesia.

† For example, Xanana Gusmão's letter to the UN Secretary-General, 7 August 1985, transmitted by the São Tomé mission (UN document S/17592); his letter to Boutros Boutros Ghali (31 January 1992) and to Nelson Mandela (15 May 1992). Xanana Gusmão's first address to the UN on behalf of CRRN was dated 14 October 1982, but was a defiant situation report rather than a direct appeal for UN action.

Timor-Leste.* In November 1987, he represented UDT at the first Christian Consultative Conference for Asia and the Pacific on Timor-Leste, held in Manila. The conference called for direct East Timorese participation in talks to resolve the conflict.

390. Attempts to make the party a more effective and credible vehicle for East Timorese aspirations were handicapped by internal disagreements between UDT leaders in Lisbon and Australia. These were finally resolved in 1993 when the party, assisted by a younger generation of UDT leaders committed to democratic reform, held a congress in Portugal, the first such gathering since the civil war.[213] The congress elected João Carrascalão as President and expelled Francisco Lopes da Cruz, UDT's first president, for the "crime of high treason against the party, the people and the fatherland".[214] A number of regional committees were established to put the campaign for Timor-Leste on a more organised basis. Zacarias da Costa was placed in charge of international relations and for the next five years UDT took the case for self-determination to all UN forums and major international civil society gatherings. This work was particularly effective in Europe where, inter alia, it combined with lobbying by Portugal, Fretilin and civil society organisations to generate increasingly strong opposition by the European Parliament to Indonesian rule in Timor-Leste.

391. In 1993 Fretilin also addressed the long-running power struggle between the leaders of the external delegation: Mari Alkatiri, Abilio Araújo and José Ramos-Horta. Timorese activists were highly critical of the infighting and made constant appeals for its resolution. They believed it factionalised Fretilin abroad, distracted the leaders from their main role, and created confusion within the Resistance inside Timor-Leste when the information they received from outside was often of one member discrediting another. They were also critical of inactivity on the part of Abilio Araújo and Guilhermina Araújo.[215] José Ramos-Horta's resignation from Fretilin in 1988 and appointment as the Special Representative of CNRM, followed by Abilio Araújo's decision to assume the leadership of Fretilin, brought the issue to a head. In August 1993, at the initiative of Mari Alkatiri, then deputy leader, the Fretilin External Delegation removed Abilio Araújo as head of the delegation and as Fretilin representative for Europe and Portugal.†

Divergence to convergence: the search for unity and peace

392. UDT and Fretilin recognised that, in the interests of Timor-Leste, a *modus vivendi* was imperative. João Carrascalão told the Commission that the relationship in the early years was "very, very bad", particularly at the community level. He and Mari Alkatiri met secretly in Portugal in 1976 to discuss the problem but decided "it was

* The other witness was João Gonçalves, Social Welfare Officer for the Timor-Leste community.

† Abilio Araújo was expelled from Fretilin for collaboration with Indonesia. He is now President of the Timorese Nationalist Party (Partido Nacionalista Timorense) which was founded in Dili on 15 July 1999 to promote broad autonomy within Indonesia based on a "third way policy" that would offer a choice that involved neither CNRT "dictatorship" nor full integration with Indonesia. PNT accepted the results of the 1999 ballot and UNTAET's role as the legal authority in Timor-Leste during the transition to independence. An accomplished musician, Abilio Araújo composed the music for the national anthem *Pátria, Pátria* and the well known East Timorese songs *Foho Ramelau* and *Funu nain Falintil.*

very difficult now to work together". He observed that "it took a long time for people to realise that the struggle could not be conducted separately".[216]

393. The establishment of the Nationalist Convergence (Convergencia Nacionalista) in 1986 was a step forward in this direction. The idea originated in informal discussions between José Ramos-Horta and João Carrascalão, but was given impetus by Anacoreto Correia, a Portuguese parliamentarian who had visited Timor-Leste in July 1986. The Convergence was external to Timor-Leste and did not enjoy broad or enduring support from either party,* but its signatories – Moises do Amaral (Chair of UDT's Political Commission) and Abilio Araújo (Head of Fretilin's External Delegation) – believed that a demonstration of unity was essential to offset reversals in international support for Timor-Leste and to win more support in Portugal and Europe.† José Ramos-Horta believes it did assist:

> *It did help because the Portuguese at the time were using the divergences between Fretilin and UDT to justify doing nothing. It did help, but it was always an eternal battle to keep it together.*[217]

394. Fretilin made the first of a number of concessions to UDT. It acknowledged UDT as an equal partner and agreed to a future multi-party system. Convergence statements described UDT and Fretilin as the "legitimate" and the "two most important nationalist organisations of Timor-Leste"[218] and called on Portugal to finance the diplomatic work of both parties. In 1987, Fretilin and UDT delegations testified to the UN Decolonisation Committee in New York in support of self-determination. UDT acknowledged its long silence and absence from the UN. It rejected Indonesian claims that UDT supported integration and called for independence stating that "we want our people to make such sovereign choice through a due democratic process under the supervision of the UN".[219]

395. In December 1988, a new nationalist umbrella organisation was formed: the National Council of Maubere Resistance (CNRM). CNRM represented a radical revision of doctrine and strategy which had been foreshadowed 12 months earlier when Xanana Gusmão issued a statement in which he rejected Marxism, declared Falintil a politically neutral army and resigned from Fretilin.[220] What inspired the struggle, he stated, was the wish to live free of foreign occupation, not revolution, pointing out that the Eastern bloc had been unresponsive to Timor-Leste's plight. The word "revolutionary" was replaced with "Maubere" as CNRM replaced CRRN, signifying that political ideology was to be subordinated to the cause of national independence and an inclusive, non-partisan approach. These changes had a powerful impact in Timor-Leste. Mario Carrascalão observed:

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* João Carrascalão told the Commission that the Convergencia Nacionalista "was not taken seriously at the time by either UDT or Fretilin" and that there were suspicions of Indonesian involvement. CAVR interview, Dili, 30 July 2004.

† Convergence communications urged Portugal to step up its advocacy for Timor-Leste in its UN-sponsored talks with Indonesia and to develop a "dynamic plan of action" for implementation when it joined the European Union in 1987 (Krieger, p. 279).

When Xanana said that he wasn't Fretilin, only the commander of Falintil, that's when the war started to be won. Apodeti and UDT people who had been enemies of Fretilin could also join the movement.[221]

396. UDT, however, still felt that the term "Maubere" was not inclusive enough and formally withheld membership from the CNRM, though it was cooperative in practice.*

397. These changes also laid the foundation for an effective new diplomatic campaign. Coming towards the end of the Cold War, they were a timely challenge to the entrenched international perception that the independence movement was an extreme left-wing project and a threat to Indonesia and regional stability. The language of human rights and democracy replaced the militant rhetoric of the past. The CNRM, Xanana Gusmão declared, was:

> committed to building a free and democratic nation, based on respect for the freedoms of thought, association and expression, as well as complete respect of Universal Human Rights. A multi-party system and a market economy will be foundations of an independent Timor-Leste…It will be a free and non-aligned state with the firm purpose of becoming a member of ASEAN, in order to contribute to regional stability.†

398. This new approach was projected internationally by the appointment of José Ramos-Horta as Xanana Gusmão's personal representative and CNRM's special representative abroad. Identifying the Resistance with Ramos-Horta, whose social democrat and human rights credentials were more acceptable internationally than the Marxist image of Abilio Araújo, demonstrated the extent of the reforms. His appointment was not initially welcomed by UDT and Fretilin, who feared it would weaken their role.‡ The new strategy required them to play a less central role by subordinating party interests to the nationalist cause and sharing the campaign with a growing number of Timorese activists from outside their ranks.

399. As part of its new diplomatic offensive, the Resistance launched another peace plan developed by José Ramos-Horta in consultation with Fretilin's External Delegation and Xanana Gusmão. Ramos-Horta put the plan on paper in Dharamsala, the headquarters

* João Carrascalão told the Commission the word "Maubere" was not known in some parts of Timor-Leste and was not accurate: "We are not all *Maubere*". CAVR interview, Dili, 30 July 2004 (see Part 3: History of the Conflict for a discussion of the origins of the term).

† Barbedo de Magalhães, *East Timor: Indonesian Occupation and Genocide, Oporto University*, Portugal, 1992, p. 43. The significance of these changes, both in style and substance, can be gained from a comparison with Nicolau Lobato's vitriolic denunciation of Xavier do Amaral in 1977 for revolutionary crimes. Statement of Fretilin Central Committee on "The High Treason of Xavier do Amaral", Radio Maubere, 14 September 1977.

‡ CAVR interview with José Ramos-Horta, Dili, 26 May 2004. *The Communiqué of the Nationalist Convergence of Timor*, 10 November 1989, refers to the "irreplaceable role" of Fretilin and UDT as representatives of the people of Timor-Leste (Krieger, p. 282).

of the Dalai Lama, and presented it for the first time in Brussels in April 1992. The plan incorporated the main features of both CNRM's new approach and a peace plan issued by Xanana Gusmão on 5 October 1989, which the UDT and Fretilin Nationalist Convergence had endorsed.[222]

400. The plan was divided into three phases. In the first phase, lasting about two years, Indonesia would remain in control but introduce a number of confidence-building measures including troop withdrawals and a UN human rights monitoring presence. In the second phase, Timor-Leste would be given full autonomy extendable to ten years. In phase three, the definitive status of Timor-Leste would be decided in an act of self-determination. The plan was intended to put the Soeharto Government under pressure by offering an honourable way out and to present the Resistance as the more constructive of the two protagonists. José Ramos-Horta said:

> It was also meant for the Indonesian society in general and the international community, to show the sense of responsibility, maturity and moderation of the East Timorese Resistance leaders.[223]

401. Reactions within the parties, international civil society and the Timorese diaspora were initially negative. José Ramos-Horta told the Commission:

> *I had to defend it so many times both in Portugal and the Timorese community, with Fretilin and UDT. It was very controversial in the beginning because the word 'autonomy' was taboo at the time, but then most people went along with it.*[224]

402. The Indonesian Government was also deeply suspicious. José Ramos-Horta told the Commission:

> *I remember talking with Ali Alatas in New York on 18 October 1994, our first formal meeting in New York. Alatas said, "Your peace plan is a stepping stone to independence."*

403. Ramos-Horta told the Commission that the Minister was "absolutely right", but that he explained to him that it could work to Indonesia's advantage if they used the opportunity constructively and the people were satisfied with autonomy after ten years.

404. An international network of CNRM representatives and contacts was put in place to promote the plan in Portugal, Canada, the European Community, the USA, Japan, and Australia and its region. They included a new generation of diplomats such as José Amorim Dias, the CNRM's representative to the European Union from 1993, and Constancio Pinto,* the CNRM representative to the USA and Canada from 1994. Their work was backed up by the East Timor International Support Centre (ETISC)

* Before leaving Timor-Leste in 1991, Constancio Pinto had been responsible on behalf of CNRM for co-ordinating all clandestine activities in the towns and villages. See Constancio Pinto and Matthew Jardine, *East Timor's Unfinished Struggle: Inside the Timorese Resistance*, South End Press, Boston, 1997.

established in Darwin by Juan Federer who also undertook fund-raising and provided personal assistance to José Ramos-Horta. At the same time, José Ramos-Horta continued to work directly with Fretilin and UDT, respecting their role but ensuring co-ordination. For this purpose, a Coordinating Committee for the Diplomatic Front was established in 1995 (replacing the Nationalist Convergence) and responsibilities were divided between the two parties.

405. Building on the growth in international awareness following the Santa Cruz massacre, José Ramos-Horta used the plan to broaden the campaign. It enabled him to gain a hearing for Timor-Leste in mainstream bodies such as the European Parliament, the US Council for Foreign Relations, the Royal Institute of International Affairs in London and press clubs in Thailand and Australia and to portray the Resistance in a new and positive light.

406. This culminated in the award of the Nobel Peace Prize to Bishop Belo and José Ramos-Horta in 1996. The inclusion of José Ramos-Horta was a ringing endorsement of Resistance diplomacy and its peace plan by one of the world's most prestigious bodies. The award recognised the legitimacy of Timor-Leste's cause and marked a new phase in the struggle. Ramos-Horta promoted the plan in his acceptance speech. In its announcement, the Norwegian Nobel Committee expressed the hope "that this award will spur efforts to find a diplomatic solution to the conflict in East Timor based on the people's right to self-determination."[225] The UN Secretary-General expressed similar sentiments in a congratulatory statement about the award and a few weeks later, in February 1997, Kofi Annan, the new Secretary-General, appointed Jamsheed Marker his personal representative for Timor-Leste to activate the stagnant UN process.

407. In 1998 CNRM held a convention of some 200 East Timorese in Peniche, Portugal, with the assistance of the Portuguese Government. The gathering was held overseas to take advantage of Timor-Leste's new international momentum and, in Agio Pereira's words, "to project a front of national unity and Xanana Gusmão as leader".[226] The convention strengthened unity by dropping, at Xanana Gusmão's explicit instruction, the word "Maubere" from its title in deference to UDT, thereby changing its name to Concelho Nacional da Resistência Timorense (National Council of Timorese Resistance, CNRT), welcoming Timorese who had previously collaborated with Indonesia and acknowledging the role of the Church.* It also confirmed the Resistance's commitment to democracy and pluralism by adopting a Magna Carta of human rights. The convention was hailed universally as a singular achievement. In the words of the Australian Government, it brought together "the former civil war adversaries UDT and Fretilin into a single coalition – not achieved in earlier resistance umbrellas" and achieved agreement "on the choice of gaoled Falintil commander Xanana Gusmão as CNRT President and paramount leader of the resistance".[227]

408. The Resistance joined the UN-sponsored All-Inclusive Intra-East Timorese Dialogue (AIIETD), that began in 1995, in a position of strength and used them to

* The internal Resistance and Xanana Gusmão, who was in prison in Jakarta, were represented at the convention by Fr Filomeno Jacob SJ and Fr Domingos Maubere Soares.

advantage. At the fourth AIIETD in 1998, José Ramos-Horta, with support from UDT and Fretilin, gained majority Timorese support for direct participation in UN-sponsored talks between Portugal and Indonesia. Jamsheed Marker reported that, at the same time, Western and UN diplomats began to engage in direct consultation with Xanana Gusmão in prison and with other Resistance representatives.[228] The "right to dialogue" had finally been conquered.*

409. In April 1999, the CNRT held a forward-planning conference in Melbourne. Initiatives like this and CNRT's decision to canton Falintil and to conduct a disciplined campaign for independence that avoided provocation of the pro-autonomy militia[229] deepened international confidence in the Resistance in the period leading to the August ballot. Agio Pereira told the Commission:

> *It would have been difficult for the UN to negotiate the 5 May 1999 Agreement with Indonesia if the Timorese Resistance was seen to be divided or at least disorganised.[230]*

410. It was a matter of great satisfaction and pride to have the UN recognise the legitimacy of the Resistance by using CNRT's name and flag on the 30 August 1999 ballot paper. The ultimate accolade, however, came from the people of Timor-Leste who gave the Resistance, including its political components, their overwhelming support that unforgettable day.

The diaspora

411. The East Timorese diaspora was, generally speaking, not part of the formal Resistance diplomatic campaign for self-determination. However, the presence and activities of Timorese communities significantly lifted the profile of the issue in many countries and provided the formal campaign with vital additional human resources and skills. The diaspora increasingly came to play a role in its own right, the effectiveness of which was recognised by Timor-Leste's political leaders, and many of its key members returned to Timor-Leste during and after 1999 to help build the new nation.

412. At its peak, the diaspora comprised about 20,000 East Timorese in Australia, some 10,000 in Portugal and a scattering in Macau, Mozambique, Canada, the US, the UK, Ireland and some other countries. The majority of the original diaspora were refugees from the 1975 civil war between UDT and Fretilin who either came directly to Australia or who found their way to Portugal via West Timor. Many who went to Portugal eventually came to Australia to join relatives, to be closer to Timor-Leste and to improve their opportunities. Their numbers were augmented over the years by family members, whose passage from Timor-Leste was sometimes officially sanctioned through the International Red Cross, and by political refugees and others, who escaped through Indonesia, either secretly as individuals using complex channels including

* This is a reference to the Fretilin report on Xanana Gusmão's short-lived talks with Colonel Purwanto in 1983 which was entitled *Fretilin conquers the right to dialogue*, The FRETILIN External Delegation, Lisbon, 1983.

bribery of Indonesian officials or publicly through asylum bids at foreign embassies in Jakarta.* Those who exited through the foreign embassies from 1993 on, or who left at other times after 1975, made a particularly important contribution because they were politically highly motivated, could speak from personal knowledge of the occupation and were not constrained by 1975 political affiliations. They quickly and easily joined the CNRM and solidarity organisations and activities in the UK, Ireland, Europe, Canada, the US, Portugal and Australia. A further 1600 arrived in Australia in 1995, the largest number since the civil war. Since 1999, the trend has been generally in the other direction. Though most of the general community remains overseas, a majority of the key diaspora leaders have returned to Timor-Leste or maintain a presence in both worlds.†

413. The diaspora was small, politically divided, scattered and impoverished. Many started their new lives in refugee camps and carried in their luggage scars and antipathies from the civil war and the Indonesian invasion. In Portugal newly arrived East Timorese were outnumbered by large numbers of people from the former Portuguese colonies in Africa and had difficulties finding accommodation and work. Many East Timorese lived in camps in Lisbon for several years.

414. In Australia, East Timorese were totally unfamiliar with the language, culture and structure of the host country. Abel Guterres told the Commission:

> *Our friends in Portugal spoke Portuguese, but we in Australia had a huge problem: we didn't know the language…The first word we learned was 'yes'. We would go to a friend's house, they'd ask: 'Do you want coffee or tea?' We'd all say 'yes' and so they would bring us coffee and tea all at once.*[231]

415. They settled primarily in the working class areas of big cities and found employment where they could – in factories, as casual workers and in the public transport system. These factors made the building of communities and political organisations slow and difficult. They were assisted in this demanding process by welfare organisations, community and church groups and by outstanding men and women patriots within their own ranks.

416. The successful building of these communities and the transmission of a nationalist political culture to the next generation was a remarkable achievement. In Portugal, Macau and Australia the communities established political, cultural and sporting organisations, hosted meetings, and kept their members informed through the production of their own radio programmes and newsletters. The Catholic Church played an important role as a neutral meeting place and source of spiritual, cultural

* The Campaign to Reunite in Australia the Families of Timor (RAFT) raised many thousands of dollars from Australian NGOs and established a revolving loan fund to help East Timorese families, regardless of their political affiliation, to pay for relatives to join them in Australia.

† For a study of the East Timorese diaspora community in Sydney, see Amanda Wise *No Longer in Exile? Shifting Experiences of Home, Homeland and Identity for the East Timorese Refugee Diaspora in Australia in the Light of East Timor's Independence*, University of Western Sydney, 2002. See also Pascoela Barreto's dissertation about Timor-Leste's diaspora in Portugal.

and pastoral care, particularly where East Timorese priests were available. The building of these communities was itself a defiant act of East Timorese self-determination in an alien environment, and gave birth to a new resource that added significantly to Timor-Leste's diplomatic capacity and outreach.

417. Though often substantially handicapped by the legacy of the civil war, the diaspora made an impact in the countries where their communities were strongest. In some cases, this paralleled other solidarity work. Luisa Teotonio Pereira told the Commission:

> *The Timorese community in Portugal always maintained its own autonomous organisations (and was only) sporadically invited to participate in Portuguese structures. There was probably only one occasion when they joined forces as equals with Portuguese citizens: in the case of the Freedom for Xanana, Freedom for Timor Commission (Comissão Liberdade para Xanana, Liberdade para Timor) created in 1993.*[232]

418. This was also true for sections of the East Timorese community in Australia. Although slow to start, others formed alliances with civil society groups and supported each other through joint protests, lobbying, information dissemination, fund-raising, and cultural, religious and political activities. In later years, these activities included concerts and the co-production of music compact discs, exhibitions and professional theatre pieces. This was not always straightforward. Abel Guterres told the Commission:

> *When we conducted demonstrations at the Department of Foreign Affairs or Indonesian Embassy some people would tell their boss at work they were sick, but then show up on the television in the demonstration. If the boss understood the situation they would allow people to take time off but some got sacked and once you're sacked, how do you get food?*[233]

419. Some learned trade and business skills and took courses at post-secondary level and university to equip themselves to serve Timor-Leste after independence. Abel Guterres told the Commission:

> *Some people gave one per cent, some ten per cent, twenty, thirty, forty to a hundred per cent of their life to work for Timor-Leste. Everybody did something. It might have been only really small things, but they did something.*[234]

420. East Timorese also engaged in international outreach supplementing the advocacy of official diplomats by supporting them in international forums or, as time went by and confidence grew, themselves representing Timor-Leste in approaches to foreign governments or international conferences.* In addition to the formation

* In Europe, for example, this included tours by Portugal-based Timorese who campaigned through Europe dancing, singing and displaying the culture of Timor-Leste. Other examples are the participation of East Timorese diaspora women in the World Conference on Women held in Nairobi in 1985, the follow-up conference in Beijing, the UN Commission on Human Rights, Asian church gatherings, and advocacy to the Australian, New Zealand and other governments.

and administration of organisations to maintain their community identity and solidarity, diaspora East Timorese also formed effective organisations to provide direct humanitarian, advocacy, human rights and other support to Timor-Leste.*

421. Timor-Leste's leaders recognised and encouraged the contribution of the diaspora. José Ramos-Horta lived amongst and interacted frequently with the community in Australia and, with an eye to the future, increasingly included the younger generation in his missions. After his capture, Xanana Gusmão addressed frequent letters to the diaspora, confirming his belief and theirs that diaspora East Timorese were as much a part of the Resistance as those in Timor-Leste. In a letter to Xana Bernades, dated 9 June 1992, he wrote:

> I know that you are "independent" (of the political parties) but nevertheless you are united to us. You are part of us. And we, as the older fighters of the nation, are proud of you.†

422. Xanana Gusmão repeated this view after his liberation. He told a press conference in Lisbon in 2000 that the world may never have known the truth but for those who fled Timor-Leste and devoted a large part of their lives to the cause of self-determination. At the Commission's National Public Hearing on Self-determination and the International Community, Commissioner Olandina Caeiro asked Abel Guterres to identify one really special moment in his life since he left Timor-Leste in 1975. He replied:

> *There were lots of really good moments, but one stands out. In 1999 when I came to Lecidere, I saw the CNRT flag being hoisted. I thought: 'Wow, this is fantastic'. This is something I'd always dreamed of. It was like being in heaven. It's impossible to describe the feelings I had at that moment. I saw everybody dance a tebe-tebe around the flag. It was just something amazing.*[235]

Conclusion

423. Timor-Leste's traumatic 25-year struggle for self-determination should not have been necessary. Like other small island states in the region, Timor-Leste's internationally recognised right to make its own decisions should have been respected, celebrated and facilitated peacefully, not suppressed by violence.

424. Among the various factors that account for Timor-Leste's independence, the contribution of the Resistance was the most fundamental.

* Two notable examples were the East Timor Relief Association (ETRA), formed in Sydney in 1992, and the East Timor Human Rights Centre (ETHRC), formed in Melbourne in 1995. Like some other diaspora organisations that were focused on liberation, they dissolved after 1999.

† The letter to Xana Bernardes, a young East Timorese woman living in Australia, was in response to a letter from her along with funds raised from a solidarity cricket match and festival in Melbourne (Sarah Niner (Ed.), *To Resist is To Win: The Autobiography of Xanana Gusmão*, Aurora Books, Victoria, 2000, pp. 170-71).

425. To achieve its goals, the Resistance had to contend with an array of formidable problems, both external and of its own making, including the disastrous civil war. Despite the clear legitimacy of its cause, the diplomatic front had to operate in an environment that was hostile to its ideology and objectives and that favoured the occupying power rather than the legal administering power. The external Resistance was also divided and effectively operated on one lung. Fretilin had to carry the burden on its own for many years while UDT reconstituted its organisation and credibility following the civil war and the collaboration of some its main personalities with Indonesia.

426. The Resistance countered these challenges by utilising its strengths and by adapting itself without compromising its goal of self-determination and independence. Though not sufficient to halt the deterioration in its diplomatic fortunes, Fretilin's early policy decisions were fundamentally important and contributed significantly in the long-term. They included the decisions to open a diplomatic front, to focus on the UN and Timor-Leste's internationally recognised right of self-determination, to work with Portugal, to build support in Africa with the five former Portuguese colonies and the large bloc of UN votes, to build links with first world civil society and many of its key institutions, and to appoint José Ramos-Horta to represent Timor-Leste at the UN. His contribution to building civil society support and world consciousness about Timor-Leste was outstanding, and his policy and strategic input to the Resistance, based on his extensive diplomatic experience and knowledge, was decisive – both inside and outside the country.

427. The most important contribution to the diplomacy of the Resistance came from the inside when the Resistance was reconstructed as an all-inclusive movement based not on party-affiliation or political ideology, but on nationalism and commitment to pluralist democracy and human rights. This policy change helped turn Timor-Leste's fortunes around. José Ramos-Horta was entrusted to lead its implementation outside. It took time to translate into practice, but its diplomatic impact was profound. In one stroke as it were, it negated claims that resistance was confined to Fretilin and only external, it swelled the ranks of the Resistance inside and outside Timor-Leste, including among the diaspora, it accommodated a number of significant UDT policies, and it finally put to rest fears that Timor-Leste was a "South-east Asian Cuba" in the making. Though rejected in some quarters, it also shaped the previously fragmented Resistance into a more coherent, integrated movement under the authority of Xanana Gusmão and José Ramos-Horta, the joint architects of these far-reaching reforms.

428. The Resistance, both internal and external, learned from bitter experience and reinvented itself in the crucible of war and international politics. The result, in partnership with civil society, was one of the 20th century's most successful movements of people's diplomacy.

Civil society

Preface

429. This section focuses on the contribution of international civil society to the struggle of the East Timorese people for self-determination. Civil society accompanied the East Timorese people every step of their long journey to freedom, but its efforts are commonly ignored in accounts from official sources or rate only passing mention.* This section is intended to acknowledge this remarkable gift of solidarity and to inform the East Timorese people, the majority of whom remained in Timor-Leste during the war cut off from the outside world, of the activity undertaken outside Timor-Leste in defence of their fundamental human right to decide their fate. Due to limitations of space, it is not possible to tell the story in detail or to do complete justice to the many thousands of individuals and organisations who were involved over the 25-year period 1974-99. Each country is a study in its own right. It focuses on the seminal early years about which less is generally known today. Indonesian civil society is singled out for special mention because its involvement demanded exceptional courage. The contribution of international civil society in other important fields such as aid, refugees, and humanitarian need is not included, though it is recognised that these services were often essential to survival and that without them self-determination would have been meaningless for many East Timorese.

Terminology

430. The Commission has chosen the term civil society for four reasons. First, the term differentiates this sector from the other key sectors that make up democratic society, namely government and business. The term acknowledges the emergence and independent role of the 'third sector' in its own right in the affairs of the world. This is particularly relevant in the context of Timor-Leste because, for most of the period 1974-99, civil society played a discrete role and was generally in opposition to government and business over Timor-Leste.† Second, the term is more comprehensive than labels such as "non-government organisation" (NGO) and "solidarity group", which are often

* The Australian Government's official account of Australia's role in resolving the Timor-Leste question does not include civil society's role. See *East Timor in Transition 1998–2000: An Australian Policy Challenge*, Department of Foreign Affairs and Trade, Canberra, 2001. Jamsheed Marker makes a passing reference to NGOs in *East Timor: A Memoir of the Negotiations for Independence*, McFarland & Company, Inc., London, 2003. In his account of the 1999 ballot, Ian Martin, the head of UNAMET, pays generous tribute to NGOs but acknowledges their story is not the subject of his book (*Self-determination in East Timor*, p. 13).

† As Luisa Teotonio Pereira testified to the CAVR National Public Hearing on Self-determination and the International Conflict, Portugal was an exception to this general rule, at least in later years. The confrontation that characterised relationships between government and civil society in most other countries only changed in 1999 after Indonesia and the international community agreed on the conduct of an act of self-determination in Timor-Leste. The private or business sector generally did not become publicly involved on either side of the issue, though it profited from commercial relations with Indonesia which grew dramatically under the Soeharto Government. There was no citizens' movement in support of Timor-Leste in countries such as the former USSR and China because the existence of a "third sector" is not recognised in socialist systems.

used in this context, but are not broad enough to encompass the breadth and diversity of the individuals, groups and organisations that were involved in supporting self-determination for Timor-Leste. Third, the term "civil society", unlike "non-government organisation" (NGO), has positive content and represents commitment to building a civil or civilised society based on the values of peace, human rights and democracy. The term is appropriate here because international civil society earned legitimacy and respect in its advocacy for Timor-Leste by promoting core values and generally operating non-violently within the law and through the law.* Lastly, the term civil society recommends itself because it has been officially adopted by the United Nations and marks an important shift in international thinking. There is a growing recognition in official circles that civil society has a role to play in global governance and that the work of the United Nations is no longer the sole domain of governments.† Timor-Leste's experience bears out the wisdom of not leaving everything to government. As the UN Secretary-General Kofi Annan acknowledged in Dili in May 2002, the contribution of civil society was critical to the UN's role in resolving the Timor-Leste conflict.

International civil society

431. The following account of the role of international civil society in support of Timor-Leste's political rights is divided into five phases. Like the story of Timor-Leste, it begins and ends on a high point and plumbs the depths of failure and despair in between.

Phase one: Beginnings and early challenges, 1974–1978

432. Although the decolonisation of Timor-Leste began in principle in 1960,‡ international civil society did not show any significant interest in the issue until 1974, when it responded to media coverage and lobbying by East Timorese activists and Fretilin representatives in particular. International civil society can be justly criticised for not taking up the Timor-Leste issue sooner in response both to the UN's initiative and the deplorable state of affairs in Portuguese Timor under the Salazar-Caetano regimes. At the same time, its belated response means it cannot be accused of manufacturing the issue for ulterior political motives as has often been claimed. It developed and acted in response to East Timorese initiatives, not the opposite.

433. The Indonesian invasion was condemned by individuals and organisations in a number of countries, including Canada, Japan,§ New Zealand, France, Germany and the United States. At this point, however, the main centres of organised civil society activity were Portugal, Australia and the United Kingdom.

* A controversial exception was the disarming of a British Hawk fighter jet by four women activists in January 1996. They were released by the court afterwards (see Turning points 1991-98, par. 478 ff below).

† While the UN encourages partnership, it remains essentially a forum for states. It is not planning to grant civil society organisations a seat or vote in the General Assembly.

‡ The United Nations first recognised Timor-Leste's status as a colony with a right to independence in 1960.

§ For example, protests were held outside Indonesian government offices in Tokyo and Osaka (Sister Monica Nakamura, testimony given to the CAVR National Public Hearing on Self-determination and the International Community, 15–17 March 2004).

434. Portuguese civil society welcomed the 1974 Carnation Revolution and the decision of the Movement of the Armed Forces (Movimento das Forças Armadas, MFA,) to decolonise, democratise and develop both Portuguese society and the overseas provinces. Civil society itself was a beneficiary of these political changes after decades of marginalisation under successive dictatorships. For many, democracy and decolonisation were interlinked. "A nation cannot be free while oppressing other nations" was a common slogan before and after the 25th of April. Portuguese who had lived and worked in Timor-Leste, and those who had worked to end Portuguese dictatorship and colonialism, felt a strong sense of responsibility to the East Timorese people. CIDAC (The Centro de Informação e Documentação Anti-colonial, Anti-colonial Information and Documentation Centre) was founded in September 1974 to promote decolonisation, including self-determination and independence for Timor-Leste. CIDAC contributed to the creation of the short-lived Associação de Amizade Portugal-Timor Leste (Portugal and Timor-Leste Friendship Association) and, in 1981, to the establishment of the CDPM (Comissão para os Direitos do Povo Maubere, Commission for the Rights of the Maubere People) which became Portugal's main solidarity organisation until its dissolution in 2002.

435. However, despite links with Timor-Leste going back 400 years, a common language and the presence of East Timorese in Portugal, civil society faced many challenges at both government and community levels in relation to Timor-Leste during this early period. These included general public ignorance about Timor-Leste, turmoil in Portugal resulting from radical political change after 48 years of dictatorship, a preoccupation with Portugal's African colonies and divisions of opinion over Timor-Leste's future compounded by differences between Fretilin and UDT. Luisa Teotonio Pereira, the Coordinator of CDPM for 19 years, testified to the Commission:

> *Real ignorance of Timorese history and culture, the geo-strategic context of the territory and its remoteness from the metropolis, as well as the secrecy of negotiations between Portugal and Indonesia, helped keep the discussion about Timor on a lower, mainly ideological plane with little practical value. Portuguese citizens who were interested in the rights of the Timorese people were incapable of imposing on the political powers of the time the fundamental strategic changes that could eventually have changed events, such as reinforcement of the Portuguese presence and action, and the internationalisation of the issue.*[236]

436. Conscious of a special responsibility because they shared a common language with the East Timorese Resistance, civil society groups invested heavily in information dissemination based on Timorese and other sources, including the work of outstanding Portuguese journalists like Adelino Gomes. However, due to the substantial challenges referred to, it took several years for Portuguese civil society to maximise its contribution.

437. Australia was the principal centre of international civil society support for Timor-Leste during this period. As Timor-Leste's largest democratic neighbour, Australia was

targeted from 1974 by East Timorese political parties, particularly Fretilin, seeking both official and civil society support for their respective parties and programmes. By the time of the Indonesian invasion, Timor-Leste was on the agenda of a range of organisations and individuals in Australia, including academics, human rights activists, journalists, politicians, aid agencies, churches, returned soldiers,* students and trade unionists, a good number of whom had already visited the territory.

438. The foundation of Australian civil society's diverse and enduring commitment to Timor-Leste was laid at this time. This can be seen from a brief survey of some of these first associations, many of which also contributed to the building of long-term regional and international support for Timor-Leste.

439. Australian parliamentarians visited Timor-Leste twice in 1975 and formed a small but solid caucus of support for Timor-Leste in Canberra, challenging the anti-Timor policies of successive governments. One of these, the Labour Party MP Ken Fry, testified to the UN Security Council in April 1976 and was the leading supporter of Timor-Leste in the national Parliament. His colleague, Gordon McIntosh, was similarly active in the Australian Senate and instrumental in mobilising New Zealand civil society. The US Congressional Hearings into Timor-Leste in 1977 were prompted by Australian parliamentarians, led by Tom Uren who served in West Timor during World War II.

440. Australian aid agencies delivered humanitarian assistance in response to the civil war in 1975. They included the Australian Council for Overseas Aid (ACFOA), an association of some 70 national NGOs, which was to advocate publicly for self-determination for the next 24 years at home and abroad. Fr Mark Raper SJ, one of the ACFOA delegation, fostered support for Timor-Leste in social justice networks in Australia and Asia, adding to the strong support for self-determination advocated by the Catholic Commission for Justice and Peace. Australian aid agencies, including Australian Catholic Relief and Community Aid Abroad, funded James Dunn's visit to Portugal in January 1977, where he debriefed refugees who had left Timor-Leste after August 1976. His report was critical to confirming Fretilin claims of human rights violations by the Indonesian military.

441. Australia was the destination for the first East Timorese refugees from the civil war, a development which in time greatly strengthened the campaign for Timor-Leste in Australia and the region. The five foreign observers at Fretilin's Declaration of Independence in November 1975 were Australians: journalists Michael Richardson, Jill Jolliffe, and Roger East; David Scott, chair of Community Aid Abroad, and Sam Kruger, a former soldier. Jill Jolliffe became an international authority on Timor-Leste and her reports appeared in the international media throughout the occupation. Three of the six Australian-based journalists killed in Timor-Leste before the end of 1975 were Australian nationals. Their fate became a cause célèbre in Australia. The wife of one

* Some former Australian soldiers who fought Japan in Timor-Leste and were protected and supported by East Timorese during the Second World War strongly believed that Australia owed the East Timorese a moral debt for their sacrifices on Australia's behalf and should support self-determination. Ex-commandos Cliff Morris and Paddy Kenneally were among those who publicly espoused this point of view, but, concerned about the spread of communism, not all their colleagues agreed with them.

of the journalists, Shirley Shackleton, and the brother of another, Paul Stewart, made excellent use of the media and became nationally identified with the Timor-Leste cause. The Timor issue gained support in union circles and led to bans on goods destined for Indonesia and a visit to Jakarta in April 1976 by the President of the Australian Council of Trade Unions (ACTU), Bob Hawke, and his colleague, the committed Timor activist, Jim Roulston, to urge a full inquiry into the deaths of the journalists in Balibó. Australia's longest-serving solidarity groups, CIET (the Campaign for an Independent Timor-Leste) and AETA (the Australia Timor-Leste Association), were established at this time following visits by their founders to Timor-Leste. CIET was established in Sydney in November 1974 by Denis Freney (1936-95) and had counterparts in Britain, several Australian cities (Adelaide, Canberra, Darwin, Newcastle, Wollongong) and later in New Zealand. AETA, through David Scott, helped establish Fretilin's first mission at the UN in December 1975. Following the Indonesian invasion, CIET was the main channel of information about the occupation and resistance through the Fretilin radio link based in Darwin* and Timor-Leste News Agency publications. It was also responsible for "Isle of Fear, Isle of Hope", the first English-language film on Timor-Leste's struggle, made in 1975. The Commission heard testimony from David Scott of desperate attempts to break the embargo on Timor-Leste in 1976, including a foiled attempt by Australians to land by boat from Darwin.†

442. Civil society activity in Britain was smaller than in Portugal or Australia. Britain's links with Timor-Leste were non-existent compared to Australia and Portugal, the territory was remote and there was no East Timorese community in the United Kingdom to witness to events. In addition, although two British citizens were among the five Australian-based journalists killed at Balibó in October 1975, it was British Government policy from the outset to distance itself from the Timor-Leste issue in order to reduce the possibility of public pressure to condemn Indonesia. Based on its ancient relationship with Portugal, it had adopted a similar low profile on the issue during the latter years of Portugal's administration of the territory. (See pars 221-244 on the British Government, above).

443. Despite this difficult environment, two civil society organisations took up the issue. Their work and that of other later church agencies made Britain, in time, a key

* Radio Maubere was the Resistance's only direct link to the outside world after the Indonesian military sealed off the territory. Fretilin broadcasts about the war in Timor-Leste were picked up in Darwin and disseminated by CIET to Fretilin representatives abroad, the UN, support groups, the media and governments. Transmission from the Darwin end was carried out with skill and tenacity by Fretilin members Tony Belo and Estanislau da Silva and their Australian supporters, led by Brian Manning, despite periodic seizures of their equipment by the Australian authorities. Secret Fretilin communications had to be decoded before being passed on. The link was shut down in November 1978 after the Indonesian military gained control of the Fretilin radio from Alarico Fernandes in Timor-Leste. It was restored in 1985 for a brief period. Brian Manning's account of this activity can be found in *A Few Rough Reds*, Hal Alexander and Phil Griffiths (Eds.), Australian Society for the Study of Labour History, Canberra, 2003. Rob Wesley-Smith's account can be found in *Free East Timor*, Jim Aubrey (Ed.), Random House Australia, Milsons Point, NSW, 1998.

† The Australian government confiscated the boat and charged the crew with breaches of customs laws. The trial lasted 12 days (David Scott, testimony given to the CAVR National Public Hearing on Self-determination and the International Community, 15–17 March 2004).

international support centre for Timor-Leste. The pioneers were BCIET (the British Campaign for an Independent East Timor) and Tapol, the British Campaign for the Release of Indonesian Political Prisoners.* BCIET was formed in 1974 as part of Denis Freney's CIET network and spearheaded the solidarity movement in the UK until 1979. One of its main roles was to disseminate in Britain information received from Fretilin through Denis Freney. John Taylor and Dave Macey, who were key members, worked closely with Tapol and built important and lasting links with church, academic and political circles. John Taylor later wrote two books on Timor-Leste and contributed to several others.

444. Tapol was established in June 1973 and carried regular reports on Timor-Leste from 1974. After BCIET became defunct, Tapol helped keep the issue alive in Britain until it was joined by a number of church-based organisations and the British Coalition for East Timor was established in the early 1980s. Tapol campaigned primarily through the publication of its newsletter, whose regularity, longevity and professionalism was the envy of other activists, and whose distinctive contribution was its reportage based on Indonesian sources. Tapol and its newsletter owed much to the initiative and dedication of Carmel Budiardjo, herself a former political prisoner in Indonesia, and Liem Soei Liong, an Indonesian living in exile in the Netherlands. They reached a wide international network through the newsletter and speaking tours abroad, including later to the UN. They also built a solid support network in Britain comprising a cross section of distinguished patrons, including dignitaries like Lord Avebury who was a persuasive advocate for the cause in many elite circles throughout Timor-Leste's struggle.

445. Civil society adopted two broadly different approaches to the Timor-Leste question during this period. Most in the first category were solidarity groups who campaigned in support of independence and Fretilin. The first solidarity group to be established was called the Campaign for an Independent East Timor (CIET). This group accepted the reality of Fretilin control and that Timor-Leste had already determined its political status, identified enthusiastically with Fretilin's reform programme which fitted progressive development and political agendas,† and rejected the notion that the territory would be better off under the Soeharto regime. This alignment continued during the early years of occupation when Fretilin maintained control of territory and radio contact with the outside world but broadened to include support for self-determination when Fretilin made this strategic change. This solidarity was not weakened by real or alleged Fretilin violations of human rights. Most did not know of these excesses at the time or believed that claims by Indonesians and their East Timorese supporters were exaggerated or politically inspired.

* In response to Timor-Leste and the changing situation in Indonesia, Tapol broadened its name to British Campaign for the Defence of Political Prisoners and Human Rights in Indonesia and, from 1986, to The Indonesia Human Rights Campaign.

† Examples of academics who promoted Fretilin and its policies in relation to education, economic and other reforms are António Barbedo de Magalhaes, Helen Hill and John Taylor. Helen Hill, who visited Timor-Leste prior to the Indonesian takeover, wrote her doctoral thesis on Fretilin, which remains the only study of the party. Her other contributions included *Timor Story*, published in 1976 by Timor Information Service.

446. Others in civil society preferred an approach based more on the human rights principle of self-determination than on party politics. In policy terms at least, they were open to Timor-Leste's future integration with Indonesia, if this were the outcome of due process, and distanced themselves from Fretilin and the solidarity movement. Most in this category were established development, church and human rights NGOs who were governed by set policies. They were less flexible than solidarity groups but often had a keener appreciation of how to manage the politics of the issue, particularly during this period when the Cold War was at its height. Their independence also spared them involvement in the bitter ideological battles and organisational problems experienced in some parts of the solidarity movement in the early years. Although independent, they were not opposed to Fretilin or those in solidarity with Fretilin and often co-operated with both and looked to them for information.

447. Typical of this approach was the former Australian consul to Timor-Leste, James Dunn, whose authoritative views on Timor-Leste had a strong influence on public perceptions of the issue in many circles. He spoke for many when he wrote as follows to José Ramos-Horta (Fretilin) and Domingos de Oliveira (UDT) on 18 September 1974:

> I am writing a brief note to you – and also to Domingos Oliveira – to dissociate myself from the reports that Australia favours the integration of Timor into Indonesia. I do not wish to comment on this report or on whatever might be the policy of the Australian government on this question. But I wish to make it clear that, in my opinion, it is for the Timorese people to decide on what the future course of their country should be, without hindrance or pressure from any external quarter. On the question of integration with Indonesia I can only say that, at the time of my visit, I had the impression that very few of your people favoured this course as a solution to their destiny. If this situation were to change and the Timorese were to decide in favour of joining with Indonesia I would, of course, accept and welcome such a decision. Equally, should the Timorese decide in favour of independence, their decision would be very welcome to me personally and I would like to assist the emergence of the new state in any way possible. I would also respect the decision of your people to continue a relationship with Portugal, if that is what your people desire to do. The challenge is yours: it is for Australia not to coerce you into any direction against your natural and justly expressed wishes.*

448. This approach made it possible to appeal to a wide public. It was adopted with considerable effect by AWD (Action for World Development), led by Bill Armstrong.

* A copy of this letter is in the CAVR archives. James Dunn was Australian Consul to Portuguese Timor 1962-64. He visited the territory on behalf of the Australian Government from 17–27 June 1974 and on behalf of ACFOA after the civil war. He was a tireless and highly credible advocate for Timor-Leste throughout the occupation and is the author of *East Timor: A Rough Passage to Independence*, Longueville Books, 2003. In 2001 he was given the Order of Australia and in 2002 made a Grande Official of the Order of Prince Henry by Dr Jorge Sampaio, the President of Portugal.

An ecumenical Australian church-based movement, AWD used its connections with aid agencies, social justice activists and churches in Australia and overseas, including the World Council of Churches, to promote Timor-Leste as a human rights issue, not a pro-Fretilin or anti-Indonesia issue.

449. AWD supported the publication of the Timor Information Service (TIS), edited by John Waddingham, one of Australia's most knowledgeable Timor-Leste activists, which provided credible information and analysis based on a range of sources, not only Fretilin. This approach drew a sharp distinction between the Indonesian military and the Indonesian people, whose situation many were concerned to improve, and left the door open to building links with Indonesian civil society which happened in due course. It also made possible the gradual building of relations with diaspora East Timorese in Macau, Portugal and Australia, including senior members of UDT* who left Timor-Leste as refugees following Fretilin's victory in the civil war and were resentful, but misunderstanding, of those they regarded as pro-Fretilin.

450. AWD also supported Pat Walsh who worked on Timor-Leste with John Waddingham before joining the Australian Council for Overseas Aid (ACFOA) and serving as its principal researcher and advocate on human rights until 2000. This work was diverse and included promoting human rights in Indonesia and Australia-Indonesia relations. In relation to Timor-Leste, it focussed on self-determination but also included work on refugees, humanitarian aid, human rights, and involved extensive networking and lobbying in Australia and internationally.

451. The variation in approach, however, made no impact on the Indonesian government and its allies. Many in government, the media, business† and civil society dismissed all who were vocal in defence of Timor-Leste, regardless of their alignment, as pro-Fretilin and anti-Indonesian. The leading role in support of Fretilin played by the Communist Party of Australia compounded the view, promoted by Indonesia and some in the East Timorese Catholic Church, that Fretilin was communist.‡ This issue, plus debates over the viability of an independent Timor-Leste and the importance of good relations with Indonesia, divided opinion and impeded the Timor cause for many years. On the one hand, Government and those who supported official policies, or who were silent, were

* Australian officials reported a comment by General Benny Moerdani on 1 December 1975 that "there was hostility towards Australians, especially ACFOA and media representatives and to a certain extent towards the Red Cross on the part of UDT. Any foreigners in Dili would run the risk of being lumped together as pro-Fretilin by UDT forces", Document 354, Canberra, 2 December 1975, in Wendy Way (Ed.), DFAT, p. 593, n. 4.

† The Australia-Indonesia Business Co-operation Committee (AIBCC) was pressing the Australian Government less than 12 months after the invasion to grant full recognition of Indonesian sovereignty in Timor-Leste in the interests of regional security. The Committee, which represented 153 Australian companies including the ANZ Bank, the Bank of NSW, Blue Metal Industries, the Australian Wheat and Dairy Boards, and the major sugar company CSR, argued that continued opposition to Indonesia's incorporation of Timor-Leste could damage Australia's relations with Indonesia. "Recognise Takeover: Companies in Approach to Canberra", *The Age*, 23 October 1976.

‡ In Australia, Bob Santamaria, leader of the strongly anti-communist National Civic Council, used every opportunity to attack Fretilin and those he portrayed, often wrongly, as communist fellow-travellers. His views were very influential in conservative political and church circles, and damaging for Timor-Leste.

accused of having blood on their hands. On the other hand, civil society was, in David Scott's words, "patronised as 'attention seekers', 'do-gooders', 'communists', 'fellow travellers', 'bleeding hearts', 'pinkos', 'un-Australian' and, the cruellest of all 'naïve'".[237]

Phase two: Crisis and new beginnings, 1978–1983

452. This period was the most difficult and challenging for the East Timorese people and its international supporters. 1978 was a year of deep crisis. By the end of that year Indonesia had made significant military gains, Fretilin's ranks had been decimated, Fretilin had lost its revered leader, Nicolau Lobato, and radio contact with the outside world had ceased. Tens of thousands of East Timorese had died from hunger or surrendered after being forced from the mountains and Fretilin territory by an intense military offensive and famine. In 1983, Dom Martinho da Costa Lopes, the head of the Catholic Church and a leading defender of the East Timorese community, resigned under pressure and left Timor-Leste. Timor-Leste's diplomatic situation fared equally badly during this same period. The external wing of Fretilin was wracked by serious internal divisions and Timor-Leste's fortunes at the UN declined year by year. In 1982, Timor-Leste suffered "a devastating blow", in José Ramos-Horta's words, when a mildly-worded UN resolution was carried by only four votes. A jubilant Ali Alatas, Indonesia's Foreign Minister, told the UN the result was gratifying and that Indonesia hoped the UN would strike the issue from its agenda the following year, once and for all.

453. These critical developments had a major impact on the morale and momentum of civil society support for Timor-Leste. The ending of Fretilin radio transmissions coupled with Indonesia's restrictions on independent access to the territory made it very difficult to sustain public and media interest in the issue, and the sense of defeat in the face of overwhelming odds was profoundly demoralising. Governments sought to weaken civil society commitment further by repeatedly declaring that the situation was a "lost cause" and "irreversible".* Many also argued that continuing support for the issue was irresponsible because it encouraged resistance and this contributed to further loss of life and repression in Timor-Leste.

454. Though weakened, particularly in its capacity to mobilise public opinion, civil society maintained its commitment. It was decided that, even if nothing else was possible, the issue should at least be kept alive. This was based on the conviction that the cause was morally and legally principled and that sustainable peace in Timor-Leste could only be guaranteed through a genuine process of self-determination.† The

* The New Zealand Foreign Minister, B E Talboys, provides a typical example. In a memo to Cabinet following a visit to Timor-Leste in 1978 by Ambassador Roger Peren and Defence Attaché Colonel Macfarlane, the Minister wrote: "Their main conclusion is that the integration of East Timor with Indonesia is irreversible. This squares with my own feelings on the matter. While the Government has had reservations about the actions of Indonesia in Timor, I believe that there is nothing to be gained, least of all for the Timorese people, by dwelling on the past." ("Memorandum for Cabinet", Office of the Minister of Foreign Affairs, Wellington, 8 February 1978, in NZ…OIA Material, Vol. 1).

† For example, ACFOA acknowledged in its *Development Dossier*, July 1980, that Timor-Leste "is only rarely mentioned in the Australian media", but that "the right of the East Timorese to self-determination must remain the basic quest…"

attitude of the East Timorese people was also a decisive factor. Luisa Teotonio Pereira told the Commission:

> *Whenever (in Portugal) the more sceptical, particularly at the government level, would try to justify so-called "realistic measures", in order to "end the suffering of the Timorese people", their answer would be: "As long as the people of Timor-Leste continue to struggle, does it make sense for us to give in to threats and pressure?"*[238]

455. Solidarity work continued. In New Zealand in 1978, CIET ran a high profile 'Let Horta Speak' campaign and forced the Government to back down on its original denial of a visa.* In the Netherlands in 1980, civil society collaborated with Fretilin to take court action against the Dutch Government for exporting military goods (corvettes) to Indonesia. The court ruled in favour of the Government on the grounds that neither the Democratic Republic of Timor-Leste nor Fretilin had legal status. Other groups in Europe and Scandinavia sought to publicise Timor-Leste's plight and to protest government inaction. This included activity by Michel Robert through *Association de Solidarité avec Timor-Oriental* in France, Torben Retboll's work in Denmark including through the International Working Group on Indigenous Affairs (IWGIA) and the work of Klemens Ludwig on behalf of the Society for Threatened Peoples in Germany. In 1985, German activists got over 100 Members of Parliament to urge the German Defence Minister to raise Timor-Leste with President Soeharto during a visit to Jakarta. He refused and, like the Netherlands, Sweden, France and Britain, Germany continued to sell arms to Indonesia. There was progress, however, in the European Parliament. It adopted a number of resolutions on Timor-Leste and in 1994 called for recognition of Timor-Leste's right to self-determination and independence and a halt to all military aid and arms sales to Indonesia.

456. In 1981, Asia's first Timor-Leste solidarity group was started in Japan by women in Hiroshima, led by Jean Inglis. The group published a Japanese-language newsletter devoted to self-determination for Timor-Leste called *Higashi Chimoru Tsuchin (East Timor Newsletter)*. In the USA, Arnold Kohen, who commenced his involvement with Timor-Leste after hearing José Ramos-Horta in 1975, focused his work on key people in three strategically important institutions, mainly in Washington: the Congress, the media, and the Catholic Church. He worked with sympathetic members of Congress and their aides to have a new set of Congressional Hearings, this time focused on America's response to the 1978-79 famine.† He and Fr Reinaldo Cardoso, with Noam Chomsky's assistance, were successful in getting the *New York Times* to publish hard-hitting editorials critical of the Carter Administration. In 1980, the *Times* called on the

* Ramos-Horta did not make the trip because of the Fretilin crisis in Maputo. Key New Zealand activists during this period were Colin Isles, Harry Bruhns and John Compton.

† In his testimony to the Commission, the former UN official, Francesc Vendrell, paid tribute to Arnold Kohen's outstanding success in getting US Congressional support for Timor-Leste which continued till 1999. Testimony given to the CAVR National Public Hearing on Self-determination and the International Community, Dili, 15–17 March 2004.

US to support self-determination and continued to do so. Noam Chomsky testified in support of Timor-Leste to the UN Committee on Decolonisation in 1978. He wrote widely on Timor-Leste, particularly criticising the US press for its lack of attention. Arnold Kohen told the Commission:

> *Chomsky's words on this matter had a real influence, sometimes indirect, and history should record it, because it was of vital importance in helping alter the state of widespread ignorance about East Timor that then existed in the United States and elsewhere.*[239]

457. Arnold Kohen also acknowledged the contribution during "this dark time" of the late Edward Doherty, a foreign policy adviser to the American Bishops, of David Hinkley, chair of the American Section of Amnesty International, and of Michael Chamberlain, one of a small handful of grassroots activists during this time and founder of the East Timor Human Rights Committee that functioned 1979-84.

458. In Australia, civil society groups initiated a public inquiry by the Australian Parliament in 1982-83. The process brought together representatives from the East Timorese community, church, Amnesty International, aid agencies, universities and solidarity groups from seven cities. Carmel Budiardjo, secretary of Tapol in London, and Professor Roger Clark of Rutgers University in the US also testified. The inquiry forced the government to send an Australian Parliamentary delegation to Timor-Leste in a bid to neutralise evidence from witnesses.*

459. Friends of Timor-Leste also produced several publications at this time. Jill Jolliffe's pioneering work *East Timor: Nationalism and Colonialism* was published in 1978 and was for some years the main English-language reference on Timor-Leste. Working from Portugal, she also published *Timor Newsletter* from 1980-83. In 1979, Tapol filled a gap in the UK and US by publishing *An Act of Genocide: Indonesia's Invasion of East Timor* by Arnold Kohen and John Taylor. In 1980, the *Yale Journal of World Public Order* published Professor Roger Clark's important monograph, "The 'decolonisation' of East Timor and the United Nations norms of self-determination and aggression". A New Zealander by birth, Clark was distinguished Professor of Law at Rutgers University in the USA. His scholarly demolition of Indonesia's claims to have complied with international law was the first expert contribution in this area. Clark also testified to the UN and other bodies on Timor-Leste. In 1981, the Swedish Osttimor-Kommitten in Stockholm published *Det Glomda Kriget* (East Timor: The Forgotten War) by Ollie Tornquist and H. Amahorseja.

460. This period of crisis forced civil society to be more creative and to diversify its focus and networking in order to keep the issue alive. It was felt that protest and focus on self-determination alone was not enough, particularly as a response to the shocking famine of 1978-79, and that concerned citizens and organisations should be encouraged to relate to Timor-Leste in new ways through issues such as human rights, refugee reunions and resettlement, development and emergency relief. The intervention of

* This delegation was led by W L Morrison MP and visited Timor-Leste in July–August 1983.

the International Committee of the Red Cross (ICRC), Catholic Relief Services (CRS), World Vision and Oxfam-UK in response to the famine was therefore welcomed, though guardedly, for humanitarian and other reasons, despite serious reservations about the way CRS in particular went about its work. (See Vol. II, Part. 7.3: Forced Displacement and Famine). Photos of famine victims and other information were also used to demonstrate the impact of the war and to mobilise public opinion. As already mentioned, Congressional and Parliamentary Inquiries were conducted on the issue in the USA and Australia.

461. Three new beginnings occurred during this period. Each had positive, long-term consequences and was a source of hope amidst the gloom.

462. First, the East Timorese diaspora, having become more settled in Portugal, Macau and Australia, became more active. The organisations they established challenged perceptions that only a minority of East Timorese were nationalists and eventually became an important source of inspiration and information to the wider community in their countries of residence and abroad.

463. Second, this period witnessed the beginnings of international collaboration. This phenomenon peaked in the nineties but its foundations were laid at this time. A notable example was the Permanent People's Tribunal session on Timor-Leste held in Lisbon, 19–21 June 1981. Convened to lift Timor-Leste's profile during this lean period, particularly in Portugal, the session brought together Fretilin leaders, lawyers, academics, politicians, journalists, church representatives and Indonesians, from fifteen countries. The Portuguese solidarity organisation, Commission for the Rights of the Maubere People (Comissão para os Direitos do Povo Maubere, CDPM) was established at this time.

464. Third, the Catholic Church in Timor-Leste emerged as a public critic of Indonesian military behaviour. This was a development of immense political importance for Timor-Leste, both domestically and internationally. Previously an unrepresentative body that had uneasy relations with Fretilin, the church grew in numbers after the Indonesian invasion* and became a political force despite differences within the ranks of the clergy and pressures from the Vatican. Its intervention offset military gains against Fretilin and was a serious blow to Indonesian expectations that church and state would work as partners in developing the new province. The Church also enjoyed useful international links through its religious congregations and special relationship with the Vatican. The Church was criticised in some quarters,† but international supporters could point to its

* For details, see section on The Vatican above, pars. 310-51. According to an unpublished Indonesian Church report, baptised Catholics were about a third of the population, but as early as late 1976 most East Timorese were already claiming Catholic affiliation. *Notes on East Timor*, 2 November 1976.

† Roger Peren, the New Zealand Ambassador to Indonesia, reported on his visit to Timor-Leste in 1978: "Only members of the Roman Catholic Hierarchy, from the Bishop down, were openly critical of the administration but as time went by we found ourselves placing less and less reliance on their views." He claimed later in the report that the negative views of the clergy may be due in part to "a certain natural disgruntlement as they no longer enjoy the privileged position they had under the Portuguese regime" (para 8 and para 86, 13 January 1978, New Zealand East Timor OIA Material, Vol. 1).

statements as evidence that the Timor-Leste issue was not resolved and that resistance was not confined to Fretilin. The involvement of the Church also legitimised the issue for many who had previously been undecided or concerned about claims of communist links.

465. The individual witness of several priests who had worked in Timor-Leste confirmed these developments. They included the former Portuguese missionaries Father Leoneto do Rego and Father Reinaldo Cardoso, and East Timorese priests Father Francisco Fernandes and Father Apolinario Guterres. Their testimony in a number of international fora was reinforced by the international visits made by Dom Martinho da Costa Lopes to Oceania, North America, Japan and Europe after his departure from Timor-Leste, organised and funded by civil society groups, in which he emphasised self-determination. Following his visit to Japan, Bishop Aloisius Soma put Timor-Leste on the agenda of the Japanese Catholic Council for Justice and Peace and in 1987 appointed Sister Monica Nakamura the desk officer for Timor-Leste. John Taylor and Arnold Kohen told the Commission that the Monsignor's visits to Britain and the USA "were extremely effective" because they showed that Indonesia had failed to win over most Timorese and confirmed that its diplomats were broadly representative of mainstream opinion in the territory.[240] The net effect was that after several years of hesitancy, the international church moved to join the Timor-Leste church in a joint programme of advocacy. This was further strengthened by the involvement of some in important Protestant bodies in Europe, North America, Asia and Oceania despite differences over the issue with the Indonesian Protestant Church.

Phase three: Rebuilding civil society support, 1983–1991

466. Despite its near-death experience, the Resistance survived Indonesia's *Anschluss.*[*] The principal feature of this phase was the rebuilding of resistance inside Timor-Leste by Xanana Gusmão, his emergence as its leader and its gradual transformation into a broad nationalist movement in which all segments of society, not only Fretilin and the military, had a role. Another leader also appeared during this phase: Dom Carlos Filipe Ximenes Belo was appointed head of the Catholic Church in 1983 and became a strong advocate for self-determination and inspiration to international civil society. Three developments towards the end of the period also indirectly favoured Timor-Leste's quest for self-determination. These were President Soeharto's decision to open up the territory, the end of the Cold War, and the visit by Pope John Paul II, the only world leader to visit Timor-Leste during the conflict.

467. The changes brought about by Xanana Gusmão took time to mature, but the net result was a strengthening not only of the internal resistance but also of the diplomatic front, the East Timorese diaspora and international civil society. In 1983, following a ban by the Australian government, a delegation of Fretilin leaders made a successful visit to Australia and addressed a gathering of 1,500 people from all walks

* Kurt Waldheim, the Austrian Secretary-General of the UN, used the term to describe Indonesia's actions in Timor-Leste. It refers to Adolf Hitler's invasion of Austria in World War II. See British Foreign Office memo, 15 May 1976 (CAVR Archives).

of life in Melbourne organised by the Australia East Timor Association. José Ramos-Horta continued to travel frequently, stimulating support in each country he visited.* Supported and sometimes mentored by civil society groups, other East Timorese also undertook international lobbying.†

468. As the new head of the now mainstream Catholic Church, Bishop Belo's views were influential in international civil society circles. He continued Dom Martinho da Costa Lopes' policy of expressing public concern for human rights but focused more clearly on the need for a long-term solution. His conviction that self-determination was essential to end the conflict and human rights violations was encouraging to many Timor-Leste supporters abroad, who disagreed with their governments that the human rights of the East Timorese people could be advanced in the absence of a political settlement.

469. This phase was notable for the strengthening and growth of a number of new international and national networks. Victor Scheffers (Netherlands Catholic Commission for Justice and Peace) and Robert Archer (Catholic Institute for International Relations in London) established the Christian Consultation on East Timor which became a major annual forum for churches and civil society organisations, particularly in Europe. Citizens groups in Japan worked to challenge the silence on Timor-Leste in the Japanese media, academic, parliamentary, faith and official circles. They brought José Ramos-Horta to Japan in 1985 and Dom Martinho da Costa Lopes the following year. They worked with Japanese Parliamentarians, led by Satsuki Eda, to form the Diet Members Forum on East Timor in 1987, visited Timor-Leste and petitioned the United Nations. Through the work of activists such as Aki Matsuno and Kiyoko Fukusawa, a Free East Timor Coalition was formed in 1988 and grew to include some 40 groups across Japan. In 1995 civil society helped move Japan from its rigid pro-Indonesia position to one of support for the UN process on Timor-Leste.

470. In November 1987, Christians in Solidarity with East Timor (CISET) organised the first Asia-Pacific civil society consultation on Timor-Leste. Held in the Philippines, it stressed the need for East Timorese participation in the search for a political settlement. In Canada, following the earlier work of the Canada Asia Working Group and Indonesia East Timor Program, the East Timor Alert Network (ETAN) was set up in 1986 on the initiative of Elaine Brière. It was one of the few organisations to address the responsibility of the private sector towards human rights in Timor-Leste. In 1997 it produced a video, *The Sellout of East Timor*, which included a hard-hitting critique of Canadian business links with Indonesia. Brière's striking photographs of Timor-Leste taken in 1974 were used by organisations in many countries.‡ Solidarity groups

* For example, José Ramos-Horta visited Japan in March 1985 at the invitation of Japanese citizen's groups, making him the first East Timorese to introduce the issue of Timor-Leste directly to the Japanese public (Sister Monica Nakamura, testimony given to the CAVR National Public Hearing on Self-determination and the International Community, Dili, 15–17 March 2004).

† Examples are visits to the Pacific region by Agio Pereira, Abel Guterres and Mimi Ferreira and, in 1985, to the World Conference of Women in Nairobi by Emilia Pires and Ines de Almeida.

‡ East Timorese activists Abe Barreto and Bella Galhos added an important East Timorese dimension to solidarity work in Canada when they defected from a Canada world youth program and joined ETAN's campaign from 1994-99.

in Europe added another dimension to their campaign by extending their network to include the Campaign Against Arms Trade (CAAT).* In 1988 the international network Parliamentarians for East Timor (PET) was established. At full strength it comprised 900 parliamentarians in 40 countries. PET undertook a number of initiatives including making representations to the UN Secretary-General about the fate of Timor-Leste and recommending East Timorese for the Nobel Peace Prize.†

471. A number of new information resources appeared during this time adding significantly to the limited materials available on Timor-Leste. They included *Timor-Leste: Mensagem aos vivos* by António Barbedo de Magalhães (Portugal, 1983); *Timor: A People Betrayed* by James Dunn (Australia, 1983); *Em Timor-Leste, a paz é possível* (Portuguese newsletter produced by Jean Pierre Catry, 1983-91); *East Timor: The Struggle Continues* edited by Torben Retboll (Copenhagen, 1984); *Timor: Past and Present* by Finngeir Hiorth (Norway, 1985); *The War Against East Timor* by Carmel Budiardjo and Liem Soei Liong (Britain, 1984); *Funu: The Unfinished Saga of East Timor* by José Ramos-Horta (USA, 1987); *Timor Link*, a quarterly journal produced by the Catholic Institute for International Relations (CIIR), founded in 1985 by Robert Archer, it was subsequently edited by John Taylor and Catherine Scott; *The Shadow over East Timor*, a video by Denis Freney, James Kesterven and Mandy King (Sydney, 1987); *Buried Alive: The Story of East Timor*, a video by Gil Scrine, Fabio Cavadini and Rob Hibberd (Sydney, 1989); *Descolonização de Timor: Missão impossível* by Mário Lemos Pires (Portugal, 1991); *Timor-Est, le genocide oublié* by Gabriel Defert (Paris, 1992). Amnesty International and the newly established, New York-based organisation Human Rights Watch also published a series of reports on Timor-Leste during this period. Both organisations were neutral on the issue of self-determination, though they testified to the UN Decolonisation Committee. Their independent, authoritative reports on human rights were regarded as more credible than official Indonesian denials and confirmed for many in civil society the need for a proper settlement of the conflict through a genuine process of self-determination.‡

472. Civil society gave increased attention to the UN during this period. Worried about Timor-Leste's fate in the UN following the close 1982 vote in the General Assembly,

* CAAT was established in London in 1974 to end the international arms trade, in particular government subsidies and support for arms exports to oppressive regimes engaged in armed conflict. It sought to expose Western military relations with Indonesia which enabled the Soeharto government to stay in power and to deny self-determination in Timor-Leste.

† Parliamentarians for East Timor (PET) was initially chaired by Lord Avebury, who was also chair of the all-Party Parliamentary Human Rights Group in the British Parliament. Secretarial support was provided by Sharon Scharfe in Canada.

‡ In his testimony to the Commission, Ian Martin acknowledged the Amnesty International researchers who worked on Timor-Leste during the Indonesian occupation, viz Anthony Goldstone, Sidney Jones, Geoff Robinson and Kerry Brogan (Testimony given to the CAVR National Public Hearing on Self-determination and the International Community, 15–17 March 2004). Sidney Jones later worked for Human Rights Watch and produced a number of important reports on Timor-Leste. The importance of the work of these organisations can be seen from Indonesian Government accusations that their claims were false and politically motivated (see letter by Indonesian Department of Foreign Affairs to UN High Commissioner for Human Rights, 2 November 1994, in Krieger, p. 231).

20 to 25 international NGOs made an annual pilgrimage to New York to petition the UN Special Committee on Decolonisation in support of self-determination.* Few, if any, other issues on the Committee agenda received comparable civil society attention. Petitioners to the 1986 meeting included the Indonesia expert Professor Benedict Anderson of Cornell University and Elizabeth Traube, an expert on East Timorese culture, and ranged from large NGOs like Asia Watch to cash-strapped, but deeply committed solidarity groups like the Hobart East Timor Committee from Australia.

473. NGOs also increased their input to the UN Commission on Human Rights in Geneva, both its Sub-commission on Minorities and its annual debate on self-determination. This was often thankless as few governments referred to Timor-Leste in their statements or welcomed being approached in the Commission coffee lounge. In addition, civil society advocates had to endure being criticised by the Indonesian Government before the world body for making unfounded claims based on political objectives. Civil society representation varied from year to year. NGOs who spoke up for Timor-Leste at the 1987 session of the Sub-commission on Minorities were Pax Romana, Pax Christi International, National Aboriginal and Islander Legal Service, and Human Rights Advocates. Civil society interventions were often collaborative exercises based on inputs from NGOs in various parts of the world. International NGOs accredited to the UN sometimes sacrificed their speaking rights to allow East Timorese representatives to speak in their name or provided funding. Community Aid Abroad (CAA) and the Australian Council for Overseas Aid (ACFOA) funded José Ramos-Horta's participation in the UN Sub-commission in August 1991. It resulted in a visit to Timor-Leste by the UN Special Rapporteur on Torture that year.

474. Mainstream institutions began to question Soeharto's rule during this period. Reports critical of Soeharto's wealth and anti-democratic policies appeared in the Western press ahead of US President Ronald Reagan's "Winds of Freedom" visit to Asia in 1986. Indonesia retaliated by banning the media responsible which generated further controversy and strengthened the critics' case. At the same time, over 100 US Members of Congress pressed President Ronald Reagan to raise Timor-Leste with President Soeharto. This was an important sign of things to come and followed years of advocacy by civil society, both inside and outside Indonesia.†

475. In 1989, several windows of opportunity opened for Timor-Leste and its expanding international support network. From 1 January, President Soeharto allowed Timor-Leste to be opened up for the first time since December 1975. Concerned individuals and

* Francesc Vendrell, a former UN official, testified to the Commission that he instigated the idea of encouraging international NGOs to petition the UN Special Committee on Decolonisation (Testimony given to the CAVR National Public Hearing on Self-determination and the International Community, 15–17 March 2004). The practice was encouraged by José Ramos-Horta and by 1991 was co-ordinated by the International Federation for East Timor (IFET) which was conceived by Mr Kan Akatani, a retired Japanese diplomat and representative of the Japanese Catholic Council for Justice and Peace.

† The press articles were David Jenkins, "After Marcos, now for the Soeharto billions", *Sydney Morning Herald*, 10 April 1986 and a piece by A. M. Rosenthal in the *New York Times* on repression in Indonesia. The *Sydney Morning Herald* report caused particular controversy because it compared Soeharto to the disgraced Philippines dictator, Ferdinand Marcos.

organisations from civil society seized the opportunity to visit and, despite restrictions and danger, to make contact with the Resistance, provide material support, act as couriers both ways and to kindle renewed interest in their respective countries. Some 3000 foreigners are estimated to have visited 1989-91.* To facilitate communication, the Australia East Timor Association published the first Tetum-English dictionary, written by Cliff Morris, an ex-Second World War, Timor veteran.

476. A notable example of civil society use of this window was the daring interview conducted in September 1990 by lawyer and unionist Robert Domm with the resistance leader Xanana Gusmão in his mountain hideout. The interview was the first direct interview with the guerrilla leader. It was broadcast by the Australian Broadcasting Commission and significantly increased Xanana Gusmão's international profile and status.† The number of East Timorese studying and working in Indonesia also increased as a consequence of opening up Timor-Leste. This enabled nationalists in their ranks to build links with both Indonesian civil society and with internationals whether working in or visiting Jakarta, including media representatives.

477. Timor-Leste's most important guest after Timor-Leste was opened was Pope John Paul II, who visited in October 1989. His acknowledgment of the existence of conflict in Timor-Leste and the need for a peaceful settlement was at odds with most governments and an inspiration to East Timorese and their international supporters alike. The impact of his visit was further magnified internationally when a demonstration at the conclusion of his Mass at Tacitolu, the first of its kind since the Indonesian invasion, was reported by the world media. On 9 November 1989, the Berlin Wall fell marking the symbolic end of the Cold War. Its fall resonated powerfully in pro-Timor-Leste civil society circles across the world and undercut two of the principal dogmas used to counter their advocacy for self-determination: that Indonesia's incorporation of Timor-Leste was necessary to contain the spread of communism and that its hold on Timor-Leste was irreversible.

Phase four: Turning points, 1991–1998

478. This was a decisive phase in Timor-Leste's struggle for self-determination. The period commenced with a monumental public relations disaster for the Indonesian military in the form of the Santa Cruz massacre, followed 12 months later by Xanana Gusmão's capture. In 1996, the Nobel Peace Prize was awarded to Timor-Leste's most prominent advocates of self-determination, Bishop Belo dan José Ramos-Horta, and in

* Aid to the resistance was non-military and included items such as medicine, video cameras and telephones. On departing, visitors carried documents, taped interviews, photos and the like for use outside including for resistance leaders abroad. Some accounts can be found in Kirsty Sword and Pat Walsh (Eds.) *"Opening Up", Travellers Impressions of East Timor 1989–1991*, Australia Timor-Leste Association (AETA), Melbourne, 1991.

† The interview also publicised Xanana Gusmão's offer to talk to Indonesia without preconditions under UN auspices. Indonesia rejected the offer, but it was promoted by the Timor-Leste Talks Campaign which published a newsletter *The Missing Peace*. The story of Domm's hazardous trek into the mountains with Timorese guides and text of the interview can be found in *East Timor: Keeping the Flame of Freedom Alive*, ACFOA Development Dossier, No 29, February 1991.

1997 Kofi Annan, the new UN Secretary-General, decided to intensify UN diplomacy. The period ended with the collapse of the Soeharto government in May 1998. Civil society contributed to each of these turning points and used them to advance self-determination. The new communications technology also became available during this period and considerably increased civil society's capacity and impact.

479. Unlike other atrocities suffered in Timor-Leste, the Santa Cruz massacre on 12 November 1991 was a turning point in world opinion on the territory. This was due to the presence of international observers on that fateful day and their projection of the tragedy through print, radio and television to the world. The inclusion of one international amongst those gunned down, Kamal Bamadhaj, added to the public outrage, particularly in New Zealand, Australia and Malaysia.* Video of the shooting and terror filmed at great personal risk by Max Stahl was courageously smuggled out of Timor-Leste to Amsterdam by a Dutch reporter, Saskia Kouwenberg.† This powerful evidence, supplemented by graphic photos shot by British photographer Steve Cox who was badly beaten,[241] confirmed what civil society supporters had long claimed, viz that Timor-Leste was a society in stress, that military repression was a reality and that a genuine act of self-determination was the key to peace.

480. International civil society involvement rose sharply in response to the Santa Cruz tragedy. On 19 November 1991, Portugal held a national day of mourning. Leading civil society figures signed an open letter to the US President protesting that America had accepted Indonesian sovereignty over Timor-Leste although no proper act of self-determination had taken place. Portuguese students linked with Forum Estudante and Missao Paz por Timor raised funds to charter the Portuguese ferry Lusitania Expresso to protest the situation by sailing to Timor-Leste. Immediately following the massacre, the East Timor Action Network (ETAN) was established in the US by Charles Scheiner, John Miller and others with the objective of changing US foreign policy to support self-determination for Timor-Leste. US journalists Alan Nairn and Amy Goodman, who narrowly survived the Santa Cruz massacre, campaigned throughout the United States contributing to the growth of ETAN. By 2000, ETAN was supported by 10,000 members with 27 local groups across the US. Also in November, the International Platform of Jurists for East Timor (IPJET) was constituted in the Netherlands headed by Pedro Pinto Leite. IPJET's aim was to mobilise international legal expertise in support of self-determination. This was done through conferences, publications and submissions, including to the UN and the European Union. By 1995, IPJET had 250 members in

* Kamal Bamadhaj's parents were from New Zealand and Malaysia; he was studying in Australia at the time and was active in supporting human rights for Timor-Leste. On 12 November he was working as an interpreter for Bob Muntz of Oxfam-Community Aid Abroad. Muntz was nearly killed and on his return to Australia gave tireless eyewitness testimony about the atrocity. In 1994, in the case of Todd v Panjaitan, the New York-based Center for Constitutional Rights (CCR) successfully sued Major-General Sintong Panjaitan for his role in the Santa Cruz massacre. He was ordered to pay US$14m in damages to Helen Todd, the mother of Kamal Bamadhaj. Payment was never made (Helen Todd, testimony given to the CAVR National Public Hearing on Massacres, 19–21 November 2003).

† Saskia Kouwenberg smuggled out some of the tapes in her clothing. Max Stahl himself took some tapes out and at least one tape was unable to be retrieved from his hiding place in Santa Cruz cemetery.

over 50 countries. Public support was mobilised in Ireland by the East Timor Ireland Solidarity Campaign (ETISC) established by Tom Hyland in Dublin after the Yorkshire Television film *In Cold Blood: The Massacre of East Timor* was screened in January 1992 using Stahl's compelling images of the massacre. The work of ETISC was the other example, in addition to Portugal, where the solidarity movement was able to work effectively with its government. Providing critical information and mobilising the energy of the Irish community, ETISC supported the Irish Government's leading role on the question of Timor-Leste in the European Union in the 1990s. In Scotland, the Glasgow University East Timor and Indonesia Support Group was formed in the mid-1990s.

481. The Indonesian military's capture of Xanana Gusmão on 20 November 1992 initially plunged the Timorese diaspora and civil society alike into depression. It was quickly realised, however, that the best way to protect the resistance leader was to promote his international profile, building on the publicity already generated by civil society, and that his detention and trial presented a new campaign opportunity. Human rights organisations took a close interest in his trial, which was conducted in Dili in May 1993. The Indonesian Government refused a visa to Rodney Lewis, who asked to observe the trial on behalf of the International Bar Association and the Law Council of Australia. Protest grew louder when the trial judge stopped Gusmão from reading his Defence after only three pages, claiming it was "irrelevant", and suppressed the document. From their side, civil society groups considered it was highly relevant. They translated and published a smuggled copy of the Defence, presenting it more as an indictment of Indonesia and its allies than a defence, and the trial as a miscarriage of justice analogous to that suffered by Timor-Leste itself.[242] Portugal and Amnesty International, inter alia, condemned the trial. The defiant fighting spirit of the Defence also inspired supporters and came as a relief following reports after Gusmão's capture that he had accepted Indonesian sovereignty and called on his followers to surrender.

482. Solidarity groups promoted Xanana-in-detention as a potent symbol of occupied Timor-Leste and linked his fate to Timor-Leste's fate. Stickers declaring "Free Xanana, Free East Timor" appeared in the conference hall of the 1993 World Conference on Human Rights in Vienna, including the backs of toilet doors likely to be used by Indonesian government delegates to the Conference. Postcard campaigns, vigils, demonstrations and writings about Gusmão multiplied. In September 1994 the United Nations Association of Australia honoured him in absentia with a human rights award. His birthday became a rallying point each year, marking the slow passage of his life sentence but also his supporters' personal solidarity and commitment to what he advocated, including a referendum.

483. Ironically, Xanana Gusmão's imprisonment in Jakarta allowed him to interact with civil society and the international community more than was possible from the remote mountains of Timor-Leste. Kirsty Sword Gusmão was critical to making this happen, particularly during the years 1992-96 when she was based in Jakarta. In addition to her regular job, she served as a clandestine secretary to the Resistance and was assisted by, amongst others, Victoria Markwick-Smith, who was experienced in the conduct of

Timor work in shadowy Jakarta, and was backed from abroad by her family and a small network of trusted friends. Demanding and risky, this work made possible two-way high-level communication between Xanana Gusmão in his prison cell and his principal ambassador at large, José Ramos-Horta, and many others. It also made possible many exchanges, both personal and official, between Xanana Gusmão and civil society organisations around the world and even the auctioning of his prison paintings abroad to raise money for the Resistance.*

484. John Pilger's film, *Death of a Nation*, did much to strengthen further involvement with Timor-Leste around the world following its screening in Geneva during the annual meeting of the UN Commission of Human Rights early in 1994. After it was shown on national television in New Zealand, for example, parliamentarians launched a petition and the government dropped its policy that Timor-Leste's status was irreversible.

485. In 1994, the Asia-Pacific Coalition for East Timor (APCET) was formed in the Philippines. It held a series of conferences organized by its secretariat, Initiatives for International Dialogue, led by Gus Miclat. Civil society had been active in several Asian countries for many years, but this was the beginning of on-going, co-ordinated solidarity for Timor-Leste across Asia. Successive APCET conferences in the Philippines, Malaysia and Thailand provoked hostile responses from Indonesia and these close ASEAN allies. They also challenged the contention of some Asian governments that human rights were not universal and the Western contention that Timor-Leste had no support in the Asian region. Two Indonesian civil society organisations were represented at the 1995 APCET conference in Kuala Lumpur, and not long after Indonesian Solidarity for Peace in East Timor (Solidaritas Indonesia untuk Perdamaian Timor Timur, Solidamor) was founded in Jakarta. One of the features of APCET's work on Timor-Leste was the bringing together of peoples from a range of oppressed communities in the Asian region. Timorese participants of APCET met with activists from Burma, Sri Lanka, Mindanao, Aceh and West Papua, fostering relationships that continue to this day. The Hong Kong-based Asia Students Association (ASA) was an important affiliate of APCET. Its secretariat worked hard to bring the issue of Timor-Leste to student movements in countries across the region.

486. The use of Western-supplied weapons in the Santa Cruz massacre prompted civil society to increase calls for an arms embargo against Indonesia.† This campaign was particularly vocal in the US and in the UK, supported by the Campaign Against Arms Trade. In January 1996 four women from Ploughshares for Peace entered a British aerospace site and used hammers to disarm a British Hawk fighter jet that was being prepared for delivery to Indonesia. Hawks had reportedly been used against the

* Kirsty Sword Gusmão visited Timor-Leste in 1991 to assist Yorkshire Television with the filming of *In Cold Blood*. Her work for self-determination is recounted in Kirsty Sword Gusmão with Rowena Lennox, *A Woman of Independence*, Macmillan, Sydney, 2003. Examples of Xanana Gusmão's communications to civil society, including messages to the East Timor Talks Campaign, H J C Princen and the Ploughshares for Peace women can be found in his autobiography, *To Resist is To Win*.

† Allan Nairn testified that US-supplied M-16s were used in the massacre. Testimony to US Senate Committee on Foreign Relations, 27 February 1992.

Resistance in Timor-Leste and the women had been calling for their cancellation for three years during which time Britain had become Indonesia's second largest arms supplier. The women – Andrea Needham, Lotta Kronlid, Joanna Wilson and Angie Zelter – informed the company of their action and were arrested. Their trial in 1996 made legal history: they were acquitted by a jury in Liverpool who found that they had acted in order to prevent the greater crime of genocide.[243] However, the campaign failed to change British and US policy on military assistance to Indonesia at this point.*

487. Another important initiative during this period was a series of seminars organised during the 1990s by the Portuguese professor, Dr António Barbedo de Magalhães.† The seminars, most of which were held in Portugal, brought together activists and academics, including from Indonesia, to share information and develop policy and strategies on Timor-Leste. In Australia, new organisations and initiatives continued to emerge. These included Australians for a Free East Timor (AFFET), established in Darwin by long time activist Rob Wesley-Smith around the time of the Santa Cruz massacre; a Sydney branch of the Australia East Timor Association in 1992;‡ Perth-based Friends of East Timor; the Mary McKillop Institute of East Timorese Studies (MMIETS) established in Sydney in 1993 by the Sisters of St Joseph; the East Timor International Support Centre in Darwin, headed by Juan Federer which set up Timor Aid in 1998; in Melbourne the University Students for East Timor and the East Timor Human Rights Centre, chaired by Bishop Hilton Deakin. Action in Solidarity with Indonesia and East Timor (ASIET) was also established at this time and, led by Max Lane, promoted links between East Timorese student underground groups and socialist organisations working for change in Indonesia. The Australian Coalition for East Timor (ACET) provided some co-ordination, but most groups preferred to consult informally. The International Federation for East Timor (IFET), which was established during this period, had a similar experience. IFET achieved a membership of 30 organisations from 18 countries but many in the now large and diverse constellation of pro-Timor organisations, although supportive of self-determination, did not sign up.

488. The right of Timorese to cultural self-determination was strengthened by initiatives such as the Japanese-sponsored school for Timorese children in Darwin and the production of the ground-breaking Tetum lesson book *Mai Koalia Tetum* by Professor Geoffrey Hull at a time when Tetum was banned from schools and official use in Timor-Leste. Assisted by Professor Hull and the Timorese linguist, Manuel Viegas, the Mary McKillop Institute developed attractive primary school books in Tetum which assisted

* The British Government resisted public pressure and defended continued arms sales to Indonesia on the grounds that Indonesia had a right to defend itself, the equipment was not being used against the East Timorese and that British military training would improve the Indonesian military's respect for human rights and democracy. See Baroness Trumpington, House of Lords, 10 July 1992 (Krieger, p. 302).

† Barbedo de Magalhães first visited Timor-Leste in 1975 and took a special interest in Fretilin's education policy. He is the author of *East Timor: Indonesian Occupation and Genocide*, Oporto University, Portugal, 1992, and other publications including *Timor-Leste na encruzilhada da transição Indonésia*, Gradiva, 1999.

‡ Timor-Leste film-maker Gil Scrine was the first convenor. Under Jefferson Lee and Andrew McNaughtan, Australia – East Timor Association (AETA) Sydney developed an international profile and, through visits by McNughtan, established direct links with the Resistance in Timor-Leste.

Bishop Belo when, in defiance of official policy, he decided to have Tetum taught in Catholic schools in Timor-Leste.

489. While this period was notable for the impact of the video image on public awareness, the growth of new organisations and their co-ordination owes much to the advent of the internet age. The general availability of the internet in the 1990s more or less coincided with Indonesia's decision to partially relax access to Timor-Leste. This timing was not only a happy coincidence; the internet also perfectly suited the requirements of human rights activists. It was fast, cheap, secure, user-friendly, interactive and had significant carrying capacity and global reach. Information, a scarce commodity on Timor-Leste for the previous 15 years, was now widely available through the internet thanks to the skills and commitment of civil society members. John MacDougall's pioneering apakabar, a free electronic mailing list which covered both Indonesia and Timor-Leste, was followed by reg.easttimor which became the main clearing house and channel for rapid communication on Timor-Leste across the globe. Established in 1994 and co-ordinated by ETAN/US, reg.easttimor enabled the public and civil society organisations in the Asia-Pacific, Europe and North America to have interactive conferences and to access reports on Timor-Leste and translations from wire services and the Indonesian, Portuguese and other media as well as official documents from the UN, governments and other sources. The relatively few books available on Timor-Leste were now supplemented by publicly accessible websites. TimorNet at the University of Coimbra in Portugal provided links to information on the history, geography and culture of Timor-Leste, key UN documents, human rights violations, articles, publications and suggestions for action. Activists used email to proliferate information and to co-ordinate and organise. Colin Renwick set up Minihub to help small, vulnerable NGOs in Indonesia and Timor-Leste establish cheap, accessible and secure internet access and also gave training to selected East Timorese activists,* increasing the underground's effectiveness. With these skills, East Timorese supporting Xanana Gusmão in Jakarta could send encrypted email messages to colleagues abroad, including to José Ramos-Horta.

490. The internet was also used for direct action. In 1997, an Irish internet service provider provoked a public protest by the Indonesian government after it registered Timor-Leste's own domain in preparation for political independence. The same year, Portuguese Hackers Against Indonesia breached the Indonesian military's website and scrawled "propaganda" across it. This followed breaches of sites in the Indonesian Department of Foreign Affairs and elsewhere which provoked revenge attacks on Portuguese sites by Indonesian hackers. Cyber warfare over Timor-Leste continued to 1999. In August 1998, 45 Indonesian domains were hacked followed by Indonesian sabotage of Connect Ireland, the creators of the Timor domain. It ended with President Habibie's change of policy on Timor-Leste. Nevertheless, the sense that Indonesia – unlike Timor-Leste – was vulnerable in this area inspired José Ramos-Horta to threaten in August 1999 that he would unleash a "desperate and ferocious" internet campaign if Indonesia refused to respect the outcome of the 30 August referendum.[244]

* Father Domingos Soares, aka Fr Maubere, was one of those trained by Colin Renwick.

491. The decision of the Norwegian Nobel Committee to award the Nobel Peace Prize to Bishop Carlos Filipe Ximenes Belo and José Ramos-Horta on International Human Rights Day, 10 December 1996, was an enormous moral, political and organisational boost to civil society's work for self-determination. The prize was given independently by the Nobel Committee and thoroughly earned by the two awardees, Bishop Belo and José Ramos-Horta, but the nomination owed much to civil society's initiative, and particularly to old friends of Timor-Leste working behind the scenes in the United States. The prestigious award confirmed the moral correctness of civil society's work and further weakened the case advanced by the Indonesian government and its co-defenders, including Indonesia's version of the history of the conflict. It was also politically helpful in that it highlighted the necessity of self-determination to resolve the conflict – the centrepiece of civil society advocacy for 20 years – and identified this as the key issue.* The Prize was a bonus to civil society organising. The global media coverage it attracted, which continued as José Ramos-Horta travelled the world in his new role, generated new public interest and support for the civil society campaign in many countries.

492. The end of Soeharto's rule came suddenly. It was triggered by the East Asian financial crisis, which struck like a tsunami in July 1997 and exposed the vulnerability of the New Order behind its veneer of indestructibility. For Timor-Leste, it was a piece of what Bernard Williams calls "moral luck".[245] Some in civil society circles had argued that change had to be achieved while Soeharto was still in power because only he had the power to override the military.† Others believed that independence would depend on democratisation in Indonesia, or at least a leadership change. Yeni Rosa Damayanti testified to the Commission:

> *I heard from the East Timorese students in Java that Xanana himself said that the independence of Timor-Leste would depend on the Indonesian process of democratisation. It would be hard to gain independence without democracy in Indonesia (meaning that Soeharto would have to fall).*[246]

493. The latter proved to be correct. Soeharto remained intransigent to the last, refusing to grant even limited autonomy to Timor-Leste. Civil society pressure increased. Soeharto was the target of mass demonstrations in Vancouver when he attended the Asia Pacific Economic Co-operation (APEC) summit in November 1997.‡ At home,

* The Norwegian Nobel Committee's official press release stated: "The Nobel Committee hopes that this award will spur efforts to find a diplomatic solution to the conflict in East Timor based on the people's right to self-determination." The Committee believed this happened. Reflecting some years later on the award to Timor-Leste, Geir Lundestad, Secretary of the Committee, observed: "Many similar (positive) effects can be seen to have resulted from the award of the Peace Prize in 1996 to Bishop Carlos Belo and José Ramos-Horta for their struggle for East Timor's right of self-determination" ("Reflections on the Nobel Peace Prize", 10 June 2004, Nobelprize.org).

† Soeharto's advancing age and health problems were a likely factor in the timing of the Nobel Peace Prize. In Australia, NGOs met with Abdurrahman Wahid, a progressive Muslim leader who later became Indonesia's fourth president, to discuss a possible approach to Soeharto by David Lange, the former New Zealand Prime Minister. The plan was overtaken by events.

‡ For ten days prior to APEC, 13 exiled East Timorese and several Indonesians toured Canada calling on the authorities to "bar Soeharto or put him behind bars" for crimes in Timor-Leste and Indonesia.

students won increasing support from the middle class for total reform and mounted massive demonstrations. Soeharto resigned and handed over the presidency to the Vice-President, B.J. Habibie on 21 May 1998.

Phase five: Self-determination, 1998–1999

494. This period marked the end of Indonesia's rule of Timor-Leste and was a time of intense drama for all involved, including civil society. Like its arrival 24 years previously, Indonesia's departure was violent and chaotic but this time its objective, though not the manner of its execution, was in compliance with international policy and applauded by civil society. Indonesia reversed its position step by step. In June 1998, President Habibie proposed limited autonomy for Timor-Leste within Indonesia. Seven months later, in January 1999, he offered a proper act of self-determination under UN auspices. The ballot was held on 30 August 1999 and resulted in a clear choice for independence. On 20 October 1999, Indonesia's MPR recognised the result and revoked its 1976 decree incorporating Timor-Leste into Indonesia. On 1 November 1999, the last TNI troops left the territory.

495. Civil society was initially incredulous at B. J. Habibie's accession to the presidency. Nothing was expected of a man who was widely regarded as an eccentric and who had shown no interest in Timor-Leste during his long and close association with Soeharto. However, civil society benefited significantly from his brief rule. He conceded what civil society had long demanded, viz a genuine act of self-determination in Timor-Leste. He also substantially opened up democratic space, giving civil society in both Indonesia and Timor-Leste freedom to organise and campaign for self-determination, an opening they used to full advantage.*

496. The Habibie policy reversal also dramatically altered the dynamics surrounding the Timor issue internationally. Governments which had recognised Indonesian sovereignty over Timor and strongly supported the New Order now realigned their policy in favour of self-determination. For the first time since 1975, governments and civil society – with the notable exception of Portugal where broad consensus was already in place – put an end to their differences, at least on substantial policy matters, and began to work together for self-determination in Timor-Leste, rather than in opposition to each other.

497. Coupled with unprecedented media access and reporting on Timor-Leste, these developments invigorated civil society like never before. Even countries that had a long-term involvement with the issue witnessed a dramatic growth in both the volume and breadth of public support. Jean Pierre Catry informed the Commission that in Portugal alone groups numbered "hundreds, from parliament to schools, municipalities, parishes, professional associations, trade unions… to name them all

* Habibie undertook a number of reforms that directly benefited civil society. He recognised the right to assembly and the formation of political parties, reduced restrictions on the press, freed political prisoners and oversaw the signing or ratification of important international human rights and labour conventions.

would be impossible".[247] Australia had a similar experience.[*] The Australian Foreign Minister, Alexander Downer, acknowledged this phenomenon: "During my time as Foreign Minister, no foreign policy issue has captured the public interest in Australia more than East Timor…"[248] The Government also acknowledged the role of Australian civil society in achieving self-determination for Timor-Leste by inviting two civil society representatives to join the official delegation to observe the August 1999 ballot.[†]

498. Most of the nearly 2,300 ballot observers accredited by the UN came from NGOs. Regarding their role, Ian Martin observed:

> Many came from solidarity groups with a commitment to self-determination or independence for East Timor, but the observer code of conduct they accepted on accreditation required them to behave in a neutral manner.[249]

499. The majority of these, some 1,700, were Indonesian and East Timorese. In a memorable display of international organisation and solidarity, they were supported by colleagues from around the world, co-ordinated mainly by the ETAN/US-based International Federation for East Timor (IFET), the Thailand-based Asian Network for Free Elections (ANFREL) and the Philippines-based Asia-Pacific Coalition for East Timor (APCET). They, in turn, represented a multitude of citizens in many countries for whom the ballot, as for the East Timorese people, climaxed a struggle of epic proportions and demonstrated again the importance and capacity of principled people's power in world affairs.

Indonesian civil society

500. Indonesian civil society added Timor-Leste to its formidable list of pressing social, human rights and environmental issues in the 1990s. Though small and isolated, significant sections of the pro-Timor movement went to the heart of the issue and advocated self-determination. This policy orientation owed much to the influence of Indonesians living abroad and to East Timorese studying in Java and Bali. Its advocacy in Soeharto's Indonesia required rare courage. Though its Constitution requires Indonesia to fight colonialism and uphold the right of all peoples to independence,[250] in the eyes of the regime to support self-determination in Timor-Leste (after 1976) amounted to subversion of the central dogma of national unity, which underpinned state and military policy. Those who supported it or who collaborated with its Timorese advocates were harassed and risked being labelled traitors. Only in Timor-Leste itself was such activity more dangerous. But by daring to speak out, Indonesian civil society groups broke the taboo of fear and silence and, against great odds, mobilised support

* The breadth of Australian public concern is evident from the wide range of civil society groups and individuals who testified to the 1999 Australian Parliament inquiry into Timor-Leste.

† The two observers were Pat Walsh of ACFOA and Anne Wigglesworth of Caritas Australia.

that climaxed in hundreds of Indonesian citizens standing alongside East Timorese as they exercised their right of self-determination in August 1999.

The early years

501. Timor-Leste did not become a significant NGO issue in Indonesia until the 1990s, but some individuals and organisations were active earlier. For some, this involvement was part of their professional duties which, though often sensitive and difficult, did not involve direct political activity. These included George Aditjondro who visited Timor-Leste in May 1974 as a Tempo correspondent and shared information after the invasion with Church contacts abroad;* individuals associated with the Protestant Church like Yopie Lasut, Gustaf Dupe, Asmara Nababan and Ade Sitompul who cared for East Timorese political prisoners held in Indonesian gaols; and members of the Catholic Church agency LPPS, Father Gerry Zegwaard MSC, Father Hardoputranto SJ and Ms Immaculata Mardani who channelled humanitarian aid to Timor-Leste and were a discreet source of information about Timor-Leste to contacts outside Indonesia.†

502. Some Indonesians living abroad were also active in support of Timor-Leste before 1990, particularly amongst those who left Indonesia to escape the PKI purge following the Soeharto takeover in 1965.‡ In Europe they joined support groups in Germany, France, Belgium, Denmark, Norway, Sweden and the Netherlands (Komite Indonesia), but generally remained anonymous because of the sensitivity of the issue and their vulnerability as political exiles. Kusni Sulang was active in Paris and Hendrik Amahorseja in Sweden. In Australia, Siauw Tiong Djin, Goei Hok Gie (Andrew Gunawan); and Ernst Utrecht in the Netherlands were sympathetic. In 1981, Jusfiq Hadjar and Liem Soei Liong became the first Indonesians to openly oppose the invasion and support independence for Timor-Leste when they testified to the Permanent People's Tribunal in Lisbon. In retaliation, the Soeharto Government declared both persona non grata and blacklisted them from returning to Indonesia. Other exiles never publicised their support and were eventually allowed to return home safely to Indonesia. Some members

* George Aditjondro was part of a group of young Indonesian Catholics who in 1974 sought to formulate a democratic and non-military policy on Timor-Leste for the Indonesian Bishops Council. Their document is found as Appendix 1 in *East Timor: An Indonesian Intellectual Speaks Out* edited by Herb Feith, Emma Baulch and Pat Walsh, Australian Council for Overseas Aid (ACFOA) Development Dossier No. 33, May 1994. Aditjondro is believed to have written the first non-government report from inside Indonesia after the invasion in the form of a letter to Father Mark Raper, SJ received at Asian Bureau Australia on 21 April 1976 (CAVR archives).

† LPPS was supported by and in regular contact with Catholic agencies throughout the world through the Hong Kong- based Asia Partnership for Human Development (APHD). Though not directly relevant to this account, the selfless humanitarian contribution made by many Indonesians to Timor-Leste during the Indonesian occupation must be acknowledged. For an account of their experiences during the upheaval in 1999, see Yohanes Sukandar, Sigit Wijayanto and Martinus Manggo (Eds.), *Selamat Tinggal Timor Timur*, Insist Press, Yogyakarta, 2000.

‡ The Indonesian Communist Party (Partai Komunis Indonesia, PKI) was the first communist party in Asia and by 1966 one of the largest. The New Order came into being in 1966 after a military takeover, the banning of the PKI and the liquidation of up to a million of its members and alleged supporters.

of the Indonesian diaspora may have supported Timor-Leste to advance the interests of the proscribed Indonesian Communist Party (PKI). Liem Soei Liong denies that his or Carmel Budiardjo's work in Tapol was driven by such a double agenda.*

503. Diaspora Indonesians in Europe fostered pro-Timor activity in Indonesia. They provided alternative information on Timor-Leste, for example, by sending the Tapol newsletter to Indonesia and making secret visits.† Indonesian journalists working in Radio Netherlands, such as Tossy Santoso and Yoss Wibisono, broadcast news and interviews on Timor-Leste which was received in Indonesia. Tossy Santoso also wrote several books on Timor-Leste in Indonesian. Another productive strategy was to put East Timorese and Indonesian activists in touch with each other and their international counterparts. Activists such as Max Lane in Australia and António Barbedo de Magalhães in Portugal had a similar networking strategy. These international initiatives contributed to the formation and direction of Indonesian NGOs such as Infight, Solidamor and Indonesian People's Struggle for Solidarity with the Maubere People (*Solidaritas Perjuangan Rakyat Indonesia untuk Maubere*, SPRIM). Indonesians abroad became more active on Timor-Leste in the late 1980s and 1990s. Two Indonesians living in Holland, Aeri Harapan and Reza Muharram, joined the Portuguese Lusitania Expresso protest ship in March 1992. In punishment, both had their passports cancelled by the Indonesian government. Yeni Rosa Damayanti also had her passport cancelled after participating in an anti-Soeharto demonstration in Germany in 1996. Their citizenship was restored in the post-Soeharto period.

504. Indonesians who lived overseas on temporary work or study permits or who travelled abroad were often confronted with the Timor-Leste issue through the media or colleagues. Civil society leaders like Abdurrahman Wahid, Todung Mulya Lubis, Adnan Buyung Nasution and Abdul Hakim Garuda Nusantara sometimes took such opportunities to discuss the issue and to meet privately with senior East Timorese. However, they were subject to surveillance and in view of their responsibilities at home could not afford to risk trouble from the authorities for themselves or their organisations by speaking out.

The 1990s

505. There are several reasons why civil society in Indonesia was largely silent on Timor-Leste until the 1990s. Civil society was almost non-existent in Soeharto's Indonesia prior to this period. The New Order system was authoritarian verging on totalitarian. Civil society had no formal place in the corporatist, top-down political structure that

* Communication to CAVR, 28 February 2005. In a sensitive gesture during her public testimony to CAVR, Yeni Rosa Damayanti included the British activist Carmel Budiardjo in her list of Indonesians who were active abroad (testimony given to the CAVR National Public Hearing on Self-determination and the International Community, 15–17 March 2003). Carmel Budiardjo was imprisoned in Indonesia after 1965 and, after her release and return to Britain, devoted her life to the defence of human rights in Indonesia.

† Liem Soei Liong made several secret visits while he was banned and on each occasion gave lectures on Timor-Leste to Indonesian activists. Communication to CAVR, 28 February 2005. The Indonesian activist Nugroho Katjasungkana confirmed the influence of Indonesian diaspora on the solidarity work of Indonesian activists (testimony given to the CAVR National Public Hearing on Self-determination and the International Community, 15–17 March, 2003).

restricted civil and political rights in favour of national unity, development and stability. When civil society organisations did emerge they were overwhelmed with land, labour, environmental and other issues, and had few of the freedoms and resources enjoyed by community organisations in democratic countries.

506. In addition to being marginalised, civil society was also kept ignorant of the reality in Timor-Leste. The Soeharto Government restricted all access to the territory, including by Indonesian media and civil society, and kept very tight control of information about Timor-Leste allowing only its official version to circulate, namely that integration was positive and followed an act of self-determination. In her public testimony to the Commission, Yeni Rosa Damayanti asked rhetorically: "Where were the people of Indonesia when people in Timor-Leste were suffering?" She replied: "The answer is, we didn't know what was happening here."[251]

507. A second major factor was the climate of fear in Indonesia created by the violent military takeover in 1965 and institutionalised legally and operationally throughout the Soeharto years. In Liem Soei Liong's judgement, "Timor-Leste was always a delicate issue and probably in the early eighties arguably more touchy than the PKI/1965 issue."[252] Yeni Rosa Damayanti illustrated what this meant in practice when she told the Commission of her interrogation by a Bakorstanas Major in 1991 following a protest against the Gulf War, which Indonesian activists boldly linked to Indonesia's invasion of Timor-Leste. She testified:

> *The Major put his gun down in front of me and said: "You can talk about anything you want, but you cannot talk about East Timor. Thousands of soldiers have died in Timor-Leste and I won't allow even one Indonesian to talk about Timor-Leste. Thousands have died and you're just one more person, and one Indonesian life means nothing…"*[253]

508. Nugroho Katjasungkana testified to the Commission that in the 1980s Indonesians interested in alternative education, health and co-operatives had their interest sparked in Timor-Leste when they learned that Fretilin had similar interests in 1975.[254] The beginnings of sustained political support for Timor-Leste, however, began in the early 1990s with organisations such as Infight (Saleh Abdullah), Institute for the Defense of Human Rights (Lembaga Pembela Hak-hak Asasi Manusia, LPHAM; H J C Princen*) and New Life (Hidup Baru; Yopie Lasut). In addition to international input from Indonesians abroad, contact with East Timorese students studying in Java following the opening up of the province in 1989 contributed to this awakening. Yeni Rosa Damayanti told the Commission:

> *I was introduced to the case of Timor-Leste when fellow East Timorese students who studied in Java started coming to us. There were several people at that time, Fernando de Araújo and others…East Timorese*

* Born in Holland, Haji Princen was a celebrated pioneer of human rights in Indonesia from the time of Independence for which he fought on the Indonesian side. He protected many East Timorese, including those seeking asylum abroad. East Timorese held a memorial in Borja da Costa Park, Dili, to mark his death in 2002.

students came to our place and it was there that I heard for the first time what was happening in Timor-Leste. Imagine, after so many years.[255]

509. This also explains why the support movement was strongest amongst students mainly in Java and Bali. As in many other countries, the 1991 Santa Cruz massacre was also a turning point for many Indonesians. Many felt that the true nature of the Indonesian state was being exposed in Timor-Leste and that the system itself was wrong, not just its activities in the territory. Members of Infight, LPHAM and Hidup Baru joined East Timorese youth to protest the massacre in front of the UN Office on Jalan Thamrin on 19 November 1991, resulting in their arrest and interrogation. On 23 November, following an initiative by the Yogyakarta Students Association, 12 student councils signed a petition in Bandung demanding the withdrawal of Indonesian troops from Timor-Leste and the "full and free right of self-determination to the people of Timor-Leste".[256]

510. Pokastim, the East Timor Communications Forum, provided loose co-ordination. Dedicated to providing humanitarian assistance to Timor-Leste, it became the first to stage a public meeting in Jakarta on the question of self-determination in Timor-Leste, held at a university in late 1997. The Indonesian solidarity groups Solidarity for the People of East Timor (Fortilos) and Indonesian Solidarity for East Timor Peace (Solidamor) grew out of the Forum.[257] Both explicitly backed self-determination. Solidamor played a central role in disseminating information in Indonesia,* monitored the August 1999 ballot and that same month was made the Jakarta liaison office for the East Timorese resistance (CNRT). In May 2000, about 50 pro-integration East Timorese ransacked the Solidamor office, stole files and money, and injured several activists, including Bonar Tigor (Coki) Naipospos, the Solidamor chairperson. The authorities did little in response.

511. Pro-Timor groups set out to inform and mobilise young activists by publishing alternative information on Timor-Leste. Early examples included Robert Domm's interview with Xanana Gusmão and *East Timor: Indonesian Occupation and Genocide* by Professor Barbedo de Magalhães. In 1995, Pijar, an Indonesian NGO, published Indonesian translations of the report of the UN Special Rapporteur, Bacre Waly Ndiaye, Michele Turner's interviews with East Timorese refugees called *Telling East Timor: Personal Testimonies 1942–1992*, and the defence plea of the underground Renetil leader, Fernando de Araújo. In Salatiga, Geni (Gemi Nastiti Foundation) published articles critical of development in Timor-Leste and anti-Bishop Belo demonstrations in Java. In Semarang, Diponegoro University students published Xanana Gusmão's defence plea and criticism by George Aditjondro of Indonesia's occupation of Timor-Leste.

512. East Timorese and Indonesian activists also engaged in joint direct action, particularly through SPRIM, a member of the People's Democratic Party (Partai Rakyat

* In 1986, Solidamor translated and published José Ramos-Horta's *Funu: The Unfinished Saga of East Timor*. Solidamor's creative public relations for Timor included the publication of a pocket-sized reference book, *Mengenal Timor Timur Dulu dan Sekarang* (*Getting to Know East Timor, Then and Now*), Solidamor, Jakarta, September 1998.

Demokratik, PRD). PRD members, who also comprised students, workers, peasants and artists, always included the party's demand for a referendum in Timor-Leste alongside their advocacy for a minimum wage, clean elections and a new president. SPRIM held public rallies and, in 1995, joined East Timorese to occupy the Dutch and Russian Embassies in Jakarta.

513. Indonesian activists also linked up with like-minded civil society organisations in the Asia-Pacific region. Pijar leaders Rachland Nashidik and Tri Agus Susanto Siswowiharjo attended the first conference of the Asia-Pacific Coalition for East Timor (APCET) held in Manila in 1994. Indonesians were also present at APCET II in Kuala Lumpur in 1995 and APCET III in Bangkok in 1998. Links were also maintained with Australia through a diverse network that included Action in Solidarity with Indonesia and East Timor (ASIET) and the Indonesia Australia Program for Co-operation with Indonesia (IAPC).* The Australian quarterly magazine, *Inside Indonesia*, established in 1983, was a respected medium of exchange and another source of alternative information on Timor-Leste for Indonesian readers.

514. Other NGOs provided legal aid and pastoral care to East Timorese political prisoners in both Timor-Leste and Indonesia who had been gaoled for promoting self-determination. When large numbers of East Timorese were detained after the Santa Cruz massacre in 1991, Indonesian lawyers and others travelled to Timor-Leste to assist with legal defence. Ms Ade Sitompul testified to the Commission of the personal risk they took to assist Timorese prisoners in Dili at this time:

> *It wasn't an easy job because the security apparatus was very repressive and everywhere we went we were always followed…The lawyers, such as Pak Luhut (Pangaribuan), were terrorised at Hotel Turismo…We received calls telling us to go home or be killed and I was very scared.*[258]

515. Elsam and the social justice agencies of the Protestant (PGI) and Catholic (KWI) churches established the Joint Committee for the Defence of the East Timorese (JCDET). Its function was to provide legal aid, support for the families of prisoners in Timor-Leste and bursaries to East Timorese students whose political activities had cost them their government scholarship. The Surabaya Legal Aid Institute represented José António Neves during his trial 1994-95 and argued that the trial was illegal because Timor-Leste had not exercised its right of self-determination.

516. In 1994 Ms Ade Sitompul had to leave Indonesia for six months to avoid arrest.

517. Dr George Aditjondro's experience further illustrates the cost of opposition to Indonesia's policies in Timor-Leste. In 1994, after an Australian newspaper published

* IAPC was established by the Australian Council for Overseas Aid (ACFOA, now ACFID) to foster people-to-people links between Indonesia and Australia, and partly to offset the perception in Indonesia that Australian NGOs were too focused on Timor-Leste. Its contribution to the International NGO Forum on Indonesian Development (INFID) and other Indonesian organisations allowed it to raise Timor-Leste in a more positive environment. In 1992, its Secretary, Pat Walsh, was expelled from Indonesia and blacklisted for several years after being named in the Dili massacre trials.

his reports on Timor-Leste, Aditjondro was branded a traitor by senior government figures and his home in Salatiga was stoned. He left Indonesia in 1995 for an extended period.*

518. Indonesian supporters of Timor-Leste not only had to face the military and a hostile state. Many in mainstream civil society, including Christians, Muslims and middle-class professionals, also disagreed with them and backed the official stance on Timor-Leste. Whatever their reasons, many Indonesians in these circles shared a common concern that Indonesia would disintegrate like Yugoslavia and the Soviet Union if Timor-Leste were permitted to opt out of the Republic. This view was also shared by some in the democracy movement who, while agreeing with the activist call for wide-ranging reform, urged Indonesian supporters of Timor-Leste and their East Timorese colleagues to abandon independence and work with them for the greater cause of democracy for all. These were powerful arguments. At no time, however, did East Timorese activists at any level threaten Indonesia's security or national integrity, or presume to interfere in Indonesia's internal affairs. They remained exclusively focused on their own legitimate struggle.

519. From the mid-1990s a cross-section of senior pro-democracy figures and organisations joined the younger generation in support of Timor-Leste. The International NGO Forum on Indonesian Development (INFID) – a coalition of more than 100 Indonesian and international NGOs – commented on "the emergence of more and more voices in the democratisation movement in Indonesia for a peaceful settlement of the conflict in East Timor".[259] Those speaking up included the former Tempo editor Goenawan Mohamad, the Catholic educationist Father Mangunwijaya, the trade union leader Mochtar Pakpahan, and the leading Islamic dissident Sri Bintang Pamungkas, each of whom supported self-determination.

520. Several establishment figures also challenged government policy, including the leaders of Indonesia's two largest Muslim organizations. In 1996, the head of Muhammadiyah, Amien Rais, stated publicly that Timor-Leste should be allowed to separate from Indonesia, if that was the wish of its people. He told the Australian press that he believed the Indonesian government had done its best, but "if the East Timorese still want a referendum and want to have a free country then I think it's better to say goodbye. If the result of the referendum is true then we can't stick to our position. Let them be free."[260] Abdurrahman Wahid, also known as Gus Dur, the leader of Nahdlatul Ulama (NU), Indonesia's largest Islamic organisation, made public references to the need to resolve the Timor-Leste problem. Privately, he was more explicit. With his support, INFID made regular references to Timor-Leste in its conference statements. Based on the premise that human rights and democratisation were essential for sustainable development, INFID challenged the military's security approach and called on the international community to suspend all forms of military assistance until the TNI had been subordinated to civilian control. It also called on the international community to

* Aditjondro's immediate reason for leaving was to escape a political trial for articles he wrote about Soeharto-linked businesses, but his views on Timor-Leste also complicated his relations with the regime (Herb Feith, Emma Baulch and Pat Walsh (Eds.), *East Timor: An Indonesian Intellectual Speaks Out*).

"support the establishment of an international tribunal to investigate allegations of war crimes committed by Indonesian military personnel in East Timor"[261] after the 1999 post-ballot violence.

521. Yeni Rosa Damayanti testified to the Commission about the euphoria that swept the ranks of Indonesian civil society following the fall of Soeharto in May 1998. Over the following months, Indonesian activists visited Timor-Leste freely and stepped up their public campaign. "We didn't speak about Timor-Leste in secret closed rooms anymore."[262] Nevertheless, much of the New Order remained intact and she and Nugroho Katjasungkana testified that Indonesian NGOs, based on their experience of repression at the hands of the security apparatus over many years, were very surprised that the United Nations entrusted security to the Indonesian military and police in 1999. In April 1999, for example, Indonesian support groups had to hide East Timorese in safe houses when Kopassus brought 150 pro-integration militia to Jakarta to hunt down those who were campaigning for self-determination.[263]

522. Despite their mistrust of TNI and also because of it, some 600 Indonesian civil society members came to Timor-Leste in August 1999 to observe the ballot. Co-ordinated by the Independent Committee for Direct Ballot Monitoring (Komite Independen Pemantau Suara, Kiper),* they formed the largest external observer group and rejected Indonesian claims that the UN had manipulated the vote. By their presence, they offered protection to East Timorese voters and helped facilitate the historic act of self-determination that they, as Indonesians, had contributed to against great odds. President Habibie was not the first in Indonesia to talk about a referendum for Timor-Leste, nor did he hear about it first from Australian Prime Minister John Howard. Indonesian civil society had advocated the idea for many years before 1999.

Conclusion

523. Ian Martin, the head of UNAMET tasked with overseeing the East Timorese people's exercise of their right of self-determination, has written that:

> The role of non-governmental organizations (NGOs), and of some remarkable individuals, who sustained concern for Timor-Leste when the diplomatic world was its most indifferent, is a story with important lessons…[264]

524. This view is widely shared. Much of the work of those in the solidarity movement was done in the face of hostility by their governments and others with power. Even in wealthy countries, most solidarity organisations and individuals struggled with limited funds and resources on what was considered by many to be a fringe issue. The bulk of the work was done by individuals who gave up their time and personal lives, in order to focus on the cause of Timor-Leste. It was a process of struggle, but also of sharing and learning, of reaching out to Timorese inside Timor-Leste and in the diaspora, and

* Kiper was chaired by Bonar Tigor Naipospos. Board members included Dr Lukman Soetrisno, Abdurrahman Wahid, Dr Arief Budiman, Dr Saparinah Sadli and Dr George Aditjondro.

of building partnerships and friendships between different national and cross-national groups.

525. On 23 May 2002, three days after Timor-Leste's independence celebrations, a gathering was convened in Dili to honour international solidarity. Three of Timor-Leste's newly sworn-in leaders – President Kay Rala Xanana Gusmão, Prime Minister Mari Alkatiri and Senior Minister for Foreign Affairs and Co-operation, José Ramos-Horta – used the occasion to offer praise to all the individuals and groups who had supported East Timorese in their struggle. Several days earlier, at International People's Park on the Lecidere waterfront, UN Secretary-General Kofi Annan, told a gathering convened by the United Nations Volunteer programme: "Without the work of UNVs, Timor-Leste could not have recovered from the destruction. Without the actions of international solidarity, Timor-Leste could not have achieved its independence." A plaque at the site bears the following words over the name of Dr José Ramos-Horta, Nobel Peace Laureate: "We shall never forget you our eternal friends."[265]

526. The Commission believes that the following lessons can be drawn from this experience:

- Civil society's contribution to the resolution of the Timor-Leste question was only possible because civil society existed and was permitted to function freely as an independent sector in many parts of the world or because, as in Indonesia and Timor-Leste itself, civil society asserted itself against repression. Timor-Leste's experience is that a robust civil society is critical to the proper functioning of individual societies and the international community.
- During 25 years of struggle, a strong partnership was forged between many of Timor-Leste's current leaders in all walks of life and international civil society that is rare in the history of nation-building. This partnership, which is now in a new phase, should be nurtured on both sides because it is an important long-term asset for Timor-Leste.
- Civil society should take from its Timor-Leste experience that, while it has to be strategic, it is most effective when it (a) sticks to principle, (b) is politically disinterested, (c) is non-violent, (d) is open to everybody's contribution and (e) independent but ready to co-operate with government and business when possible.

Findings

The international community

527. The Commission finds that:

1. Recognition by the United Nations that Timor-Leste was a non-self-governing territory with the right of self-determination was fundamental to Timor-Leste's fate as a small and vulnerable people. This gave the issue an international legal basis which became the principal asset of the people of Timor-Leste in their unequal struggle for independence.

2. The respect of member states for the international legal system and the role of the United Nations is essential to good international relations and the upholding of peace and justice, particularly for minorities. The people of Timor-Leste know from experience that the failure of member states to respect international principles has the most bitter of consequences, but also that the proper functioning of the United Nations works to the benefit of all.
3. Most members of the United Nations failed to support Timor-Leste in the General Assembly from 1976 to 1982 by either voting against resolutions on Timor-Leste or abstaining. Until it was delegated to the Secretary-General in 1982, the question of Timor-Leste was kept alive at the United Nations by about only one-third of the world community. Most of these countries were Third World or socialist states. Only four Western nations supported Timor-Leste at the United Nations throughout this period: Cyprus, Greece, Iceland and Portugal.
4. Most Western countries failed to strike the right balance between support for the principle of self-determination and their strategic and economic interests in relation to Indonesia. In 1975 they gave over-riding weight to the latter and paid only obeisance to self-determination.
5. Civil society played a critical role by upholding international principles in many countries, including Portugal and Indonesia. Civil society promoted the right of the people of Timor-Leste to self-determination, provided moral, political and financial assistance to the Timorese struggle, and challenged the indifference or hostility of governments towards Timor-Leste. Respect for civil and political rights and the functioning of a robust civil society are critical to the proper functioning of individual societies and the international system.
6. Timor-Leste benefited from the work of key UN officials and bodies including secretary-generals and the special or personal representatives they appointed, staff in the secretariat responsible for the issue, the Special Committee on Decolonisation, Special Rapporteurs on Human Rights, and the Sub-committee on the Protection of Minorities.
7. The Security Council recognised the right of the people of Timor-Leste to self-determination in 1975 and 1976, but failed to effectively uphold this right until 1999. It did not intervene to halt the Indonesian invasion although at least two of its members knew of Indonesia's intentions; it expressed concern at the loss of life and the need to avoid further bloodshed, but did not provide for emergency humanitarian assistance; it did not sanction Indonesia for non-compliance with its wishes; it did not follow-up Resolution 389 and it shelved the question until 1999. This failure to uphold Timor-Leste's right to self-determination was the responsibility of the Permanent Members of the Security Council each of whom, with the exception of China, was dismissive of the Timor question and chose to shield Indonesia from international reaction at Timor's expense.
8. The United States acknowledged that the people of Timor-Leste had the right of self-determination but did not support any General Assembly resolutions on the issue between 1975 and 1982 or provide any assistance to the Timorese

struggle for self-determination until 1998. As a Permanent Member of the Security Council and superpower, the United States had the power and influence to prevent Indonesia's military intervention but declined to do so. It consented to the invasion and allowed Indonesia to use its military equipment in the knowledge that this violated US law and would be used to suppress the right of self-determination. It continued to provide military, economic and political support to Indonesia despite Security Council resolutions calling for Indonesia to withdraw and to allow the free exercise of self-determination.

9. France and the United Kingdom both acknowledged the right of the people of Timor-Leste to self-determination but, although Permanent Members of the Security Council, chose to stay silent on the issue. Both nations abstained from supporting all General Assembly resolutions between 1975 and 1982 and failed to promote the right or to provide assistance to the struggle of the East Timorese until 1998. Both countries increased their aid, trade and military co-operation with Indonesia during the occupation. Some French and British military equipment was used by the Indonesian forces in Timor-Leste.
10. China and the Soviet Union supported Security Council resolutions and General Assembly resolutions on the issue between 1975 and 1982 (with the exception of 1979 for China). Indonesia falsely claimed that both countries were allied to Fretilin and had a strategic interest in Timor-Leste and used this to justify military intervention. In reality, both countries gave over-riding priority to Indonesia and took only marginal interest in Timor's fate apart from some early backing by China.
11. Japan supported the right of the people of Timor-Leste to self-determination and did not recognise the Indonesian takeover or provide military assistance to Indonesia. However, it voted in support of only one Security Council resolution and against all General Assembly resolutions between 1975 and 1982. Japan was Indonesia's major investor and aid donor and had more capacity than other Asian nations to influence policymaking in Jakarta, but it did not use this leverage on behalf of Timor-Leste.
12. The Vatican supported the right of the people of Timor-Leste to self-determination and, consistent with this policy, did not integrate the local Catholic Church into the Indonesian Church despite pressure from Indonesia to do so. Pope John Paul II was the only world leader to visit the territory during the occupation. Leaders of the Catholic Church in Timor-Leste regularly requested the Vatican to support their appeals for self-determination, but the Vatican, concerned to protect the Catholic Church in Muslim Indonesia, maintained public silence on the matter and discouraged others in the Church from promoting the issue.

The key stakeholders

528. The Commission finds that:

1. The diplomacy of the East Timorese resistance was the most important factor in achieving self-determination. The Resistance maintained its commitment

in the face of extraordinary challenges including significant disunity, resource constraints, isolation and overwhelming odds, both inside and outside Timor-Leste. The diplomacy of the resistance was ultimately successful because it focused on internationally agreed principles, eschewed ideology and violence, was open to the contribution of all Timorese, and made maximum use of the international system, media and civil society networks. As a human rights and moral (rather than ideological) issue, the question of Timor-Leste gained international legitimacy and support at the expense of Indonesia whose case rested on force and had no basis in international law or morality.

2. The Republic of Indonesia under President Soeharto violated the right of the people of Timor-Leste to self-determination. The responsibility for this violation rests primarily with President Soeharto, but is shared by the Indonesian armed forces, intelligence agencies and the Centre for Strategic and International Studies which were principally responsible for its planning and implementation.
3. President Soeharto and his advisers decided to incorporate Portuguese Timor in 1974 and used a variety of means to achieve this objective. These included propaganda, intimidation, subversion, interference in Portuguese Timor's internal affairs, and ultimately force and military occupation.
4. The Popular Representative Assembly held in Dili on 31 May 1976 did not meet international requirements for a genuine act of self-determination. The Assembly was not representative and did not constitute an informed and democratic process. Timor was in the grip of military occupation and armed conflict and had not attained an advanced stage of self-government with free political institutions that would have given its people the capacity to make a real choice. The process offered only one choice and was rejected by the United Nations.
5. The Indonesian military forcibly suppressed advocacy of self-determination within Timor-Leste and Indonesian government agencies sought to neutralise Timorese, Indonesian and international civil society advocates of self-determination.
6. The Indonesian people bear no responsibility for these violations. Indonesian civil society showed rare courage by actively supporting the right of the people of Timor-Leste to self-determination.
7. Following the change of Indonesian policy by President Habibie, a genuine act of self-determination was held in Timor-Leste in 1999 despite violent attempts by the Indonesian military to subvert it.
8. The Republic of Portugal under the Salazar-Caetano regimes violated the right of the people of Timor-Leste to self-determination by not recognising the non-self-governing status of the territory and by not preparing the Timorese people for self-government in accordance with United Nations requirements. These failures undermined the right of the people of Timor-Leste to self-determination by contributing to the belief that an independent Timor-Leste was not economically or politically viable and could only subsist through incorporation into Indonesia.

9. The decision by Portugal in 1974 to recognise the right of the people of Timor-Leste to self-determination was historic and changed Timor's destiny. However, Portugal failed to discharge its responsibilities adequately during this critical time and left Timor-Leste relatively defenceless both on the ground and internationally in the face of Indonesian plans to incorporate the territory.
10 As the administering power, Portugal adhered to the principle of self-determination throughout the Indonesian occupation and provided financial and political assistance to the people of Timor-Leste in their struggle for self-determination. However, Portuguese diplomacy did not match that of Indonesia and it did not promote self-determination strongly or consistently for much of the occupation.
11. Portuguese civil society actively supported the right of the people of Timor-Leste to self-determination particularly through advocacy at home and abroad and the sustained dissemination of information.
12. Australia was well-placed to influence policymaking on the issue because the people of Timor-Leste, President Soeharto and the international community regarded its views on the question as important. Australia cautioned against force in 1975 but led Indonesia to believe it would not oppose incorporation. It did not use its international influence to try to block the invasion and spare Timor-Leste its predictable humanitarian consequences. Australia acknowledged the right of self-determination, but undermined it in practice by accommodating Indonesia's designs on the territory, opposing independence and Fretilin, and giving *de jure* recognition to Indonesia's takeover. Australia supported only one General Assembly resolution on the question between 1975 and 1982, provided economic and military assistance to Indonesia and worked hard to win over Australian public opinion and the international community to support for Indonesia's position.
13. The United Nations and its member states strongly supported the act of self-determination conducted in 1999.

Table A: UN General Assembly Resolutions on Timor-Leste: How countries voted, 1975–1982

Country	1975	1976	1977	1978	1979	1980	1981	1982
Afghanistan	A	A	A	Y	Y	Y	Y	Y
Albania	Y	Y	Y	Y	Y	Y	Y	Y
Algeria	Y	Y	Y	Y	Y	Y	Y	Y
Angola	-	-	Y	Y	Y	Y	Y	Y
Antigua and Barbuda	-	-	-	-	-	-	NP	N
Argentina	A	A	A	A	A	N	N	N
Australia	Y	A	A	N	N	N	N	N
Austria	A	A	A	A	A	A	A	A
Bahamas	A	A	A	A	A	A	A	A

Country	1975	1976	1977	1978	1979	1980	1981	1982
Bahrain	Y	A	A	A	A	A	N	N
Bangladesh	Y	N	N	N	N	N	N	N
Barbados	Y	Y	Y	Y	Y	Y	Y	Y
Belgium	A	A	A	A	A	A	A	A
Belize	-	-	-	-	-	-	Y	Y
Benin	N	Y	Y	Y	Y	Y	Y	Y
Bhutan	A	A	A	A	A	A	A	A
Bolivia	Y	A	A	A	A	N	N	A
Botswana	Y	Y	Y	Y	Y	Y	Y	A
Brazil	Y	Y	Y	Y	Y	Y	Y	Y
Bulgaria	Y	Y	Y	Y	NP	NP	NP	NP
Burma	NP	NP	A	A	A	A	A	A
Burundi	Y	Y	Y	Y	Y	Y	Y	Y
Byelorussian SSR	Y	Y	Y	Y	Y	Y	Y	Y
Cambodia (Democratic Kampuchea)	NP	Y	NP	A	NP	N	N	N
Canada	A	A	A	A	Y	N	N	N
Cap Verde	NP	Y	Y	Y	Y	Y	Y	Y
Central African Republic	NP	Y	Y	Y	Y	Y	Y	A
Chad	Y	Y	Y	Y	Y	Y	Y	N
Chile	A	N	N	N	N	N	N	N
China	Y	Y	Y	Y	N	Y	Y	Y
Colombia	A	Y	A	A	N	N	N	A
Comoros	NP	NP	Y	NP	NP	NP	N	NP
Congo	NP	Y	Y	Y	Y	Y	Y	Y
Costa Rica	A	A	A	NP	Y	A	NP	A
Cuba	Y	Y	Y	Y	Y	Y	Y	Y
Cyprus	Y	Y	Y	Y	Y	Y	Y	Y
Czechoslovakia	Y	Y	Y	Y	A	A	A	A
Democratic Yemen	Y	Y	Y	Y	Y	Y	Y	Y
Denmark	A	A	A	A	A	A	A	A
Djbouti	-	-	A	NP	NP	NP	NP	NP
Dominica	-	-	-	-	NP	NP	NP	A
Dominican Republic	NP	A	A	A	A	A	N	A
Ecuador	Y	Y	Y	A	NP	A	Y	NP
Egypt	A	A	N	N	N	N	N	N
El Salvador	Y	A	A	A	A	N	N	N
Equatorial Guinea	Y	Y	Y	NP	Y	Y	A	NP
Ethiopia	Y	Y	Y	Y	Y	Y	Y	Y
Fiji	Y	A	A	A	A	A	A	N
Finland	A	A	A	A	A	A	A	A
France	A	A	A	A	A	A	A	A
Gabon	Y	Y	Y	A	A	A	A	A

Country	1975	1976	1977	1978	1979	1980	1981	1982
Gambia	Y	Y	Y	Y	Y	NP	N	N
German Democratic Republic	Y	Y	Y	Y	NP	NP	NP	NP
Germany, Federal Republic	A	A	A	A	A	A	A	A
Ghana	Y	Y	Y	Y	Y	Y	A	Y
Greece	Y	Y	Y	Y	Y	Y	Y	Y
Grenada	Y	Y	Y	Y	Y	Y	Y	Y
Guatemala	A	A	A	A	A	NP	N	N
Guinea	Y	Y	Y	Y	Y	Y	Y	A
Guinea-Bissau	Y	Y	Y	Y	Y	Y	Y	Y
Guyana	Y	Y	Y	Y	Y	Y	Y	Y
Haiti	Y	A	Y	Y	Y	Y	Y	A
Honduras	NP	A	A	A	N	N	N	N
Hungary	Y	Y	Y	Y	A	A	A	A
Iceland	Y	Y	Y	Y	Y	Y	Y	Y
India	N	N	N	N	N	N	N	N
Indonesia	N	N	N	N	N	N	N	N
Iran	N	N	N	N	Y	Y	Y	NP
Iraq	A	A	N	N	N	N	N	N
Ireland	A	A	A	A	A	A	A	Y
Israel	A	A	NP	A	A	A	A	A
Italy	A	A	A	A	A	A	A	A
Ivory Coast	Y	Y	A	A	A	A	A	A
Jamaica	Y	Y	Y	Y	Y	Y	A	A
Japan	N	N	N	N	N	N	N	N
Jordan	A	N	N	N	N	N	N	N
Kenya	Y	Y	Y	Y	Y	Y	Y	Y
Kuwait	Y	A	A	A	A	NP	N	N
Laos (People Democratic Republic)	Y	Y	Y	A	Y	Y	NP	Y
Lebanon	NP	A	A	A	A	NP	NP	A
Lesotho	Y	Y	Y	Y	Y	A	Y	Y
Liberia	Y	Y	Y	Y	Y	Y	A	N
Libyan Arab Republic	NP	NP	NP	NP	NP	NP	NP	NP
Luxembourg	A	A	A	A	A	A	A	A
Madagascar	Y	Y	Y	Y	Y	Y	Y	Y
Malawi	Y	Y	A	Y	Y	Y	Y	Y
Malaysia	N	N	N	N	N	N	N	N
Maldives	NP	A	N	N	N	N	N	N
Mali	Y	Y	Y	Y	Y	Y	Y	Y
Malta	NP	NP	NP	NP	NP	NP	NP	NP
Mauritania	A	N	N	N	A	A	A	A
Mauritius	A	Y	NP	Y	NP	A	NP	Y
Mexico	Y	Y	Y	Y	Y	NP	Y	Y

Country	1975	1976	1977	1978	1979	1980	1981	1982
Mongolia	Y	Y	Y	Y	Y	Y	NP	NP
Morocco	A	N	N	N	A	A	A	N
Mozambique	Y	Y	Y	Y	Y	Y	Y	Y
Nepal	Y	A	A	A	A	A	A	A
Netherlands	A	A	A	A	A	A	A	A
New Zealand	A	A	A	A	N	N	N	N
Nicaragua	A	N	N	N	Y	Y	Y	Y
Niger	Y	NP	Y	Y	Y	Y	NP	A
Nigeria	Y	NP	Y	A	A	A	A	A
Norway	A	Y	A	A	A	A	A	A
Oman	A	N	N	N	N	N	N	N
Pakistan	Y	A	A	A	A	A	A	N
Panama	A	Y	Y	A	A	A	A	A
Papua New Guinea	NP	A	A	N	N	N	N	N
Paraguay	A	A	A	N	N	NP	N	N
Peru	Y	A	A	A	A	A	A	A
Philippines	N	N	N	N	N	N	N	N
Poland	Y	Y	Y	NP	NP	A	A	A
Portugal	Y	Y	Y	Y	Y	Y	Y	Y
Qatar	N	A	A	N	N	N	N	N
Romania	Y	Y	Y	NP	A	A	A	A
Rwanda	Y	Y	Y	Y	Y	Y	Y	Y
St Christopher and Nevis	-	-	-	-	-	-	-	-
St. Lucia	-	-	-	-	Y	Y	Y	N
St Vincent and the Grenadines	-	-	-	-	-	NP	N	NP
Samoa	-	-	A	A	A	A	A	A
Sao Tome and Principe	NP	Y	Y	Y	Y	Y	Y	Y
Saudi Arabia	A	N	N	N	N	N	N	N
Senegal	Y	Y	Y	Y	Y	Y	A	A
Seychelles	-	NP	NP	A	Y	Y	Y	Y
Sierra Leone	Y	Y	Y	Y	Y	Y	Y	Y
Singapore	A	A	N	N	N	N	N	N
Solomon Islands	-	-	-	NP	NP	NP	A	N
Somalia	NP	Y	NP	NP	NP	N	A	A
South Africa	NP	NP	NP	NP	NP	NP	NP	NP
Spain	A	A	A	A	A	A	A	A
Sri Lanka	A	A	A	A	A	A	A	A
Sudan	A	A	A	A	N	N	N	N
Surinam	NP	N	N	N	N	N	N	N
Swaziland	Y	Y	Y	Y	Y	Y	Y	Y
Sweden	Y	Y	Y	Y	Y	A	A	A
Syrian Arab Republic	A	A	N	N	N	N	N	N
Thailand	N	N	N	N	N	N	N	N

Country	1975	1976	1977	1978	1979	1980	1981	1982
Togo	Y	Y	Y	Y	Y	Y	Y	Y
Trinidad and Tobago	Y	Y	Y	Y	Y	Y	Y	Y
Tunisia	NP	N	N	N	N	N	N	N
Turkey	A	N	N	N	N	N	N	N
Uganda	Y	Y	Y	Y	Y	Y	Y	Y
Ukrain SSR	Y	Y	Y	Y	Y	Y	Y	Y
USSR	Y	Y	Y	Y	Y	Y	Y	Y
United Arab Emirates	Y	A	A	A	A	A	NP	NP
United Kingdom	A	A	A	A	A	A	A	A
United Republic of Cameron	Y	Y	Y	Y	A	A	A	A
United Republic of Tanzania	Y	Y	Y	Y	Y	Y	Y	Y
United States	A	N	N	N	N	N	N	N
Upper Volta	Y	Y	Y	Y	Y	Y	Y	A
Uruguay	A	N	N	N	N	N	N	N
Vanuatu	-	-	-	-	-	-	Y	Y
Venezuela	Y	A	A	A	A	A	A	A
Vietnam	-	-	Y	NP	Y	Y	Y	Y
Yemen	NP	A	NP	NP	N	N	NP	N
Yugoslavia	A	A	A	A	A	A	A	A
Zaire	A	A	N	N	N	A	A	A
Zambia	Y	Y	Y	Y	Y	Y	Y	Y
Zimbabwe	-	-	-	-	-	Y	Y	Y
Total	72:10:43:19	68:20:49:9	67:26:47:9	59:31:44:16	62:31:45:14	58:35:46:15	54:42:46:15	50:46 50:11
Proportion of vote for	50%	46.6%	44.9%	39.3%	40.8%	37.7%	34.4%	31.8%

Y = Vote for; N = Vote Against;
A = Abstain;
\- = not a member of UN at time of voting;
NP = Not Present (Absent at time of voting)
Total = Y:N:A:NP *UN voting on Timor 1975-82*

Endnotes

1. See most recently Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, (2004) International Court of Justice [henceforth ICJ], para 155.
2. These include Security Council [henceforth: SC] Resolution 384, 22 December 1975; SC Resolution 389, 22 April 1976; General Assembly [henceforth: GA] Resolution 3485 (XXX), 12 December 1975; GA Resolution 31/53, 1 December 1976; GA Resolution 32/34, 28 November 1977; GA Resolution 33/39, 13 December 1978; GA Resolution 34/40, 21 November 1979; GA Resolution 35/27, 11 November 1980; GA Resolution 36/50, 24 November 1981; GA Resolution 37/30, 23 November 1982.
3. Common article 1(2) of the ICCPR and ICESCR, GA Resolution 1514 (XV), 14 December 1960, para 2.
4. Article 3, Declaration on the Granting of Independence to Colonial Countries and People, GA Resolution 1514 (XV), 14 December 1960.

5. Art 1(3) ICCPR and Art 1(3) ICESCR.
6. Human Rights Committee General Comment 12, para 6.
7. Ibid.
8. Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among states in accordance with the Charter of the United Nations, GA Resolution 2625 (XXV), 24 October 1970.
9. Advisory Opinion on the Legal Consequences for States of the Continued Presence of South Africa in Namibia (South-West Africa) Notwithstanding Security Council Resolution 276 (1970) (1971) International Court of Justice Reports 16 at para 119; Separate opinion of Judge Weeramantry in the Case Concerning East Timor (Portugal v Australia) (1995) International Court of Justice Reports 90, esp at 204; art 41(2), International Law Commission Draft Articles on the Responsibility of States for Internationally Wrongful Acts, International Law Commission, Commentaries on the Draft Articles on the Responsibility of States for Internationally Wrongful Acts, at pp. 287-91, esp p. 290.
10. Security Council Resolution 384, 22 December 1975, para 1; and Security Council Resolution 389, 22 April 1976, para 1.
11. Art 25 UN Charter.
12. Security Council Resolution 384, 22 December 1975, para 2; and Security Council Resolution 389, 22 April 1976, para 2.
13. Security Council Resolution 384, 22 December 1975, para 3.
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20. Secretariat to the Special Committee on Decolonisation, Working Paper on Timor, 20 November 1975. Krieger, pp. 18-26.
21. Document 406, Jakarta, 24 January 1976, in Wendy Way (Ed.), DFAT, p. 674. Similar views were expressed by the New Zealand Ambassador, Roger Peren, in 1978, in New Zealand Government East Timor Official Information Act (OIA) Material [henceforth New Zealand…OIA Material], Vol. 1, 13 January 1978.
22. UN Department of Political Affairs, *Report on Decolonisation*, No. 7, August 1976, p. 43.
23. GA Resolution 3294 (XXIX), 13 December 1974, para 2.
24. Mario Lemos Pires, testimony given to the CAVR National Public Hearing on the Internal Political Conflict 1974-76, 15–18 December 2003.
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51. Krieger, pp. 47-49.
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Chega!

Part 7.2.

Unlawful Killings and Forced Disappearances

Part 7.2 Unlawful Killings and Forced Disappearances

Tables:

Graphics:

Unlawful Killings and Forced Disappearances 7.2

Introduction

1. The Commission estimates that about 18,600 unlawful killings and disappearances occurred during the period of its mandate. The vast majority of them were perpetrated by the Indonesian security forces. The proportion of the total number of killings and disappearances which were attributed to the Indonesian security forces increased steadily over the years of the occupation, although from the mid-1980s their absolute number declined in most years until 1999.

Definitions

2. The arbitrary deprivation of human life is prohibited under international human rights law.[*] Even where an emergency threatens the life of a nation, obligations in respect of the right to life may not be limited in any way ("derogated from").[†] The right not to be arbitrarily deprived of life also applies during an armed conflict. During such a conflict the question of whether a deprivation of life is arbitrary is to be determined by applying the rules of international humantiarian law.[‡] The most important of these rules for the purposes of this part are the following.

- The intentional killing of civilians is always prohibited
- It is prohibited intentionally to kill combatants who are no longer taking part in combat because they are wounded or sick, have been captured, or have laid down their arms.

* Universal Declaration of Human Rights, Article 3; International Covenant on Civil and Political Rights, Article 6; and customary law: see Human Rights Committee General Comment 24, para 8.

† International Covenant on Civil and Political Rights, Article 4(2); Human Rights Committee, General Comment 6, para.1.

‡ Advisory Opinion on the Threat or Use of Nuclear Weapons, (1996) ICJ Reports 226 at 240.

3. In this part the Commission has adopted certain terminology to refer to the violations discussed. The terms "extra-judicial executions" or "unlawful killings" are used, interchangeably, to refer to any intentional killings in violation of the right to life as set out above. For the sake of brevity, this part uses the term "killings" or "executions" to carry the same meaning.

4. The terms "mass execution" and "massacre" are also used throughout this part. The Commission has defined "mass execution" as meaning the killing of five or more people who have been specifically targeted as individuals, carried out in one place and as part of a single operation, where the victims are effectively defenceless. "Massacre" is defined by the Commission as meaning the indiscriminate killing of five or more people, carried out in one place and as part of a single operation, where the victims are effectively defenceless. The use of "indiscriminate" proposed in this definition is not meant to imply that the group that is the object of attack has been chosen totally randomly, only that the individuals within the group are not being targeted individually. Thus in a number of the massacres described in this part, such as the massacres that followed the Kraras incident in August 1983, the Santa Cruz Massacre of 12 November 1991 and the Suai Church Massacre in September 1999, the attackers were not acting indiscriminately in the sense that their actions were not targeted against a particular group of people or not triggered by some event, but only in the sense that they did not target particular individuals within the group under attack.

5. Although a "massacre" defined in this way is not a discrete violation of a particular rule of international law (rather, it is a group of violations) the Commission considers that it is important to refer to massacres because they demonstrate the scale and gravity of killings of this kind.

6. The Commission has adopted the draft definition of enforced disappearances used by the United Nations Working Group on a Draft Legally Binding Normative Instrument for the Protection of all Persons from Enforced Disappearances.[*] Accordingly the Commission defines an "enforced disappearance" as:

> [T]he arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.[†]

* The definition remains a topic of disagreement in the Working Group's deliberations, however the source of that disagreement is whether the definition should be expanded so as to include non-state actors who do not have the authorisation, support or acquiescence of the state. Since disappearances in Timor-Leste were not carried out by such persons, this difficulty does not effect the Commission's use of the Working Group definition.

† Working paper prepared by the Chairman of the Working Group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance, at the end of its 4th session (31 January–11 February 2005), E/CN.4/2005/CRP.4, 7 March 2005, Article 1.

7. Carrying out enforced disappearances is prohibited by international law.[*] The UN Declaration on the Protection of All Persons from Enforced Disappearance provides that no one shall be subjected to enforced disappearance, and that no exceptional circumstances whatever, whether a war, threat of war, internal instability or other emergency, may be invoked as a justification for enforced disappearances.[†] States are obliged to take specific measures to prevent the enforced disappearance of individuals and must investigate and prosecute disappearances when they do occur.[‡] As well as the right to life, disappearances violate the victim's rights to liberty and security of the person, to be free from torture and ill-treatment, to be treated humanely when deprived of liberty, and to be recognised as a person before the law.[§] Disappearances may also "cause mental anguish in the victim's relatives sufficient to amount to a violation of the prohibition on torture and cruel, inhuman or degrading treatment or punishment".[¶]

8. The peculiar abhorrence attached to disappearances arising from the uncertainty surrounding the fate of the victim and the consequent suffering caused to those close to the victim are also recognised in the UN draft declaration where it states that "acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified".

9. In practice the distinction between executions and disappearances was often not clear-cut during the years of conflict in Timor-Leste. In the course of its research the Commission sometimes received multiple testimonies about the same case in which one person testified that the victim had disappeared, while another stated on the basis of having had more direct access to the event that the person had been executed. Whether the victim is said to have been executed or to have disappeared, the common thread running through these cases and a cause of continuing deep anguish to relatives and friends is that the victim's remains have never been recovered. Relatives of the disappeared who testified to the Commission, some of whom are quoted below, frequently highlighted the distress caused by the fact that there may well be individuals who could identify where bodies were disposed of and who could assist in their recovery.

* Declaration on the Protection of All Persons from Enforced Disappearances, General Assembly Resolution 47/133, 18 December 1992, Article 2.

† Working paper prepared by the Chairman of the Working Group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance, at the end of its 4th session (31 January–11 February 2005), E/CN.4/2005/CRP.4, 7 March 2005, Article 3.

‡ Human Rights Committee, General Comment 6, para.4; Declaration on the Protection of All Persons from Enforced Disappearances, General Assembly Resolution 47/133, 18 December 1992, Articles 3 and 4.

§ Jegatheeswara Sarma v Sri Lanka (2003) HRC Communication No. 950/2000 at para 9.3; Declaration on the Protection of All Persons from Enforced Disappearances, General Assembly Resolution 47/133, 18 December 1992, Article 1(2).

¶ Quinteros v. Uruguay (1983) HRC Comm. No. 107/1981 at para 14; Jegatheeswara Sarma v Sri Lanka (2003) HRC Communication No. 950/2000 at para 9.5.

Methodology

10. In order to gain an accurate picture of the killings and disappearances which took place in Timor-Leste during the years of the conflict, the Commission adopted a number of different approaches:

- The Commission collected 7,669 narrative statements from all 13 districts of Timor-Leste and from refugees living in West Timor. Deponents in the Commission's statement-taking process reported a total of 5,120 unique killings and 835 disappearances.
- In the early phase of its work, the Commission conducted consultations in each sub-district to identify events in which major human rights violations had occurred. During this consultation, many people spoke about massacres and killings that took place in their community. Based on this information and other sources, Commission staff conducted close to 1,000 interviews of witnesses and survivors of killings and disappearances in all 13 districts.
- Seventeen victims and two expert witnesses gave testimony at the CAVR Public Hearing on Massacres held in Dili on 19–23 December 2003. Survivors were able to describe the brutality they witnessed or experienced during the 25-year period of conflicts. Some provided recommendations to the Commission on how to ensure that these gross violations never occur again.
- The Commission conducted community-level discussions in 216 villages, to document communities' collective experiences of human rights violations. During these discussions, people spoke of killings and disappearances which took place in their community.
- The Commission, together with statistical experts, conducted a special project to estimate the total number of deaths from all causes, including killings, during the conflict. This project consisted of two information-gathering exercises: a census of marked and unmarked gravestones found in 492 cemeteries across the country (the Graveyard Census Database – the GCD); and a survey of 1,322 randomly selected households, on deaths and displacements in their family during the duration of the conflict (the Retrospective Mortality Survey – the RMS). In the survey respondents were asked to specify cause of death, which could include killing. To arrive at its estimate of the death toll the Commission combined the data from the GCD with those collected through its statement-taking process.*
- The Commission also received submissions on this topic. For example, the United Nations Office of the High Commissioner on Human Rights provided an important study on the violence which took place in 1999. The Commission

* HRDAG (Human Rights Data Analysis Group) is a division of Benetech Inc in Palo Alto, California, USA. HRDAG staff include statisticians, computer programmers, and record linkage experts. HRDAG team members have worked in large-scale human rights documentation and analysis projects on five continents, in more than a dozen countries over the past 20 years. HRDAG has worked with official truth commissions in Haiti, South Africa, Guatemala, Peru, Ghana and Sierra Leone; with the International Criminal Tribunal for the Former Yugoslavia; and with non-governmental human rights groups in El Salvador, Cambodia, Guatemala, Colombia, Afghanistan, Sri Lanka and Iran. For more information see http://www.hrdag.org.

also had access to data gathered by international and national human rights NGOs on killings and disappearances throughout the period of the conflict.

11. The analysis in this part is based both on quantitative analysis of data collected by the Commission through its statement-taking process, the Graveyard Census Database and the Retrospective Mortality Survey, as well as on interviews conducted by the Commission with witnesses and, occasionally, perpetrators, and secondary sources. While the Commission has used the quantitative data to illuminate important patterns in the violence over time and space, it recognises that a comprehensive understanding of the killings that occurred in Timor-Leste during the mandate period requires that they be placed in the context in which they occurred and that can be done only through interviews conducted with that purpose in mind.

Quantitative overview

12. On the basis of its quantitative analysis the Commission found that of the approximately 18,600 unlawful killings and enforced disappearances of East Timorese non-combatants perpetrated between 1974 and 1999, the overwhelming majority, 70%, were committed by the Indonesian security forces, including East Timorese auxiliaries.* Unlawful killings and enforced disappearances were perpetrated by the Resistance as well as by Indonesian security forces. The temporal profile of the killings and disappearances attributed to the Resistance is very different from that of those attributed to the Indonesian security forces. Killings and disappearances reported to have been committed by members of the Resistance are heavily concentrated in the early years of the conflict, primarily during and after the inter-party conflict known as "the civil war" and during the Fretilin intra-party purges of 1976 and 1977-78. While 49.0% (561/1,145) of all documented killings and disappearances in 1975 were attributed to Fretilin/Falintil, the percentage (although in 1976-84 not the absolute number of killings and disappearances) falls sharply in each succeeding period, decreasing to 16.6% (563/3,398) of documented killings and disappearances in 1976-84, to 3.7% (18/488) in 1985–1998 and to 0.6% (5/898) in 1999. There is a corresponding increase in the percentage of killings and disappearances attributed to the Indonesian security forces and their East Timorese auxiliaries.

Killings and disappearances perpetrated by the Resistance

13. The Commission in no way seeks to minimise violations committed by the Resistance. In the early stages of the conflict many senior figures in the political and military leadership of the Resistance behaved with extreme brutality not only towards their political opponents but also towards ordinary civilians. However, during the 1980s and 1990s, both the quantitative and the qualitative evidence confirm that the

* Auxiliaries comprise "civil defence" groups (including *Hansip, Ratih, Wanra* and *Kamra*), members of the local administration acting in a "security" role, paramilitary groups (such as *Tonsus* and the various "Teams" that were forerunners of the militia groups formed in 1998-99), and the militia groups themselves.

number of killings and disappearances attributed to the Resistance declined sharply. In addition, for a number of reasons the Commission has often found it difficult to be sure that the Resistance always bears institutional responsibility for the unlawful killings and disappearances attributed to it. Because East Timorese society became so heavily militarised during this period, the status of many of the civilians who were killed by Fretilin/Falintil was often ambiguous. Further complicating the attribution of responsibility is the fact that victims included people who were forcibly put at risk by the Indonesian security forces. Moreover, particularly during armed attacks, it is also not always clear from the available information that a particular victim was specifically targeted. Finally, in at least some cases, particularly but not only in 1999, the Commission received credible information, including from persons who had been censured for their actions, that the Falintil High Command did not institutionally condone violations committed by its personnel.

Killings and disappearances perpetrated by the Indonesian security forces

14. By contrast the Indonesian military consistently resorted to killings and disappearances during the whole period of its occupation of Timor-Leste. This consistency is one indication that killings and disappearances had an overall strategic purpose, namely that of eliminating opposition to the occupation by terrorising the general population. The general character of the killings and disappearances committed by the Indonesian security forces, the specific methods they employed and the impunity enjoyed by those who carried them out, are others.

15. The nature and scale of the killings and disappearances perpetrated by the Indonesian security forces changed over time as Indonesia's occupation of Timor-Leste and the resistance to it went through different phases. Killings and disappearances perpetrated by the Indonesian security forces reached peak levels in 1975-79, 1983-84 and 1999. However, while there were years between 1975 and 1999 when there were relatively few killings, the fact that first and final years of the occupation were also peak years for killings and disappearances is perhaps one indication that throughout the years of the occupation the Indonesian security forces were consistently prepared to resort to executions.

16. The killings committed by the Indonesian security forces had a particularly horrific character. The methods used ranged from death by severe deprivation in a prison cell to public executions committed using the most extreme brutality, in which villagers were sometimes forced to participate, to at supposedly secret sites, which in fact became widely notorious, to indiscriminate shooting of large numbers of persons in confined spaces.

17. The fact that executions were frequently public provides strong evidence that the practices were systematic and an accepted practice within the Indonesian military, either ordered or condoned by the senior officers. Direct perpetrators and their commanding officers enjoyed almost total impunity for their actions.

18. In the years immediately after the invasion Indonesian forces were engaged in operations to gain control of the territory first by occupying towns and villages of strategic importance and then by destroying the Resistance bases in the interior and forcing the civilian population under Fretilin control into Indonesian-controlled resettlement camps. The Commission received many reports that during this phase of the conflict Indonesian forces killed non-combatants. Sometimes those killed had been denounced as members of Fretilin, but many of the victims of these killings were randomly targeted members of the civilian population. Ordinary civilians were targeted in a variety of other circumstances: while looking for food or going about their daily activities, when encountered by Indonesian security forces on operations, in retaliation for Falintil attacks, and on suspicion of having contact with or having knowledge about Fretilin/Falintil.

19. While engaged in offensives against Fretilin/Falintil bases and attacks on their positions and in the aftermath of such operations, Indonesian security forces killed civilians and others not engaged in combat, including surrendered and captured combatants. The majority of reports of this nature which the Commission received related to the period 1977-79, when many of those who had fled to the mountains and came into the custody of the Indonesian forces through surrender or capture were summarily executed. The Commission received information indicating that violations of this kind continued to be committed during later operations, such as during the Operasi Kikis of June–September 1981.

20. During the early years of the occupation, but in particular in 1978–1979 and in 1983-84, ABRI commanders, troops and auxiliaries committed systematic and widespread unlawful killings and enforced disappearances of persons who had been active members of the Resistance and persons suspected of having clandestine contacts with members of Fretilin/Falintil still fighting.

21. Throughout the occupation, but in particular in the early 1980s, ABRI commanders, troops and auxiliaries committed unlawful killings and enforced disappearances of civilians to punish communities collectively that were suspected of supporting Falintil forces. The indiscriminate punishment of persons known to have previously been involved with the Resistance movement and the collective punishment of communities were particularly severe in the aftermath of Falintil attacks on Indonesian troops and military targets, such as those that occurred in Dili in June 1980, in and around Mau Chiga (Hato Builico, Ainaro) in August 1982 and in Kraras (Viqueque) in August 1983.

22. In the period 1985–1998 the number of killings and disappearances committed by ABRI and its auxiliaries declined relative to the earlier years of the occupation. During the whole period 1985-98, excluding the Santa Cruz Massacre, the Commission received reports of about 250 killings and disappearances, less than 20 a year. However, there were a number of continuities with the past. The Indonesian security forces continued to kill and cause the disappearance of civilians with real and suspected association to groups resisting the occupation, including members of Fretilin/Falintil, the clandestine networks and other pro-independence groups. As in earlier years, during this period Indonesian security forces also continued to perpetrate random killings of members of

the civilian population who had been forcibly recruited for military operations or as they were going about their daily activities or; and to commit reprisal killings, as after Falintil attacks in Alas (Manufahi) in October 1998. Reflecting a shift in Resistance strategy, they also targeted demonstrators, most famously at the Santa Cruz Cemetery, but also before and during the visit of European Union ambassadors in June 1997.

23. In 1999 killings and disappearances returned to levels not seen since the late 1970s. In several respects they bore marked similarities of method and purpose to those committed in the earlier years of the occupation, targeting both political activists and the wider civilian population with the aim of intimidating the population, this time into voting for integration with Indonesia. In two respects they differed from the killings and disappearances committed in earlier phases of the conflict. The first was the reliance of the Indonesian security forces on its auxiliaries acting alone to carry out the campaign against the civilian population. The second was that after the result of the ballot became known killing became purely punitive and vindictive, divorced from any overriding purpose.

Unlawful killings and enforced disappearances during the internal conflict: 11 August–24 September 1975

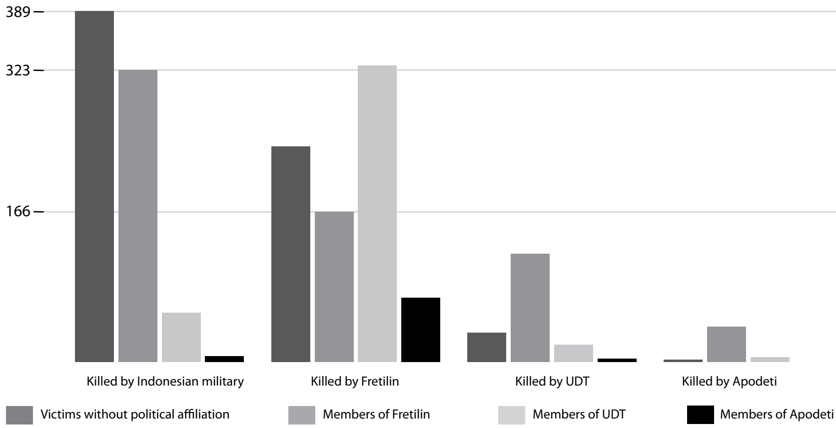
24. The Commission received reports of 1,070 non-combatant killings in 1975. Of these reports, only 73.6% (787/1070) recorded the month during which the event took place. The Commission received 348 statements relating fatal violations which took place in the months of August and September of 1975, or about 44.2% (348/787) of statements which report the month of the event. The relatively low number of cases reported to the Commission demonstrated the limitations of the statement-taking process. The Commission believes that between 1,500-3,000 people died during the internal conflict. ICRC observers reported at the time:

> The loss of human lives is very hard to establish. The number dead is…3,000 for the whole island. The majority of the victims seem to be non-combatants who it seems have been killed during the street fighting or executed in reprisal from the Fretilin as well as from the UDT. The actual state of mind is one of vendetta (feud.)*

25. Based on statements reported to the Commission, the following graph shows the pattern of unlawful killings, by perpetrator and victim groups which took place in 1975–1976.

* Memorandum by A. Pasqueir to the ICRC Geneva entitled *International Committee of the Red Cross, East Timor Relief Operation, Concerning: Situation in Timor, Report of the activities of the delegation from 1–15 September*. Darwin, 16 September 1975.

Reported killings based on the institution of the perpetrator and victim, 1975–1976



Source: Statements to the Commission

26. The internal conflict of August–September 1975 occurred in the context of rising tensions between political parties that had formed in late 1974. After the breakdown of the UDT-Fretilin coalition in May 1975, political chaos and violence took hold in communities throughout the country. Several external influences encouraged this violence, including an Indonesian covert destabilisation campaign mounted from West Timor, and the faltering decolonisation process run by Portugal. East Timorese political parties themselves encouraged antagonistic and violent partisan behaviour. Some individuals or groups also used this as an opportunity to resolve long-standing feuds quite unrelated to the political conflict.*

27. In his testimony before the Commission, Xanana Gusmão described the atmosphere of increasing violence and impunity in the months before the August armed movement by UDT:

> *We noticed a lack of will on the part of the party leaders to reduce the level of violence, to address what was going on. Sometimes we noticed that the parties were quite happy when their supporters would come and say, "We beat up this person" or "We killed that person", it was regarded as a small victory…If a party had the most number of people in a sub-district, they didn't let other parties campaign in that area. And so when other parties would go to those places people would attack, block their way, boycott, throw rocks at each other and beat each other.*[1]

* See Vol 1, Part 3: History of the Conflict for a detailed account of the period preceding the internal armed conflict. This background section simply highlights several elements within the context of the internal conflict.

Radio programmes: taking-sides and inciting violence

The Commission notes that a striking feature of the internal violence in 1975 was the use of radio programmes by political parties to incite violence and spread hatred. During the Commission's National Public Hearing on the Internal Political Conflict, East Timorese leaders described how both UDT and Fretilin used radio programmes to make both personal attacks and attack the political parties throughout the brief decolonisation period, and the damage caused by these attacks.

Domingos de Oliveira, Secretary General of UDT at the time, remembered how opposing parties used the radio to slander each other shortly after the decolonisation process allowed the establishment of political associations:

A new situation arose which created problems. The first communications like this came from the radio, from the Timorese students who had come from Portugal. They spoke strongly against UDT. They said that UDT were ultra-conservatives, that they just wanted to maintain the situation and did not want independence…This was not true, so UDT responded. ASDT then responded and the topsy-turvy relations between the two parties began…I have to admit that this unhappy situation got worse and worse. On the radio, and the relations between old friends deteriorated so that we did not see each other as friends any more. What had been calm discussions became very nervous and edgy. I think this is something in our culture, we argue, we want to hit each other and then we hit our own foreheads and ask how can this happen to our land…we attacked each other using the radio programme.[2]

João Carrascalão, also a UDT leader at the time, re-affirmed the use of radio to incite divisions:

When I became involved in April 1975, the parties were attacking each other already. They were already saying bad things about each other, abusing each other. The radio programmes were just slinging abuse, provoking each other – "this red rooster is a fascist", "this one is Indonesia's lackey". Constant abuse, always seeking to start fires with lightning like this.[3]

Mari Alkatiri, a senior political commissar of Fretilin at the time, highlighted the personal nature of many attacks over the radio:

So many things went the wrong way, because of this or because of that. We didn't control things, we tried to control them but couldn't control

everything… like the radio, everyone talked just as they wanted… Radio Maubere was used just to name people. I had to go there myself to control them from using people's names.[4]

Mario Carrascalão, a senior political leader of UDT at the time, described how attacking political opponents over the radio became an obstacle to dialogue to resolve differences:

I think something that was a big problem for us was that there was no communication. People did not sit together. There were no discussions. There was no-one to promote discussions, only insulting each other over the radio.[5]

Francisco Xavier do Amaral, then President of Fretilin, recalled that once the UDT 11 August movement was underway radio became an important tool to incite violence across the territory:

Radio Dili sent "UDT to attack Bucoli" [Baucau, Baucau]. They said "Arrest Fretilin, go and arrest them in Cairui [Laleia, Manatuto], go and arrest the communists." I thought, what communists?…They were saying that all Fretilin was communist…. I listened to the radio all the time…I heard that they attacked in Aileu, attacked in Ermera, attacked in Letefoho, those from Atsabe came and attacked the Central Committee in Aileu. From Turiscai, Funar, Fatumakerek, Laclubar, Soibada, Barique, they all came together and formed a crusade. They said, "This war is a crusade, a war against communism." This had the blessing of the priests. The priests prayed with them in a big mass, and gave them their blessing…[6]

The Commission received testimony about how Indonesian intelligence operators also used radio programmes to spread propaganda from West Timor. Domingos Oliveira told the Commission that information gathered across the territory by Indonesian agents was used as the basis of daily propaganda from radio programmes broadcast from Kupang, West Timor:

The radio programme from Kupang attacked Fretilin as communist. [It] attacked UDT as neo-colonialist because it wanted a continuation of links with Portugal…. Whatever Fretilin was doing, that same day it would be broadcast over Radio Kupang. Whatever UDT was doing, the same day it would be broadcast over Radio Kupang.[7]

Mari Alkatiri told the Commission of the message from radio programmes in Kupang after the 11 August armed movement by UDT:

Indonesia began to think that UDT had really won, and so Indonesian radio from Kupang accused UDT of being communist, pro-Soviet,

and Fretilin communist pro-China. [They said] that everyone was communist. Friends, we can see that communists or no communists, Indonesia was going to enter Timor-Leste.[8]

28. By mid-1975 there was rising tension between the political parties, incitement by all sides through radio programmes and increased lawlessness. One key factor that influenced the expansion of the violence from an attempted political coup into a wider conflict was that both parties distributed arms to their civilian members. Mario Carrascalão described the arming of civilians throughout Dili:

> *When I got to Dili (on 14 August 1975) I could see that just one group was in command, the military. There were no political commanders in Dili. Who commanded the movement? I did not see any political direction. There was no political direction of this movement. It was a military movement. You could say that the masses followed it…with old men and young boys carrying guns all over Dili…*
>
> *In the interior it was a different situation. In the interior the UDT party leaders really took control. They took control and commanded. I think there was a link with the military and operational commanders. I do not know who did the nomination…*
>
> *In Palapaco [Motael (Dom Aleixo, Dili) UDT headquarters] I found old men and young boys and young men…twelve-year-olds carrying guns. I saw the son of a friend of mine, 12 or 13 years old, carrying a G-3…*
>
> *A small amount of guns were taken from sub-district administrations. Fretilin took some, UDT took some. But in relation to the larger amount that UDT had, I was not in Dili though I heard information that they were from the police in Dili.*[9]

29. Repeating the same point, former Fretilin Central Committee member Mari Alkatiri described the chaos resulting from uncontrolled arms distribution:

> *In Dili, Fretilin and Apodeti were together against UDT. There was a lot of confusion and guns were distributed without criteria. But because guns had been distributed without criteria the [Fretilin] Central Committee sent me to go down from Aileu [to Dili] on the 20th or 21st of August. At this time, at the time for breakfast all of Fretilin and Apodeti would go to the Quartel to eat. I placed a paper on the door for people to go to breakfast. They came to breakfast, and formed a line and everyone [Apodeti] handed over their guns.*[10]

30. Adding to the deteriorating situation, many of the East Timorese members of the Portuguese armed forces abandoned their neutrality. Although some joined UDT and

supported its action on 11 August, the majority supported Fretilin when it mounted its counter-coup on 20 August. This was partly a result of the two political parties having long targetted members of the military, seeking their loyalty. Former Portuguese army Lieutenant Rogério Lobato later recalled:

> *I can say that UDT made a campaign to get the support especially from the military graduates, the sergeants. But Fretilin also made an open campaign, not hidden, amongst the forces to mobilise the soldiers.*[11]

31. A substantial supply of weapons existed in Portuguese Timor, as Portugal kept NATO-issue arms in the territory. The Portuguese did not intervene in the civil war, which meant that the parties were able to commandeer the weapons once the soldiers joined the conflict.

32. The table below summarises the experiences of six villages during the internal conflict, as they recalled them in community discussions organised by the Commission:[12]

Table 1: Summaries of the experiences of 6 communities during the internal conflict

Community	Summary
Mulo, Hato Builico, Ainaro	1975: Two Fretilin delegates from (the neighbouring sub-district of) Maubisse came and told the local Fretilin delegates to sell (party identity) cards to the us. Because we were afraid, we paid one escudo to buy a card. Then Fretilin told us to greet each other by saying "*Camarada",* to show that we greatly respected each other. August 1975: Fretilin raised its flag in a delegate's house below the clinic in Wisei, Dare. Mulo village, (Hato-Builico, Ainaro). From that time, Dare became divided between those on the bottom road (Fretilin) and those on the upper road (UDT). A Fretilin member detained two catechists for a day, during which they did not receive food or drink, and then captured six other UDT supporters. They were taken to the Dare elementary school where they were punished. UDT supporters living in Maubisse made a plan to send forces to enter Mulo from Nunu Mogue to rescue the UDT detainees. Soon after Fretilin brought 200 men from Maubisse "to kill us all". When the Fretilin group reached Tatiri, Mulo (Hato-Builico, Ainaro) a community leader brought a buffalo to be slaughtered in Dare and appealed for an end to the hatred between Fretilin and UDT. After the Fretilin group had eaten, a Fretilin cadre visited the six detained UDT members. We, the womenfolk, wept because we thought the six had been killed, though they had not been. Then a Fretilin leader went on to Nunu Mogue where he captured and killed a UDT supporter, though his body was never found. UDT and *malae* (outsider) forces then went into Dare and cut down the Fretilin flag.

Community	Summary
Kasabauk (when it was called Maudemo), Tilomar, Covalima	1974: Life was generally calm and happy. However the *liurai*, Saneti, punished those who did not do labour in the fields. 1975: Fretilin distributed party cards. Local Fretilin cadre told the people it was better to join Fretilin. Only two people joined UDT, but many joined Apodeti. After the Fretilin counter-coup the Apodeti people were arrested and told to join Fretilin, and several were recruited to Falintil in Tilomar.
Uaitame, Quelicai, Baucau	1974: There were two political parties in this community, Fretilin and UDT. 1975: After the August UDT coup, local UDT leaders took around 50 UDT supporters to Dili. There was no significant response by local Fretilin members in Uaitame after the counter-coup by Fretilin in Dili. 11 September 1975: Fretilin leaders visited Quelicai telling supporters to set up civilian and military structures. Six UDT leaders were arrested by Fretilin and taken to the *Descascadeira* (a detention centre in the town of Baucau) where they were held for one month.
Orlalan/Batara, Laclubar, Manatuto	1975: UDT used its dominant position to intimidate people into joining a force being recruited to attack the Fretilin base in Turiscai, the neighbouring sub-district. UDT supporters from Laclubar joined forces with others from Soibada and Barique and assembled a 300-strong force at Fatumakerek. From there, they left to attack Turiscai. Their attack failed because Fretilin forces were better armed. Fretilin from Turiscai (Manufahi) soon counter-attacked Laclubar. The Fretilin-Turiscai forces confiscated people's belongings and the livestock, killing some and taking the rest to Turiscai. They also captured five UDT party leaders in Laclubar and took them bound to Turiscai where they were punished. Only Raja Monis [the *liurai*] returned; the rest were killed in Turiscai.
Bibileo, (Viqueque, Viqueque)	1974: A small majority favoured UDT over ASDT/Fretilin and Apodeti. Party cards were handed out in the village head's office. People felt ambivalent about the parties. 1975: After the UDT coup, everyone rallied to UDT as the winners. Then, after the Fretilin counter-coup, the population divided into two forces: one to await the arrival of Fretilin forces in Sukaer Oan, Caraubalu (Viqueque, Viqueque); and one to wait in Natarbora. After Fretilin forces won the civil war, the people rallied to Fretilin.
Saburai, Maliana, Bobonaro	1974: The majority of the population joined Fretilin, but the village head was a UDT member. Before the formation of parties there was already growing sentiment against the village head. 11 August 1975: After the UDT coup all Fretilin supporters were arrested and detained in the district administrator's office before being transferred to Corluli (a building in Maliana that was used by UDT as a prison after the coup). UDT ordered everyone to go to Maliana Town. 30 August 1975: Troops from (the Portuguese army's) Cavalry Squadron No 5, based in Bobonaro, came down to Maliana. UDT and Apodeti supporters were forced to evacuate to West Timor for one month. About 500 people from the *aldeia* of Masage moved to Tahon, West Timor. Several were tortured, killed and hung. Around 50 women were raped. Many children died from disease. 16 October 1975: Indonesian troops crossed the border at Memo (Akidiru Laran). 17 October 1975: The Indonesians took control of Maliana.

Unlawful killings before the UDT armed action of 11 August

33. The Commission received testimony about several killings during the two weeks immediately preceding the UDT movement of 11 August. Several of these killings were perpetrated by Fretilin in Ermera and around Maubisse (Ainaro).[13] These appear to have been isolated killings, and reflect the tensions developing in these two areas where support for both parties was strong.

34. The Commission heard corroborated evidence of the killing by Fretilin forces of between ten and 25 people in Maulau village (Maubisse, Ainaro) on 7 August 1975. According to the collective testimony to the Commission, the people of Maulau had become divided in their political allegiances. They recalled a series of events which led to the outbreak of violence. In September 1974 a group of Fretilin supporters moved to the neighbouring sub-district of Turiscai (Manufahi) In January 1975, a conflict broke out between a UDT supporter and a Fretilin delegate during a traditional harvest ceremony in Maulau. In August 1975 tensions increased when a Fretilin leader visited the nearby sub-districts of Turiscai (Manufahi) and Lequidoe (Aileu) and made speeches inciting communal violence. The leader urged Fretilin supporters to "clear the thorns in Lumoluli", an *aldeia* of the village of Maulau. According to the people of Maulau, this eventually led to an attack by Fretilin forces from Lequidoe, Turiscai and Manumera, (Turiscai, Manufahi) on 7 August. The attackers targeted three *aldeias* - Maleria, Lumoluli and Ussuli. According to this collective testimony many were killed, hundreds of houses were burned, and livestock were slaughtered or stolen. UDT supporters fled to Maubisse, leaving behind the elderly and children in Maulau.[14]

35. The Commission also received testimony about an unlawful killing by UDT forces. On 10 August a Fretilin *delegado* named Armando Barros was killed by UDT forces in Lisapat, Aifu (Hatolia, Ermera).[15] On the same day another Fretilin *delegado* was captured and detained by UDT forces in Gleno (Ermera). The UDT forces attempted to kill him, but he was able to escape.[16]

Killings on 11 August, the day of the UDT armed movement

36. On the night of 10 August, UDT launched its armed movement in Dili. On 11 August there was a spate of unlawful killings across the central and western districts. Most of these cases were perpetrated by UDT members in Liquiçá and Ermera.

Days of chaos and armed clashes in Dili

The residents of Dili witnessed firsthand the events surrounding the armed conflict between the political parties in August 1975.

The Commission heard community members from villages and neighbourhoods in Dili recall their memories from this time.

Colmera (Vera Cruz, Dili)

The people of Colmera recalled that on 11 August 1975 three UDT companies from Baucau, Lospalos and Laclubar came to Dili. The western part of Dili was controlled by UDT. The Fretilin leadership withdrew to the area of Mota Ulun in Bemori on 11 August. The following day, 12 August 1975, Fretilin leaders in Dili "sought the help of the people and Fretilin Regional Committee in Aileu". On 13 August a vehicle came to meet the leadership in Balibar to take them to Aileu. On that day UDT supporters burnt down Francisco Xavier do Amaral's house in Audian, took down the Fretilin flag, and arrested (key Fretilin leaders). On 17 August 1975, Fretilin attacked the Companhia de Instrução (the Portuguese army training centre in Aileu) and took weapons and other material. By 21 August 1975, the Fretilin leadership had established a commission, working with the women's and youth organisations, OPMT and OPJT, to "exercise control and help people who needed food." According to the people of Colmera:

There was no food, and everyone was hungry. All economic activities came to a halt. There was no schooling, no medical services. During that time we could only get medical assistance in Lahane.[17]

Asucai Lorosae (Nain Feto, Dili)

The residents of Asucai Lorosae recalled the days after UDT launched its armed movement:

On 11 August we woke to find that UDT had launched its coup. [Security forces] gathered at the house of a Fretilin leader by the Chinese Cemetery…On 16 August Lemos Pires and the Portuguese chief of staff, Marcelino Barreto, tried to meet [Fretilin leaders] to resolve the conflict…[Fretilin leaders] had already told the troops in Aileu to revolt and disarm the [Portuguese army], and UDT were intent on taking power.

The troops in Dili at the Quartel Geral in Taibessi and PM near Palapaço [were organised] to launch a counter-coup at midnight on 18 August. On 20 August Rogério Lobato was given authority by Lemos Pires to take command of the East Timorese troops and hand over the weapons in the arsenal to him. Civilians received weapons from the Quartel Geral on 22–24 August to reinforce the troops.

UDT followers fled to West Timor and Fretilin started detaining UDT and Apodeti followers in the Quartel Geral in Taibessi and in the Comarca [Balide]. Members of the Fretilin Central Committee came and beat them arbitrarily. In September a Comissão de Policia de Segurança Publica Inquerito Politica Militar *(CIPM, Military Police Commission for Police and Security) was formed to "organise the situation". Many in the Comarca died of illness and many were injured."*[18]

Bemori (Nain Feto, Dili)

The people of Bemori described the disruption to ordinary people's lives:

In 1975 the situation became heated. People began to throw stones at each other, to fight each other using spears and machetes. Some people dug cellars as a place to hide. Between October and December, everyone had left their homes and hid in neighbouring areas. Some fled to hide in caves for three months. The food situation was difficult. Many grew hungry, but nobody died of starvation.[19]

Unlawful killings by UDT in Liquiçá

37. The Commission received corroborated evidence that on 11 August 1975, UDT forces, led by M1, conducted a series of attacks in the village of Darulete (Liquiçá, Liquiçá), an area near *Fazenda* Kaitugloa, owned by the Carrascalaõ family. According to witness testimonies, the attacks, which were aimed at apprehending a local Fretilin leader named Afonso dos Santos, resulted in the death of two civilians, known as Mau Manu and Lakucai.[20]

38. An eyewitness to the killling, the son of the victim, Mau Manu, told the Commission that eight armed members of UDT, including M1, M2, M3, M4, and M5, shot and killed Mau Manu, a local villager who was running away from his house towards the hills. Guilherme Martins told the Commission about his father's death:

It was around 8.00am on 11 August, Senhor M1 and his members came over with four guns; FBP, two Mauser and a pistol….After arriving at our house, my father, Mau Manu, went out of the house and started to walk toward the hill. Senhor M1 and his members then started shooting from the direction of the road. A bullet went through my father's neck and it came out of his forehead. Instantly, my father collapsed to the ground although he was not yet dead. Then, a member of Senhor M1's group, M4 found my father and gashed his left shoulder three times, once in his left side of his neck, waist and three times behind his knee with a machete. Then my father died.[21]

39. Immediately after the killing of Mau Manu, the same group of armed men killed another villager, named Lakucai. Lakucai was an elderly man, who was blind in one eye. He worked as a cook and washer for a clerk in the local court. According to testimony provided by his wife, Adelina Freitas, Lakucai was killed after Mau Manu's murder. He was beheaded, and his head was put on a stake in front of the house of Afonso dos Santos in Darulete. The armed men took Afonso's car when they did not find him at home. Adelina Freitas told the Commission she had to collect her husband's head from the front of Afonso's house. She wrapped the head in a Timorese woven cloth, a *tais*, reunited his head with his body which lay about 500 metres away, and buried her husband in a grave next to their house in Darulete.[22]

40. In another incident, UDT detained Fretilin supporters, leading to at least one killing. On 11 August UDT forces entered an area called Pukemenan, in the village of Leotela (Liquiçá, Liquiçá). They detained seven Fretilin supporters. According to Marcal da Conceição, one of the seven men, Paul Madeira, was stabbed to death. The others were brought to the village of Dato (Liquiçá, Liquiçá).[23]

Killings by UDT in Manufahi, Ermera and Aileu

41. In some districts UDT's 11 August movement directly led to violent clashes and killings. Some of these killings were clearly of armed party supporters. Others involved the killing of unarmed civilians.*

42. The Commission heard testimony about a killing in Manufahi District. UDT leaders and supporters actively went looking for Fretilin members. They found Carlito da Silva, a Fretilin supporter, and killed him in a place called Fore-Udo in Letefoho (Same, Manufahi) on 11 August 1975.[24]

43. In Ermera, on the same day, a local UDT leader, M6, reportedly arrested and killed Maumanu, a Fretilin supporter at Talitu on the border of Railaco Kraik.[25]

44. In Aileu on 11 August there were violent clashes that resulted in three people, Mali Bere, Mariano, and Antonio, being killed. In the chaos, the killers were not identified. However, civilians in Henrian, Madabeno (Laulara, Aileu) later suspected that three members of UDT were responsible for the killing. They arrested a man named Martinho, who at that time was the local *liurai*, and two others, Domingos and Basco.[26]

Unlawful killings following the UDT armed movement, 12–17 August

45. In the week between the UDT armed movement and the launching of the Fretilin counter-coup on 18 August, unlawful killings occurred regularly in several of the central and western districts. Most of these killings were perpetrated by UDT members. In some cases local Fretilin leaders were targeted.

* The distinction between civilian and an armed party supporter during this period in many cases is difficult to conclusively establish.

Killings by UDT supporters in Liquiçá

46. Starting with the killings described above on 11 August, over the next three days marauding bands of armed UDT forces killed at least eight civilians. Two out of the eight were beheaded, and the heads displayed, in separate incidents, in front of the houses of local Fretilin leaders. Only one of the eight victims was a Fretilin leader. From witness accounts the other victims seemed to be innocent bystanders.

47. On 13 August 1975 UDT supporters killed and beheaded a local Fretilin leader in the village of Leotela (Liquiçá, Liquiçá). According to the testimony of Brigida Martins, the daughter of the victim, four armed members of UDT came looking for João Martins, a local Fretilin leader, in his house in Banitur, Leotela. Discovering that he was not home, the armed men torched his house. He was later captured by another UDT supporter in an area of the village called Pukemenaro. In front of his brother, wife, and child, he was tied up and forced to walk. One of his captors, M10, took his spear and stabbed João Martins from behind. As a result João Martins collapsed from loss of blood in an area called Rai Robu. M10 beheaded João Martins, calling out "Long live UDT, I have cut the head of Fretilin". He took the head to the Kaituglao plantation (Darulete, Liquiçá). According to witness testimonies, an elderly woman member of UDT known as M11, played a role in inciting this killing by encouraging or ordering the killer to act.[27]

Rising tensions in Maubisse, Ainaro

Many of the cases of unlawful killings were the result of disputes between neighbouring communities. In some cases the violence was politically motivated. However, in others local disputes were behind the violence as much as the UDT-Fretilin political divide.

The people of the villages of Manelobas, Manetu, and Edi, in separate discussions with the Commission, recalled a clash in Manelobas and Manetu during August between UDT forces from Ermera and Fretilin forces from Turiscai. The community in Manelobas told the Commission that after this initial clash Fretilin forces shot and killed two members of the UDT forces from Ermera in Ernaro, Manelobas (Maubesse, Ainaro). UDT forces then burned houses and killed livestock in Manelobas. Fretilin captured two UDT supporters and brought them to Turiscai where they were killed. Another UDT supporter was killed at the village centre in Ernaro. He was beheaded and his head was brought to Turiscai. Fretilin supporters fled to Turiscai.[28]

In Manetu, most people joined ASDT and then Fretilin. The *liurai*, however, established a UDT branch. The community of Manelobas

remembered that UDT forces from Ermera came and burned houses, killed and stole livestock. In a shoot-out on the river border with Manelobas, two UDT soldiers were killed. Fretilin supporters fled to Turiscai. At the mouth of the river in the *aldeia* of Boro Ulu, Manetu (Maubisse, Ainaro) bordering Turiscai, Fretilin killed a villager who had worked for the *liurai* of Manetu.[29]

The people of Edi recalled the same event. However, they described a four-day attack conducted by UDT forces from Ermera, Atsabe and Maubisse, in which many houses were burned and livestock killed. They also recalled the killing of two Fretilin supporters, one of whom was beheaded. They told the Commission of the disappearance of the local *liurai* who fled to Aileu where he was detained by Fretilin. He was never seen again.[30]

In the village of Maulau, on 14 August, Fretilin supporters from Turiscai burned eight houses in Laka Malikau, Maulau (Maubisse, Ainaro). This attack took place a week after the previous attack by Fretilin forces on 7 August on this village (see above), and as a reaction to the UDT armed movement on 11 August. A group of 30 UDT forces were summoned from Ermera. Eventually, a Fretilin leader, Januario Soares, and the company commander and his men arrived and told the people: "There are no longer parties, but everyone belongs to the Maubere people's party (Fretilin), and there will be no more killing." By that time 37 people, mostly UDT supporters, had been killed.[31]

48. In a separate incident on 13 August 1975, UDT supporters in the neighbouring village of Asumano (Liquiçá, Liquiçá) gathered at the house of M12, the local UDT leader. They raised the UDT flag.[32] According to testimony received by the Commission, this group of men, which included M13, M14, M15, M16, M17, M18 and M19, walked to the house of the village head of Asumano, bringing with them an elderly man who was believed to hold sacred powers (*lulik*). They conducted a ritual ceremony underneath a flagpole and became increasingly agitated. At this time, a man named Mau Besi approached the crowd and the group suddenly assaulted him. He was chased down with a spear and machetes, and finally captured and beheaded. His head was put on a stake under the flagpole in front of the house of the village head. The ritual ceremony resumed. When it was over, the head of Mau Besi was brought to the house of M12.[33]

49. The Commission also heard that on the same day up to six others were killed in the *aldeias* of Siskualema and Hatumatilu, Asumano (Liquiçá, Liquiçá), and that arrests of Fretilin members and others followed the killings.[34]

Isolated killings by Fretilin and UDT supporters in Aileu and Manufahi

50. The Commission received testimony that on 13 August two members of UDT, Manuel de Jesus and Alberto Sousa, were arrested by a group of Fretilin supporters (M20, M21, M22, and others). The two victims were to be taken to Remexio in Aileu. After meeting with another group of Fretilin members, the two victims were executed at the river between Acumau (Remexio, Aileu) and Darlau.[35]

51. Bere-Sera told the Commission of the killing of her father, Maubere, in the *aldeia* of Betulalan, Aitutu (Hato Builico, Ainaro) on 14 August 1975. UDT forces killed him, then burned his house. Francisca Bere-Sera buried the remains of her father.[36]

Killings by UDT supporters in Ermera

52. On 11 August, UDT members arrested a group of Fretilin supporters including Anacleto Pires, Martinho dos Santos, Antonio de Deus, Abel Pinto, and José Bosco. They were tied to a flagpole by UDT, then detained for 40 days. On 14 August the local UDT leader, M6, took the local Fretilin secretary, named Vicente, to Aifu where he was killed. This provoked a violent clash between UDT and Fretilin members at Dukurai (Letefoho, Ermera), leading to the death of at least one civilian, named Mau Bere Mencoi.[37]

53. Another killing occurred in the sub-district of Hatolia (Ermera) on 15 August. UDT forces captured five men, Marcelino, Rasi Batu, Maumeta, Maubuti Maubere and a Fretilin delegate named Julião. They were tied together and brought to a location called Guntur, Leimea Kraik (Hatolia, Ermera). Julião was then taken to the river bed and shot dead.[38]

Mass killings by UDT and Fretilin in Turiscai and Laclubar

54. In a cycle of violence and counter-violence UDT and Fretilin supporters killed each other in the village of Fatumakerek (Laclubar, Manatuto) and the sub-district of Turiscai (Manufahi). In August 1975, UDT forces from Soibada, Laclubar, and Barique assembled 300 men in Fatumakerek to attack the Fretilin base in Turiscai on 19 August. Fretilin was better armed, and defeated the attack. However, according to Francisco Barbosa, the UDT attack killed three Fretilin supporters – Antonio Barbosa, Tito Manuel, and a man known as Jacinto.[39]

55. According to witness testimony, Fretilin forces attempted to intervene to stop the violence. In an interview with the Commission, Francisco Xavier do Amaral recounted that he sent 11 members of Fretilin from the Sub-district of Turiscai to meet UDT supporters in the neighbouring village of Foholau (Turiscai, Manufahi). According to him, the delegation was sent to Foholau to prevent further fighting between members of the two communities, who had close familial ties but opposing political affiliations.[40] Mateus Soares, one of the survivors of the killing that followed, described to the Commission:

When the political party conflict broke out in August 1975, I was in Turiscai. During that time UDT organised attacks in various areas including Laclubar, Soibada, and Turiscai. I don't know why the attacks were made or how many people died. After they had finished they went back to Foholau in Turiscai, where UDT made their headquarters.

Francisco Xavier do Amaral initiated a mission involving 11 Fretilin fighters, led by Geraldo Barbosa. The goal of the mission was to go to Foholau to talk with UDT about the two parties working together. We walked to Foholau, but as soon as we arrived UDT militants attacked and captured us. They gave us no chance to explain why we had come. They just tied our hands and began to torture us.

Later we were taken to Laoda in Fatumakerek, where the torture continued. We were not given any food or drink. In the area of Laoda there was a traditional house. Outside this house UDT supporters were sharpening their weapons on a whetstone. They proudly displayed their machetes, spears, swords and arrows. Then someone inside the house started a traditional ritual. He came out and started running, jumping and shouting according to the ritual. We were still tied up and we were very afraid. When the ritual ended they pulled us onto a mound near the house and then toward the edge of a gorge. They stabbed my friends with spears and pushed them toward the gorge. I was tied to a friend.The [UDT] supporters threw a machete in our direction. It missed and cut the rope that tied us together. I threw myself into the gorge even though my hands were still tied behind my back. They threw rocks and spears into the gorge. One of them hit…our leader, Geraldo Barbosa, who was still alive when he fell into the gorge. Only three of my friends survived this massacre, José Morena, Gaspar, and one other.[41]

56. After this incident, Fretilin supporters from Turiscai retaliated, reportedly killing six people.[42]

Unlawful killings between 18–20 August

57. On 18 August, Fretilin mounted its response to the UDT movement of 11 August. Although UDT continued to commit unlawful killings, from this point onwards Fretilin became the major perpetrator.

Mass killings by Fretilin in Aileu

58. One district where a number of unlawful killings occurred during the days following Fretilin's armed insurrection was Aileu, where Fretilin had set up its headquarters after the 11 August movement. Domingos da Silva Soares told the Commission that on 19 August a Fretilin leader named M23 and a group of Unetim (Fretilin youth wing) members arrested Afonso Mesquita. He was taken to the detention centre in Unmenlau

(Laulara, Aileu). Afonso Mesquita's father, Mau Loe, arrived to enquire about his son, and was himself arrested and detained. Afonso Mesquita managed to escape. As a result, his father was killed by a Unetim member. His body was thrown into the Berloi River Fatisi, (Turiscai, Manufahi).[43]

59. Joanico Pereira told the Commission that a group of eight men were detained in Fatisi (Laulara, Aileu) by Fretilin on suspicion of being UDT spies. On 20 August the eight were taken out, and five of them killed at the Berloi River, Fatisi. The remaining three were killed near Fatisi. The eight killed were Mannusa, Antonio, Leandro, Mausoko, Maukuta, Laubelam, Maimeta and Manuel.[44]

Revenge killings by Fretilin in Liquiçá

60. In a discussion with the Commission, the people of Asumano (Liquiçá, Liquiçá) recalled that Fretilin members began to retaliate against the killings perpetrated by UDT the week before (See account in sub-section entitled "Killings following the UDT armed action, 12–17 August", para 45-46). On 20 August Fretilin forces raised their flag in the *aldeia* of Hatumatilu Asumano (Liquiçá, Liquiçá). Fretilin captured and detained 40 UDT followers and then took them to Leorema (Bazartete, Liquiçá). Most of them were later released on the orders of Graciano da Silva, a Fretilin leader who had been detained by UDT. However, eight detainees were killed in an area called Fatubessi, in the *aldeia* of Hatumatilu, Asumano.[45]

61. On 20 August 1975 Fretilin forces from Aileu abducted seven members of UDT who were at the *Fazenda* Kaitugloa in Liquiçá, the scene of previous killings by UDT.* They were brought to Darulete where they were executed in an area called Mampatia, Darulete (Liquiçá, Liquiçá). The seven victims included four men named Evaristo, Mau Loe, Maubuti and Maulaku.[46] One of the witnesses to the killings, Carlos Vicente de Sousa, was wounded during the UDT attack in Darulete. He explained his view of the violent events to the Commission:

> *We must speak objectively. That a war took place is part of our history. UDT started it, then Fretilin avenged the killings during the "counter coup". At the time, there was little respect for humanity or justice. Seven people were killed in Darulete.*[47]

62. This incident was corroborated by the community in Darulete during a discussion with the Commission.[48] The people of Darulete also recalled that in addition to those killed, 50 others were detained. But as in Asumano, the intervention of the local Fretilin leader, Afonso dos Santos, secured their release.

* *Fazenda* Kaitugloa was a coffee plantation owned by the Carrascalão family. A number of killings occurred in the surrounding area during the period of the internal conflict. See accounts in sub-section "Killings on 11 August, the day of the UDT armed action" and "Killings following the UDT armed action, 12- 17 August" (par. 45-46).

A killing by UDT forces in Ermera

63. In his testimony to the Commission Abel de Oliveira Pinto told about the killing of a man named Mausoco Meugoco in Sandato (Letefoho, Ermera). He was shot by UDT forces led by M24. Mausoco was beheaded and his head brought to the town of Letefoho.[49]

Killings between 21 August and 30 August, the major period of the internal armed conflict

64. During the conflict with UDT, Fretilin had the support of most of the East Timorese members of the Portuguese military, and the armed conflict was fought primarily in Dili. Its military superiority meant that Fretilin quickly gained the upper hand. By early September UDT forces were in retreat and fighting between the two sides had virtually ended. However, the killing of civillians continued. These killings were perpetrated by both sides, but primarily by Fretilin. Both sides are known to have perpetrated mass killings during this period.

Killings of detainees by UDT in Palapaço, Dili

65. After UDT took control of Dili on 11 August, Fretilin supporters were detained at the UDT headquarters in Palapaço, Dili. The Commission has received evidence regarding the deaths of three men in the UDT-controlled detention centre in Palapaço. The three men were: José Siqueira, Domingos Conceição, and José Espirito Santo.[50]

66. The Commission has received corroborated evidence regarding the killing of one of these detainees, José Siqueira, a member of the Fretilin Central Committee, on 24 August 1975. According to Mário (Marito) Reis, who witnessed the killing, José Siqueira was agitated because while in detention he had been unable to take the medicine he needed for a specific medical condition he suffered. He began shouting. This drew the attention of the prison guards who were from Ermera. One of them opened fire, killing José Siqueira instantly. The body remained in the prison until the following morning.[51]

67. The following day, 25 August 1975, Marito Reis again witnessed the apparently accidental shooting death of two men, Domingos Conceição and José Espirito Santo. Marito Reis told the Commission that at about 5.00 that afternoon he, the two men, and another elderly man left the area where they were held to go to the toilet, escorted by an armed UDT guard. Suddenly, a mortar shell from Falintil forces dropped somewhere near Palapaço. The armed guard was surprised by the noise and pulled his trigger. The bullet went through José Espirito Santo's body and entered Domingos Conceição's body. Both prisoners died.[52]

Portuguese nationals killed during the internal conflict

Although the majority of the Portuguese nationals withdrew to a "neutral zone" in Farol and played no part in the armed conflict, some became involved. The most prominent of these was Lieutenant Colonel Rui Maggiolo Gouveia, the head of PSP (Policia Segurança Publica, Public Security Police). He was captured by UDT on 11 August, and three days later formally declared his support for UDT.[53] After the Fretilin armed insurrection, Colonel Maggiolo Gouveia was arrested and detained by Fretilin, first in Dili, then at Aileu, until his execution by Fretilin in December.* Although Colonel Maggiolo Gouveia was the highest ranking Portuguese national killed, there were other executions. One of these was Lino Cowboy, who was killed by Fretilin in Same in January 1976. [54]

Mass killings by Fretilin in Ermera

68. In their collective testimony to the Commission, the community of Laclo Village (Atsabe, Ermera) recalled a massacre perpetrated by Fretilin on 22 August. They told the Commission that Fretilin troops from Aileu and Maubisse entered the village of Paramin (Atsabe) and killed 11 people falsely accused of being members of Apodeti.[55]

69. Also in Ermera, a UDT member named Antonio Exposito was killed in Tokoluli (Railaco, Ermera) on 30 August. The local Fretilin leader, M25, arrested three UDT members. Later, Antonio arrived, and was beaten and then shot. His body was thrown into his house and burnt.[56]

The killing of a detainee by UDT in Ermera

70. The Commission heard testimony regarding the unlawful killing of a detainee in Ermera towards the end of August by UDT forces. The killing occurred on 26 August when a Fretilin member named Antonio Salsinha escaped his UDT captors in the village of Poetete (Ermera, Emera). He was in a bad condition, having been beaten by UDT forces. He returned home to get medical attention. However when the UDT forces discovered his escape, they went to rearrest him and on 27 August shot him dead.[57]

Massacre of detainees by UDT in Wedauberek (Mahaquidan, Alas, Manufahi)

71. The Commission heard evidence on the killing of 11 Fretilin supporters at a beach called Meti Oan, in Wedauberek on 27 August 1975. According to Ilidio Maria de

* See section on Fretilin Killings, para 177.

Jesus, the son of one of the victims, UDT forces detained 11 Fretilin supporters in Alas on 11 August. The detainees included members of the Fretilin youth organisation, Unetim. The UDT members who made the arrest included, amongst others, M26, M27, M28 and M29. The Fretilin detainees were held in Alas from 11 to 16 August and on 17 August they were moved to Same. On learning that Falintil forces from Aileu were approaching, the UDT supporters took the detainees south to the coast and killed them. Ilidio Maria de Jesus, who saw the bodies immediately after the killings, described them to the Commission:

> *The UDT coup d'etat occurred and UDT started arresting people. Among those taken prisoner was my father, José Maria. He was held in Alas from 11 to 16 August and then taken to Same until 24 August. When Falintil was advancing on Same from Aileu, UDT members fled to Natarbora, Manatuto, taking 11 Fretilin prisoners with them. Their original plan was to kill the prisoners in Natarbora but the people of the area refused to allow it.*
>
> *On the morning of 27 August, a truck was driven past our house with the 11 prisoners in the back. The prisoners were surrounded by armed guards, but apparently they were not tied up. My father raised his arm and made a fist as they drove past. We heard that they were being taken to Besusu [Alas, Manufahi]…UDT had warned us that if we didn't want to be killed we should flee to the forests, so my mother, younger brothers and sisters and I fled to a nearby hilltop. While we were there we heard gunfire coming from Meti Oan beach, Wedauberek.*
>
> *Four days later, on 31 August, Falintil troops from Same found the bodies on the beach in Meti Oan. The other prisoners who had been killed with my father were the Regional Secretary, Nurse Ponciano; the Vice Secretary, Sabino Soares Pereira from Pikuario who was a cattle farmer; the Second Vice Secretary, Bernardino Hornay; the Deputy Delgado, António Guterres; Domingos Lobato, the president of the student organisation Unetim; Chiquito Kaduak, Francisco, Domingos Ribeiro and Alexandre da Costa, all members of Unetim; and Tonito Ribeiro, another member of Unetim who was just 17 years old. Tonito and Domingos [Ribeiro] were the sons of Nurse Ponciano. That same day we went to the site of the massacre at Meti Oan beach and found ten bodies, including my father's. My father had been shot in his stomach. His hands were covered by his own intestines which had come out of the hole in his stomach. Domingos Ribeiro's hand had been severed from his body.*[58]

Killing of Apodeti leader by Fretilin in Same (Manufahi)

72. Fretilin forces entered Same on 27 August. By then most of the UDT forces had fled east towards Baucau and Viqueque Districts.[59] Monis da Maia, then Second Secretary for Apodeti in Manufahi District, told the Commission about the detention and killing of Celestino da Silva, Regional Secretary of Apodeti:

On 27 August, the Fretilin army entered Same. UDT had fled east. We remained in Same and went to witness the army's arrival. As soon as the Fretilin soldiers saw me they caught me and beat me until I fainted. I was taken to a school along with several others, including Celestino da Silva. Antonio Cepeda, a Fretilin leader, came to the school. He ordered Celestino to clean up the mess in the toilet. When Celestino was carrying out this task, a Fretilin soldier shot him dead with a Mauser [rifle]. The rest of us were held in the school for two days.[60]

73. Monis da Maia also told the Commission about an incident where he thought the detainees were about to be executed, including himself. However, unexpectedly, the Fretilin commander, Mau Hunu, changed his mind and the execution was halted:

At the flag raising ceremony, 11 of us were brought out of the prison to be killed. At the last minute Mau Hunu changed his mind, saying, "If they are all killed, who will we govern after independence, trees and stones?" So we were taken back to prison. [61]

Unlawful killings by Fretilin supporters in Aileu

74. On 22 August 1975, Luis Casimiro, a UDT supporter, was shot in the hip by José Tilman, a Fretilin member. At the time, he was hiding underneath a bed in his in-laws' house in Nunurema (Maubisse, Ainaro). According to his wife, Rosa Pina Meneses, he was dragged along the street towards the local hospital. His wounds were treated by a doctor. Against medical advice, Fretilin militia took Luis Casimiro to Aileu. Luis Casimiro's family believe that he was later executed in Aissirimou (Aileu Vila, Aileu) on 26 August 1975, based on information given to them by a neighbour, a Fretilin supporter, who said he witnessed the killing. They also suspect that a family member with a personal vendetta was involved in the murder.[62] However, according to Lucas da Costa, who was in charge of guarding Portuguese prisoners in Aileu, Luis Casimiro died in detention in Aissirimou from the gunshot wound he suffered in Maubisse.[63] Francisco Xavier do Amaral, a distant relative to Luis Casimiro, described this case in his testimony to the Commission. According to his testimony:

I know he died because I was always with him since he was the in-law of my older sibling. I asked my brother to go to Maubisse to save him, but he was not there, he had run away…Generally [people were killed because of the] political problem, [but] there were people who used this politics to take their own actions…and Luis's case is one of these cases.[64]

75. In another case described to the Commission, on 30 August Fretilin killed two men, Francisco de Araújo and Duarte de Araújo in Ainaro. These killings were carried out by Fretilin forces commanded by M33. The victims' bodies were thrown into the river at Surale-Barele.[65]

Execution of detainees and other killings in September

76. The pattern of killings in September is closely linked to the withdrawal of UDT through the western districts of Timor-Leste towards West Timor. On 24 September, the UDT forces crossed the border at Batugade into West Timor. The majority of reported killings during this period occurred in Ermera, including a mass execution on 1 September.

Mass killings of detainees by UDT in Klaek Reman (Ermera, Ermera)

77. As advancing Fretilin forces gained control of Dili and Aileu, UDT forces in Ermera resorted to increasingly desperate measures. Early in September, UDT had been defeated in Dili. Although UDT was still strong in Ermera, Fretilin forces were pushing westwards.The Commission was told that on 1 September 1975 at least 30 detainees were executed by retreating UDT forces in Ermera, four in Klaek Reman (Ermera, Ermera) and 26 in Aifu (Ermera, Ermera). Manuel Duarte survived the killing in Klaek Reman. He told the Commission about this incident:

> *On the morning of 12 August 1975, I was captured and taken with four others to Aifu. In Aifu there were many prisoners. They tied us up and made us lie on the ground like pigs. We were held there for over two weeks. On 20 August, in response to the counter coup in Dili, UDT fled to Ermera. M6 moved us from the prison in Aifu to a prison in Ermera. We were kept there for five days. We were packed in on top of one other with 70 people in one cell. The toilet was just a drum in the middle of the cell.*
>
> *On 1 September, a UDT commander ordered the armed forces to take Lorenço dos Santos, Armando Barros, Miguel Salsina, Vicente, Armando and myself to Aifu to be killed. Before we arrived in Aifu we met members of the [UDT] armed forces and their commander coming from the direction of Aifu and we were ordered to go to Klaek Reman, Ermera.*
>
> *In Klaek Reman they took our wristwatches and money, and we thought we were going to be killed. We met a second group of prisoners there who had also been heading for Aifu. We didn't speak to each other. We just prayed.*
>
> *A group of 70 prisoners was taken to Aifu. There were two children in this group. They were my relatives. That group was shot with rifles. Some were killed and some survived.*
>
> *Six of us were taken to Klaek Reman. Lorenço asked for time to pray before we were killed. Then they stabbed us with spears. We rolled down a cliff into a coffee plantation by the river. The soldiers followed us and hit my jaw until it broke. Then they lay us all in a row, covered our bodies with a tarpaulin, branches and pieces of wood, and left us there to die. My hands were tied with wire but I managed to push aside the branches and wood and get up. I drank some water which made me sick and then hid in a*

small cave made by a dried up waterfall... In the early evening I found some tall grass nearby and collapsed, totally exhausted.[66]

78. Manuel Duarte managed to crawl to the house of a friend. A local nurse gave him medical treatment. The following day, 2 September, Fretilin forces arrived and he was transported to Dili where he received medical treatment from the Red Cross. According to Manuel Duarte, two of the six among the group executed at Klaek Reman survived, Lorenço dos Santos the Fretilin Regional Secretary for Ermera, and himself.[67]

Mass killings of detainees by UDT in Aifu (Ermera)

79. Florentino de Jesus Martins was in the group of detainees taken by UDT to Aifu to be executed. In his testimony to the Commission, he corroborated the chance meeting with the six detainees who were brought to Klaek Reman to be killed. He related the story of the execution of at least 26 detainees in Aifu, on that same day, 1 September 1975:

> *M34 was the person who gave orders to kill the detainees. But Senhor M34 received the mandate to murder the detainees from M6 and Senhor M35. As we arrived at the residence of M35 in Aifu, they told us to take a break first. Then we were brought out in small groups, of around four people, to clean the grass in front of the house. We were just sitting...*
>
> *[All of a sudden] my friend, Virgilio Exposto, and another one, were taken to the corner of the warehouse and were shot. The gun fired and we started to cry. We thought "this is it, we're all going to die". Then another four people were taken out to be killed, and the gun fired. Those people who were taken to be killed, their hands were all tied, and then they were shot with a Mauser (rifle).*
>
> *After those people were killed, there were 30 of us left. Then M34 gave an order to stop the killing for a moment. We were still sitting on the terrace. I think it was because M34 received a card from Pedro Lemos [Falintil, Ermera] that said, "Senhor M34, you must release the 70 or so prisoners immediately. Tonight. Aifu has been surrounded, and our forces are coming from Hatolia and Loerema."*[68] *The other remaining detainees and I were released the following morning. But some had escaped that evening. According to witness testimonies, 26 people were executed in Aifu. Added to the four people who were killed in Klaek Reman, this means that at least 30 detainees from the UDT prison in Ermera were killed on 1 September 1975.*[69]

Killing of a UDT detainee and disappearance of Apodeti leader by Fretilin forces in Railaco (Ermera)

80. The Commission received evidence indicating that as Fretilin established its ascendancy in Ermera during early September, it too resorted to killing. In September 1975 Fretilin forces entered the sub-district of Railaco (Ermera). Approximately 50

UDT supporters, including a man named Mateus Soares, sought protection at the house of Daniel Carvalho, the Regional Secretary of Apodeti in Ermera. Eufrazia de Jesus Soares, the wife of Daniel Carvalho, recalled how her husband told her to put a white cloth in front of the house to indicate their neutrality in the conflict. Daniel Carvalho wrote a letter to the Fretilin commander, pleading that Fretilin forces not use violence in Railaco. When Fretilin entered Railaco, Daniel Carvalho surrendered the 50 UDT supporters to Fretilin troops. However, without any warning, Mateus Soares was taken from the group and executed. Eufrazia de Jesus Soares told the Commission what her husband told her about the incident:

> *My husband said, "I didn't know it would turn out like this. I thought if they surrendered they would be safe. But then someone was killed. I feel guilty, I shouldn't have given them over, I should have let them go…now I feel terrible, because they shot someone."*[70]

81. According to Eufrazia de Jesus Soares, a few days later, Daniel Carvalho was captured by Fretilin troops and brought to Aileu. Later on, he was moved together with other detainees to Same in Manufahi. His family never saw him again.

Killings of detainees by Fretilin in Aileu

82. The Commission was told of a series of killings perpetrated during early September. On 28 August a Fretilin group arrested and detained nine UDT members in Aileu. On 3 September the Fretilin group arrested eight more UDT members. Two people were killed, one named Major Lorenço, and another, a member of Apodeti. A third victim, Simplicio, was killed at Soibada (Manatuto) and was beheaded. Another man, Abilio Amaral, was also killed by Fretilin at Daisoli, Fatubosa (Aileu Town, Aileu).[71]

Unlawful killings by Fretilin forces in Manatuto

83. The Commission received testimony about the killing of ten UDT members in Manatuto in September 1975. On 4 September Fretilin forces attacked the village of Hatukonan (Laclo, Manatuto) and arrested 12 UDT members. Nine of them were taken to Makati and killed. On 7 September another victim, Pascoal Bernardo, was detained by Fretilin and then tied beneath a flagpole. He was shot and then beheaded.[72]

Mass killing of UDT detainees by Fretilin in Katrai-Kraik and Ermera (Ermera)

84. The Commission has received corroborated evidence regarding the killing of seven UDT supporters on 15 September by Fretilin forces in the village of Katrai-Kraik (Letefoho, Ermera). These killings appear to have been cases of Fretilin taking revenge for the UDT executions on 1 September. According to an eyewitness to the killings, Adelino Maia, Fretilin forces led by a man M36, and two Fretilin militia named M37 and M38, detained seven UDT supporters in the village of Katrai-Kraik. The UDT members included Teti Mau, Mau Saka, Lequimau, Caetano, Maurema, Saka Bere and

Mau Bere. They were brought to a location called Germano, in the village of Katrai-Leten, where they were executed.[73]

85. The killing of a captured UDT commander was described to the Commission. Captain Miguel Martins was a UDT commander from Ermera who was captured by Fretilin in Cailaco (Ermera) while attempting to escape to Indonesian West Timor on 15 September. He was taken to Bobonaro and then back to Ermera. On 25 September he was brought before a "popular justice" hearing by Fretilin. The Fretilin leader, M39, asked the assembled people: "If you answer 'Go to Aileu!' he lives. If you answer 'Stay in Ermera' he dies."[74] Most of the people, among the crowd were families of victims of UDT violence, and they answered 'Stay in Ermera'. Then M39 ordered two Fretilin members to tie Captain Miguel Martins up. Captain Miguel Martins asked permission to pray, thanked the public for the cross he was given, and asked his oldest child to look after her younger brothers and sisters. The two Fretilin members then took him to Dadesan in Ermera and shot him.[75]

Other killings

86. The Commission received reports of unlawful killings during this period that do not seem to fit into the general patterns described above. One example was the killing of 12 Apodeti members by Fretilin supporters in Bobometo (Oesilo, Oecussi), some time in September.[76] Another was the arrest of 11 Fretilin members on Ataúro by a village head, Antonio Maria Gomes, a UDT supporter. Four of these men were killed by UDT.[77] These killings appear to be isolated incidents that occurred in districts that otherwise experienced little violence during that period. They demonstrate the impact of the internal conflict on Timor-Leste society, and the fact that it provoked killings in places across the territory.

Political responsibility for the internal armed conflict

At the Commission's National Public Hearing on the Internal Political Conflict of 1974-76, both UDT and Fretilin party leaders addressed the sensitive issue of responsibility for the internal conflict and its large death toll. The following are some excerpts of what they had to say.

Domingos Oliveira, then Secretary General of UDT:

And from this [11 August] movement the crisis arose that others have spoken about. People killed each other, many people. I regret that many people were killed. Not just Fretilin killing UDT, but UDT also killed Fretilin. UDT killed three people in the prison in Palapaço... and Fretilin reacted to the killing in the prison. Many UDT prisoners

also died, so many died. Some were killed in Aileu, some were killed in Maubisse, and others were killed in other places. We need to slowly carry out an investigation so that we can understand where they died.

João Carrascalão, then a member of the Central Committee of UDT:

I want to begin by saying to you all that I did wrong against my community. All the UDT victims that Fretilin killed, it is my fault. All the Fretilin victims killed by UDT, it is my fault. Because I initiated the 11 August movement. I accept full responsibility to establish the truth. If you look for who was to blame, you don't need to look so far. I was at fault. I will carry the weight of this. It is important, friends, if you want to point the finger, only point it at me.

There was no order to arrest Fretilin members and take them to prison. We were surprised to see that the prison was suddenly full. There was no order from the [UDT] Central Committee. This action was spontaneous…and many people acted for their own personal reasons, [because of what had happened in] earlier years, and they grasped this opportunity and just took people arbitrarily…Every day I went to the UDT prisons and released 50 to 60 people.

So there was no control. Who is at fault? I am at fault. I accept this. You do not need to look for many people to blame. So many people killed, close to 1,200…We forgot our biggest responsibility…I did wrong, because I did not understand the Timorese people."

Francisco Xavier do Amaral, then President of Fretilin:

There was a lot of confusion. Everybody was heated, their blood ran hot, and because of this they beat each other, violence happened. When this one won he would take vengeance on that one. When that one won he would take his vengeance on this one. This is what happened in 1975. This is a problem in our country. For example, some people who worked in a place and were fired. They took vengeance on their superiors when they had this chance. They took out their hatred. They beat each other until they were killed…This is part of the Timorese character. When your blood is hot, these things happen. We say that yesterday you beat my father, my child, my younger brother, without any reason, and so the hatred begins. This is always here.

Mari Alkatiri, then a senior political commissar of Fretilin:

[During] the earlier aggression in August and September, so much happened and many people were killed. We killed each other…as I said in my earlier testimony…During the war between UDT and Fretilin many people died. Some people say up to a maximum of 3,000. I do not believe 3,000 people died in this war, but we will know more clearly in the future.

Unlawful killings and enforced disappearances during the Indonesian occupation (1975–1999)

Unlawful killings by Indonesian military before the invasion in December 1975

Western districts (August–December 1975)

87. Indonesian military incursions into the western districts of Timor-Leste began in late August 1975. They were conducted by three groups of special forces troops, named Team Susi, Team Tuti, and Team Umi. These units worked in conjunction with a group of East Timorese known as Partisans, who were trained, armed and led by ABRI.[78]

88. The covert operations undertaken by the Special Forces teams and the Partisans took place between August and December 1975. The three teams entered Timor-Leste through the border with West Timor. They operated separately and then regrouped in Atabae (Bobonaro) in December 1975. The Commission has documented at least 20 unlawful killings of civilians during these months, in the Bobonaro sub-districts of Atabae, Cailaco, Maliana, Balibó and Bobonaro.[79]

89. Claudio Vieira, a Partisan who took part in the covert operations as a member of Team Umi, told the Commission about the killing of two civilians near Mount Taroman by a Partisan named M41 who accompanied Team Umi on their advance on Suai in September 1975. The two unidentified civilians, one man and one woman, were captured and killed by machete. Their bodies were abandoned on the side of the road.[80]

90. In 1975 ABRI soldiers and a Partisan unit led by M42 killed at least two civilians in the sub-districts of Balibó and Atabae.* In an area called Litete in Balibó, the armed group captured a civilian named Bau-Mau. According to a witness's testimony, Bau-Mau refused to surrender the bow and arrow he was carrying. He was then captured, his house was burned and his livestock stolen. He was killed and his body dumped in an area called Aipasrah. [81]

91. From data gathered by the Commission, the largest number of deaths from pre-invasion covert military operations took place in the district of Ermera. According to Marciana Gracia, Indonesian forces infiltrated the sub-district of Atsabe in September 1975, coming through Cailaco (Bobonaro). In the *aldeia* of Coileki, in the village of Baboe Leten (Atsabe, Ermera) they captured and killed four UDT prisoners being held by Fretilin, Mau Butar, Berleki, Beremau and Mausico. They were beaten and killed in Haulete, Malabe Village (Atsabe, Ermera), under orders from the commander of Battalion 403 and the Partisan commander, M43.[82] The Commission received testimony from the same deponent about the killing of four other civilians, Casimiro

* This witness also told the Commission of a combatant casualty. Talo Bere, who was a Falintil soldier, was shot dead by this group in Pona Ahi (Balibó, Bobonaro).

Soares Gomes, Letisiga, Berhali and Loe Mau in four seperate incidents in Atsabe. Two of the four were working in the fields when they were killed.[83]

92. The Commission received corroborated evidence regarding a large number of civilian deaths on 8 September 1975, in Aifu (Atsabe, Ermera). According to Florentino de Jesus, Team Susi under the command of M44 entered Ermera, at dawn. In Hatolia (Ermera) fighting broke out between them and Falintil forces. Two people were killed, one on each side. Team Susi, which was made up of ABRI and Partisan members, retreated to Haekesak (Atambua, West Timor, Indonesia), then returned to Ermera by way of Asulau and Matarobu-Borro (Ermera). Florentino de Jesus told the Commission that dozens of civilians were killed when Team Susi arrived in Aifu. Among the casualties was Helder Varela, the son of the former Sub-district administrator. Florentino de Jesus also told the Commission that a Falintil soldier, Celestino Soares, was killed during this attack.[84] Information about this attack was corroborated by Tomás Gonçalves, an ex-Partisan member, who told the Commission that at least 70 civilians were killed.[85]

The killing of five journalists at Balibó

93. In the early morning of 16 October 1975, a covert Indonesian military force led by Team Susi under the command of Captain M44 (codenamed Major Andreas) launched an attack to take the town of Balibó (Balibó, Bobonaro).[86] Tomás Gonçalves estimated that some 700 men in total were involved in the attack, including hundreds of East Timorese auxiliaries and a para-comando force backing up Team Susi itself. Indonesian forces first bombarded Balibó from both the north coast and from the direction of Maliana, and then launched a ground attack from three directions.[87] During the attack, five journalists from two Australian television networks were killed. Greg Shackleton (29) and Tony Stewart (21) were both Australians, who with Gary Cunningham (27) from New Zealand worked for Melbourne's Channel Seven network. Brian Peters (26) and Malcolm Rennie (29), both British, worked for the Sydney-based Channel Nine network. The journalists had been in Balibó since 13 October covering the story of the Indonesian covert operations inside Timor-Leste and in anticipation of an Indonesian attack on the town.

94. The deaths of the journalists in Balibó have subsequently attracted a great deal of international attention. The Australian government commissioned two inquiries into the deaths, in 1995 and 1998 led by Tom Sherman. Two recent books investigating the deaths of the five journalists – *Cover-Up* (2001) by Jill Jolliffe and *Death at Balibó, Lies in Canberra* (2000) by Desmond Ball and Hamish McDonald – both contain important new information. Ken Conboy's *Kopassus* (2003) provides information on the military operation to seize Balibó based on interviews with Indonesian military sources who took part in it. In mid-2000 the UNTAET civilian police (Civpol) established a Historical Crimes Unit within the National Investigation Unit (NIU) and began an investigation into the deaths in Balibó. As part of this investigation, on 22 March 2001 the Special Representative of the Secretary-General, Sérgio Vieira de Mello, wrote to the Attorney General of Indonesia requesting interviews with nine suspects believed to be in Indonesia. The Attorney General turned down this request on the grounds

that the Indonesian Parliament had not ratified a memorandum of understanding on witness cooperation between UNTAET and his office, thereby effectively ending the Civpol investigation.

95. All inquiries into the deaths have been limited by the fact that the remains of the journalists, buried at the Tanah Kusir Cemetery in Jakarta, have not been subjected to scientific investigation and that key witnesses in Indonesia have declined to give testimony to the various official inquiries. The material presented here concentrates on witness testimony provided to the Commission on the circumstances of the journalists' deaths.

Guido dos Santos

96. Guido dos Santos, then a 24-year Fretilin medical orderly, has long been a central witness to the events at Balibó. He gave his first eye-witness account soon after the event.[88] In August 2000 he participated in a re-enactment in Balibó organised by Jill Jolliffe. Guido dos Santos was not interviewed by Tom Sherman as he was in Timor-Leste at the time of the Australian government initiated inquiries.[89]

97. The Commission interviewed Guido dos Santos in July 2004 and recorded a video interview with him at the square in Balibó in September 2004. In this video interview he explained that the journalists beckoned to him while he was standing near the large banyan tree at the point where the Cova Road enters into the square.[90] He was defending the square against the attacking troops coming over the Portuguese Section, but then realised that enemy soldiers were already at the Maliana road on the opposite side of the square. He then saw one journalist fall. He thought that the journalist was shot, although he is now not sure whether he had dropped to a lying position in an attempt to avoid the gunfire.* At almost the same time as he saw the journalist fall, Guido dos Santos also saw and heard the remaining journalists shouting "Australia, Australia" with their hands up. Rather than go in the direction of the journalists, he instead ran towards the backyard of another Chinese shop-house facing the square, along the edge of the football field of the school and behind the large banyan tree, and then climbed up the side slope of the fort. He continued to hear the journalists shouting for about two minutes until he reached a path where he felt secure. Guido dos Santos confirmed to the Commission, as he had said in earlier interviews, that the man he saw fall down was "big and bald", a description that fits Brian Peters.[91] In his video-recorded interview with the Commission, Guido dos Santos was confident in pointing to the first house on the Maliana road as the place where the journalists were actually killed.

Olandino Guterres

98. Olandino Guterres was a UDT supporter who fled to Indonesian Timor from Balibó, trained in Haekesak in West Timor, and then returned to Balibó with the

* In an interview by CAVR with Elias Lopes, a UDT member who joined the attacking force on Balibó, he stated that he saw one foreigner had come down from the residence alone. However, he claims that he was ordered away by the Indonesian troops, and then subsequently heard firing. [CAVR Interview with Elias Lopes, Kampung Merdeka, Comoro, Dili, 27 July 2004].

attacking force. The Commission interviewed Olandino Guterres in June 2004 in Dili. He told the Commission that he was standing behind the house where the journalists had been staying:

> *There was a voice, "Tembak. Maju." (Shoot! Advance!). I heard the sound of AKs firing. They began to shoot. It was already light…Moving back a little, I saw them all enter the house. I also entered. I saw there three Australian journalists, inside the house. The bodies were on the chairs, one precisely at the window. When I was still standing looking like that, Yunus ordered, "Heiho, get out. You go there. Guard down there. Don't stay here."*[92]

99. Olandino Guterres told the Commission that he then went to the back of the house. He said that all the doors of the house were open and he could see what was going on inside. He heard an Indonesian soldier saying: "If you don't come out, I will throw a grenade":

> *Maybe the Australian journalist heard the word "grenade" [granat in Indonesian], and he came out with his hands raised…I heard him say: "I am sorry, I am tourist" [in English]. It was M45 who got him out. When he'd got him out, he immediately struck him with his commando knife. The fifth one came out of the bathroom…[and] he [M45] stabbed him in the back.*

100. Olandino added that Captain M44 had ordered M45 to take out his knife.[*]

Tomás Gonçalves

101. In 1975 Tomás Gonçalves was the commander of Apodeti troops at Balibó who were attached to the para-commando group led by Captain Ali Musa.[†] In April 1999 he fled to Macau after he refused to lead a militia group. The Commission interviewed Tomás Gonçalves in October 2003, May 2004 and September 2004. He also gave testimony to the CAVR National Public Hearing on the Internal Political Conflict of 1974-76 in December 2003. According to Tomás Gonçalves, at about 6.00am he saw four men come out of the house, one in front and three behind. He could not hear what they were saying but thought they were surrendering. Then he saw soldiers firing. He saw Yunus Yosfiah, Ali Musa, and Kirbiantoro in the group of soldiers surrounding the house. He believes that they too were firing, but he could not recognise exactly who was firing. At that time there was no shooting coming from the Fretilin position. Continuing to fire, the soldiers went into the house, and then dragged the bodies of the journalists inside where they were burnt to ashes on a pile of wood fuelled by gasoline.

* CAVR Interview with Olandino Guterres. "M45" has been identified as a local assembly member between 1992 and 1997 in Baucau [Jill Jolliffe, op. cit., pp. 281-301].

† He had told Jill Jolliffe that he was with Kirbiantoro, but in his interviews with the Commission he consistently said that he had been part of the group that had attacked from behind the Portuguese Section and that this group was led by Captain Ali Musa.

Possible sequence of events

102. While these witness accounts are not entirely consistent with each other and they differ in some respects from what the same witnesses have said on other occasions, the Commission believes that it is possible on the basis of these witness testimonies to draw together a coherent account of what happened on that morning. The Commission believes that the following is a credible account based on these testimonies.

103. Around 6.00am, one journalist, possibly Brian Peters, was shot in front of the first house at the Maliana road. The gunfire came from the attacking troops advancing along the Maliana road, who were just about to reach the square when Guido dos Santos saw the journalist fall.* One possible reason why the journalist was on the road was that he had just come down with a camera from the hill and tried to go back to the house when he accidentally came across the advancing troops.† The journalists at the house shouted "Australia, Australia" with their hands up and they continued to shout for about two minutes. Tomás Gonçalves said he saw four persons being fired at in the doorway of the house, one in front and three behind. It was impossible for him to see the first journalist fall down because it occurred when Guido dos Santos was still at the edge of the square and Tomás Gonçalves was not there at that time. What he saw was the Indonesian soldiers deliberately firing on the remaining journalists and them enter the house while firing continued. Some of the journalists might have fallen at the doorway. But at least one journalist escaped into the house and was killed at the rear of the house, possibly by M45.

104. The Commission also believes that members of ABRI dressed up the dead journalists bodies, some or all, in uniforms and then photographed them with machine guns. While there is little consistency in the witness accounts given to the Commission regarding the disposal of the journalists' bodies, all sources agree that they were burnt in Balibó.[93]

Conclusions

105. The Commission believes that this account is consistent with the information available to it. It implies that the five journalists were not killed in crossfire or as an unfortunate side-effect of the Indonesian operation to take Balibó. In addition to the attempts of the journalists to identify themselves to the Indonesian soldiers, there is considerable evidence that the attacking force had prior knowledge of the presence of Australian journalists in Balibó, including an admission from General Moerdani that he had received reports to that effect.[94] The Commission also believes that official and semi-official Indonesian accounts of the events in Balibó suggesting that members of the attack force found the bodies of the journalists after they had taken the town are not consistent with any of the evidence that it has received.[95] The Commission does not

* The account of Lucas Jeronimo, although his statement was not recorded as evidence, supports this hypothesis.

† Lucas Jeronimo's account that he saw a journalist filming and then falling down is also consistent with this version of events. See the article reproduced in Tom Sherman, *Report on the Deaths of Australian based journalists in East Timor in 1975*, 1996, pp. 31-32.

claim on the basis of its own limited inquiry into these events that it is in a position to reach definitive conclusions on what happened in Balibó on 16 October 1975. However, it does believe that its own findings support the case for further investigation of the elusive truth of this matter.

Unlawful killings by Indonesian military during the invasion of Dili 7-8 December 1975

106. The Indonesian military launched a full-scale invasion of Dili at dawn on Sunday, 7 December 1975. Indonesian warships fired mortar and cannon rounds into Dili for about one hour, after which Indonesian troops parachuted into the heart of Dili and marines landed at Kampung Alor (Dom Aleixo, Dili), to the west of the city centre. Troops from the Special Warfare Command (Kopassandha) were divided into three teams, each of which was assigned to secure a particular strategic location.

107. At 4.30am several hundred Indonesian marines in amphibious tanks and personnel carriers landed on the beach at Kampung Alor. Just before dawn on 7 December the first sortie of nine Indonesian air force planes entered their drop formation over Ataúro Island, flew west toward the Wetar Straight, and then approached Dili from the east. At 5.45am paratroopers began to jump. Indonesian paratroopers who landed to the west of the Governor's building along José Maria Marques Street also encountered strong resistance. There were several Fretilin militia posts in the area. One of these posts was on the ground floor of the Red Cross building, from where Fretilin militia engaged in heavy fighting with the invading paratroopers.

Unlawful killings of ethnic Chinese civilians in Colmera, 7 December 1975

108. On the morning of 7 December Indonesian troops approached the Toko Lay building, located next to the Red Cross building on José Maria Marques Street. An Indonesian paratrooper whose parachute had gotten caught on the top of the building some time earlier was hanging dead in front of the building. The Indonesian troops ordered the occupants of Toko Lay to come out of the building. The Commission has received information that there were about 20 people staying in the building, all of whom were ethnic Chinese.[96] An ethnic Chinese man named Tsam Yi Tin and his son (possibly named Tsam Meu Tang) came out of the building next door. The Commission received information that the Indonesian soldiers shot Tsam Yi Tin dead and that his son was wounded by a bullet but survived.[97] The individuals who had been staying in Toko Lay were taken to the port.[98]

109. The Commission received corroborating evidence regarding this incident. Erminio da Silva da Costa told the Commission that when he accompanied Brigadier General Benny Moerdani around the city later on that day or the following day, they encountered an ethnic Chinese woman near the Lay store whose husband had been shot. Erminio told the Commission that the woman asked for help burying her husband and Moerdani replied: "I am sorry if there was a mistake. I am responsible, and I am sorry."[99]

Table 2: Victims next door to Toko Lay, morning of 7 December 1975, as reported to the CAVR

Name	Profession	Personal Data	Violation
1. Tsam Yi Tin	Shop assistant	Age ~50, from Turiscai	Killed
2. Tsam Meu Yang	-	Son of No. 1	Injured

110. That morning Indonesian troops in Colmera ordered all residents to come out of their homes and places of business. According to witness testimony, the Indonesian soldiers, wearing green berets, wanted to search for weapons in their homes. While conducting this search, the troops found a group of ethnic Chinese people who were hiding in a gutter behind the house of Li Nheu Ki on Sebastião da Costa Street. A witness told the Commission that he heard that people had been killed at a house nearby and wanted to bury them. When he looked out of the doorway of the house where he was staying he saw the corpses, but was afraid and went back inside.[100]

Table 3: Victims at the home of Li Nheu Ki, morning of 7 December 1975, as reported to the CAVR

Name	Profession	Personal Data	Violation
1. Li Nheu Ki	-	Age ~60	Killed
2. Pu Kim Seong	San Tai Hoo employee	Age 48	Killed
3. Lay Siu Siong	-	-	Killed
4. Yong Yung Nhang	-	Age ~60	Killed
5. Istri Yong Yung Nhang	-	Age ~60	Killed
6. A Fa [Lay Kim Fa?]	Cook/store clerk	Age ~22	Killed
7. Li Chap Pin	Carpenter	Age ~30	Killed
8. Jong Kui Jung	The wife of No. 7	Age ~30	Killed
9. Li Chap Kang	-	Age ~40	Killed

111. The Commission has received information about at least five other ethnic Chinese people killed in the Colmera area on 7 December. Around midday a businessman named Lay Kim Chang, aged about 38, came out of his store and was immediately shot dead by Indonesian soldiers, who then took his expensive wrist watch. In the afternoon an Indonesian military informer identified a shop-owner named Lay Chung To, aged about 60, as being a Fretilin member and having a Fretilin flag. He was immediately shot dead. Three other individuals are also reported to have been executed.[101]

Table 4: Other ethnic Chinese killed on the morning of 7 December 1975, as reported to the CAVR

Name	Profession	Personal Data	Violation
1. Lay Kim Chang	Store owner	Age ~38	Killed
2. Lay Chung To	Store owner	Age ~60	Killed
3. Jong KongYi	Businessman	Age ~60	Killed
4. Wong Seu Fa	Employee of Fa Qui	Age ~50	Killed
5. Lay Si Leong	-	-	Killed

112. The ethnic Chinese people staying in Toko Lay were taken to the waterfront. In 1984 a man named Chong Kui Yan told Amnesty International that the occupants of Toko Lay were taken to the Sporting Club, where they were threatened at gun point, then led to the entrance to the harbour, where they were again threatened. The women and children were told to go to the Chinese school and a group of 16 men were ordered to dig a large grave in the park, in which dead Indonesian soldiers were later buried.[102]

Killings at the Assistencia building, 7 December 1975

113. At the time of the Indonesian invasion of Dili many families were living in the newly constructed Portuguese Department of Social Affairs (Assistencia) building, located on the southeast corner of Albuqueque Street and Caicoli Street. These families had taken refugee in the new Assistencia building because their homes in Vila Verde and other neighbourhoods had been burned down in August during the armed conflict between UDT and Fretilin.

114. On the morning of 7 December, Fretilin sympathisers who had previously received military training gathered at the 15th Hunter Infantry Company (Companhia 15) building in Caicoli to look for weapons and munitions. The commander of Companhia 15 was not present. Alberto de Oliveira Camara told the Commission that the Fretilin militia members fired on the descending Indonesian paratroopers. The fighting continued until the Fretilin militia members ran out of bullets and fled.[103]

115. Early in the afternoon, Indonesian soldiers approached the Assistencia building. The soldiers discovered an Indonesian paratrooper who had become entangled in the electrical cables in the morning and had been shot. According to Francisco da Cunha, a former Portuguese military police officer:

> *A Captain was shot dead by the Falintil of Caicoli Company- Casa Quinze. We were beginning to exchange fire with ABRI/TNI at the time. Our forces were no longer able to hold, however, so we retreated to join the Balide Company.*[104]

116. The soldiers lowered the dead soldier. At the time a Fretilin flag was flying on the flag pole next to the garage, to the west of the old Assistencia building. After securing the area, the soldiers brought the dead soldier over to the flag pole, lowered the Fretilin flag, then ordered all of the civilians to come out of the new Assistencia building.

117. The family of Bernardo Muniz was staying on the second floor at the back of the building, and so were among the last to leave the building. Bernando's daughter, Felismina dos Santos da Conceição, who was 12 years old at the time, told the Commission that from the second floor of the building she looked across the street and could see two dead Indonesian soldiers and a dead Fretilin soldier near the flag pole next to the ambulance garage at the old Assistencia building.[105]

118. The Indonesian soldiers ordered the civilians to gather in the field across the street from the new Assistencia building. Indonesian soldiers also ordered civilians in the Villa Verde neighbourhood to gather in the field. Francisco Soriano told the Commission that he and his family hid in the house of a Portuguese Military Police officer named Santos because the house was well built and could withstand bullets. However in the early afternoon the house was hit by a bullet and the inhabitants of the house went outside. Indonesian soldiers told them to gather in the field across the street from the Assistencia building.*

119. The soldiers separated the men from the women and children. The women were told to pray and the Indonesian soldiers searched the group of up to 80 men.† The soldiers then told the group of men to go to the Companhia 15 building, next door to the old Assistencia building, where they were ordered to bring all goods out of the building. Felismina dos Santos da Conceição, who was in the field with the women and children, told the Commission that she saw her father and Sergeant Mesquito carrying goods from Companhia 15 outside. After this, the men were taken to the side of the building. Francisco Soriano told the Commission that he saw two dead Indonesian paratroopers there.[106] The men were told to line up in rows. Francisco Soriano told the Commission:

* CAVR Interview with Francisco Soriano, Dili, 4 July 2004. See also CAVR Interview with Alberto de Oliveira Camara, Dili, 17 August 2004, who told the Commission that he heard from Josefina Pereira Noronha that Josefina's husband, Lourenço Pereira, had been shot by Indonesian soldiers in Vila Verde on the morning of 7 December 1975.

† CAVR received several pieces of information about the number of men involved. Francisco Soriano, interviewed on 4 July 2004, told the Commission that there were 60-80 men involved.

[After] leaving the Company, ABRI ordered us to form lines…ABRI pointed their guns at us and ordered us to move, and we lined up. Three rows, or three lines. We were ordered into lines, but we didn't understand Indonesian. Once we were in lines, they [ABRI] began discussing something. All I could make out was the writing on their shirts – 501. Green hats…we were in three lines, and they were long lines.[107]

120. The Indonesian soldiers had a discussion for 10 to 15 minutes. Three of the soldiers then aimed their weapons at the group of East Timorese men. When he saw this, Francisco turned around to run. The soldiers then opened fire on the men. As he ran, Francisco could see that two of his friends had been hit by bullets. Domingos Pinto Faria was hit in the head and fell. Manuel was shot in the thigh. After running for about 100 metres, Francisco was hit by a bullet in the back.

121. Domingos Soares told the Commission that he was among the group of men when the shooting took place. He stated:

I was in the first line. After I fell, [I realised] that a bullet had hit me right in the arm. A Chinese friend was in line with me, he was also shot, and fell down dead across my body. and I saw that there were many dead. But I only know a few names: Jacinto Candido and Tomás Conceição – both of them my teachers – and Domingos Urbano.[108]

122. Felismina dos Santos da Conceição told the Commission that shortly after the group of men had been taken to the Companhia 15 building, she could hear gunfire that lasted for 15 to 20 minutes, as well as the sound of several grenades exploding. After some time, one of Felismina's friends, a girl named Isabel, stood up and took some water to the location of the shooting. When Isabel arrived at the location the Indonesian soldiers were moving away in the direction of a building called Sang Tai Hoo, in Colmera. Isabel returned to the group of women and reported that all of the men had been killed.

123. Hearing this, Felismina and several women went to see what had happened. When Felismina reached the Assistencia building, she saw that the men had been shot and body parts were strewn about the location. Felismina found her brother, Jacinto Fereirra Simões, aged 17:

I lifted up my brother's head straight away and placed him on my lap. I gave him some water. Soon after, my lap was wet. Then I realised that the water I had given my brother had spilled out through his neck onto my lap. Not long after, he died in my lap.[109]

124. Felismina and her friends then returned to the field, and together with the other women and children went in the direction of Vila Verde. On the way she saw her father, Bernardo Muniz, coming from the direction of the Military Police headquarters on Albuqueque Street. He was covered in blood. Bernardo Muniz told his daughter that he was not injured; the blood was from the other men who had been killed.

125. The Commission received information from several informants about the number of victims at the Assistencia building. The figures range from 23 individuals to a high of 60 to 70 individuals.* The Commission has been able to identify the following victims:

Table 5: Identified victims from Assistencia, Caicoli, as reported to the CAVR

Name	Profession	Personal Data	Violation
1. Domingos Pinto Faria	-	-	Killed
2. Domingos Xavier	Military Police	From Viqueque	Killed
3. Antonio Mesquita	2nd Sergeant	-	Killed
4. Manuel	Servant in Santos home	-	Killed
5. Graciano de Carvalho	Nurse	-	Killed
6. Rosa Lay	Ambulance driver	-	Killed
7. Jacinto Fereirra Simoes	-	Age 17	Killed
8. Jacinto Candido	Teacher	-	Killed
9. Tomas Conceição	Teacher	-	Killed
10. Silvino das Neves	-	-	Killed
11. Luis Antonio Salsinha	-	-	Injured
12. Domingos Urbano	-	-	Injured
13. Antonio de Araújo	Former soldier	-	Injured
14. Francisco Suriano	Fretilin militia member	Age 17, from Dili	Shot in the back
15. Carlos Afonso	Unetim member	-	Shot in hand

* CAVR Interview with Alexandrino do Rego, Dili 22 August 2004. He said that he counted 23 corpses at the scene. Felismina dos Santos da Conceição, interviewed by the CAVR in November 2003, and Filomeno Gomes, interviewed 25 June 2004, both said that there were "tens" of victims; see also CAVR Interview with anonymous informant [A3], Dili, 16 August 2004, who said there were 40 victims, both men and women; see also James Dunn, *Timor: a People Betrayed,* Jacaranda Press, The Jacaranda Press, Milton, Queensland, 1983, p. 284. See also Amnesty International, *East Timor Violations*, pp. 27-29.

Name	Profession	Personal Data	Violation
16. Domingos	-	-	-
17. José de Carvalho	-	-	-
18. Cico Badak	Tourist	-	Injured
19. Bernardo Moniz	-	Died 1981	-
20. João Brito	Fretilin militia member	From Ermera	-
21. Domingos Soares	-	Age 9	Injured

126. Domingos Freitas told the Commission that two days after the Indonesian invasion of Dili he went with a woman named Candida and her child to look for Candida's husband, who was a Portuguese Military Police officer. Behind the Companhia 15 building they found dozens of decomposing corpses that had been partially eaten by animals.[110]

127. On 9 December, members of the Indonesian military ordered several East Timorese civilians to burn the bodies behind the Companhia 15 building. According to Filomeno Gomes, Indonesian military personnel forced him to burn decomposing corpses at a location between the Companhia 15 building and the current PLN (Electricity Services) building.[111] Similarly Alexandrino do Rego told the Commission that he burned 23 bodies next to the old Assistencia building. He could only identify two corpses: Rosa Lay, an ambulance driver, and Graciano de Carvalho, a nurse.[112]

Corpses at the Portuguese Military Police compound

128. The Commission has received information about corpses seen at the Military Police compound, located next to the new Assistencia building on Albuqueque Street. Sebastiana Henrique Guterres Soares Belo, who was a Unetim member, told the Commission that on 8 December 1975 she went from Taibessi to the Caicoli neighbourhood to look for food. She said that she saw two Hino trucks enter the Military Police complex. Curious about what was going on inside the complex, Sebastiana said that she climbed a tree so that she could see into the compound. There she saw Indonesian soldiers and East Timorese civilians loading corpses onto the truck.[113]

Executions in Matadouro, 7 December 1975

129. On the afternoon of 7 December, Indonesian troops approached the Matadouro building, a public slaughterhouse for cattle during the Portuguese time, located about 400 metres south of the Assistencia building at the end of Albuqueque Street. After seizing power in August 1975, Fretilin established a militia post there.[114]

130. The Commission received various information about individuals executed in the vicinity of this building, with some variation in detail. One informant told the

Commission that after Indonesian troops landed on 7 December local residents remained in the area and some of the men assisted the Indonesian troops, who had set up a post on a hill overlooking the area.[115]

131. Mid-afternoon on 7 December some of the women, children and old men who had remained in the field across from the old Assistencia building made their way south to Matadouro. Late in the afternoon, however, Indonesian troops ordered many of the locals out of their homes. According to Maria Filomena Godinho, her father showed the Indonesian soldiers "an Apodeti membership card and flag." She told the Commission that late in the afternoon on 7 December:

> *ABRI came straight to our house and ordered us to get out…In Matadouro we were split into two groups, men in one group and women in the other. Then the men were all shot dead. I saw ABRI shooting them. I witnessed that with my own eyes.*[116]

132. Three individuals were killed together, including Maria Filomena's father, Vicente Godinho, her older brother, Teodoro Godinho, and the owner of the house in which they were staying, Lourenço. According to another informant:

> *Four members of ABRI came to Lourenço's house, and began to beat him, along with two of his friends, Teodoro Godinho and Vicente Godinho, using their rifle butts. One of Lourenço's children, Domingos Pereira, arrived, and begged the perpetrators to cease torturing the victims. So one of the four ABRI members dragged Lourenço, Teodoro and Vicente out to the garden and shot them dead. Then Fransisco Xavier arrived, and began protesting the perpetrators' actions. So one of the perpetrators shot Fransisco Xavier dead also, in the garden of the Matadouro house.*[117]

133. Acacio da Costa Carvalho told the Commission that on 10 December 1975 he heard that several of his family members had been shot by Indonesian soldiers at 4.00pm on 8 December. Acacio heard about the killings from his mother and aunt, both of whom witnessed the killings. They described how Indonesian troops set up a post on the hill south of Matadouro, called the men outside, searched each house, and then executed three individuals: Acacio's father, Julio da Costa, one of Acacio's uncles and Francisco Xavier (also know as Mausale).[118]

134. Another witness provided information about three more individuals killed in the Matadouro area on the afternoon of 8 December:

> *On 8 December at 4.00pm, José dos Santos, who had just got out of hospital [in Lahane], with two of his friends, Manuel Febu and Duarte da Silva, were killed by ABRI/TNI in Matadouro. My child, Liberatu dos Reis Soriano, witnessed the incident. Their bodies were not buried.*[119]

135. A number of other informants told the Commission that they had heard about the executions at Matadouro. One informant said that he was with a group of Kostrad

soldiers which arrived at Matadouro at about 4.00pm on 8 December and saw three corpses at the location.[120]

136. The Commission has found that the individuals listed below were killed by Indonesian troops in the vicinity of the Matadouro building:

Table 6: Identified victims in the vicinity of Matadouro on 7-8 December 1975, as reported to the CAVR*

Name	Profession	Personal Data	Violation
1. Vicente Godinho	Pegawai negeri	Age ~50	Killed
2. Teodoro Godinho	-	Son of no. 1	Killed
3. Laurenco da Conceição	-	Home near Matadouro	Killed
4. Francisco Xavier Luis Pereira	-	Relative of no. 5	Killed
5. Julio da Costa	-	Age ~50	Killed
6. José dos Santos	-	-	Killed
7. Duarte dos Santos	-	-	Killed
8. Manuel Febu	-	-	Killed

Maloa River killings, 7 December 1975

137. João Dias Ximenes told the Commission that he was at home in Bairo Pite on the morning of 7 December. He said that he and his family stayed in their house all morning, but that at 2.00pm Indonesian soldiers entered Bairo Pite and told everyone to come out and line up. At about 3.00pm the local residents heard that a number of civilians had been killed at the Maloa River (Bairo Pite, Dom Aleixo. Dili). At 4.00pm João Ximenes accompanied Indonesian soldiers to the site. He saw eight male corpses, but could only identify one of the bodies, that of Crisogono Fraga. Indonesian soldiers told the civilians to douse the bodies with gasoline and burn them. According to João Ximenes, the eight men were killed because an Indonesian soldier had been killed by Fretilin forces.

138. Other informants have also provided information about corpses in the same area. Felismina dos Santos da Conceição told the Commission that on the afternoon of 8

* Other possible victims include Antonio dos Reis, aged 30, Zeca, and Inacio, a former Military Police officer from Viqueque. See CAVR Interviews with anonymous informant [A3], Dili, 16 August 2004; Calistro de Jesus Brito, Dili, 29 June 2004 and Iria de Araújo, Dili, 4 August 2004, Dili.

December she was among a group of woman who moved from Vila Verde to Guarda Colmera, in the Tuanalaran neighbourhood. Near Guarda Colmera the women encountered Indonesian soldiers. The soldiers put one woman into a vehicle that drove away. The soldiers then took five men away with them. When the five men returned they told the group of women that the soldiers had forced them to bury a group of dead civilians at the Maloa River.[121] Similarly, Iria de Araújo told the Commission that on the afternoon of 8 December, following the mass execution in Ailok Laran, Bairo Pite (Dom Aleixo, Dili) she walked down the Maloa River to Bairo Pite and saw a number of corpses at the Maloa River.[122]

Dili wharf on 8 December 1975

139. On the night of 7 December Indonesian paratroopers from both Kostrad and Kopassus stayed in what is now the Hotel Timor building, which had not yet been completed, facing the Dili port facility. An East Timorese informant told the Commission that he and several friends who had been detained by Fretilin at the police headquarters near the Old Market slept at the Hotel Timor on 7 December, where they met with an Indonesian platoon commander named F. Sinaga.[123] On the morning of 8 December a large number of Kostrad and Kopassus were present at the building, having spent the previous night sleeping in the empty building.

140. One witness, who was among a group of six former Fretilin detainees who had slept in the small park in front of Hotel Timor, told the Commission that at 6.00am on 8 December he approached a soldier near the park and asked for permission to wash his face. The soldier gave him permission to go to the large park 50 metres to the west. The witness said that in the large park he saw a dead East Timorese man, aged about 25, wearing civilian clothes and lying face down.[124]

141. On the morning of 8 December, the group of 16 ethnic Chinese men who had been detained in the customs house the previous night were ordered by Indonesian soldiers to continue digging in the park, eventually burying about 20 Indonesian soldiers.[125]

142. On the morning of 8 December, Indonesian soldiers told civilians in various locations in central Dili to go to the port. One informant told the Commission that he was in Colmera with a group of about 20 ethnic Chinese who intended to move to the Taiwanese embassy. The group walked from Colmera to the waterfront, where they were stopped by Indonesian soldiers and told to stay in the street. "We sat there, facing the ocean. We were not allowed to look back at Hotel Timor. There were a lot of soldiers."*

143. Sometime after 8.00am on the morning of 8 December, relatives of Fretilin Prime Minister Nicolau Lobato, including his wife, Isabel, were at a house on the corner of Fernando and Formasa Streets, located directly behind the Bank Nacional

* CAVR Interview with anonymous informant [W2], Dili, 24 August 2004. See also CAVR Interview with Alexandrino do Rego, Dili, 4 February 2004, who told the Commission that he arrived at the Colmera area at about 12.30pm on 8 December and saw Indonesian soldiers ordering people to loot the stores; See also CAVR Interview with Erminio da Silva da Costa, Jakarta, 9 August 2004.

Ultramarino (BNU). This group of 15 people decided to walk to Motael and take refuge at Fr Monteiro's house. In a recent interview Laurinda Guterres Barreto Ximenes, the younger sister of Isabel Lobato, told a local journal:

> We were trying to get to the church at Motael, to seek sanctuary there. When we arrived at the Sporting building intersection, Dili harbour was full of Indonesian soldiers. Our group was ordered to assemble in the Camara Ecclesiastica park.[126]

144. Several witnesses recall seeing Isabel Lobato in front of the port. One stated: "[I] saw Nicolau's wife arrive…She was wearing *tais* [traditional cloth]."[127]

145. The Commission received information from a number of sources about how Indonesian military personnel treated the civilians gathered in front of Hotel Timor. One source said that Indonesian troops gave the civilians drinks and cigarettes, and asked who belonged to Fretilin:

> *[They] asked, "whoever is Fretilin raise your hand?" "Can anyone speak bahasa [Indonesian]?"…nobody raised their hand, but there was someone who spoke Indonesian and they pointed out [who was Fretilin].*[128]

146. The Commission has determined that several of the Apodeti members who had been interned by Fretilin from October until 7 December and who slept at the Intendencia building and in or near the port the previous night acted as interpreters for the Indonesian military on 8 December. Furthermore, the Commission believes that several of these former prisoners pointed out individuals in the large crowd of civilians to the Indonesian military. The civilians were pointed out on the basis of their membership in Fretilin or its affiliated associations (for example Unetim), or on the basis of their family relations to prominent Fretilin leaders. Frederico dos Santos Almeida, who was detained by Fretilin in Comarca Balide until 7 December, told the Commission:

> *We arrived at [Hotel Timor]. They told us to assemble in front of the hotel. Soon afterwards, Dr. Gonçalves's wife arrived and sat with us. Not long after that, soldiers [ABRI] took Arnaldo [dos Reis Araújo] inside [the hotel]. Then they took Nicolau's wife down to the beach.*[*]

147. The Commission has determined that Isabel Lobato was escorted through the east gate into the port area.[†] Minutes later the sound of gun shots was heard. A number of

* CAVR Interview with Frederico dos Santos Almeida, Dili, 29 August 2003. It is important to note that the Commission received conflicting information about who identified Isabel Lobato to the Indonesian troops.

† CAVR Interview with anonymous informant [A3], Dili, 13 August 2004, who told the Commission: "And then they took Mr. Lobato's wife to the port. I saw she was escorted to the port. But I thought at that time they wanted to ask her the whereabouts of her husband." In 1984 Isobel Lobato's sister, Laura Barreto, told Amnesty International that the Commission informant A3 personally escorted Isobel into the port. See Amnesty International interview "Interview with Laura Barreto – 4 July 1984, Lisbon" (mimeograph, 3 pages).

other Fretilin members or relatives of Fretilin members were also selected out of the crowd at this time and all were escorted into the port. According to Erminio da Silva da Costa:

> *The person I saw down there [in the harbour] was Senhora Isabel. Her child was crying, still pulling at his mother's skirt. Then Rosa Bonaparte, Borja da Costa and another person [were taken into the harbour]. There were three or four people.*[129]

148. An eye-witness told the Commission that shortly after Isabel Lobato was taken into the harbour, he was approached by her sister, Laurinda Barreto, who said that she had heard a shot and asked him to help find out what had happened. He approached a soldier in front of the hotel and was escorted to the harbour. When he went into the port area he saw "dozens" of corpses near the west entrance, including the corpses of two or three women, among which was the body of Isabel Lobato, who had been shot in the back.[130]

Table 7: Identified victims killed or last seen at the harbour on 8 December 1975, as reported to the CAVR

Name	Profession	Personal Data	Violation
1. Isabel Lobato	Housewife	Wife of Nicolau Lobato	Killed
2. Rosa Muki Bonaparte	CCF member	-	Killed
3. Bernardino Bonaparte	CCF member	-	Killed
4. Francisco Borja da Costa	CCF member	-	Killed
5. Bimba da Silva	Unetim member	-	Disappeared
6. Roger East*	Journalist	Australian	Disappeared
7. Silvinia [Bimba] Epifania M. da Silva	Unetim member	-	Disappeared

149. After Isabel Lobato, Rosa Muki Bonaparte and Francisco Borja da Costa were escorted into the harbour area there were a number of important movements:

- Several informants have told the Commission that sometime after 9.00am they were taken from the harbour to Kampung Alor, where they met with an Indonesian "commander."[131]

* The Commission did not receive any first-hand information about the death of Roger East. For an account of East's death see James Dunn, *Timor: a People Betrayed*, The Jacaranda Press, Milton, Queensland, 1983, pp. 286-289.

- Sometime on the morning of 8 December, Major General L.B. Moerdani arrived at the Dili airport on a Twin Otter aircraft, and then proceeded by BTR-50 amphibious vehicle to inspect Dili.[132] He met with Colonel Dading Kalbuadi, Colonel Sinaga, and Naval Colonel R. Kasenda near the Governor's office.
- Some time after 10.00am Erminio da Costa da Silva accompanied Major General Benny Moerdani on a tour of Dili. They visited Toko Lay, where a Chinese woman told them that her husband had been killed by Indonesian troops.[133]
- Another eye-witness told the Commission that at about 10.00am he and several pro-Apodeti friends volunteered to join Indonesian troops on patrol in Dili. He said that his group went from the harbour to the Governor's office, to Toko Lay, to Formosa Street behind the Governor's office, to the Assistencia building, to Matadouro, to Balide, and then returned to the harbour.[134]

Mass executions, early afternoon

150. The Commission has received information from a number of individuals about mass executions on the Dili wharf on 8 December. Alexandrino do Rêgo, who was a military nurse posted at the Lahane Hospital, provided the Commission with detailed information about events at the port in the early afternoon on 8 December. He said that he arrived in Colmera at about 12.30pm and did not see any corpses in the area. Two Kopassandha soldiers then escorted him to the port. On the way, he overheard other Kopassandha soldiers asking an East Timorese man where the communists were, and saw the East Timorese man point at the Chinese shop-houses across the street.

151. Alexandrino do Rêgo told the Commission that he and the two Kopassandha soldiers arrived at the park in front of the harbour, "Then I saw a group of ethnic Chinese being told to prepare the grassy fields in front of the port to be made into graves." He explained that after entering the port facility:

> *I was told to stand up and lean against the wall in order to watch ABRI/TNI killing people in the harbour. I was leaning against the wall, facing the sea, and saw ABRI killing people and throwing [their corpses] in the sea… They were ordered to form lines and then were shot all at once. When one group was finished, another group would come forward. Each group was of around 20 people.*[135]

152. Alexandrino do Rêgo explained that he was then escorted under the pier to meet with an Indonesian doctor who was in a rubber speed boat:

> *After I had witnessed the killing of two groups of people, I was carried under the pier to meet with a doctor, Hadi Santoso, whose rank was Lieutenant-Colonel. Two of his staff accompanied me. It was dark, and they were using candles. They were there in a rubber boat – the doctor along with four members of Tanggo Platoon…I got into the…rubber boat and was ordered to speak with the doctor. So I told him that I was a staff member of the military hospital. The doctor seemed pleased, and gave me*

some tasks to do…[I] could still hear shooting, and there were still people falling into the water.[136]

153. According to Alexandrino do Rêgo, the two groups of civilians he saw shot on the wharf were indigenous East Timorese, not ethnic Chinese. Alexandrino do Rêgo told the Commission that after speaking with Dr. Santoso, he returned to the military hospital in Lahane.

154. Alexandrino do Rêgo's account of several groups being executed is supported by testimony of Alberto de Oliveira Camara, who told the Commission that from the Motael Church, located about 300 metres from the port, he could see several large groups executed on the Dili wharf.

Only after we heard the gunfire did we go out [of the church] and see the people being lined up and shot…They were shot all at once, because the military were in rows by the wall, and they [the victims] were ordered to stand on the pier…Around 25 to 30 people at a time were shot…They were in a line, or a group – 25 to 30 people at once. While we were watching, perhaps one or two groups had already been shot. Then a new line was formed – a third row, and a fourth.[137]

155. Because of the distance, Alberto Camara could not tell if the victims were indigenous East Timorese or ethnic Chinese.

156. The Commission has been unable to identify any of the individuals executed on the edge of the wharf. However, the Commission has received information about a number of corpses seen on 9 December along the beach and in the sea to the east of the port, and believes that some of these corpses are individuals who were killed at the port in the early afternoon on 8 December.*

Disappearance of ethnic Chinese work party, late afternoon on 8 December

157. On the morning of 8 December, a group of 16 ethnic Chinese men (who had been detained in the customs house the previous night) were ordered by Indonesian soldiers to dig a large grave in the park in front of the harbour. Alexandrino do Rêgo told the Commission that he arrived at the harbour at about 1.00pm he saw the men working in the park. After meeting with Indonesian military doctor Hadi Santoso, Alexandrino do Rêgo was told to return to Lahane. He reached Lahane at about 2.30pm, where he met with his family, and then at about 3.00pm left Lahane with several friends in two vehicles. The group reached the harbour at about 3.30pm. When he arrived he saw the group of ethnic Chinese men were still digging in the park.

* HRVD Statement 03742. The deponent states that on 9 December he saw the corpses of Isabel Lobato and Rosa Bonaparte on the beach in Dili. See also James Dunn, *Timor: a People Betrayed,* Jacaranda Press, The Jacaranda Press, Milton, Queensland, 1983, p. 288.

I didn't see any more bodies. I couldn't see anyone there [at the harbour]. There was only one person, a Chinese person, outside [in the park]. [They] were still in front of the harbour, digging pits. Still the same [people].[138]

158. Another witness told the Commission that he was in the park in front of Hotel Timor from morning until late afternoon on 8 December. At about 4.00pm Indonesian military personnel told him to lead 127 ethnic Chinese people to Kampung Alor.

[ABRI] told all us Chinese people to go to Kampung Alor. We left the Hotel Timor, then [I] saw some people burying [Indonesian] soldiers. About ten people.[139]

159. Sometime thereafter some of the ethnic Chinese men in the work party were disappeared. The Commission believes that they were executed in the harbour area. The witness who led the 127 ethnic Chinese to Kampung Alor told the Commission that he heard that eight of these individuals were killed and two were released. In a testimony to the Commission, a survivor of these killings, now living in Melbourne, Australia, said:

My uncle Lay Pin Leong, cousin Lai Siu Xian and brother-in-law Leong Yun Fa were taken and we never saw them again. Later I was told that they had been killed. We do not know what they did with the bodies and whether or not they were thrown in the ocean. A soldier grabbed my shoulder - I assumed to take me to where they were killing people. I spoke to him in Indonesian and told him I was from Kupang and that I wanted to return to Kupang one day. The soldier said "you are one of us" and let me go. My brother also spoke Indonesian to the soldier and was let go.[140]

160. The Commission has determined that the following members of the ethnic Chinese work party in the park were disappeared, and are presumed to have been executed in the harbour area, late in the day on 8 December.

Table 8: Ethnic Chinese who disappeared and are presumed to have been executed at the harbour, 8 December 1975, as reported to the CAVR

Name	Profession	Personal Data	Violation
1. Lay Pin Leung	Businessman	From Remexio	Disappeared
2. Lay Siu Xian (Assio)	-	Age 19, son of No. 1	Disappeared
3. Lay Siu Chang	-	Age 30, son of No. 1	Disappeared
4. Lay Su Chean	-	From Aileu, age 25	Disappeared

Name	Profession	Personal Data	Violation
5. Chung Tjeo Ching	-	Age 40s, from Liquiçá	Disappeared
6. Lay Mi Fon	Driver	Age 40s	Disappeared
7. Lay Kian Pau	Student	Age 17, son of No. 6	Disappeared
8. Leung Yung Fa (A Fa Qi)?	-	Aged 19	Disappeared
9. Lay Su Po	Shop assistant	From Aileu, age 18	Disappeared
10. Lay To Su	-	From Suai	Disappeared
11. Lay Tin Chang	Shop assistant	Age 22, from Bobonaro	Disappeared
12. Yong Tsoi Sin	-	-	Disappeared
13. Lay Tso In	Student	Age 17	Disappeared

161. Of the 16 ethnic Chinese in the work party in the park, the Commission has been able to identify three survivors. The Commission was unable to determine the fate of the other members of the group of 127 Chinese-Timorese people detained in Kampung Alor.

Executions in Ailok Laran, 8 December 1975

162. The Commission received information about extra-judicial killings along the Maloa River in the Ailok Laran neighbourhood, about one kilometre southwest of the Matadouro building. Iria de Araújo, who was 25 years old at the time, told the Commission that late in the afternoon on 8 December her uncle, Daniel de Araújo, appeared from the direction of the Assistencia building. He was wounded. According to Iria, her uncle told his relatives that they should retreat to the south, but Iria's father, Alfredo de Araújo, disagreed and they remained at their home. Iria de Araújo told the Commission that on 8 December Indonesian soldiers killed a group of men at the Maloa River:

> *At around 5.30pm they [ABRI] reached the [Maloa] river bank. We stood up and faced them. We surrendered just like that, we surrendered to them…We faced them and they immediately split us up – men in one group, women and children in the other. The men were driven uphill, and the women were pushed down, onto the road to Matadouro. Then we came to the river in front of Sr. Tomás Ximenes' house. Once there, I looked back. ABRI had begun to gather them [the men] together.*[141]

163. Curiously, the Indonesian troops then pulled Iria de Araújo's brother out of the group and questioned him.

My brother Antonio, who was in Fifth Year [of school], was pulled out of the group of men. I was far away, but I could clearly see them pulling him out and separating him from the group.[142]

164. Iria de Araújo explained that the soldiers spoke with Antonio, then executed him. Then the soldiers opened fire on the group of men, killing all of them. Iria explained:

Next [ABRI] surrounded them and then they fired a series of shots at the men. I saw this with my own eyes. I saw with my own eyes that Indonesian [soldiers] shot them. [143]

165. The Commission has determined that 17 individuals were killed and only one survived.* Most of the victims were from Ainaro, and many were members or followers of the monarchist party KOTA.

Table 9: Victims from Ailok Laran, 8 December 1975, as reported to the CAVR†

Name	Profession	Personal Data	Violation
1. Antonio de Araújo	Former Tropas	Age 26	Killed
2. Pedro de Araújo	-	Age ~33	Killed
3. Francisco Xavier Araújo	-	Age 38, father of No. 4	Killed
4. Abilio Israel Xavier Sousa	-	Age 17, son of No. 3	Killed
5. Salustiano de Araújo	-	Age 40, brother of No. 3?	Killed
6. Albino Sousa da Silva	-	Age 15, son of No. 5	Killed
7. José Mendes	-	Age 42, brother of No. 3	Killed
8. Alcino de Araújo Sousa	-	Age 26	Killed
9. Alexandre de A. Carvalho	Former Tropas	Age ~26-28	Killed

* This list of victims is based on a Portuguese language list titled "Nome de alguns massacrados pelos soldados indonésios n Zona da Malao, Ail Loc Laran e Bairro do Matadour, Dili nos primeiros dias (8–12–1975) do ataque indonésio a Dili," (Names of some people killed by Indonesian soldiers in Zona da Malao, Ail Loc Laran and Bairro do Matadouro, in Dili during the first days (8–12–1975) after the Indonesian attack on Dili). [Submission to the CAVR, Anthony Goldstone].

† One other possible victim is Afonso de Araújo, age 39.

Name	Profession	Personal Data	Violation
10. Marçal de Araújo Carvalho	-	Age 23, from Ainaro	Killed
11. Antero da Conceição	-	Age 22, from Ainaro	Killed
12. Adelino de Araújo	-	Age 22, from Ainaro	Killed
13. Luciano de Araújo	-	-	Killed
14. Antonio dos Reis	-	-	Killed
15. Vasco da Silva	-	Age 56	Killed
16. Vidal de Araújo	-	Age 31	Killed
17. Tomás Xavier	-	-	Killed
18. Honório	-	-	Injured

166. Francisco Soriano told the Commission that on 9 December Indonesian soldiers came to Manumeta Raihun and asked several men to help bury corpses. Although he did not bury them himself, his uncle was part of the group who came to Maloa River to bury the 12 people from Ainaro.[144]

167. The Commission received information about a second incident at the same location later on the night of 8 December. According to Iria de Araújo, on the night of 8 December her father and uncle went to the river to see the corpses. Indonesian soldiers fired shots, one of which hit and killed Juvençio de Araújo, Iria's 2-3 year old cousin, who was in the arms of his mother, some distance from the men.[145]

Individual executions and corpses found in Dili

168. In addition to the major cases involving mass killings and executions discussed above, the Commission has also received information about numerous killings and corpses found in Dili during the first few days of the invasion. Less than half of these individuals can be identified by name. Table 10 shows the locations where these individuals were killed or where their corpses were seen.

Table 10: Civilians killed and corpses found in Dili, 7–10 December 1975, as reported to the CAVR

Location	7 December		8 December		9 December		10 December	
	Killed	Corpse	Killed	Corpse	Killed	Corpse	Killed	Corpse
Becora	-	-	-	-	-	-	1	-
Bidau Lecidere	2	1	-	2	-	4	-	-
Bairro dos Grilhos	1	-	-	-	-	-	-	-
Bairro Formosa	-	5-6	-	-	-	-	-	-
Audian	1	-	-	-	-	-	-	-
Museum/ waterfront	-	-	-	6-8	-	4	-	-
Caicoli	-	-	-	2	-	-	-	-
Vila Verde	1	-	-	-	-	-	-	-
Lahane	-	-	-	-	-	-	1	-
Ponte Caise/ Harbour	2	-	-	1	-	-	-	-
Mandarin	-	5-6	2	-	1	-	1	-
Motael	-	-	-	-	-	2	-	-
Palapaço	-	-	-	-	-	-	-	-
Bairro Pite	-	1	-	-	-	-	-	-
Maloa River	-	-	-	3	-	-	-	-
Fatumetan	-	-	-	-	-	-	-	2
Kampung Alor	-	-	-	-	-	-	-	-
Location unknown	-	1	-	-	-	-	-	-
Total	**14-15**	**8-9**	**-**	**15-17**	**-**	**11**	**4**	**-**

169. Of these 52 to 56 individuals, 48 to 50 were men, 6 were women, and 11 to 12 were of ethnic Chinese origin. Combined with the major cases discussed in the previous sections, the Commission can provide the following overview of civilian deaths/ executions reported to the Commission from 7 to 10 December 1975.

Table 11: Total number of civilians killed or executed, 7–10 December 1975, as reported to the CAVR

Location	Timorese	Chinese	Australian	Total
Colmera				
Next to Toko Lay	-	1	-	1
Individual cases	-	5	-	5
Home of Li Nheu Ki	-	8-9	-	8-9
Assistencia building	23-60	-	-	23-60
Matadouro	8-11	-	-	8-11
Maloa River	8	-	-	8
Harbour				
Morning	6-15	-	1	7-16
Mass executions	60-75	-	-	60-75
Chinese work party	-	13	-	13
Ailok Laran	18	-	-	18
Other cases	41-44	11-12	-	52-56
Total	164-231	3	1	203-272

170. The Commission received information about several civilians who were reportedly wounded during the invasion. In addition to those individuals wounded at the Assistencia builiding and the one individual injured in the Ailok Laran mass execution, these include a nine-year-old ethnic Chinese boy seen near the Governor's building and a man named Orlando Costa.[146]

171. Finally, the Commission has received information about several individuals who are reported to have disappeared during this period, but it has not been possible to determine if these individuals were killed in Dili or fled into the mountains.

Unlawful killings by Fretilin after the Indonesian invasion (December 1975 and February 1976)

172. On the day of the full-scale Indonesian invasion on 7 December 1975, many of the senior Fretilin leaders in Dili evacuated to Aileu. With them went the detainees Fretilin had been holding in the *Quartel Geral* in Taibessi (Dili). On the same day the 100 or so prisoners who had been detained by Fretilin in the Comarca Balide were allowed simply to walk out of the prison; many of them then making common cause with the invading Indonesian force (see Vol. III, Part 7.4: Detention, and Torture and Ill-Treatment). In Aileu the approximately 900 detainees who were brought from Dili joined an existing detainee population variously estimated at between 1,000 and 3,000.*

* On the number of detainees brought from Dili, see CAVR Interview with Assis dos Santos [transcript undated]; on the number held in Aileu after the evacuation of the prisoners from Dili, see CAVR Interview with Humberto Martins da Cruz, Dili, [undated].

The Commission has received evidence that several hundred of these detainees were killed in Aileu, Maubisse (Ainaro), and the area of Same (Manufahi) in December 1975 and January 1976 as Fretilin/Falintil retreated from the advancing Indonesian forces. It was also told that several senior Fretilin leaders were directly implicated in the killing. The Commission also received individual statements about executions that occurred in other districts at this time, including Manatuto, Ainaro, Ermera and Lautém, but was not able to investigate these reports further.

Executions in Aileu, December 1975

173. The Commission received testimonies about mass killings which took place in December 1975 at several execution sites near the warehouse in Aissirimou where Fretilin held most of its prisoners. Witnesses testified about killings in Saboria and Aituni, both about 3km from the prison, and in two locations in Aissirimou, both about 2km from the prison. The Commission was also told of two other places, another site in Aissirimou and the Chinese cemetery, where prisoners were reported to have been executed.

174. From the general accounts received from former prisoners held in Aileu, which describe regular night-time executions, it would appear likely that the executions were not confined to the specific events about which the Commission received testimony.

175. One witness, Miguel Fatima Soares, told the Commission that if the man in charge of the day-to-day running of the prison and carrying out of executions, Humberto Martins da Cruz, came to the warehouse where the prisoners were held with a sheet of paper in his hand, it meant that he would call out the names of prisoners to be taken out never to reappear. Two other prisoners, Alexander da Costa Araújo and Serafin do Nascimento, described seeing prisoners regularly being taken away in trucks with their hands tied behind their backs usually late at night. They were taken to a designated place where holes had already been dug and ordered to pray. Another witness told the Commission that in the afternoons it was routine for prisoners to be ordered to dig holes behind the Aileu church.[147]

176. Alexandre da Costa Araújo, in his testimony during the Commission's public hearing on massacres, described the killing of ten detainees in Saboria in December 1975, by a team under the command of Humberto Martins da Cruz:

> *My brother Afonso Araújo and I were members of UDT. At the time of the coup d'etat I was living in the village of Saboria and didn't know anything about it. When the Fretilin counter-coup occurred, I was captured and taken to Aissirimou where, along with hundreds of other prisoners from various areas, I was forced to work in the Fretilin communal garden. After some time I was officially freed from the prison. But for several weeks after that I still had to bring firewood to Aissirimou every afternoon and was still not allowed to sleep in my own house in Saboria. After several weeks of doing this I was given permission to sleep at home.*

At 11 o'clock one night, when I was sleeping in my house, I heard the sound of a car followed by someone knocking on my door. I felt anxious and afraid. I opened the door and found the head of the prison, Humberto, standing there. I invited him in but he just told me to come with him. I realised then that he was drunk, but I had to do what he said. He took me to a place where a truck was parked with people in the back. There were ten people, but I only knew two of them. One was Maubale from Seloi [Village].

He ordered his men to get the people down from the truck. Then he stood the prisoners in a line, gave them time to pray, and fired a shot. As soon as he fired the shot his men fired their G3 weapons at the prisoners. The prisoners were only ten metres away and died instantly. Humberto then commanded me to call the people of the area to come and bury the bodies.[148]

177. In his testimony to the Commission, Humberto Martins da Cruz, the head of the prison in Aissirimou who led the execution squads, gave a strikingly similar account of what appears to have been a separate mass execution that also took place one night in December 1975. The victims comprised between 23 and 26 detainees, and included the former head of the Portuguese police, Colonel Rui Maggiolo Gouveia, who had sided with UDT after the armed movement. The details of the execution – from the taking of bound prisoners at around 11.00pm to an execution site where a hole that would become their common grave had already been dug, to Humberto Martins signalling with a pistol shot for his squad to open fire – confirm the testimony of others that the executions followed a routine.

178. According to Humberto Martins da Cruz, the decision to execute the detainees was taken over dinner by six Fretilin leaders, who included members of the Central Committee, as well as local leaders and the Falintil commander in Aileu.* Humberto Martins da Cruz recalled:

At 11.00pm they called on me at my house…They came to my house on the way to the place where the prisoners were being held, because we were to take them out to be killed at Aissirimou…It had been agreed at the dinner the previous night that the prisoners would be killed…I carried out the order, and followed them to Aissirimou, to the place where the prisoners were to be executed.

* Humberto Martins said that the following people took the decision to execute the prisoners: José da Silva (Commander of the Aileu company and Falintil deputy chief of staff), Adão Mendonça (head of the Aileu Regional Committee), Alarico Fernandes (member of the Central Committee), Sebastião Sarmento (member of the Central Committee), Luis Castro, Pedro Aquino and Gildo Ribeiro. Other sources wholly or partially confirmed to the Commission that these individuals were ultimately responsible for the decision to execute prisoners (see, for example, CAVR Interviews with Adelino Gomes, Dili, 11 June 2003; José Catarino Gregório Magno Trindade de Melo (Labut Melo), 23 July 2004, and Herminio da Silva da Costa, Jakarta, 9 August 2004).

Upon arrival, I saw between 23 and 26 prisoners standing there, over a pit which had been prepared for them. The prisoners were bound. The pit had been prepared in the afternoon, the day before they were executed. Before they were executed I said to them this is it now, so whoever wants to run away, go ahead. One of them answered me…we came here to die, not to live.[149]

179. Humberto Martins da Cruz said that he then gave the signal to the others in the execution squad to open fire by himself firing a shot in the direction of the prisoners. The squad fired their G-3s and a grenade was thrown.

180. Alexandre da Costa Araújo gave testimony about another mass killing of detainees in an area called Manifunihun in Aissirimou.

One night the people of Saboria Village heard that more than 100 prisoners were being taken from the prison in Aileu to Manifunihun, Aissirimou. Among the prisoners was my son-in-law, Felisberto dos Santos, who had been captured by Fretilin in Soibada. When the people of Saboria heard about the transfer of the prisoners we were very distressed. Several of us went secretly to Aissirimou. Aissirimou is upstream from Saboria so we quietly waded up the river to where the prisoners were being kept. We stopped at a place where we could see the prisoners and several parked cars, but we were still some distance from them. Not long after that we heard gunfire and screaming. The gunfire lasted for about 15 minutes. We didn't see exactly what happened after that because as soon as the screaming stopped we went back to Saboria. To this day no one knows exactly how many people died in that massacre. Some say 90, others say as many as 160 people were killed.[150]

181. About 150 prisoners were moved to Maubisse on 8 December and confined in another warehouse. One prisoner believed that they were being taken there to be killed and were saved because Fretilin troops in Maubisse vehemently opposed the plan. However, two groups of prisoners, one comprising UDT leaders, most of them *mestiço*, and the other consisting of 30-40 Apodeti leaders, were taken back to Aileu on separate occasions, and were killed there. A member of the Central Committee, Helio Pina (Mau Kruma) who was in Aileu at the time reportedly attended the executions, which were carried out by teams under the command of Humberto Martins da Cruz and his assistant, Pedro Aquino.

The unlawful killings of detainees by Fretilin in Maubisse (Ainaro)

182. A group of 300-400 detainees were evacuated from Aileu on 27 December 1975, as Indonesian soldiers closed in on the town. The detainees were made to carry boxes of ammunition and several of them, weakened by hunger and ill-treatment, reportedly died on the journey. The group arrived in Maubisse the following day, 28 December 1975. João da Costa, a UDT supporter from Same who had been moved to Aileu with

other prisoners in September, told the Commission about the execution of a group of detainees in Maubisse on the night of 28 December 1975. The group included Major Lorenço, a UDT leader from Same, Amadio Coelho, manager of the *pousada* in Maubisse, Celestino and Manuel Belo from Baucau, Jacqes Pan and an unidentified Chinese man. They were taken out and executed at the crossroads that branches off to Turiscai.[151]

183. Another group of prisoners who had been brought to Maubisse was also taken back to Aileu at around this time, apparently to be executed there. One member of the group believes that they were saved through the intervention of Nicolau Lobato:

> *[At a bridge called Fatubosa], maybe one kilometre from Aileu…[there were] a lot of people and troops there, military police from the east…They said: "What are you going to do with them? They are our brothers. Why do you have to kill [them]?"…The person in charge…said: "You guys…I've got a letter here from the Vice-President of Fretilin, Nicolau Lobato, asking the car to turn back [to Maubisse]…What happened was that when we were on our way [to Aileu], at the Maubisse-Turiscai crossroads, Nicolau Lobato and Eduardo dos Anjos were there with binoculars watching the [Indonesian] planes bombarding Aileu. He saw our car pass…I don't know what happened, but after we had been in Fatubosa for 10 or 15 minutes the letter from the Vice-President came [instructing the troops] to send back the car.*

Killings in Same at the end of January 1976

184. The Commission has received corroborated evidence about a series of executions that took place in Same in late January 1976, as Indonesian forces captured the nearby village of Betano (Same, Manufahi) and began to advance on Same itself.

- On 27 January, seven prisoners, including the Secretary General of Apodeti, José Fernando Osório Soares, were executed at Hat Nipah, Holarua.
- On 29 January, 11 prisoners were taken out of the elementary school building in Same detention for what they presumed was to be their execution; nine of them escaped en route but two were killed.
- On 29 January, about 30 prisoners were killed in the elementary school building in Same.

185. On 29 December 1975, the remaining 300-400 detainees were evacuated south, from Maubisse to Same, with retreating Fretilin forces. They were forced to carry boxes of ammunition on the march to Same, where they arrived the following day. On 2 January 1976 the detainees were divided into groups based on Fretilin's assessment of the level of threat they posed, although in the view of João da Costa, one of those deemed to belong in the "most dangerous (*perigosissimo*)" category, their jailers were not familiar enough with the individual prisoners to be able to make this judgement. The group thought to be most dangerous, which included the Secretary General of Apodeti, José Fernando Osório Soares, were detained in a cell below ground in the Sub-district administrator's office (*posto*) in Same Town.[152] Those thought to be less dangerous were held in the town's elementary school.

186. On 27 January, after Betano had fallen to the Indonesians, all the prisoners were moved to Holarua to the house of Major Lorenço, the UDT leader who had been killed in Maubisse one month before. That same night the Central Committee member César Mau Laka came to the house and ordered eight people to be taken out supposedly for investigation.[153] The eight—José Fernando Osório Soares, the Secretary General of Apodeti, and seven other detainees, Domingos Osório Soares, Arlindo Osório Soares, Mário Zores, Monis da Maia, Saidi Musa, Manuel Jacinto and Peter Mu (also known as Peter Vong)—were brought to a place called Hat Nipah.

187. Monis da Maia, the only survivor from this group, told the Commission:

> *On 27 January ABRI entered Betano. Fretilin was struggling to cope with the situation and we were moved to Holarua. Our group stayed at the house of Major Lorenço. One day, after I had been praying in the house, someone called me to come outside. When I came outside the person who had called me ripped the buttons off my shirt. I was surprised and said: "Why are you tearing my shirt? What have I done? Am I going to be killed?" Someone else behind me said: "Stab him, so he shuts up."*
>
> *They blindfolded me, threw me in a car with some others, and took us away to be killed. When we arrived at Hat Nipah the car stopped. We were taken off one by one. The first to be taken off was Arlindo Osório. Arlindo shouted not to kill him yet, but the people shot him right away. Then they pulled down Domingos Osório and shot him. Then it was the turn of the Apodeti Secretary General, José Osório Soares. He said: "Don't kill us like this. Let us die on the battlefield." But they shot him dead.*
>
> *Then they pulled out Saidi Musa, Peter Vong and Manuel Jacinto and shot them one by one. I got out of the car and said, "Let me pray first." I knelt, closed my eyes, and gave myself over to God. The weapons were pointed at me. The shots were fired and I fell to the ground. I have no idea how, but the bullet just wounded the back of my head. Of the eight of us who were taken to be killed, six died on the spot. One other, Mário Zores, survived but was killed later.*[154]

188. Monis da Maia was left to die. He crawled to safety, was able to find refuge with relatives in Same and survived his superficial head wound. Assis dos Santos, an Apodeti member, who had been arrested in Dili on 4 October and then followed the route taken by Fretilin and its detainees from Dili to Aileu to Maubisse to Same and then to Holarua, witnessed the death of Mário Zores, who had also survived the mass execution on 27 January. The following day Mário Zores came out of his hiding place near the house in Holarua where the prisoners were being held, to look for food. A man saw him eating a piece of corn by the village well, and started shouting for people to come with their spears and bows. One man threw a spear which lodged in Mário Zores's stomach. When it did not kill him, another man shot Mário Zores dead.[155]

189. During the night of 28 January 1976, 34 of the detainees were transferred by Fretilin forces led by (Central Committee Member) César Mau Laka from Holarua

to Same where they joined another ten prisoners being held in the elementary school building. From his regular visits it was evident to the prisoners that César Mau Laka had been given responsibility for them. Several other national and local Fretilin leaders are also reported to have played a role in determining the fate of the prisoners. They included: the Central Committee members Nicolau Lobato, Lito Gusmão, Hamis Bassarewan (Hata), Alarico Fernandes and Kanusa Bino, and the local Fretilin leaders Pedro Cortereal, Adriano Cortereal and Antonio Cepeda.

190. The next morning, 11 of the detainees—João Pereira, Nicolau dos Santos, José Tilman, Miguel Pereira, Mateus de Araújo, Alfonso de Araújo, José Miquita, Lebeak Lobato, Paulo Pereira, João Pereira and Lino Cowboy—were taken from the elementary school in a vehicle, supposedly to attend a popular justice hearing. Assuming that they were about to be executed, when the rope by which they had been bound together came loose, they all tried to jump out of the vehicle. Lino Cowboy tripped and was shot dead. Paul Pereira was reportedly also killed.[156]

191. The escape of the rest of the group angered César Mau Laka. He stormed into the school building. João da Costa, a survivor of the ensuing slaughter, told the Commission what took place:

> *César Mau Laka led the execution of the detainees. He entered the school room and shouted: "Get in line." We stood up. He said: "Your friends who were to be tried, escaped. They have run to the Indonesians who now will come and kill us. Now, all of you, pray!" Before we finished praying, they began to shoot. Three people were shooting until they ran out of bullets. Then another three started shooting. And again, another three. When they left, they threw a grenade.*
>
> *I was underneath these corpses. I lifted myself out and stood in a corner. My brother held me from behind. He was not going to make it. I held his stomach, but blood was pouring out.*[157]

192. About 30 people died in this massacre. João da Costa watched as his brother bled to death. He, and three others, Filipe Antonio de Aquino Caldas, Bento dos Reis Fernandes and Nazario Cortereal, were the only survivors. They managed to escape by jumping out of the window.[158]

193. The executions stopped after a group of Falintil commanders from the eastern districts forced the issue.* The commanders and their followers rushed to Holarua from Aileu and Viqueque, after hearing that Nicolau Lobato had ordered the execution of José Osorio Soares and the other Apodeti leaders. Witnesses told the Commission that the commanders included a sergeant called Guido, who had served in the Portuguese

* They were not the only commanders who were reported to have opposed the executions. Francisco Gonçalves told the Commission that Raul Isaac, a Same commander, had protected one of the 9 or 10 detainees who had escaped the truck apparently carrying them to their execution on 29 January. According to Francisco Gonçalves,: "And then he took [him] straight away to the Vice-President, Nicolau Lobato, and he said: 'This guy [is] with me, I don't want anybody to touch him.' He didn't touch him."

Military Police, Paulino Gama (Mauk Moruk), Ologari, Antonio Pinto (Kalohan), Moises Quina, Joaquim Ossu, Albino Gusmão and Julio Nicolau.[159] According to Sera Malik, who was with the commanders when they arrived in Same, they argued that it was wrong for Fretilin to kill their fellow East Timorese and the dispute became so serious that a shoot-out between the two sides was narrowly averted.[160] When the commanders left Same, they took with them a group of prisoners whose homes were in the east. In early 1976 the Fretilin Central Committee issued a directive that lifted all restrictions on UDT prisoners while retaining some on Apodeti prisoners.[161] Thereafter some of the prisoners blended into the general population under Fretilin control; others went on to play active roles in the Resistance and yet others opted to move into Indonesian-controlled areas. In areas under Fretilin control former UDT and Apodeti members continued to be suspect and sometimes became the target of human rights violations, including killing (see below).

Levels of responsibility

194. Past and present Fretilin leaders have acknowledged that mass executions took place in December 1975 and January 1976, and that Fretilin as an institution bears political responsibility for them. * They also maintain that the execution of the prisoners did not occur as the result of a formal Central Committee decision but was the product of the chaotic conditions created by the Indonesian onslaught and the resulting loss of Fretilin control over events.

195. The Commission accepts that the killings that took place in Aileu, Maubisse and Same did not have the formal backing of a Central Committee decision. However, it believes that the available evidence indicates that these actions did have the support not just of local Fretilin leaders but also of individual Central Committee members who were in the areas where the killings took place.

196. Witnesses to the killing that occurred in the two months after the Indonesian invasion on 7 December named members of the Fretilin Central Committee who were in Aileu, Maubisse, and Same at the time of the executions. Some of these Central Committee members are reported to have been aware that the killings were going on; some are reported to have been directly involved in deciding who should be executed; some are reported to have been present when executions took place.

197. Francisco Xavier do Amaral, who in December 1975 was the President of Fretilin and the RDTL, told the Commission's National Public Hearing on the Internal Political Conflict in December 2003 that, although there was no formal decision taken by the Fretilin Central Committee to kill the prisoners, once the Indonesians had invaded, sentiment in favour of killing the prisoners gained ground at all levels:

* See, for example, the quotation from Mari Alkatiri, a member of the Fretilin Central Committee since 1974 and currently its Secretary General, in Box: Fretilin Responsibility and the Mass Executions of December 1975 and January 1976, paragraph 207, below.

I can explain it like this. There was no decision. When you write something down, then we say it is a decision.

Sometimes we share our impressions, we talk with friends. And these ideas of ours, people…took them to be the same as our decisions…

Therefore, some of them [Fretilin] took a decision that we kill them, so that the enemy could not endanger us. Perhaps this opinion was commonly held, more or less commonly, by leaders at all levels.[162]

198. In the wake of the invasion leaders' attitudes hardened, sometimes because of the personal impact on them of the loss of family members. In this climate individual leaders did not necessarily behave consistently. As noted above, the Commission was told that Nicolau Lobato intervened to prevent the execution of one group of prisoners. It was also reported to the Commission that a few days later, when a group of Apodeti prisoners refused an order to carry boxes of ammunition from Maubisse to Same, Nicolau Lobato told them not to try his patience further, or they would be killed: "Don't make me upset, because I have lost my family. I have lost everything. You guys have to cooperate." Later, in Same, he apologised to them for having made this threat.[163]

199. However, while the situation immediately after the invasion was certainly chaotic and feelings against those affiliated to parties that were cooperating with the Indonesians were running high, the evidence available to the Commission suggests that the killings that took place during this period were not entirely random, that a pattern of abuse towards detainees had emerged in the preceding months which laid the ground for the executions, and that rudimentary structures were in place that continued to operate in the immediate aftermath of the invasion.

200. Over the months preceding the invasion, when Aileu became the major holding centre for detainees from districts throughout the territory, a culture of abuse, which did not preclude the possibility of execution, developed in Aileu. Those responsible for the prisoners held there showed no regard for the basic rights of the detainees. During this period prisoners suffered extreme deprivation, were subjected to severe violence and were forced to perform hard labour while often weakened by hunger and ill-treatment. As a result of these conditions many of them died. In Aileu Fretilin officials created and operated structures for the investigation, trial and imprisonment of political opponents. While all of these institutional forms failed to guarantee protection to the prisoners, they did constitute a system that operated through a chain of command. A similar system operated briefly in Same.

201. The specific threat of executions had been in the air since at least the outbreak of the civil war. While many, possibly most, of the earlier executions attributed to Fretilin in the months before the 7 December invasion appear to have been localised revenge killings, not all of them were, particularly those that occurred in Aileu. According to one witness, the question of whether Fretilin should execute its detained opponents was being debated within the leadership soon after the party launched its successful

"counter-coup" in August 1975. At that time one faction advocated killing selected UDT prisoners held in the Quartel Geral.* Several UDT prisoners were executed in Marabia as they were being transferred to Aileu in September 1975.[164]

202. Francisco Gonçalves, one of a group of prisoners who were moved from Dili to Aileu on 13 September 1975, recalled that the group received a grim warning from the Fretilin President, Francisco Xavier do Amaral:

> *[On] the day of 13 September, when we moved to Aileu, [at] 4 o'clock in the morning, Xavier do Amaral [came] to talk with us, to give us information. And then he said that if Indonesia invade[d] Timor-Leste, we [were] all going to die. We were prisoners, we were good for…fertiliser, "coffee prisoner[s]" – Xavier said that.*[165]

203. Not long after Fretilin launched its "counter-coup" and started arresting UDT members, Nicolau Lobato set up an Investigation Committee headed by Lucas da Costa in Aileu to assess the involvement of UDT prisoners in the armed movement. Later, in October, when Fretilin started arresting Apodeti leaders in response to mounting Indonesian incursions, this Commission also investigated them, mainly to gather intelligence about Indonesian intentions towards Timor. However, some time during October its head, Lucas da Costa, moved to Atsabe and the Committee was dissolved.[166]

204. The experience of a group of at least 12 Apodeti members who appear to have narrowly escaped execution after being arrested in the Fretilin crackdown on Apodeti supporters in October 1975, illustrates how the abuse of prisoners was already well entrenched at this time.

205. In an interview with the Commission, Labut Melo recalled his arrest in Dili on 4 October 1975 and his transfer with other Apodeti leaders to Aileu on 19 October. On the night of their arrival in Aileu the group were brought before the Investigation Committee. The "hearing", which was held by the river in Aissirimou, started in the late evening and went on until 2.00 or 3.00am the following morning. Among those he remembers being present at the hearing were several of the same people who were involved in the screening and execution of prisoners in December, including Pedro Aquino, Paul Manulin and Humberto Martins da Cruz. According to both Labut Melo and Herminio da Silva da Costa, another member of the Apodeti group interviewed by the Commission, the prisoners were interrogated about Indonesia's invasion plans and received death threats from the men running the proceedings, Lucas da Costa and Pedro Aquino, as well as beatings from their subordinates.[167] According to Labut Melo:

> *After we had finished our evening meal there was another order from the Justice Committee, or the "Maubere Court of Justice" or whatever it was they had there in Aissirimou under the command of Lucas [da Costa],*

* Those advocating the execution of prisoners included Alarico Fernandes, Sebastião Montalvão, Gildo Ribeiro and Domingos Ribeiro [CAVR Interview with Humberto Martins da Cruz, Dili, undated].

[Antonio] Barbosa [dan] Pedro [Aquino (Naimau)]. Basically, the 25 of us were in their hands…In Ribeira at the Aissirimou [river] we were welcomed with sticks and various kinds of assaults…it was a real hammering they gave us…I don't know what we were saying, what kinds of noises we made, whether we cried or not I don't know, but I know we were tortured until 2.00 or nearly 3.00am. And the statements that they made to us were the same as on that first morning: "Brothers, you have made a mistake, you chose Apodeti, and if Indonesia invades, not one among you will survive, everyone of you will die". Then I said to them…"If we die, we die, and if we live, that's in God's hands, and it is God who presides over life and death." It was Lucas and Pedro Naimau who gave the orders, while Paulo Manulin and the others, all the illiterate ones, they were just carrying out their duties. [168]

206. The Apodeti leaders were transferred back to Dili on 22 October where they were held in the Comarca Balide until the Indonesian invasion on 7 December. Herminio da Costa da Silva and Labut Melo separately told the Commission that they believed they owed their lives to the intervention of senior commanders in Dili.*

207. While the practice of executing prisoners may have won the support of some Fretilin leaders and Falintil commanders as well as of the lower ranks in both organisations, it was not universally accepted. The Commission heard several accounts of troops and commanders who refused to take part in the killing and in some cases took steps to stop it. Immediately after the invasion in early December, Guido Soares, then deputy defence minister and Falintil chief of staff, and troops under his command, left Aileu for Ainaro taking with them a group of prisoners who were spared the fate of the prisoners who who were executed in Aileu, Maubisse and Same.[169] Falintil troops in Maubisse reportedly refused to go along with a plan to execute about 200 prisoners who were brought from Aileu for that purpose on 8 December 1975. A group of eastern commanders successfully intervened to stop the killing in Same in late January. In both Maubisse and Same the troops who opposed the killing made the same argument: "These are our fellow East Timorese; we should not kill them."[170]

Fretilin responsibility and the mass executions of December 1975 and January 1976

Present and former members of the Fretilin Central Committee addressed the subject of the unlawful killings of UDT and Apodeti

* Herminio da Silva da Costa says that they were rescued by four Falintil commanders who had been despatched to Aileu by Rogério Lobato after the ICRC had intervened on the Apodeti leaders' behalf. Labut Melo believes that Nicolau Lobato was the ultimate source of the order and that he was responding to the intervention of Sergeant Constancio Soares, a relative of the wife of one of the detainees, Antonio Parada.

detainees by Fretilin forces during the Commission's National Public Hearing on The Internal Political Conflict 1974-76 in December 2003. Xanana Gusmão, then a member of the Fretilin Central Committee, said about these killings:

The UDT and Apodeti prisoners were taken up into the hills not with the intention to kill them…but the parachutists were already landing… the Indonesian troops were occupying Dili, coming up, coming up.

Control, I can say…there was a lack of control…The Aileu massacre, some say that it was the taste for political revenge, but I do not believe it was a party policy, especially because there was already a lack of control. We members of the Fretilin Central Committee, the civil political members, at the moment of the invasion, the [Fretilin] military people told us if we don't want to carry guns…just to run… The population was running, running, running to the hills…I can say that the massacre was not a planned political programme, not a political policy or strategy. It happened, yes. It happened. And the Same massacre shows us that the Fretilin Central Committee did not have capacity [to control]…because the enemy was pushing, pushing pushing…Falintil and the Fretilin Central Committee's complete attention was on the advance of the enemy…We cannot say that the party said to do this, no, the problem was that the forces of the enemy were coming from the East, from the border, then in Dili, parachutists in Baucau, landing in Lospalos, in Viqueque…the situation was one of lack of control…we cannot say that Fretilin organised it.[171]

Mari Alkatiri, then a member of Fretilin Central Committee, told the Commission that Fretilin, as an organisation, must take responsibility:

If you want me to say who killed them, I do not know. I was not here. Now I say that the massacres by Fretilin, Fretilin as an organisation must take responsibility. It was not a Fretilin massacre, but a massacre by elements of Fretilin, but Fretilin as an organisation must take responsibility because of the context, and I do not run away from this… Who was responsible for the killing in Aileu and in Same? If we look at it from the point of view of justice we need to consider individual responsibility. Who was the person who ordered the killings? From a political perspective it becomes a matter of collective responsibility, the responsibility of the organisation. We need to recognise these two approaches and not confuse individual and collective responsibility.

From the political angle, even if the superiors didn't have control, this is the responsibility of the political organisation. [The leaders] didn't have control. They may not have approved what happened, but that is

a separate issue. If they didn't control their charges, there is political responsibility. At the moment I am personally trying to find out who ordered the killings. Who gave the command? But I admit that I still don't know. If I knew I would say. If not publicly, I would tell the Commission.[172]

Francisco Xavier do Amaral, who was President of Fretilin at the time, depicted the difficult choices which were faced by Fretilin, as the Indonesian forces advanced. He believed that there was no formal decision taken at Central Committee or government level, but that, out of fear and panic, decisions to kill detainees were taken, sometimes with the approval of senior Fretilin figures:

I can explain it like this. There was no decision. When you write something down, then we say it is a decision.

Sometimes we share our impressions, we talk with friends. And these ideas of ours, people called them…took them to be the same as our decisions. Because our thoughts are just our opinions. Sometimes I have an opinion, and I say it.

We were in the middle of war, in this war, when we ran from our enemies, we ran, we took those we had imprisoned, our enemies who we had imprisoned, with us. Before we even had a chance to catch our breath, we said, "They are close. What do we do now? We must keep running. We don't have too many choices. There's no transport, no food, not much medicine, none of this."

Some of those we imprisoned were already seriously sick, many were very weak. So we had to look at this. Do we leave them here alive? Do we run alone and leave them? Or do we kill them and then run? I see danger in both these. If we leave them here alive, they can fall into the enemies' hands. If we abandon them, for example a member of UDT or Apodeti, and he falls into the Indonesian enemy's hands. The Indonesian military can come and he can fall into their hands. Indonesia can put pressure on him and they could find us. They could trick him or he might confess. From this we can make a conclusion, if they are weak already and they can't walk with us, and if we want to carry them but we don't have the strength, there is no guarantee that we can make it to a safe place, then is it better if he dies or we die? Therefore, some of them took a decision that we kill them, so that the enemy could not endanger us.Perhaps this opinion was commonly held, more or less commonly, by leaders at all the levels.[173]

Rogério Lobato, ex-Commander of the Armed Forces, in a moving testimony declared his grief for the tragic loss on both sides of the conflict and his sense of responsibility for what took place:

I want to say that in this process of war so many died. I don't want to lay blame here. I think it is important for us here to set out the facts…it is true that Fretilin killed many UDT prisoners…UDT also killed Fretilin prisoners…I want to…concentrate attention on what is the Commission's focus, human rights. At this time I was the Commander of the Armed Forces. I must take responsibility for much that happened.[174]

Unlawful killings and enforced disappearances by ABRI after the Indonesian invasion, 1976–1979

208. Data gathered by the Commission show a steady escalation of unlawful killings and enforced disappearances by Indonesian security forces and their auxiliaries during 1976-79, reaching a peak in 1978-79.

209. During the period between 1976 and late 1978 the Indonesian military slowly consolidated its hold over the territory of Timor-Leste. It was only at the end of this period that it gained overall control of the territory. By the end of 1976 the Indonesian occupation forces controlled the main towns and connecting roads. This forced the East Timorese Resistance and much of the civilian population to evacuate to the mountains and forests in the interrior of the country. From late 1977 the momentum of the war started to move decisively in favour of the Indonesian forces as the base areas controlled by Fretilin/Falintil began to fall into Indonesian hands. By mid-1978 all sub-district towns were under Indonesian control, and ABRI began a final offensive against the large population concentrations still holding out in areas such as Alas in Manufahi, the Natarbora Plain (Manatuto), Mount Ilamano in Manatuto and on Mount Matebian. Once trapped in these confined areas, their populations came under massive Indonesian bombardment from the land, air and sea. Fretilin/Falintil could no longer defend themselves or the population that had followed them there. Throughout this period several hundred thousand East Timorese people were captured by or surrendered to Indonesian forces. By early 1979 most East Timorese people were living under Indonesian control, usually under the severely restrictive circumstances of the resettlement camps (see Vol. II, Part 7.3: Famine and Forced Displacement).

210. During this period, although many East Timorese civilians were detained in military custody, prisoners taken by ABRI were held without charge or trial. Killings occurred in a variety of circumstances. There were indiscriminate killings of civilians engaged in daily activities; the killing of civilians during military operations; the killing of detainees; the summary killing of surrendered civilians; and the targeted killings of Fretilin members and surrendered combatants.* But all killings of civilians in custody were extra-judicial and unlawful.

* Once surrendered, an individual loses their combatant status, and is afforded protection as a prisoner of war. ABRI systematically violated this right, and actively targeted and executed surrendered Falintil members.

211. This section consists of two sub-sections. The first describes the general patterns of killings and disappearances committed by ABRI and its auxiliaries over the whole period 1976-79. The second focuses on 1978-79 when after the fall of the *bases de apoio*, killings and disappearances perpetrated by ABRI and its auxiliaries reached their peak, and presents the Commission's evidence that during this time ABRI engaged in a coordinated campaign to eliminate Fretilin/Falintil leaders who had surrendered or been captured.

Patterns of unlawful killing and enforced disappearance by ABRI, 1976–1979

Civilians killed during military operations

212. The Commission heard extensive testimony about the arbitrary killing of civilians encountered by members of ABRI while on patrol or during military operations. In many of these cases civilians were killed indiscriminately as Indonesian forces extended their control into new areas or conducted operations in areas not controlled by either side. Although many civilians fled ahead of the invading army, those who stayed behind or had the misfortune to run into Indonesian patrols were often shot on sight. For example:

- Americo da Costa and his wife were killed by ABRI as it entered Hera on 16 January 1976. Falintil had retreated, leaving behind some villagers. Americo da Costa and his wife were discovered by ABRI as they were picking corn, and shot dead.[175]
- On 11 February 1976, ABRI troops entered Lelaos (Dare, Dili). They bayoneted two civilians, Antonio Soares and Inácio de Jesus, to death.[176]
- In early March 1976, ABRI Battalions 315, 512 and 401, with an Armed (Artileri Medan, Field Artillery) unit in support, entered the sub-district of Letefoho (Ermera). They started seeking out and attacking places where the civilian population were hiding. In the village of Hatugau they shot dead Sebastião Lemos. In Eraulo they arrested two men suspected of trying to contact Falintil, Cristovão Soares and Filomeno, and executed them at Mandoki Lau. They kept on harrying the population, causing them to flee first to the Talo Forest in Hatolia and then back to Tata in Letefoho. Survivors who stayed in Eraulo were resettled in Letefoho Town where they stayed for three years.[177]
- One deponent told how when troops of Battalion 726 entered the sub-district of Railaco (Ermera) in April 1976, he fled with his wife and children to Halaltur in the village of Railaco Leten, His wife fell seriously ill and urged her family to leave her to avoid to being killed by the advancing Indonesian troops. The rest of the family took her advice. When Battalion 726 found her alone asleep in a hut, they shot her dead.[178]
- Around the same time Vicente de Jesus and his wife, Raimunda da Conceição, were shot by an unidentified ABRI unit and Partisans as they entered the sub-district of Railaco (Ermera). Vicente died of his wounds. His wife was wounded in the thigh but survived.[179]

- In March 1978, when ABRI attacked Mount Bibileo (Viqueque) the population that had been concentrated there scattered. A deponent told the Commission that his elderly aunt was left behind. A few days later the deponent and his brother returned to the village. They found that the old lady had been shot dead by ABRI and her body half-eaten by dogs[180]

Civilians killed while carrying out daily activities

213. From the earliest days of the occupation the lives of civilians who went looking for food in areas where Indonesian forces had established posts or were conducting operations were also in danger. For example:

- After the Indonesian capture of Betano (Same, Manufahi) in January 1976, the deponent and his family fled to the nearby *aldeia* of Fatumeta. In April 1976, four members of the family were shot by marines when they were out looking for food in Bermet Buiudo near the marines' post. The deponent's mother and aunt died of their wounds.[181]
- In September 1976 Indonesian forces entered the village of Seloi (Aileu, Aileu). Because they were desperately short of food, a group of four people, Martinho, José, Martina and Teresa went to the *aldeia* of Lio, Seloi Kraik Village (Laulara, Aileu) to look for cassava. Indonesian soldiers captured Martina and shot Teresa dead. Martinho and José managed to get away and reached the safety of a Falintil post. Because they were suspected of working for ABRI, they were sent to Weberek (Alas, Manufahi).[182]
- Carlito and Armindo encountered an ABRI patrol while out hunting in the area of Rate Naruk (Viqueque, Viqueque) on 7 February 1977. The unidentified ABRI unit shot them both. Armindo died immediately. Carlito was seriously wounded, but was found by his uncle the next day and recovered.[183]
- In July 1977, Indonesian troops discovered Justina and her husband Talo Mali when they were looking for food in the forest in the sub-district of Atsabe (Ermera). Justina and Talo Mali were arrested on suspicion of collecting food for Fretilin/Falintil. They were detained for ten days in Atsabe where Talo Mali was subjected to continual interrogation during which he was beaten and submerged in water. Talo Mali was then handed over to troops belonging to an Armed (Artileri Medan, Field Artillery) unit. He was taken to Airea, Paramin Village (Atsabe, Ermera) where he was made to stand on the edge of a large hole dug by the troops, and shot dead.[184]

214. The Commission received numerous accounts of killings of civilians held in detention camps after the mass surrenders of late 1978.[185] Faced with starvation, they would leave the camps to go to the forest or to former gardens in search of edible leaves, tree roots, or palm sap. They knew that if they were caught they would be accused of having contact with Falintil and would likely be killed. Father José Tavares recalled the situation in the concentration camp in the sub-district of Natarbora, Manatuto, where he surrendered in 1978:

> Those in the camp were not permitted to leave…unless ordered to do so by ABRI. Those suffering from hunger were forced to go hunting in the

> forest secretly. If it were known they had gone beyond the boundary line they would be considered…[to have had] contact with Falintil. These people…usually were immediately killed.[186]

215. In 1978, during the mass surrenders at Matebian, a group surrendered to ABRI at Venilale, Baucau. The deponent, who was a member of the group, was detained for about one year in the Sub-district Military Command (Koramil) headquarters in Venilale. On his release in December 1979 he learned that his wife, Ermelinda, and two daughters, Joana and Anina, had been beaten to death by troops from Battalions 721 and 503 while the women were in the area of Uaihae in Uaioli looking for food. Their bodies had then been burnt, according to a man who had been with the women and who survived.[187] In August of the same year, four civilians who had surrendered were also looking for food. They had not obtained a permit (*surat jalan*) to leave their area around the camp. At Mount Tokegua in Samagata, Sagadate Village (Laga, Baucau) they were arrested by Battalion 141. One civilian, Anurai, was then taken to the One Bu'u River and killed. Another, Kotedora, was taken to Kotamutodo, and killed in front of the whole village, including the women and children. A third was killed at Uasagia (Laga, Baucau).[188]

216. Sebastião da Costa, his brother, Paulino, and his sisters, Isabel and Maria, were caught while searching for food. They were captured in 1979 in Lakawa (Baguia, Baucau) by Battalion 141 troops who put them in a water buffalo pen. A month later their families found their rotten corpses in the pen and gave them a decent burial.[189]

217. Loi Lu and his family surrendered in 1978. They lived by the road in Uaioli (Venilale, Baucau). Because he was too weak from hunger to walk, and the family were not given food to eat, Loi Lu stole a breadfruit from Pedro to feed his family. Pedro caught him and handed him over to *Liurai* Antonio. *Liurai* Antonio in turn handed him over to members of Battalion 745, who took him to Natarbora in Manatuto where they killed him.[190]

218. In September 1979, when the Indonesian military was building up for its major offensive in the area, soldiers from the Viqueque Kodim caught Leki-Rubi in Uaimata Rae (Ossu, Viqueque), as he was on the way to plant his garden. They killed him on the spot.[191]

Civilians killed on suspicion of working with or having knowledge about Fretilin/Falintil

219. From the earliest days of the occupation civilians living in Indonesian-controlled areas were being killed on suspicion of having been in contact with Fretilin/Falintil. For example:

- Marcelo and his family surrendered to ABRI in 1976 in Bazartete (Liquiçá). They were allowed to return to their home village of Lehata. An East Timorese acquaintance denounced Marcelo and his cousin, Manuel, as Fretilin spies to patrolling troops from Battalion 401. The troops opened fire on Manuel,

who fled to his house in the *aldeia* of Pisulete. The next day the troops from Battalion 401 found and arrested Manuel. They shot Manuel dead and took away six other youths from the village. The following day the people of Bazartete were told to gather in front of the local church. When they had assembled, ABRI troops ordered them to dig a large hole. Then the six youths were brought out of the former Portuguese Company headquarters, showing clear signs of having been badly beaten. Battalion 401 troops lined the six up at the edge of the hole, and shot them dead.[192]

- In 1976, Maubere was one of 13 men and two women who had been recruited in the sub-district of Bobonaro (Bobonaro) by a Partisan commander named M218 to be TBOs for ABRI. One day the Indonesians and Partisans seized all 13 men and tied them up, accusing them of having taken ammunition and given it to Fretilin. The 13 were told they were being taken to Hauba (Bobonaro) to be killed. Once in Hauba the troops released all the men except for Maubere whom they killed. His body was thrown in a river and never recovered.[193]
- On 23 March 1976, two youths, Cristovão and Filomeno Soares, were taking food and clothing to the Fretilin Zone Secretary of Letefoho (Ermera), with whom they had established clandestine contact. A patrol from Battalion 512 intercepted them and suggested that they help them find Fretilin/Falintil in the forest. The two refused and were shot dead at a place called Marconi in Eraulo (Railaco, Ermera). [194]

220. Detainees were also killed for not disclosing or confirming information being sought by their interrogators. In 1978, for example, members of Battalion 403 killed two men, Anselmo and Antonio Cardoso, on Mount Derok Loke (Lacluta, Viqueque) because they were unable to disclose the whereabouts of Xanana Gusmão or where Falintil weapons were hidden.[195]

221. In 1979 a detainee, Manuel da Silva, was confronted with João da Rosa at the District Military Command (Kodim) headquarters in Viqueque. His interrogators demanded that Manuel da Silva confirm that João da Rosa had been supplying food to Falintil. When Manuel da Silva insisted that it was not João da Rosa but someone else, a rope was twisted around his neck and pulled until he died.[196]

Civilians killed in retaliation for Falintil attacks

222. Indonesian forces also reportedly killed civilians in retaliation for Falintil attacks. In several of the cases reported to the Commission the killings appear to have been a form of indiscriminate proxy or collective punishment intended as a general warning to the population and to deter further Falintil attacks:

- In January 1976, Indonesian troops responded to a Falintil attack on Hauba (Bobonaro) by taking nine civilians from the village to Atsabe where they were killed.[197]
- On 4 March 1976, a group of Apodeti members seized 16 East Timorese civilians and took them to the sub-district of Hato-Udo (Ainaro), where they were detained in a house and forced to work for the ABRI unit stationed there.

During March there was a Falintil attack in the area in which Indonesian forces suffered casualties. Four of the 16 detainees were taken by a soldier and an East Timorese man to Betano, Manufahi, ostensibly to unload a ship. They were not seen again.[198]

Civilians killed during ABRI attacks

223. Although the unintentional killing of civilians during combat and civilian fatalities in crossfire are not considered human rights violations, in some situations the Commission has found it difficult to determine whether members of ABRI took sufficient care to distinguish between combatants and civilians, and to avoid civilian casualties by using force discriminately and proportionately. In some of these cases groups composed entirely of civilians came under attack:

- The Commission heard of one case early in the war where a group of civilians attempted to defend themselves against the invading army. On 15 March 1976, when Infantry Battalion 509 attacked Ainaro Town (Ainaro), about 60 civilians tried to oppose the well-armed invaders. Most or all of these civilians were killed.[199]
- In May 1977, ABRI attacked a group of civilians hiding on Mount Kablaki, between Ainaro and Manufahi. Ten were killed during the attack.[200]
- In 1978, troops from Battalions 744 and 745 conducted a raid in Aisapu, Asulau Village (Hatolia, Ermera) during which they killed a large number of people. The deponent who reported this attack to the Commission collected information about 13 separate families who had lost a total of 88 relatives during the raid. At least some of the victims were reported to have been in the custody of troops when they were killed. They included members of one clan group from the *uma kain* (group of family households) of Poeleu, which suffered the loss of 15 family members.[201]

Civilians killed while in the custody of Indonesian security forces and auxiliaries

224. From the earliest days of the war ABRI routinely took civilians into custody.[202] In many cases this led directly to summary execution. In other cases the victim would be tortured or ill-treated first, or taken to another location and then killed. This pattern of killing occurred throughout the period 1976-79.

- In January 1976, five people were killed immediately after capture by Battalion 126 in Hatugeo (Atsabe, Ermera).[203]
- In 1976, José Cortereal and his family surrendered in Tirilolo, Hola Rua (Same, Manufahi). They were taken by Indonesian troops and Hansip to Lesulau in Hola Rua where two of them, Sirimau and Calistro, were shot dead.[204]

225. Many killings of civilians occurred in military custody. Victims would be seized, then taken to a military facility, and killed. In other cases civilians disappeared after arrest or capture: they are presumed to have been killed, but no witnesses have come forward to confirm that this was their fate. [205] For example:

- In 1976, when three civilians were called to the Battalion 327 post at Mau Ulo (Maubisse, Ainaro), the soldiers ordered the men to be tied up. One was released, but the other two were taken away to the town of Ainaro, and never reappeared.[206]
- Antonio dos Reis told the Commission how he, his father and brother came out of the forest and surrendered to Battalion 405 in Maubisse (Ainaro) in April 1976. While in detention they were frequently beaten and kicked, and every night they were immersed in water. A year later Antonio and his brother were released, but Indonesian troops killed their father, Francisco Xavier, and buried his body near the *pousada* (inn) in Maubisse.[207]
- In January 1976, ABRI entered Ossu (Viqueque), causing many families to run away. On 23 September 1976, ABRI captured five men who had fled to the forest the previous January, including Leki Gari, and took them to the Koramil headquarters in Ossu, where there were already many other detainees who had been arrested on suspicion of working with the Resistance. At the Koramil they underwent interrogations accompanied by pistol-whippings, beatings with steel pipes and kicking. Leki Gari, and another detainee called Olobere were then taken to the Battalion 202 headquarters in Ossu where many other detainees were being held. That same evening, Olobere, Leki Gari and a third person, Mariano, were taken from the Battalion 202 headquarters and shot dead.[208]
- On 8 November 1978, soldiers from the Koramil in Laga, Baucau District, came to the village of Soba (Laga, Baucau) and arrested Pedro Pereira. They took him to the military police headquarters in the village of Laga for investigation. Later that afternoon Pedro Pereira returned to Soba with his captors. The troops also seized Gregório Pereira and João Pereira from Ro'o Liu and took them to the military command post. The next day João and Pedro Pereira were taken away to Baucau and disappeared.[209]

226. ABRI units also killed women and children who were in their custody. The Commission heard how in January 1976 a woman and her two children were seized by Indonesian troops in Tailau in Ermera. The woman, who was pregnant, was the sister of a Falintil commander and had been denounced by an informer. Indonesian soldiers and two East Timorese partisans raped her. The next day ABRI killed the woman and her children.[210]

227. Women taken into the custody of Indonesian forces might also disappear. During the attack on Mount Matebian in October–November 1978, a mother, Luciana, and two of her daughters, Etelvina and Albertina, were wounded when they came under assault from Infantry Battalion 202. Luciana was taken to Dili for treatment and recovered. Etelvina and Albertina were taken to hospital in Baucau, On her return from Dili, Luciana tried to find her daughters at the hospital, but hospital staff did not know what had happened to them, and they were never located.[211]

228. East Timorese auxiliaries also detained people who had recently surrendered and killed them. The Commission received several statements describing killings of those

who had surrendered committed by the *Tonsus* (*Peleton Khusus*, Special Platoon) unit established by Kopassandha in the sub-districts of Barique, Soibada, and Laclubar (Manatuto):

- In February 1979 five men –Manuel Carlos, Lekihonik, Pinto, Raimundo de Oliveira and Armando Soares– who had recently surrendered in Orlalan (Laclubar, Manatuto) were taken by Tonsus under the command of M312 to the Kopassandha base in Orlalan. After one week in detention, during which they suffered continual beatings, the five were bound together with rope around their necks and brought by four Tonsus to a place called Manglima where they were shot dead.[212]
- In the same area some time in 1979, two civilians described as "suspected Fretilin supporters", Mali Arus and Miguel Daholo, were picked up by members of Tonsus shortly after surrendering. They were brought to Laclubar, being badly beaten along the way. Once in Laclubar, Mali Arus suffered further beatings, which caused his death two weeks later. Three weeks later the deponent himself and five others, including his father, Graciano Bere Mauk, and his cousins, Martinho and Mau Leki, also surrendered and were taken to the Tonsus post at Orlalan. Soon after, three members of the group, Graciano Bere Mauk, Martinho and Mau Leki were taken out and shot dead by Tonsus members.[213]

229. Many civilians were killed during interrogation and torture, or after serious beating while in military custody.[214]

230. In January 1976 the Sub-district administrator, Mateus Ximenes, ordered the arrest of Cipriano Magno Ximenes, who had recently surrendered, in Soba (Laga, Baucau). After his arrest he was handed over to a Marines unit. Two days later he was joined in detention by his wife and daughter. All three were beaten by the wife and daughter of a local UDT leader. Three days later Cipriano Magno Ximenes was killed.[215]

231. In 1978 after his family had surrendered in Uatolari (Viqueque), Hansip arrested the deponent's son, Afonso, and took him to the Battalion 202 post there. He was beaten so badly by the Hansip and ABRI troops that, though allowed to return home, he died of his injuries.[216]

232. In 1979 four men surrendered to Battalion 202 in the area of Mount Matebian. They were taken to Viqueque where they were beaten by Hansip with rifle butts and kicked. One of the four men died after one week of this ill-treatment. The deponent said during his year in detention in Viqueque two other prisoners, Mário Harec and Julio Soares, also suffered such severe beatings from the Hansip commander M313 that they too died.[217]

"He's gone to school..."

Over a period of several years and across many districts ABRI personnel used a standard set of terms to refer to the killing or disappearance of its victims. People who had been taken away to be executed or who had disappeared were said to have "gone for a bath", "gone to Jakarta/Bali/Quelicai","gone hunting" or "gone on an operation". However, of all these terms the one most commonly used by ABRI and its East Timorese auxiliaries to explain a disappearance was to say that a victim had "gone to school".[218] Cases of people being "sent to school" were reported to the Commission from the districts of Aileu, Ainaro, Baucau, Dili, Lautém and Manufahi. The earliest reported instance of someone being "sent to school" was in Ainaro in 1976.[219] The term was also used in the context of the disappearances that followed the Falintil attacks on Dili in June 1980 and that accompanied Operasi Persatuan (Operation Unity) in 1983-84.[220] But the largest number of cases of people "going to school" reported to the Commission occurred in 1978-79. In the Commission's view, the repeated and widespread use of this and other euphemisms is evidence that the Indonesian military and its auxiliaries executed its victims in accordance with a standard operating procedure emanating from higher up the command chain.

In many of the cases from the 1978-79 period it was captured or surrendered Fretilin leaders and Falintil commanders who were "sent to school".

In March 1979, in one of several disappearance cases involving former Fretilin leaders or Falintil commanders reported from Manufahi at around this time,* six Fretilin leaders who had surrendered in Betano (Same, Manufahi) with a large group of people the previous November were put to work building roads. Soon after, the six—José da Conceição, Francisco da Conceição, Franco da Costa, Paulino Teli, Martinho Aulaku and Sebastião Nunes—were summoned by two East Timorese local officials and told that all but one of them were going to be "sent to school". The five have not been seen since. The sixth, José da Conceição, was forced to become a Hansip.[221]

Three ranking members of the Resistance in the North Central Sector, Domingos Damião, a Falintil company commander, Anacleto Mendonça, another Falintil commander and Antonio Sarmento, a *delegado*, surrendered in 1978 and were recruited as Hansip. In

* See, for example, HRVD Statements 03429 and 03401 and CAVR, Community Profile, Debu-Waen, Mahaquidan Village, Alas Sub-district, Manufahi District.

March or April 1979, while the local Hansip were on parade at the headquarters of RTP 6 and RTP 8 in the town of Aileu, the three were called out by name and told to go to the house of the district military commander (Dandim). The three were last seen being driven away in a convoy of Indonesian military jeeps. The following day an Indonesian army captain came to Antonio Sarmento's house and returned his watch and wedding ring. The captain said the victims "were attending school". On the same day Anacleto Mendonça's wife also received a visit from a captain. He too handed in her husband's watch and ring. However, his explanation of Anacleto's whereabouts was different: he said that Anacleto had "gone to war" in the east.[222]

In Parlamento (Moro, Lautém) eight Hansip—Horacio Silveiro Lopes, Amaro Amaral, Inácio dos Santos, Venancio Gusmão, Rodolfo da Costa Junior, Sebastião Maria Lourdes Oliveira, Justino dos Santos and Domingos Dias dos Santos—were called to the Koramil on 14 May 1979, on suspicion of having been in contact with a Falintil commander. Seven of them were later seen being taken away by troops belonging to Battalion 745. Only one of the seven returned. Relatives of the missing men were repeatedly told that they had "gone to school". Several deponents said that they had eventually learned that their relatives had been killed near the Battalion 745 headquarters in Assalaino (Fuiloro, Lospalos, Lautém) and Sepelata (Bauro, Lospalos, Lautém). Two of the victims' bodies were later found in Asailaino and one in Sepelata.[223]

Sometimes when a family learned that a relative had been "sent to school", they immediately concluded that he had been killed.[*] *This was most obviously the case when, for example, a victim who had supposedly been "sent to school in Jakarta" was illiterate.*[224] *In other instances, when, for example, family members were told that the victims were being sent to attend a course on* Pancasila, *the Indonesian state ideology that was compulsory for Indonesian civil servants, the explanation might initially seem convincing and only with time would family members come to understand the real meaning of what they had been told.*[†]

* See, for example, HRVD 03401, in which when the deponent was told that his daughter had been "sent to school", he immediately understood that she had been killed.

† See HRVD Statements 05365, 05369, 05376 and 05364. The MPR had made these courses, known as P-4 (*Pedoman Penghayatan dan Pengamalan Pancasila*), under Tap MPR No. II/ MPR/1978.

Unlawful killings and enforced disappearances of surrendered and captured civilians and combatants

233. During the years 1976–1979, several hundred thousand East Timorese civilians came down from the mountains or out of the forests, and surrendered. Surrenders occurred steadily throughout 1976 and 1977, and then increased during 1978. In the second half of 1978 they reached a new peak as Indonesian forces overwhelmed the last resistance bases (see Vol. I, Part 3: The History of the Conflict). On surrendering, civilians were put through a selection process, intended to determine whether they had been members of Fretilin or Falintil, and if so, whether they had held senior positions. Executions and disappearances were a frequent outcome of this process. Known Fretilin members, civilians suspected of clandestine activity and surrendered combatants were the most common victims. Killings and disappearances reached their greatest intensity in the first half of 1979, several months after the mass surrenders of late 1978 and in the period surrounding the end of Operasi Seroja at the end of March 1979.*

Killings and disappearances in military custody after surrender or capture

234. Many killings of surrendered civilians were clear cases of summary execution.[225] For example:

- In 1976, a member of Falintil, Loe-Sili, was captured by five Indonesian Special Forces troops in Mabil-Loa, Saburai (Maliana, Bobonaro). Immediately after capture and interrogation, the troops killed him.[226]
- A Fretilin member, Dasbere, was arrested on 5 May 1976 by troops of Battalion 403 in Leimea Leten (Atsabe, Ermera). He was taken to Clikata. The Indonesian troops made him pose with the Portuguese flag and took photographs of him. Then they killed him.[227]
- On 9 December 1976, four Indonesian troops arrested Raimundo Pereira and Berleto Moniz in Matai (Suai Town, Covalima) after being told by an Apodeti party member that they were members of Fretilin. The two were brought to Tua-Laran and killed.[228]
- In 1978, a woman called Guilhermina was captured by troops from Battalion 503 in Leorema (Bazartete, Liquiçá). They found an OPMT card (the Fretilin's women's auxiliary, Organização Popular da Mulher Timor) in her possession. She was immediately executed.[229]
- In 1978, a father and son, Uatu Suu and Kenawatu, were captured in Nabolu, Uaioli (Venilale, Baucau) by Hansip commanded by M314. They were then

* On 26 March 1979, the special operational command, Komando Tugas Gabungan Seroja (Kogasgab Seroja), was abolished and the operational activities of the military in Timor-Leste were placed under the command of a newly-created Sub-Regional Command (Korem), designated Korem 164/Wira Dharma, which stood at the apex of a territorial structure that extended down to the village level. This change, by bringing Indonesian military structures in Timor-Leste more closely into line with those in Indonesia itself, was intended to signal that the Resistance had been defeated and that Timor-Leste was becoming a normal Indonesian province [see Vol. I, Part 4: The Regime of Occupation, section on The Indonesian Armed Forces and their Role in Timor-Leste].

killed, and their bodies left where they fell. The seven-year-old son of Uatu Suu who witnessed the killing was taken away by two of the Hansip and lived with them in Ossu (Viqueque) until 1995 when his relatives came to take him back to Venilale.[230]

235. By 1978, when the Indonesian offensive against the Resistance was reaching its peak, groups of civilians came under attack both as they sought to surrender and when they tried to hold out in the forest. Two reports from the sub-district of Natarbora in Manatuto illustrate the dilemma facing people at that time:

- In Natarbora some time in 1978, when many civilians were surrendering, a priest, Father Carlos, asked a group of civilians who had already surrendered to go back to the forest and bring out people who were seriously ill so that they could be treated. As the group emerged from the forest, they came under attack from a Kopassandha unit. One person, César Gonçalves, died in the attack.[231]
- In November 1978, Indonesian forces brought Francisco Xavier do Amaral, the former Fretilin President, by plane to Natarbora to persuade people still holding out there to surrender. As a result of Xavier do Amaral's appeal many people did surrender, but others did not. Because the Indonesians knew that there were still people refusing to surrender, they set fire to the undergrowth, and many burned to death.[232]

236. On 18 November 1978, troops from the marine unit, Pasmar 9, and Hansip members came to arrest eight civilians and took them to the military police headquarters in the village of Laga (Baucau). During the month and a half in which they were held there the eight were interrogated and subjected to various forms of torture, including strangulation and the electric shocks to their genitals. Three of the group, Naunoto, Domingos and Nokorika, were taken away by the military police and disappeared.[233]

237. On 16 December 1978, João Pereira was arrested in Buibau (Baucau, Baucau) and detained at the RTP 18 (Resimen Tim Pertempuran, Combat Team Regiment) headquarters, which was located in Buibau. During this time he was beaten. On 21 December a member of the Baucau district military command (Kodim) came to the RTP headquarters and took away the deponent and five other detainees, and beat them. A Hansip commander, named M315, took two of the detainees, Mateus Ximenes and Ernesto Ximenes, to the Wesele River and shot them dead. The other four detainees were then allowed to go home.[234]

238. People who had recently surrendered or been captured also died in detention as a result of torture and ill-treatment during interrogation:

239. Soon after Celestino Pinto and his wife came down from Mount Matebian in 1978, he was arrested in Uatolari Town (Viqueque) by Kopassandha troops and Hansip on suspicion of having been in contact with two members of Falintil, Antonio and Jorgé. His interrogators beat and kicked him for a whole day as they tried to extract information from him about the two Falintil members. The following day he died of his injuries.[235]

The mass execution of captured civilians in Turiscai

Felismina Soares is the sole surviving eyewitness of the mass execution of 13 men from Turiscai (Manufahi) on 22 February 1979.

The victims had been living with many others in a place called Sabailolo in the village of Foholau after fleeing their homes in the sub-district town of Turiscai as Indonesian forces advanced into the town in February 1976.[236] On 22 February 1979, a team of local Hansip under the command of M316 rounded up around 30 men, women and children in Sabailolo and started taking them back to the town of Turiscai. When the group reached the river near Sabailolo, M316 ordered his men to search the 13 men in the group. Then the men were separated from the women.

Eleven of the 13 were brought to a ravine above the river. Felismina Soares remembered the names of only 8 of the 11: Beremali, Ta Mali, Bere Leki, Mau Leki, Mau Leki, Maubere, Maubere, another Maubere. She said that she could not remember three of the names. M316 ordered three of his men to shoot the 11 and then to throw the bodies into the gorge. Afterwards, as it was getting late, the Hansip and the surviving members of the group slept in the place where the killing had taken place. The next day M316 ordered the survivors to continue their journey to Turiscai. On the way, he searched the two surviving males, the former village chief of Liurai, Sebastião, and his brother, and stole their valuables. M316 then ordered the two shot dead. Their bodies were left unburied. M316 still lives in Timor-Leste[237]

Targeted killings of suspected Fretilin/Falintil members and leaders after surrender or capture

240. A clear pattern exists of ABRI targeting suspected former Fretilin members among the surrendering civilian population. The Commission heard numerous cases of the execution of civilians suspected of being members of Fretilin, or having links with it.[238]

241. Sometimes those killed had been living under Indonesian control for some time but had come under suspicion, possibly only because their Fretilin affiliation was discovered:

- In March 1976, Hansip members captured a man named Maukei in Suro Kraik Ainaro, Ainaro) and held him at Leolima (Hato-Udo, Ainaro). In April 1976 he was taken to Luro in Leolima where he, along with four others from

Suro Kraik, was killed by six Hansip members, reportedly on the orders of the Sub-district administrator (*camat*), M316, of Hato-Udo and Battalion 327 troops who were assigned to Hatu-Udo at the time. Maukei was arrested and killed because he had been a Fretilin *delegado* sand was suspected of giving help to Fretilin in the forest and so being "two-faced".[239]

- On 20 September 1978, Umberto Xavier, a former Fretilin *delegado*, and his wife, Bicolo, a Fretilin member, were killed by Hansip at Gourema, Fatukero (Railaco, Ermera), some time after their capture by Indonesian forces.[240] In 1979 a Hansip platoon beat and tortured seven members of a family they had arrested because they had been identified as Fretilin sympathisers. Several of them suffered beatings so severe that they incurred injuries such as broken jaws and serious head wounds. One of them, Artur Mendonça died of his injuries, while another member of the group, Orlando Mendonça, was taken to Maubisse (Ainaro) where he was killed.[241]

242. People suspected of being members of Fretilin/Falintil could be killed immediately after surrender or capture.[242] Luis Pereira described the pattern of targeted killings of Falintil in Manatuto:

> *If armed Fretilin [Falintil] surrendered, [they did not go] through an ordinary process, but were handled separately. They were all interrogated by intel [military intelligence], a military investigation team that arrived from Manatuto. Clearly, all decisions about the fate of detainees were taken internally by the military. Often, Fretilin [Falintil] were allowed to go home. However it could happen that one or two months later they would be seized at their home and killed. Tonsus, or another person ordered to collect them, would take them to the Kopassus office. Then after the Kopassus had decided, they would be killed. If they were tied up behind, then the killing would be done by Tonsus. The only ones with the authority to order a killing were Kopassus.*[243]

243. The grounds on which they were deemed to be members of these organisations were often tenuous. In cases reported to the Commission, possession of a book was regarded as evidence that a person had been a Fretilin cadre and the inspection of their hands for callouses was a routine way to establish that someone was a Falintil fighter. In one case the suspect's name was regarded by ABRI as sufficient grounds for killing him:

- João de Deus told how when he surrendered to Battalion 512 in Letefoho (Ermera) in 1976, he was detained because the soldiers found a Fretilin party card in his pocket. He was detained with two other people. One of them was Nicolau Rosa. Nicolau was killed because he shared a name with the Fretilin leader, Nicolau Lobato.[244]
- When a group surrendered to Battalion 312 at Haeconi (Baguia, Baucau), on Matebian Feto, in October 1978, the troops picked out three men, Luis Lopes, Basilio and Moises, because they had long hair and were presumed to be Falintil fighters. The three were taken away and never seen again.[245]

- In March 1976, Armindo Gonçalves Martins and Maria Fatima surrendered to Battalion 507 at Bonuk in Holbelis, Labarai (Suai, Covalima) with a group of around 500 civilians. The soldiers suspected that Armindo had been a fighter with Fretilin. They separated him from the rest, and killed him.[246]

244. One outcome of this crude selection process was that many ordinary Falintil fighters and people who had not fought at all were executed. For example:

- Mau Buti and Lelo Sea were Falintil soldiers who surrendered in 1978. They were arrested in February at Rotutu, Same, Manufahi on the orders of ABRI. They were then taken away on the pretext of gathering food, but were then shot by two East Timorese, one of whom was the village chief.[247]
- In August 1978, Antonio da Costa Gono, a Falintil fighter, had surrendered to ABRI at Manatuto. He was then taken at midnight by a group of soldiers, including three East Timorese members of ABRI. He was taken to the police station, detained and tortured. From there, he was taken to the local military headquarters, located at the Hotel Asiceo, where he disappeared.[248]
- Again in August 1978, a Falintil member named Kai Fonok surrendered with 31 civilians from their base at Hali Oan (Lacluta, Viqueque). After three days, Kai Fonok was called by Hansip members to go with them to the forest to retrieve guns left by Falintil. In the forest the Hansip members shot him.[249]
- In 1979, Battalion 202 troops captured Jaco Reis, a former Falintil platoon commander, and civilians Naha Kai, his younger brother, Sigi Kai, Uatumau, and another unnamed person in Coleigo Uaida (Ossu, Viqueque). After interrogation by the commander at the Ossu Koramil, they were detained at the Battalion 202 post and never seen again.[250]

245. The Commission received testimonies from several sources indicating that after the fall of the Resistance base on Mount Matebian many people suspected of belonging to Fretilin or Falintil were executed.

- On 25 November 1978, three men, Pedro Alves Cabral, Laiara and José Ximenes, came down to Umurafa at the foot of Mount Matebian in Quelicai and were captured by members of Battalion 312. The Indonesian soldiers accused the three of being communists, tied them up and beat them with rifle butts. The soldiers kicked Pedro Alves Cabral repeatedly in the head, gouging out an eye. The three were then lined up at the edge of a ravine and shot dead. [251]
- When Luis Soares dos Santos came down from Mount Matebian and surrendered with his family in Atalari (Laga, Baucau) in 1979, Indonesian troops found a bag containing two grenades in his possession and took him to their post in Atalari for investigation. He was allowed to return to the "resettlement camp" where his family were living. A few days later it was announced that the people in the resettlement camp could return to their homes. At the same time, however, Luis Soares dos Santos and his three brothers who had been in the forest with him were picked up by Hansip and brought to Baucau in order, the Hansip said, to continue the investigation. After one week the three brothers returned, but Luis never did.[252]

- In December 1979, Carolino Ximenes was captured on Mount Matebian by Indonesian troops from Battalion 502 with 47 others, all of whom were suspected by Indonesian soldiers of being Fretilin fighters. According to the deponent the men were in fact civilians. The families were told that the captured men would be going to school and would be sent home after they had finished. They never reappeared.[253]
- After they had come down from Mount Matebian in November 1978 the people of the village of Afaloicai (Uato Carbau, Viqueque) were ordered to assemble in a field by Infantry Battalion 502. The Indonesian soldiers selected 13 strong-looking men, whom they said would be serving as TBOs. The 13 were taken to the former Portuguese adminstration building where they were tied up and interrogated for two days while being given electric shocks. Meanwhile five Hansip were ordered to dig graves for the 13 in a place called Garaulu in Afaloicai. Two days after they had been taken for interrogation the 13 were taken to Garaulu and shot dead by members of Battalion 502. The five Hansip were present at the executions and when they were over, they were ordered to bury the 13 bodies. According to an informant, who was a Hansip in Uato Carbau at the time of the executions but who had previously been a Falintil commander in charge of the 13 victims, they were ordinary Falintil troops.
- One week later the commander of Battalion 502 ordered the Hansip to dig two more graves in Garaulu. Two men, Carlos from the *aldeia* of Irabin Leten in Uato Carbau and Armindo from Baguia (Baucau), who were suspected of having been in contact with the guerrillas, were then executed in front of the deputy Koramil commander, M318. The Commission was told of another seven men who were killed in Uato Carbau in December 1978 by troops from Battalion 502 shortly after surrender. At least three of them – Borloi, Gaspar Asukai and Belarmino Maunaha, all from the village of Bahatata in Uato Carbau – were apparently also targeted on the basis of their strong physical appearance.[254]
- The Commission received statements implicating each of the military units engaged in the assault on Matebian in the killing or disappearance of civilians or of combatants outside combat in the period surrounding the fall of the base.[255] In the months after the mass surrenders on Mount Matebian several of these battalions, including most prominently Battalions 721, 202, 502, and 745, were direct perpetrators of the mass executions of people associated with Fretilin and Falintil that took place in early and mid-1979 in Baucau, Viqueque, Lautém and Manatuto (see below).

246. For example, a number of statements received by the Commission reported the disappearance of people who had been taken to the Battalion 202 headquarters in Uaida, Ossu De Cima (Ossu, Viqueque). In 1979, shortly after surrendering in Uatolari and then being moved to the town of Ossu, Afonso da Silva went to his home village of Nahareka (Ossu, Viqueque) to look for food to relieve his family's hunger. There he happened to meet a Falintil commander called Rosito who was an old friend. He was spotted embracing Rosito and talking to him by two men who informed on him to

Battalion 202 in the town. On his return to the town, Afonso da Silva was picked up and taken to the battalion headquarters in Uaida (Ossu). Since then his wife has heard nothing about the fate of her husband.[256]

Killings after the fall of the *bases de apoio*

247. The Commission has received extensive testimony describing the systematic killing of Fretilin leaders and Falintil commanders. It received evidence indicating that such targeted killings occurred in every year during the period 1976-79. However, the largest number of this category of killings was reported to have occurred in 1978-79. The concentration of killings of Fretilin leaders and Falintil commanders in the first half of 1979, months and even years after many of them had surrendered or been captured, and their widespread nature suggest that the killings were systematic and resulted from a high-level decision to prevent the resurgence of the Resistance by eliminating its surviving leadership.

248. The words of a detainee in Baucau describe the constant fear of the time:

> *The common topic of everyday conversation centred on crimes: two more have been murdered; so-and-so has been called by the Kotis [Tactical Command] or the RTP [Combat Regiment Team] for interrogation; so-and-so was tortured in the Flamboyan; so-and-so has already disappeared; and so on.*[257]

249. The systematic nature of this operation was evident not just to detainees, but to the wider population, instilling alarm even in places, such as Suai, where surrendered and captured fighters and activists were not disappearing but feared that they might.[258]

250. In 1977, President Soeharto promised amnesty to all Fretilin combatants, offering a guarantee of their security if they surrendered. Many Fretilin and Falintil leaders also negotiated terms of surrender with the Indonesian military and East Timorese members of the civil administration that included similar guarantees for themselves and the population which surrendered with them. Both the presidential amnesty and the grass-roots arrangements were systematically breached.

251. In August or September 1978, Fretilin Assistant Merita Alves, then in detention in Dili, received a letter in English from Alarico Fernandes, with the heading "Sky Light". The letter described a plan to negotiate the surrender of his associates and followers still in the forest with Indonesian intelligence. Although Alarico Fernandes himself survived, many others in the "Sky Light" group did not. Sebastião Montalvão (Lais), Afonso Redentor, Antonio Pinheiro (Botemau), Amadeo de Coelho (Surik), and João Bosco Galucho Soares were among those who disappeared. After his surrender, Sebastião Montalvão is believed to have been taken by helicopter to Remexio (Aileu) and executed there.[259]

252. While many former Resistance leaders who disappeared or were executed after capture or surrender were held for a lengthy period of interrogation and even released

from detention before disappearing or being executed, others, including Antonio Carvarino (Mau Lear), Hamis Bassarewan (Hata), Herminegildo Alves and César Mau Laka, are reported to have been killed very soon after coming into the custody of the Indonesian military, while others, such as Bi Lear (Maria do Ceu Carvarinho) are reported to have disappeared some time after surrendering but without ever entering the detention system. (See Vol. III, Part 7.4: Unlawful Killings and Enforced Disappearences)

253. César Mau Laka, a member of the Fretilin Central Committee and Political Commissar for the South Frontier Sector, was captured by ABRI troops in Manuwen, a region between Natarbora and Manatuto in November 1978. He was taken to Dilor (Viqueque) where he was held and interrogated by the military for a few days, during which he was tortured and threatened with execution. Then a senior ABRI officer named Soetarto (probably Brigadier General Damianus Sutarto, then commander of the Operational Security Command [Koopkam] for Timor-Leste) came in a helicopter to talk with César. Soetarto urged César Mau Laka to cooperate and tell him where Fretilin and Falintil had their bases. César refused to talk. Soetarto flew off again. That night César Mau Laka was taken away and never reappeared.[260]

254. Bi Lear (Maria do Ceu Carvarinho) was a Fretilin *assistente* as well as a political advisor for the CPN (National Political Commission). In February 1979, her husband, Mau Lear, the Vice President of Fretilin, was captured near Manatuto. Soon after Bi Lear attempted to negotiate her surrender at the concentration camp near Ostico (Baucau, Baucau) where other Fretilin leaders had already surrendered.[261] A priest, Father Locatelli, acted as an intermediary in her surrender, and she was taken to Venilale (Baucau), where she stayed at the house of an East Timorese collaborator, and under control of the military police until April. During this period she was visited on two occasions by the Commander of Sub-Regional Command for (Danrem) for Timor-Leste, Colonel Adolf Sahala Radjagukguk. Although the purpose of these visits is not known, it is probable that Bi Lear was pressured to make contact with members of the Resistance who were still holding out. Some time after this Bi Lear was taken away, and disappeared.[262]

255. This section focuses on the impact of the coordinated campaign of executions and disappearances in 1979 in Dili, Baucau, Lautém, Manufahi and Viqueque. The campaign spread to other districts, including Aileu (see Box: "He's gone to school", par. 232 above) and Manatuto (see Table 17: Killings in Manatuto District, February–April 1979, par. 335 below) where the pattern of targeting people who had been active in Fretilin and Falintil, including many who had been recruited into the institutions such as Hansip, was reproduced.

Dili

Table 12: Persons reported to have been in custody in Dili before disappearance/execution

	Position	Date of killing/ disappearance	Placeof killing/ disappearance	Source
Adão Cristovão	Tonsus			
Agostinho Tilman				
Alito Alves				
Anibal Araújo	CCF			
Antonio Carvarino (Mau Lear)	CCF			
Antonio Policarpo				
Cornelio Exposto				
Domingos Ribeiro	Falintil Chief of Staff			
Duarte da Silva		Apr-79	Dili	
Filomeno Alves				
Filomeno Exposto				
Hamis Bassarewan (Hata)	CCF			
Horacio Alves				
Inacio Fonseca (Solan)	CCF			
Jacob Ximenes				
João Baptista de Jesus	Sector Commander			
João Bosco Sarmento Quintão	CCF	14/4/79	Dili	HRVD No 03759
João Bosco Galucho Soares	CCF			
João da Conceicão	CCF	14/4/79	Dili	
Maria Borges		8-Mar-79	Dili	
Juvenal Inacio	CCF			
Leopoldo Joaquim				
Manecas Exposto		Apr-79	Dili	
Maria Gorete Joaquim				
Mateus Barbosa		8-Mar-79	Dili	HRVD No 05775
Mateus Siqueira		8-Mar-79	Dili	
Moises Rafael Tilman		10-Apr-79	Dili	
Olhada			Dili	
Onorio Pereira				
Oscar Leopoldino Araújo	CCF			
Paulino Pereira				
Paulo Mesquita				
Paulo Rodrigues	CCF			
Sebastião Sarmento				
Sebastião Montalvão				
Vitor Fernandes		May-79	Dili	

Sources: HRVD Statements 03529, 03602, 03759, 05671, 08037, 08041 and 08115.

256. Many senior Fretilin leaders and Falintil commanders were brought to Dili, and detained in the Comarca (Balide, Dili) or at the Sang Tai Hoo interrogation centre.[263] Most of them subsequently disappeared around March–April 1979, including some who had been released from detention before being re-arrested. Several of them are reported to have been taken to execution sites near Dili, such as at Tacitolu to the west of Dili and Areia Branca to its east; others were reportedly transferred to detention centres outside Dili before being executed at nearby sites.[264]

257. Merita Alves surrendered in Ilimano (Laclo, Manatuto) on 20 July 1978. ABRI suspected that she was the wife of an important person in the forest because she looked well-fed and healthy. After ABRI interrogated her at their post in Ilimano, they took her to Dili on 22 July where she stayed overnight at the home of a relative. The next day she was taken by intelligence officers to the Sang Tai Hoo interrogation centre where she was held until December 1978. In January 1979 she was moved to the Kotis interrogation centre in the Farol prison. Others who had been held at the Sang Tai Hoo were allowed to go home but had to report twice a day to the Kotis.[265] In March 1979, most of the released detainees were re-arrested, and they and those detained with Merita Alves became victims of what she called 'night seizures' (*penangkapan malam*): they would be taken away and disappear:

> *Every night the military took detainees who disappeared or were killed. The "night seizure" operation began in March 1979. At that time, anyone who had a connection with Fretilin faced the risk of being murdered or disappeared…After I suffered various kinds of torture I was released in August 1979. The rest in my group were killed.*[266]

258. During this period others were held in the Comarca, Balide, but regularly taken to the Sang Tai Hoo and later the Kotis in Farol for interrogation. Among senior figures who were reported to have been held in the Comarca and who subsequently disappeared were João da Conceição, João Bosco Sarmento Quintão, Inácio Fonseca (Solan) and Domingos Ribeiro. João da Conceição and João Bosco Quintão were reportedly taken from the Comarca in February 1979 by Kopassandha troops and not seen again. Domingos Ribeiro was reportedly taken out of the Comarca on the night of 18 April 1979 with several others, including the recently rearrested Menecas Exposto and Meno Alves. They are believed to have been executed at Areia Branca and Tacitolu.[267]

259. Others who disappeared from Dili are reported to have been taken elsewhere before being executed. Solan, for example, was reportedly taken from the Comarca in late February and is believed to have been transferred to the RTP 16 headquarters in Baucau before being taken to Lacudala in Quelicai (Baucau) in late April 1979 and executed.[268] Others who had been released after a period of detention in the Sang Tai Hoo and then re-arrested may also have been sent to Baucau before eventually being executed in Lacudala, Lospalos (Lautém) or Uatolari (Viqueque). They include Sera Key (Juvenal Inácio), Leopoldo Joaquim, Anibal Araújo and José Alcino João Baptista Soares de Jesus.

260. Maria de Fatima Vaz de Jesus, an OPMT official, and her husband, João Baptista Soares de Jesus, Commander of the South Frontier Sector, were captured in a place called Lobata in the area of Halic in Covalima on 17 May 1978. Only after periods of detention in Bobonaro and Liquiçá were they brought to the Sang Tai Hoo in Dili, around November 1978. After the Sang Tai Hoo was closed as an interrogation centre, both of them had to report daily to the Kotis headquarters in Farol. On 19 March 1979 João Baptista Soares de Jesus disappeared after reporting to the Kotis.[269]

261. Maria de Fatima Vaz de Jesus told the Commission:

> *Whenever I asked about my husband, the TNI would always answer: "Maybe he's gone back to the forest"…Sometimes we want to forget, but we can't because our hearts still hurt. It is hard because we still don't know for sure where his bones are. Where did they kill and bury him? Often, when he was little, my son would ask me: "Why don't you ask the big shots where father was killed? Where was he buried?" He was just a child, but he too wanted to know and that was not easy.*[270]

262. The Commission was given the names of many of the Indonesian personnel who worked at the Sang Tai Hoo and the Kotis headquarters. The Sang Tai Hoo was commanded by a Major Bambang and the Kotis interrogation by a Major Syamsun. The overall commander of Kotis was identified as Major Sunarto. Others who conducted interrogations in those places included Major Sinaga, Major Ganap, Major Mukhdi, Captain Ali Musa, Major Soetorus, Major Yani, a Major Freddy and others, such as Gunardi and Aziz Hasyim, whose rank is not known. Many of these officers are believed to be alive and would be able to disclose what happened to those who disappeared from their custody.

The disappearance of Luisa*

ABRI used well-known Resistance figures for propaganda purposes, both in Dili and outside. Some of these people were allowed to live at home, but were regularly collected by ABRI, to be publicly displayed for propaganda purposes or to go on helicopter rides through the interior appealing to those still resisting to surrender. The Commission heard that whenever one of them would be taken, ABRI told their families they were being taken "for a ride" to Baucau. Usually they would not return.[271]

Luisa, a young Unetim activist who became an internationally-known symbol of the suffering of East Timorese women, best illustrates the reality of this kind of treatment. She was first arrested in December

* This is not her real name. A pseudonym has been used in order to protect the identity of the victim

1975, when she was 17 years old and held in the Tropical Snack Bar and then in the Sang Tai Hoo interrogation centre.[272] From then until her disappearance nearly four years later, she suffered continual harassment by members of the Indonesian military and periodic periods of detention during which she suffered torture and rape.[273] During this period she was used as by ABRI for propaganda purposes. She was reportedly also used sexually by several military commanders.[274]

During these years she maintained contact with her friends in the forest, but saw it as her duty to remain in Dili. In 1978 she seems to have changed her mind: her last period of detention appears to have been in that year when a plan of hers to flee Dili with a group of other women and join the Resistance forces in the forest was discovered.[275] She was in Dili in July 1978, when she met Merita Alves in the Sang Tai Hoo and showed her the scars she had accumulated from years of ill-treatment. By then Luisa was no longer detained but had to report regularly to the Sang Tai Hoo. Some time in 1979 she moved to Baucau where she lived in a similar kind of semi-freedom, staying for at least some of that time with a local family and reportedly even working with a clandestine network, and but also having to report regularly to the Flamboyan interrogation centre and accompany Indonesian officers on propaganda missions. The last sighting of her reported to the Commission was in September 1979.[276] According to Merita Alves, she was on the list of those who had been selected to disappear.[277]

Baucau District

Table 13: Killings and disappearances in Quelicai, 1978–1979

	Position	Place of Origin	Place of surrender/ capture	Date of surrender/ capture	Date of execution/ disappearance	Place of execution/ disappearance	Perpetrator(s)
Abiro Guimarães					5/1/1979	Quelicai	
Afonso Cristovão					5/1/1979	Quelicai	
Albino Gusmão (Kiti Karson)	Former military police	Maluro, Quelicai	Venilale	11/1/1978	5/1/1979	Quelicai	Armed 13
Alcina Ximenes			Afaca, Quelicai	14-4-79	4/1/1979	Lacudala	Armed 13, Btn 321 and Sukarelawan

	Position	Place of Origin	Place of surrender/ capture	Date of surrender/ capture	Date of execution/ disappearance	Place of execution/ disappearance	Perpetrator(s)
Antonino Correia		Seical, Baucau	Buruma, Baucau	3/1/1979		Lacudala	RTP 18
Antonino Varia	Deputy commander, Ist Companhia		Abafala, Quelicai	3/1/1979	3/1/1979	Lacudala	Btn 315, Armed 13
Antonio Espirito Santo			Afaloicai, Uatolari	1979		Quelicai	
Aquilino de Oliveira Pinto (Eli Lau)	Ist Companhia, former teacher	Buruma, Baucau	Abafala, Quelicai	3/1/1979	3/1/1979	Lacudala	RTP ?
Candido Felipe Neto Wemau	Ist Companhia, former teacher		Abafala, Quelicai	3/1/1979	3/1/1979	Lacudala	Flamboyan, RTP 18
Celestino Belo			Afaca, Quelicai	14-4-79	4/1/1979	Lacudala	Armed 13, Btn 321 and Sukarelawan
Celestino Peloy	Commander	Laga	Ailemilari, Tequinaumata, Laga	7/3/1979/4-79	21-3-79/5-79	Lacudala	Camat Mateus, Hansip, Pasmar 8, Koramil Laga
Dara-Koo		Laga		2/1/1979	6/1/1979	Lacudala	"Polisi", Kades, Koramil
Dino Monteiro		Ossu			5/1/1979	Lacudala	
Domingos Belo			Afaca, Quelicai	14-4-79	4/1/1979	Lacudala	Armed 13, Btn 321 and Sukarelawan
Domingos Gaio					5/1/1979	Lacudala	Flamboyan, RTP 18
Domingos Torres	Delegado Comissariado, former seminarian	Uato Carbau/ Uatolari?	Buruma	11/1/1979	May/June-79	Lacudala	Flamboyan, RTP 18
Domingos Ximenes			Afaca, Quelicai	14-4-79	4/1/1979	Lacudala	Armed 13, Btn 321 and Sukarelawan
Du Dara			Letemumu, Quelicai			Lacudala	
Felix Ximenes		Laga		2/1/1979	6/1/1979	Lacudala	"Polisi", Kades, Koramil

	Position	Place of Origin	Place of surrender/ capture	Date of surrender/ capture	Date of execution/ disappear-ance	Place of ex-ecution/ disap-pear-ance	Perpe-trator(s)
Francisco				11/1/1978	11/1/1978	Quelicai	
Francisco da Costa Correia				15-8-79		Quelicai	Kodim, Armed
Francisco Freitas		Buibau, Baucau			5/1/1979	Quelicai	
Francisco Marques	Delegado Comissariado				May–June-79	Quelicai	
Gaspar Correia	Delegado Comissariado, Baucau	Seical			Apr- June 79	Quelicai	RTP 16
Gil Freitas	Tonsus commander				3/1/1979	Lacudala	
Gregorio Pereira		Afaca, Quelicai			May–June-79	Lacudala	
Ignacia					1979	Quelicai	
Inacio Fonseca (Solan)	CCF, Adjunto	Tutuala, Lautém	Ossu	12/1/1978	4/29/1979	Lacudala	
Jacinta Gaio					5/13/1979	Lacudala	
Jaime Cabral (Mau Leka)					Early 1979	Lacudala	
Januario Braga					May–June-79	Lacudala	
Januario Gaio		Guruça, Quelicai			5/1/1979	Lacudala	
Jeremias Soares		Uatolari			5/1/1979	Lacudala	
João from Baguia		Baguia			May–June-79	Lacudala	
João Branco	Tonsus commander	Lospalos		1976	3/1/1979	Lacudala	Armed
João Meneses			Afaloicai, Uatolari	1979	Apr- June 79	Quelicai	
Joaquim Fraga (Au Lela)					May–June 1979	Lacudala	
Joaquim Ximenes			Afaca, Quelicai	14-4-79	4/1/1979	Lacudala	Armed 13, Btn 321 and Sukarelawan
José Alcino					May–June 1979	Lacudala	

	Position	Place of Origin	Place of surrender/ capture	Date of surrender/ capture	Date of execution/ disappear-ance	Place of ex-ecution/ disap-pear-ance	Perpe-trator(s)
José Gaio (Mau Seklai)	Assistente	Guruça, Quelicai	Quelicai	Nov-78?	5/1/1979	Lacudala	
José Ximenes		Quelicai		Nov-78?	May–June 1979		
Laiara		Quelicai		Nov-78?	May–June 1979		
Lino da Costa		Ponta Leste			6/1/1979	Lacudala	
Lino Olocasa	Comandante Sector	Uato Carbau	Quelicai	11/1/1978	1/1979	Lacudala	Btn 315, Flamboyan, RTP 16
Lourenço Gaio Ximenes		Abafala, Quelicai			5/1/1979	Lacudala	
Luisa Gaio					5/13/1979	Lacudala	
Manu Loi				11/1/1978	11/1/1978	Lacudala	
Marcal Alcino	Assistente de Zona				May–June 1979	Quelicai	
Marçal Braga		Quelicai			May–June 1979	Quelicai	
Mateus dos Santos					5/1/1979	Lacudala	Armed 13, Albino (Hansip)
Paulo Agapito Gama	Comandante	Laga	Ailemilari, Tequinaumata, Laga	2-79/7/3/1979/ 4-79	21-3-79/5-79	Lacudala	Camat Mateus, Hansip, Pasmar 8, Koramil Laga
Paulo Gaio		Guruça, Quelicai			5/1/1979	Lacudala	
Paulo Soares					May–June 1979	Quelicai	
Pedro Alves Cabral		Quelicai		Nov-78?	11/1/1978	Quelicai	
Rui Freitas					May–June 1979	Quelicai	
Sebastião Alves			Afaloicai, Uatolari	1979			
Sidonio Sarmento (Mau Anik)	Secretario, former teacher	Laisorolai		11/1/1978	13-5-79	Lacudala	Flamboyan, RTP 18, Armed 13

	Position	Place of Origin	Place of surrender/ capture	Date of surrender/ capture	Date of execution/ disappear-ance	Place of ex-ecution/ disap-pear-ance	Perpe-trator(s)
Tadeo Freitas Muniz (Laicana)	Commander Ist Companhia	Quelicai	Abafala, Quelicai	Feb-79/Mar-79	5/1/1979	Lacudala	Btn 315, (Fatumaca, house of Aleixo Ximenes), RTP 16, Armed 13
Virgilio Dias	Delegado Comissariado, Dili				6/1/1979	Lacudala	RTP 16

Sources: HRVD Statements 07800, 00572, 07682, 03908, 08051, 07712, 02127, 07760, 00595, 00597 and 07787; CAVR Interviews with Zeferino Armando Ximenes, Baucau, 13 June 2003; Constantino dos Santos, Letemumu (Quelicai, Baucau), 13 June 2003; José Correia (Calala), Tirilolo (Baucau, Baucau), 24 March 2004, Fernando José Freitas Soares and Venancio dos Santos Alves, Quelicai, 2 May 2004; CRRN Communiqué, July 1983, Gatimor No 6, 1983; Community Profile, Maluro, Quelicai.

263. Between late 1978 and mid-1979, many hundreds of people were reported to have been killed or to have disappeared in Baucau District in a variety of circumstances: immediately after surrender, in public executions, while looking for food or going about their daily activities, and in military posts and headquarters and other places used as detention centres around the district.* The most notorious of these killings occurred at execution sites in Quelicai (Baucau) in the period between April and June 1979. The Commission collected the names of 59 people whom it believes were killed at various execution sites in Quelicai, one in a place called Lacudala being most often used.† This number is well below the total given by sources interviewed in Quelicai itself, who believe that more than 300 people may have been executed there. They base their estimates on lists that they had seen and on the number of bones of persons killed there and subsequently collected.‡ Lacudala was an execution site to which people from a wide

* For summary executions, see HRVD Statements 00536, 07069, 05729, 00538, 05395, 06802. 07781, 07761, 02127, 07758, 00521, 09188, 02127, 07087, 07778, 03072 and 02362: for disappearances, see HRVD Statements 07069, 06147, 03933 and 07047; for killings after being taken into custody at military posts and headquarters and places used as detention centres, see HRVD Statements 03908, 07930, 07117, 00126, 07076, Community Profiles, Alawa Kraik (Baguia, Baucau) and Bahamori (Venilale, Baucau); for killings of people looking for food or going about their daily activities, see HRVD Statements 03895, 00542, 00548, 06110, 03879, 07713, and 07797.

† Lacudala was not the only execution site in the area of Quelicai. Others were reportedly located at Samateku, Alaslai, Lawaliu and Lebenei [CAVR Interview with Constantino dos Santos, Letemumu (Quelicai, Baucau) 13 November 2003].

‡ The bodies of executed victims were reportedly thrown into ravines near the execution sites. The executions reportedly stopped in 1980 with the arrival in Quelicai of Battalion 114 from Aceh. Battalion 114 allowed relatives to gather the victims' bones and bury them [CAVR Interviews with Constantino dos Santos, Letemumu (Quelicai, Baucau) 13 November 2003; and Leonel Guterres, Quelicai (Quelicai, Baucau), 13 November 2003].

area were brought for execution. Thus while many of those killed at Lacudala were from Quelicai, there were victims from Lospalos (Lautém), Ossu, Uatolari and Uato Carbau (Viqueque), as well from other parts of Baucau District, including Venilale, Laga and Baguia.[278] Most, though not all, of those killed in Quelicai had held leadership positions in Fretilin or Falintil.

264. The range of victims is indicated by the following accounts:

- Tadeo Freitas Muniz (Laicana) surrendered to Battalion 315 in Kotaisi, Abafala (Quelicai, Baucau) on 7 March 1979 with a fully-armed company. Their surrender was reportedly negotiated with former senior members of Fretilin and Falintil who had themselves surrendered or been captured earlier and were working under instruction from Colonel Iswanto.[279] One week later he and his deputy, Antonino Varia (Ria) were taken to Lacudala and executed. Some of his troops escaped and others were recruited into the paramilitary Team Saka.[280]
- João Branco, a former member of the Fretilin Central Committee who had surrendered with others to the Indonesians in Lospalos in 1976 and had then been appointed to head a 200-strong auxiliary called Tonsus, and one of his lieutenants, Gil Freitas, were reportedly killed at Lacudala in March 1979. João Branco had taken part with his Tonsus in the destruction of the Falintil/Fretilin base on Matebian. Twenty-seven of his members were reportedly killed by troops of Battalion 745 in Trisula (Lautém), some others may have been killed in Lacudala in March 1979 aside from João Branco and Gil Freitas.[*] [281]
- In March or April 1979, a group commanded by Agapito Gama and his deputy, Celestino Peloy, negotiated their surrender to Marine Battalion, Pasmar 3, in Ailemilari (Tequinaumata, Laga, Baucau). They were given guarantees that they would not be harmed if they surrendered. At first they were "concentrated", but not ill-treated. Two weeks later, however, Agapito Gama and Celestino Peloy were picked up by the Sub-district administrator (*camat*) of Laga, Mateus, and troops from Pasmar 3. They were reportedly taken to the Koramil in Baucau Town. In May or June they were taken to Lacudala and executed.[282]

265. Although generally those executed at Lacudala were targeted because of their roles in the Resistance, the Commission was told of instances where victims did not meet these criteria. For example, Norberto Correia, an employee of the Baucau office of the Indonesian Department of Agriculture, had never been in the mountains and seems to have been killed because he had two sons who were still fighting with the Resistance.[†]

* At least 19 of João Branco's Tonsus were reportedly killed in Lautém and Dili at around the same time [see: Unlawful killings and enforced disappearances in Lautém, below]. A few months before they had participated in the Indonesian offensive on Mount Matebian, but were accused of being "two-headed". The Indonesians' suspicions were well-founded: after João Branco's defection to the Indonesians, Xanana Gusmão had maintained contact with him and the clandestine organisation with which he was working in Tutuala Sub-district [Xanana Gusmão, *Timor-Leste – Um Povo, Uma Patria*, pp. 37, 38-39 and 41; Sarah Niner, *To Resist is to Win: The Autobiography of Xanana Gusmão*, pp. 53, 55 and 58].

† Norberto Correia was reportedly killed despite giving the chief of the Baucau Kodim intelligence section (Kasi-1) four buffalo [CRRN Communiqué, July 1983].

266. The Commission was told of another case in which the person who was killed was the victim of a horrifying display of random violence.

267. On 23 April 1979, Alcina Ximenes and six members of her family, including a four-year-old child, were captured by Indonesian soldiers of Battalion 321 and Hansip in a place called Afateri Doro in Afaça (Quelicai, Baucau) and brought to the village of Mulia (Laga, Baucau). The three adult male family members, Joaquim Ximenes, Domingos Ximenes and Celestino Belo, were tied up and the whole group was taken by car to the Armed (Artileri Medan, Field Artillery) headquarters in Quelicai. Once there a Hansip told the Armed commander that the three men had been leaders in the forest. The Armed troops then set upon the men, beating and stamping on them.

268. The next day the three were brought to Lacudala, told to stand near a hole in the ground and shot. Domingos and Celestino Belo died immediately. Joaquim Ximenes did not: he managed to crawl out of the hole despite being shot three more times. The soldiers grabbed him by the neck and threw him back in the hole, and then bombarded him with stones. He was still not dead, so they buried him alive.

269. When the soldiers returned to their base, one of the women, Alcina Ximenes, who was pregnant at the time, asked the Armed troops what had happened to the three men. She was told that if she wanted to know, she could come with them and see. She was brought to Lacudala where she too was killed. Subsequently her four-year-old child was beaten to death. Two other women continued to be detained for another two months during which time they were repeatedly raped by the soldiers and the Hansip.[283]

270. A number of senior and middle-ranking Fretilin and Falintil commanders who surrendered or were captured in November–December 1978 were brought to the town of Baucau where Kopassandha personnel interrogated them at the Flamboyan Hotel or Uma Merah interrogation centres, sometimes for several weeks, before they were transferred to the headquarters of RTP 18 in Teulale. From the RTP 18 headquarters many of them were taken to Lacudala for execution. Others were brought to Quelicai either directly after arrest or from a Koramil or other military installation.[284] Two survivors of the trip to Lacudala interviewed by the Commission both recall that they were taken there in a military truck called a Reo and brought to the Koramil in Quelicai where they were interrogated by the Armed 13 unit commander, First Lieutenant Osaka, assisted by East Timorese translators, of whom the most notorious was M232. Armed 13, one of the battalions then under the command of RTP 18, also carried out the executions.[285] A former Hansip, Constantino dos Santos, told the Commission that one of his duties was to keep the records at the Koramil in Quelicai. He recalled that there was a "red book" containing 375 names of people who had been or were going to be executed.[286]

271. Zeferino Armando Ximenes recalled:

> *With my hands bound I was put in a military vehicle called a Reo and we headed for Quelicai [from the RTP 18 headquarter in Baucau Town] on 13 May 1979, which I remember because it was Assumption Day. Once there we were interrogated into the night…We were not beaten, but we were*

just waiting for our turn to die, because we had been told that we were going to be sent to school like our friends Tadeo Soares Laicana, Domingos Gaio, and Solan, who, they said, had been sent to school abroad. The next morning there was a vehicle waiting for us by the cave and Indonesian soldiers with a list of Baucau people who were involved with Fretilin were there to meet us and to bring us to Ponto Alto, above Quelicai.[287]

272. Zeferino Armando Ximenes was saved from execution through the intervention of a logistics officer who knew him and happened to be at the Armed 13 base just as he was about to be transported to the execution site.[288]

273. José Correia (Calala), who had surrendered to Major Iswanto in Laga with 13 other fully armed Falintil fighters, also escaped execution. Rearrested in June 1979, he was put in a Reo vehicle which had just come from Lospalos. In the vehicle there were already about 14 prisoners, who he thought were all from Lospalos. The only two people he recognised were João Branco and Gil Freitas. The Commission was told that the prisoners were sitting quietly, not speaking. Their hands were tied behind their backs. They were not allowed to turn their heads to left or right, but had to look straight ahead at the front of the vehicle. They went straight to the Armed 13 headquarters in Quelicai and then to Lacudala where he was put in a building while waiting his turn to be executed. José was kept with around 20 people, all of whom were executed, including José Gaio. TBOs and Hansip worked day and night preparing the graves in which the executed victims would be buried.[289]

274. The Commission has not been able to confirm the higher estimates of the number of people executed in Quelicai. However, it believes that the names of persons that it was itself able to compile do not constitute an exhaustive list of victims. One reason for this conclusion is that others who were detained during this time partially followed the route taken by those who were reported to the Commission to have been killed at Lacudala or other sites in Quelicai: arrest, detention and interrogation, accompanied by torture in one of a number of specific detention centres, such as the Flamboyan, the Kodim or the RTP 16 headquarters in Baucau. In the case of these other victims, however, their fate after going through this process is not known, that is they were simply reported to have disappeared. Moreover, many of those reported to have disappeared in these circumstances, such as the former Fretilin secretary for Baucau, Eduardo Ximenes, were senior or middle-ranking Fretilin cadres or Falintil commanders, and thus also fit the profile of most of those who were killed in Quelicai. Thus, although they were not actually reported to have been killed in Quelicai, this may have been what happened to them. This hypothesis is strengthened by the fact that in several of the statements received by the Commission the victims were reported to have simply disappeared, when other information received by the Commission suggests that in fact those victims were actually killed in Quelicai.[290] *

275. During this time disappearances were occurring in every sub-district in the district of Baucau. Some of these cases are cited below.

* At the same time the Commission learned of several instances where people who disappeared at this time in Baucau District were in fact executed in places other than Lacudala.

Baguia

276. In September 1978, one day after their surrender, Abel do Carmo and Alberto Freitas were summoned by the Sub-district administrator (*camat*) of Baguia and told that they were going to be taken to Laga. They have not been seen since.[291]

277. In June 1979, the Sub-district administrator, M233, ordered a group of men to go up Mount Matebian to look for Falintil. They captured Gaspar Kasaroi, who was handed over to the Koramil in Baguia. He then disappeared.[292]

278. In December 1978, eight men who had been captured by Battalion 502 on Mount Matebian were suspected of being members of Falintil. Their families were told that they were going to school and would return only after they had graduated. They never returned.[293]

Baucau

279. On an unspecified date in 1979, the Fretilin secretary for Baucau, Eduardo Ximenes (Gamukai), his brothers, Badanau and Bedusobu, and brother-in-law, Inácio da Costa, were captured by the village chief of Afaça (Quelicai), M234, and an *aldeia* chief named M235. The four men were bound and taken to the Kodim in Baucau. The uncle, who escaped from the Kodim, told the family that the three others had been taken away to be killed that night. According to another statement, which also appears to be about the death of Eduardo Ximenes, he was taken to Quelicai where Indonesian soldiers killed him.[294]

280. In March 1979, troops from the RTP 18 arrested Antonio Correia at the house of Gaspar Sarmento in Suliwa, Buruma. His subsequent whereabouts are not known. On 7 April 1979, two Hansip arrested Fernando Saldanha in Kaisahe, Ono-Sere, Buruma, saying that he had been summoned by the *liurai*/village chief, M237. He was taken to the TNI dormitory at Teulale, Baucau (probably also RTP 18 headquarters). He has not been seen since.[*†]

Laga

281. In November 1978, four people, Domingos dos Santos da Costa, who had been a *chefe de aldeia* (*aldeia* chief) in the forest, José Rusa Fuik, a Força de Auto-Defesa (Self-Defence Force) commander, and Pedro and Amaro, both of whom had been in the Força de Intervenção (Intervention Force), were arrested and taken to the military police post in Laga. After being interrogated during which all four were tortured, the last three disappeared.[‡]

* HRVD Statement 07682. For other disappearances and killings in Baucau Sub-district around this time see HRVD Statements 07826, 07930 and 07805.

† The CAVR Community Profile for Buruma Village, Baucau Sub-district, Baucau District (2 December 2003) contains the story of an unnamed woman who in 1979 brought food for her imprisoned husband and was told that he had been taken to Quelicai.

‡ HRVD Statement 07079. For other disappearances in Laga Sub-district in 1978-79, see HRVD Statements 07699 02362, 00536 and 05729.

282. In 1979, Luis Antero Ximenes, a former Falintil fighter, was arrested in Laga by members of the Koramil and an official of the local administration because he had not registered with the Indonesian authorities after coming down from the mountains. Three weeks later his family saw him being taken away in a jeep. The deponent ran after the jeep and heard his father's last words: "Tell your mother that I am tied up and don't know where I am being taken. If I die, we will not meet again. Only if I live, will we meet again." He never returned.[295]

283. On 9 June 1979, a Falintil commander, Afonso de Carvalho, surrendered to Indonesian forces in Laga. That evening troops from Battalion 745 took him to Baucau for interrogation. He never returned.[296]

284. After surrender to the TNI in the area of Atelari in 1979, one member of a group of six, Luis Soares dos Santos, a member of Falintil, was found to have two grenades. The group was taken to the Atalari post for investigation. A few days later the TNI announced that the people would be allowed to return to their homes, but Luis, Gaspar Soares, Mateus, and Miguel were taken to Baucau for further investigation. A week later all but Luis were allowed to go home. Luis has not been seen since.[297]

Quelicai

285. A man called Dai-Dara was accused by the Indonesian military of being a member of Falintil after they had looked at his hands after surrender in November 1978. He was taken away and has not been seen since.[298]

286. In 1979 two persons, who were suspected of being in contact with Falintil, Ganuloi from the *aldeia* of Gugulai and Railari from the *aldeia* of Karanu, were arrested by the TNI and taken to Laga. They have not been seen since.[299]

Vemasse

287. On 16 November 1978, the paramilitary Team Sukarelawan captured four persons, Domingos Lekiwati, Inácio Pereira, Januario dos Reis, and Tomás Samut, during an operation on Mount Ossuala, Vemasse. That night Indonesian troops and members of Team Sukarelawan took the four to the Flamboyan Hotel in Baucau. They have never reappeared.[300]

Venilale

288. On 8 November 1978, four men, two named Antonio Guterres, one called Joaquim Loi and one other, came down from Mount Matebian and were captured by Indonesian soldiers when they reached Quelicai. They were then forced to walk for four days until they reached Uaibua, Uatohaco, in Venilale. On arrival at the TNI and Hansip post, they were detained by the TNI under the command of Major Tswanto and Hansip under the command of M239. When the sister of one of the men, Maria, came to the post bringing food for them, she was told the four had been taken to the Koramil in Venilale. She went to the Koramil and was told that her brother was still at the post in Uaibua and that the others had been released. Antonio has not reappeared.[301]

289. At around the same time Joaquim Guterres came out of the forest and surrendered at the Venilale Koramil to Battalion 721. His subsequent fate is not known.[302]

290. The climate of fear produced by the killings meant that their impact extended beyond those directly targeted and those close to them, as is illustrated by the following account.

291. Maria da Silva Soares had come down to surrender in Quelicai in February 1979 with Laikana. Some time later she heard that Laikana had been arrested by two Hansip and had disappeared. Maria, fearing for her own safety because her husband, Raimundo Cabral, was a Falintil fighter still in the forest, fled with her six children to the forest around the area of Aneilo (Laisorolai Kraik, Quelicai).

292. By March 1979, two of her children, Amaro and Justino, had died of hunger and sickness. Not long after, her other four children, Ana Maria, Betina, Anakai and Reaminga, also died. Maria then managed to make contact with her husband. For several years she moved with him and his Falintil comrades between the districts of Baucau and Lautém, often coming under attack from Indonesian forces.[303]

Lautém District

Table 14: Killings in Lautém 1978–1979 by sub-district and group

Place/group	Name	Position	Reported circumstances of death/disappearance
Lospalos	Afonso de Albuquerque	Secretario da Zona	Disappeared from Lospalos Kodim
	Afonso Savio		Killed Btn 745 in Lausepo
	Adão Amaral		Killed 1979
	Alberto Nunes	Delegado Comissariado	Killed 1979
	Calisto Rego	Delegado Comissariado	Killed in Lospalos Town
	Dinis dos Santos Gandara	Assistente	Killed by Battalion 745 in Kivira Ara, Tximo, Lore
	Duarte Amaral		Died after torture in Lospalos
	Felicidade dos Santos Gandara	Delegado Comissariado	Killed by Btn 745 in Lausepo
	Francisco Sarmento Loy	Delegado Comissariado	Killed by Hansip in Lospalos Town
	Augusto Sanches	Colaborador, Sector Ponta Leste	Killed by Btn 745 in Kurisa Lore
	Jacinta Pereira	Assistente	Killed by Btn 745 in Lausepo
	João Ernestino de Andrade Sarmento	Nurse	Disappeared from Lospalos Kodim in April 1979
	José Farseira	Fretilin	Disappeared 1979

Place/group	Name	Position	Reported circumstances of death/disappearance
	José Fernandes		Disappeared 1979
	José Ferreira da Conceicão		Disappeared 1979
	Orlando Marques	Sub-district administrator (camat), Iliomar	Disappeared after being brought to Btn 745 base at Trisula, June 1979
	Paulo Nunes	Assistente	Disappeared after being brought to Lospalos
	Pedro Sanches	Deputy Sector Commander, Falintil	Killed Btn 745 in Lausepo
	Raul Monteiro	Former seminarian	Killed in Lospalos Town
	Raul dos Santos	Delegado Comissariado	Disappeared after being brought to Lospalos
	Victor dos Santos Gandara		Possibly killed with Felicidade dos Santos Gandara and Jacinta Pereira in Lore
Other Lospalos	Fernando Sanches	Former liurai of Fuiloro	Killed in Sapuada, Home
	Tomé Cristovão	Former Apodeti	Killed in Sapuada, Home
Fuiloro	Adelino da Costa Savio		Killed 1979
	Araújo		Killed 1979
	Arnaldo da Costa		Killed 1979
	Asu Chai		Killed 1979
	Bokleman		Killed 1979
	Carlos Cabral		Killed 1979
	Crispin Lopes		Killed 1979
	Duarte dos Santos (or Duarte Amaral)		Killed 1979
	Eugenio Mosinaca		Killed 1979
	Feliciano		Killed 1979
	Fernando Lavantu		Killed 1979
	Jecarunu		Killed 1979
	Jesus da Costa		Killed 1979
	Julio Rodrigues		Killed 1979
	Justino Kiar Moko		Killed 1979
	Justino Sanches		Killed 1979
	Lamberto de Jesus		Killed 1979
	Lourenço Viana		Killed 1979

Place/group	Name	Position	Reported circumstances of death/disappearance
	Luis Pereira		Killed 1979
	Luis Ximenes		Killed 1979
	Manuel Loi Malai		Killed 1979
	Marcelino Pereira		Killed 1979
	Nasorio Mendes		Killed 1979
	Pedro		Killed 1979
	Pedro Valentim		Killed 1979
Loré I	Albino Adriano		Killed 1979
	Antonio da Costa		Killed 1979
	João		Killed December 1979 by Btn 745
	Kaivaca		Killed 1979
	Lavan Lovaia		Killed 1979
	Loimoco		Killed December 1979 by Btn 745
	Mário Provincial		Killed December 1979 by Btn 745
	Melchior		Killed 1979
	Pedro da Conceição		Killed 1979
	Rogerio da Conceição		Killed 1979
	Sela Moko		Killed 1979
	Sico Falu Malai		Killed 1979
	Tanirauno		Killed 1979
	Tito da Conceição		Killed 1979
Raça	Agapito		Killed 1979
	David Lopes		Killed 1979
	Edmundo da Silva		Killed 1979
	Filomeno		Killed 1979
	João Baptista		Killed 1979
	José Oliveira		Killed 1979
	Natalino		Killed 1979
Bauro	Alvaro Lopes		Killed 1979
	Crispin Caetano		Killed 1979
	João Soares		Killed 1979
	José Caetano		Killed 1979

Place/group	Name	Position	Reported circumstances of death/disappearance
	Kaicavanu		Killed 1979
	Moko		Killed 1979
	Leogildo Freitas		Killed 1979
	Lina dos Santos		Killed 1979
	Luis Lopes		Killed 1979
	Orlando Bosco		Killed 1979
	Roberto Marques		Killed 1979
	Rosario		Killed 1979
Home	Capecai		Killed 1979
	Soru-Koru		Killed 1979
	Telu Kuro		Killed 1979
Mehara, Tutuala	Alarico da Costa		Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	Alcino		Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	Gonzalo Soares		Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	Gabriel Soares		Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	Carolino Carvalho		Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	Miguel Monteiro		Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	Orlando	Comandante de Zona	Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	João Caetano		Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	Antonio do Carmo		Killed at Btn 745 post at Trisula, Assalaino, Fuiloro, in June 1979
	Victor Pires	Hansip	Disappeared after arrest by Hansip in 1979
	Faustino Guimaraes	Hansip	Disappeared after arrest by Hansip in 1979
Moro, Tutuala	Afonso		Executed at Daudere by Btn 745 in 1979
	Bendito		Executed at Daudere by Btn 745 in 1979
	Thomas da Costa		Handed over by Kopassandha to Btn 745 and disappeared in May 1979; reportedly killed in Assailaino, Fuiloro

Place/group	Name	Position	Reported circumstances of death/disappearance
	Rui		Handed over by Kopassandha to Btn 745 and disappeared in May 1979; reportedly killed in Assailaino, Fuiloro
	Paulo		Executed at Daudere by Btn 745 in 1979
	Alcino Fernandes Xavier		Executed at Adaveri, Serelau by Btn 508 and Hansip, 1978
	Antonio João Lopes		Executed at Adaveri, Serelau by Btn 508 and Hansip, 1978
	Domingos dos Santos		Executed at Adaveri, Serelau by Btn 508 and Hansip, 1978
	Afredo dos Santos	Clandestine/former comandante	Killed by Btn 745 at Etipiti, Com in June or July 1979
	Oscar Victor	Clandestine	Killed by Btn 745 at Etipiti, Com in June or July 1979
	Virgilio dos Santos	Clandestine	Killed by Btn 745 at Etipiti, Com in June or July 1979
	Duarte		Killed by Btn 745 at Etipiti, Com in June or July 1979
	Mário Amaral		Killed by Btn 745 at Etipiti, Com in June or July 1979
	Pedro		Killed by Btn 745 at Etipiti, Com in June or July 1979
	Antonio Xavier		Killed by Btn 745 at Etipiti, Com in June or July 1979
	José		
	Amaro Amaral	Hansip/clandestine	Handed over by Kopassandha to Btn 745 and disappeared in May 1979
	Venancio Gusmão	Hansip/clandestine	Handed over by Kopassandha to Btn 745 and disappeared in May 1979; reportedly killed in Assailaino, Fuiloro
	Sebastião Maria Lourdes	Hansip/clandestine	Handed over by Kopassandha to Btn 745 and disappeared in May 1979
	Horacio Silverio Lopes	Hansip/clandestine	Handed over by Kopassandha to Btn 745 and disappeared in May 1979
	Rodolfo da Costa Junior	Hansip/clandestine	Handed over by Kopassandha to Btn 745 and disappeared in May 1979; reportedly killed in Sepelata, Bauro

Place/group	Name	Position	Reported circumstances of death/disappearance
	Inacio dos Santos	Hansip/clandestine	Handed over by Kopassandha to Btn 745 and disappeared in May 1979
	Pedro dos Santos	Delegado	Disappeared after arrest by Btn 745
	José da Silva		Disappeared after arrest by Btn 745
	Martinho da Silva		Disappeared after arrest by Btn 745
	Julio de Castro		Disappeared after arrest by Btn 745
	Kacoli		Killed in Etipiti, Com by Btn 745
	Pedro		Killed in Etipiti, Com by Btn 745
	José		Killed in Serelau, Com by Btn 745
	Julio		Killed in Serelau, Com by Btn 745
	Alcino da Costa		Killed by Btn 408
	Antonio da Costa		Disappeared from Kodim in October 1978
	Pedro Nogueira		Arrested by Brimob, handed over to Btn 745, tortured and killedin Trisula, Assailaino, Fuiloro, October 1979
	Anudai		Shot dead on Lautém beach by Btn 745, 1979
	Liabui 1		Shot dead on Lautém beach by Btn 745, 1979
	Liabui 2		Shot dead on Lautém beach by Btn 745, 1979
	Koofou		Shot dead on Lautém beach by Btn 745, 1979
Luro/ Benedito Group	Antero dos Santos		Disappeared from Kodim, February 1979
	Benedito Savio	Assistente	Disappeared from Kodim, February 1979
	Bernadino Carvalho		Disappeared from Kodim, February 1979

Place/group	Name	Position	Reported circumstances of death/disappearance
	Antonio Reis		Killed shortly after capture by Btn 305
	Cancio da Silva		Killed shortly after capture by Btn 305
	Felix Gonzaga		Killed shortly after capture by Btn 305
	Felisberto da Cruz		Killed shortly after capture by Btn 305
	Fernando da Costa Lopes		Killed shortly after capture by Btn 305
	Hermenegildo Viegas		Killed shortly after capture by Btn 305
	José Viegas		Killed shortly after capture by Btn 305
	Lambario Lopes		Killed shortly after capture by Btn 305
	Manuel Monteiro Leite		Killed shortly after capture by Btn 305
	Marcal dos Reis Noronha		Killed shortly after capture by Btn 305
	Maria Olga		Disappeared, possibly February 1979
	Moises Fernandes		Killed shortly after capture by Btn 305
	Pedro Alvares Cabral		Killed shortly after capture by Btn 305
	Tomas Ximenes		Killed shortly after capture by Btn 305
	Zeferino Freitas		Killed shortly after capture by Btn 305
	Casimiro dos Santos Alegria	Assistente	Reported killed by ABRI at Darapu'u, Baricafa, 1979
	Domingos Mário		Disappeared from Koramil, Luro, 1979
	Aleixo Soares Malimau		Disappeared from Koramil, Luro, December 1979
	Alfredo Ramos		Disappeared from Koramil, Luro, December 1979
	Amelia da Silva		Disappeared from Koramil, Luro, December 1979
	Antonio da Conceição		Disappeared from Koramil, Luro, December 1979

Place/group	Name	Position	Reported circumstances of death/disappearance
	Hermenegildo da Costa	Fretilin assistente	Disappeared from Koramil, Luro, December 1979
	Manuel da Costa		Disappeared from Koramil, Luro, December 1979
	Manuel Soares		Disappeared from Koramil, Luro, December 1979
	Duarte dos Santos		Disappeared from Koramil, Luro, December 1979
	João Freitas	Chefe de aldeia	Killed by Btn 315, 1979
	Antero Teixeira	Fretilin assistente	Disappeared from Luro, 1979
Members of Tonsus	Acacio Alvares Fernandes		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Adão de Jesus Cristovão		Disapppeared, reportedly taken to Dili, April 1979
	Alarico Caetano		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Aleixo Amaral		Disapppeared, reportedly taken to Dili, April 1979
	Armindo Alvares Fernandes		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Artur Amaral		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Domingos Savio		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Duarte Romão Vieira		Disapppeared, reportedly taken to Dili, April 1979
	Eduardo dos Anjos Caetano		Disapppeared, reportedly taken to Dili, April 1979
	Fernando Lopes		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Gil Cristovão		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Inacio		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Joaquim de Jesus		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979

Place/group	Name	Position	Reported circumstances of death/disappearance
	Levorgildo dos Santos		Disappeared, possibly killed in Lacudala, Quelicai, Baucu
	Manuel Patricio Mendes		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Nicolau Quintas		Disappeared, possibly killed in Lacudala, Quelicai, Baucu
	Patricio Fernandes		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979
	Paulino Pereira		Disappeared, possibly killed in Lacudala, Quelicai, Baucau, April 1979

Sources: HRVD Statements 04422, 05332, 00703, 02115, 03979, 02262, 01618, 01615, 02293, 00740, 01649, 01622, 01636, 02257, 02252, 02264, 00793, 00702, 00788, 00706, 00740, 00793, 00737, 00740, 00702, 00741, 00706, 00788, 00713, 01623, 02115, 03979, 02293, 02286, 01604, 02300, 02254, 01650, 02130, 07585, 03968, 09117, 04435, 05369, 05376, 05264, 05365 and 02798; Community Profiles, Fuiloro, Bauro, Lore I, Raça and Home (all Lospalos), Mehara and Loro (both Tutuala), and Iparira and Laiara (Parlamento, Moro); CAVR Interviews with Maria Teresa Corvelo Avila Marcel Sarmento, Dili, 25 September 2005; and José Correia (Calala), Tirilolo, Baucau, 24 March 2004; CRRN Communique.

293. In Lautém around 20 people were executed or disappeared in what appears to have been part of the wider campaign against former Fretilin office-holders and Falintil commanders. However, many of those who were killed or disappeared during this period were people suspected of being involved in clandestine activity at the time of their arrest. Most of the former Fretilin office-holders and Falintil commanders about whom specific information was given to the Commission were executed or disappeared in March–May 1979, at around the same time that their counterparts in other districts were meeting the same fate. Some were working in the Indonesian administration as teachers, nurses or members of the civil administration at the time of their arrest. Others had been in continuous detention since being captured or having surrendered in November 1978. They were typically taken to the Kodim in Lospalos and, after interrogation by members of Kopassandha, they were taken away by members of Battalion 745 and killed. Although many of the victims simply disappeared, in a number of other cases East Timorese who were working with the Indonesian forces as drivers and in other auxiliary roles disclosed the places where the victims were executed. The places most often mentioned were Assalaino, Lausepo and the graveyard near the Battalion 745 headquarters in the village of Fuiloro (Lospalos), athough others were reportedly taken to places further afield, such Ililapa and Kurisa Apa by the Tximo river in Lore and Sapu Ara, Home (Lospalos). Relatives of the disappeared were told that victims had gone on operations or had gone to school or on a course.

294. João Ernestino de Andrade Sarmento was the head nurse in Lospalos before the invasion. He continued to work as a nurse and to train others in nursing in the forest. In 1977 he was arrested in the Eastern Central Sector as an “agent of Xavier” on the orders

of Central Committee members based there and had narrowly escaped execution (see par. 245 above). He surrendered in the town of Uato Carbau (Viqueque) after the fall of the *base de apoio* on Mount Matebian in November 1978.[304]

295. One night in January 1979, after hearing that Hansip in Uato Carbau were planning to kill him, the family escaped to Lospalos. He resumed working as a nurse at the hospital, although every day members of Kopassandha would come to their house to talk to them. On 30 May, at around 9.00pm, a Kopassandha soldier came and took João Ernestino de Andrade Sarmento to the Kodim. He went with his 12-year-old son, João Zinho. João Zinho waited outside the room where his father was being interrogated for several hours before being told to go home. During that time he heard shouting. João Ernestino returned home at around 2.00am. He told Maria Teresa that he had been interrogated, tortured and told to return to the Kodim at 5.00am. His farewell to his family can be imagined. He returned to the Kodim with João Zinho, but at 12 midnight João Zinho was told to go home. João Ernestino never returned home. His widow was told by the man who had driven the vehicle in which they were taken for execution that João Ernestino de Andrade had been killed with several other prisoners in Lausepo. His widow was unable to confirm this information because she was afraid to look for her husband's bones.[305]

296. A husband and wife, ZN and AO, both of whom had been *delegados* in the forest, are both reported to have disappeared in mid-April 1979. AN was reportedly taken from the Kodim in Lospalos to Kurisa Apa by the Txímo River in Lore where he was stabbed to death and his corpse thrown into the river. BN is reported to have been taken to Lausepo with another woman, FO where both were tortured and raped before being machine-gunned to death.[306]

297. Antero dos Santos was taken to the Kodim 1629 in Lospalos shortly after surrendering in Kotamuto (Luro), in February 1979 with two others from Luro, Afonso Albuquerque and Bernadino Carvalho. Approximately one month later he was taken away in a Hino truck in the direction of Motolori together with Afonso Albuquerque, Benedito, Pedro Sanches, and Afonso Savio. Their subsequent fate is not known, although they were seen being driven in the direction of Iliapa.[307]

298. Francisco Sarmento Loy, who had been a *delegado* in the Ponta Leste Sector, was reportedly living in Lospalos when he was picked up in Mehara and killed some time in 1979 by a platoon of Hansip under the command of M239, who personally shot him to death, trussed up his corpse and took it to Lospalos, where it was tied to a military vehicle and dragged through the streets.[308]

299. The largest number of killings and disappearances of people suspected of clandestine activity reported to the Commission occurred in the Com-Mehara region where a group of Resistance fighters led by Xanana Gusmão took refuge after the fall of the *base de apoio* on Mount Matebian.[309]

300. Several groups of people were arrested in this area during June–October 1979 and were executed or disappeared.

301. One target was the family of Humberto da Costa, *colaborador* of the Ponta Leste sectoral command who was hiding in the forest with Xanana Gusmão, and other

suspected Resistance activists from Mehara. Humberto's father, Gonsalo Soares, two of his uncles, Gabriel Soares and Miguel Monteiro, a brother, Alarico da Costa, and four others, Carolino Carvalho, João Caetano, Alcino and Antonio do Carmo, were arrested in Mehara in June 1979 by members of Battalion 745 and taken away. Their subsequent fate is not known, but family members believe, including on the basis of information given to them by members of Battalion 745, that some or all of them were killed at the Upo Piti Cemetery in Lospalos, at the Battalion 745 headquarters in Trisula, Assalaino (Fuiloro, Lospalos) or nearby in Silari. Humberto da Costa, and two other Falintil fighters, one called Martinho, were reportedly killed in combat in an operation involving Battalion 745, Hansip and members of the paramilitary group, Team Nuklir, commanded by the then Sub-district administrator of Moro, Edmundo da Conceição, in the area of Com on 17 October 1979.[310]

302. Hansip members in the Mehara-Com area also came under suspicion and were arrested and disappeared.

303. Seven Hansip from the *aldeia* of Laiara (Parlamento, Moro, Lautém), viz Venancio Gomes, Amaro Amaral, Sebastião Maria Lourdes, Horacio Silverio Lopes, Rodolfo da Costa Junior, Inácio dos Santos and Justino dos Santos, who had been recruited to work as Hansip in the village of Maina I, were summoned to the office of the Moro Koramil on 14 May 1979. There they were interrogated by members of Kopassandha on suspicion of having passed ammunition to Falintil. A few hours later, troops from Battalion 745 came and took them away, supposedly to "go to school". Only one of the seven, Justino dos Santos, reappeared. Their families later heard that at least some of them had been killed by Battalion 745 in Assalaino (Fuiloro, Lospalos) and Sepelata (Bauro, Lospalos) and the bodies of three of the victims were later found in those two places.[311]

304. Victor Pires and Faustino Guimarães from the *aldeia* of Loro (Tutuala) were two Hansip who disappeared in 1979 with several others after being arrested by their commander, M239. When his brother asked M239 about Victor Pires's whereabouts, he was told that he was "working in the forest". However, neither he nor Faustino ever reappeared.[312] According to his elder brother, Victor Pires was a Hansip with Faustino and others whose names have been forgotten, under the command of M239.[313]

305. In Moro (Lautém) at least three separate groups and several individuals suspected of engaging in clandestine activities were arrested and executed around this time, during what appears to have been an operation conducted by Battalion 745 aimed at destroying clandestine networks in the area.*

- Five men from Mua Puso (Aurlopo, Com), Oscar Victor, Duarte, Mário, Pedro and Virgilio, were arrested in June or July 1979 by members of Battalion 745 on the orders of their commander, Captain Joko Himpuno. Later that day, after being tortured at the Battalion 745 post in Com, the five were taken to the

* During 1979, after being held for more than one year in a resettlement camp in Parlamento, villagers in this area were allowed to return to their homes villages. However, ABRI uncovered a clandestine network called Ajuda Nan Maran, and sent the villagers of Muaspusu, Vailovaya and Lohomata to a new resettlement camp in Com where security was in the hands of Battalions 512 and 745 and conditions were reportedly even worse than they had been in Parlamento [CAVR Interview with Edmundo da Cruz, Com, Moro, Lautém, undated].

beach at Etipiti (Com) and killed. Virgilio was reportedly shot in the back of the head and then stabbed in the back by three members of Battalion 745 called M240, M241 and M242. The Babinsa told the families to collect the bodies. The next day members of Battalion 745 burned all the houses in Mua Puso. The men had been active in the clandestine movement, but were arrested reportedly because another man, Caetano Vilanova, had fled to the forest.[314]

- A deponent who was forcibly recruited to take part in this same operation with Battalion 745 under the command of M243, reported that, after burning the houses in Mua Puso the troops moved on to Etepiti where they arrested another five men, Pedro, Kacoli, Julio and José and one other whose name was not known to the deponent, because they were suspected of being members of the clandestine movement. They were taken to the forest and interrogated. Pedro and the fifth man were then taken to the village office in Com; while the other three were taken to a place called Seler. After being heavily beaten, the three were then brought to a place called Keermoko, where they were each in turn beheaded and their bodies left to rot. The deponent later learned that Pedro and Kacoli had also been killed.[315]
- José da Silva been the chief *delegado* in Com (Moro, Lautém). On 15 or 16 June 1979, members of Battalion 745 led by M243 took him, two of his nephews, Martinho da Silva and Pedro dos Santos, another former *delegado*, and their cousin, Julio de Castro, from the *aldeias* of Iraonu and Pitileti in Com to the *aldeia* of Etipeti.[316] The Indonesian commander said that the men were going to go on an operation to Mount Caicere to look for Fretilin and would return after the operation was over. They never did return. According to a statement given to the Commission by his wife, José da Silva had maintained contact with Fretilin on the Com-Mehara border region.[317] Another source told the Commission that Martinho da Silva and Pedro dos Santos used to catch fish which they would give to Fretilin in the forest.[318]
- Probably in 1979, Alcino Fernandes Xavier, Domingos dos Santos and Antonio João Lopes were arrested by soldiers from Battalion 508, members of Hansip and the police, and the sub-district administrator and commander of the paramilitary group Team Nuklir, M244, on suspicion of having engaged in clandestine activities. They were taken to a place in the forest called Adaveri (Serelau, Moro), where Alcino was killed.*
- Estanislau, Afonso, Bendito, Thomás da Costa, Paulo and Rui were arrested in Daudere, Moro some time in 1979 by members of Battalion 745 while the five men were collecting coconuts. They were taken to a place nearby called Leiresi and asked whether they knew Paulino, a Falintil commander still in the forest. When they denied any knowledge of Paulino, they were tied up. That night Estanislau managed to escape, but the others were taken to a place called Serekara (Daudere, Moro) and shot dead. Later that night the others were shot dead. Two deponents heard the shots. The bodies were left unburied for three years at the spot where the killings took place.[319]

* HRVD Statements 02262 (which gives the date as 1978) and 02293 (which gives the date as 1979).

- In another possibly related case in the same area at around the same time, Anudai was arrested in 1979 in the village of Lautém (Moro, Lautém) by a member of Battalion 745 called M245, and a TBO M246, together with Anudai's wife, Libabui 1, the deponent's aunt, Libabui 2 and another family member, Koofou. The four were taken to the beach at Lautém where M245 shot Liabui 1 dead and wounded Anudai in the thigh. M245 informed the other members of the family what had happened, and two of them came to take the body. That evening M245 and M246 returned to re-arrest Anudai, Liabui 2 and Koofou, and took them back to the shore where he shot the three of them dead. The family were too afraid to collect their bodies until three or four years later.[320]

306. Aside from these group arrests, individuals suspected of being in contact with Falintil were also arrested and executed in Moro at this time.

307. Indonesian troops had captured Alcino da Costa Ximenes in June 1977 in Moro and had taken him to Dili, where he was interrogated for four months. When he returned to his home in the village of Serelau in Moro, he continued to be involved in the Resistance clandestinely. Some time in 1978, he was out walking when he was surrounded by troops from Battalion 408, who ordered him to pick coconuts. While he was doing this, he was shot dead. The sub-district administrator, M244, told his wife, while threatening her with a pistol, that Alcino had attacked the Indonesian soldiers and then run off to the forest.[321]

308. In October 1979, a member of the clandestine movement called Antonio da Costa, from Fuiloro (Lospalos, Lautém), received a letter from the Falintil leader, Dinis, to be passed on to the village head, M248. Antonio da Costa delivered the letter to M248, and M248 gave it to the District Military Command (Kodim) in Lospalos. Jaime then arrested Antonio and handed him over to the commander of the Moro Military District Command (Koramil), whose name was M247. M247 ordered Team Nuklir, the paramilitary group commanded by M244, to take Antonio to the District Military Command headquarters (Kodim). In the Kodim Antonio was held with someone called Carlos. When Carlos was released, he related that Antonio had been taken away to some unknown place.[322]

309. Pedro Nogueira, was arrested by members of Brimob (police mobile brigade) in Leven, Com on 20 October 1979, taken to the Battalion 745 headquarters in Trisula, Assalaino (Bauro, Lospalos). There he was tortured, including by having parts of his body slashed with knives and burned. On the same day, three of his children, Amelia, Juliana and Ermenegildo were brought to the Battalion 745 post in Luarai, Fuiluro (Lospalos). There they were interrogated about Pedro, in particular whether he had ever sent help to Falintil, specifically to his son, Julio. The children were beaten during interrogation, but were allowed to go home on 23 October. On the same day, Pedro was shot dead. On 25 October the children were again called to the Battalion 745 post at Luarai, and asked whether Julio had come to Leven since Pedro's death.[323]

310. Members of clandestine groups in other sub-districts of Lautém also disappeared or were executed during this time. In early December 1979 eight persons suspected

of being part of a clandestine network in the sub-district of Luro–Duarte dos Santos, Aleixo Soares (Malimau), Alfredo Ramos, Amelia da Silva, Antonio da Conceição, Hermenegildo da Costa, Manuel Simões and Manuel dos Santos – were ordered by the Sub-district administrator of Luro, M280, to go to the Luro Koramil. The eight were last seen being flown away from the Koramil by helicopter at 6.00am on 3 December 1979. Their families were told that the group were going to take a course in the Indonesian state ideology (Penataran P-4) in Lospalos. Their subsequent whereabouts are unknown.[324]

311. Some time before the disappearance of the eight, a Hansip, Afonso Pinto, had brought CO and Hermenegildo da Costa to the sub-district administrator's house. After Hermenegildo denied knowing anything about a letter from Falintil to the sub-district administrator, the two were threatened but allowed to return home. A few days later, CO was taken to the Battalion 126 post, where another detainee, Alfredo Ramos, was already being held. There she was raped, then told to go home. Early the next morning CO was summoned to the Koramil where the seven others already were. That day they disappeared.* [325]

312. In addition to former Fretilin leaders and Falintil commanders, there were also persons killed at this time who had surrendered earlier and been integrated into the Indonesian occupation regime as members of the civil administration or as auxiliaries to the security forces as Hansip or Tonsus.

313. They included members of the Tonsus led by João Branco, some of whom were reportedly executed in Quelicai (see par. 264 above) and some of whom may have been killed in Lospalos (see Table 14: Killings in Lautém, 1978-79, following par. 292). They also included Orlando Marques, from Raça, who had been captured in February 1976 when Indonesian paratroops landed on the Lospalos plain. He joined the Indonesian civil administration and became sub-district administrator of Iliomar. According to a statement given to the Commission by his wife, he was arrested in Tutuala in June 1979 by members of Battalion 745 and brought to the battalion headquarters in Trisula. His family were not allowed to visit him there and have not seen him since.[326]

314. Through its community profile workshops the Commission also received the names of around 40 other people from villages in the sub-district of Lospalos, who were reported to have been executed or to have disappeared during 1979. Very little is known about the circumstances of their disappearance or execution. A typical case about which more is known than most is that of Mário Provincial, a farmer from the *aldeia* of Vailana

* In what may be a related case Domingos Mário, a TBO at the Koramil in Luro, was arrested for writing a letter to Filomeno Branco for a member of Falintil in the forest. He is reported to have been taken by Indonesian troops from Battalion 305 to a place called Nundelarin, also in Luro, where he was stabbed with a bayonet and burned with cigarettes on the cheek and nine days later was allowed to go home. Three days later he was picked up by Indonesian troops and Hansip and also disappeared [HRVD Statement 04435]. Other individuals arrested at around this time in Luro on suspicion of being in contact with Fretilin/Falintil, who subsequently were killed or disappeared, were João Freitas, head of the *aldeia* of Buanumar (Kotamuto, Luro) [HRVD Statement 02798], Casimiro dos Santos Alegria, a former *assistente* from Baricafa, Luro (who was reportedly killed by Indonesian forces at Darapu'u, Baricafa in 1979 some time after his capture on Mount Matebian in 1978 [HRVD Statement 09117]) and Antero Teixeira, a former *assistente*.

in Lore I Village, who was 56 years old at the time of his death. According to a statement given to the Commission, he was taken away with two other villagers by members of Battalion 745 in December 1979, ostensibly to make a hut for the battalion. In fact they were brought to a place nearby and, on the basis of gunfire overheard by another villager, are all believed to have been shot dead.[327]

Manufahi District

Table 15: Unlawful killings and enforced disappearances in Manufahi District, 1978–1979

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Alas					
Anselmo	Falintil		Beaten to death by ABRI in Alas	ABRI	Community Profile, Debu-Waen, Mahaquidan, Alas
Manuel Luis	Falintil	Captured 1978	Killed by ABRI at Uma Metan	ABRI	Community Profile, Lurin, Taitudak, Alas
Florindo da Costa	Falintil	Captured 1978	Killed by ABRI at Uma Metan	ABRI	Community Profile, Lurin, Taitudak, Alas
Duarte Almeida			Killed Uma Metan, February 1979		HRVD 01587, 01506, 01576; Community Profile, Taitudak, Manus, Alas
João da Silva			Killed Uma Metan, February 1979		HRVD 01576; Community Profile, Taitudak, Manus, Alas
João Martins Fernandes			Killed Uma Metan, February 1979		HRVD 01576; Community Profile, Taitudak, Manus, Alas
Remigio Baptista			Killed Uma Metan, February 1979		HRVD 01576; Community Profile, Taitudak, Manus, Alas
Luis Monteiro			Killed Hato-Udo, February 1979		HRVD 01576; Community Profile, Taitudak, Manus, Alas

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Antonio Cepeda	Secretario Zona Same	Manu-Mera, Alas, March 1979	Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750
Antonio Lisboa	Comandante de pelatao	Manu-Mera, Alas, March 1979	Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750
Luis Marçal	Secretario de suco Letefoho	Manu-Mera, Alas, March 1979	Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750, Community Profile Letefoho
José Henrique	Comandante de companhia	Manu-Mera, Alas, March 1979	Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750
Mateus Cortereal	Comandante de Zona Same	Hatu Rai, Same, March 1979	Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750
Jaime Sarmento	Comandante de Zona Maubisse	Hatu Rai, Same, March 1979	Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750
Pedro Cortereal	Secretario de suco Holarua	Hatu Rai, Same, March 1979	Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750, 04081?, 04073?
Martinho Cortereal	Comandante peletao	Hatu Rai, Same, March 1979	Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750, 04081?, 04073?

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Armando da Silva	Comandante		Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750
Vidal	Comandante		Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750, Community Profile Letefoho
Luciano	Comandante		Killed Halikuloli by Hansip after interrogation and torture by Kodim and Kopassandha, March 1979	Kodim, Kopassandha and Hansip	HRVD 04750, Community Profile Letefoho
Manuel Adao			Killed by Hansip in Uma Metan, Alas, 1979	Hansip	HRVD 05410
Marcal Osvaldo			Killed by Hansip in Uma Metan, Alas, 1979	Hansip	HRVD 05410
João Bosco Francisco	Colaborador Alas		Disappeared from Uma Metan, Alas, March 1979	Btn 401/ Hansip?	HRVD 05153, 03427, 03429, 03401. 04071; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi
José Maria (Mausiri)	Adjunto	Kolkeu, 11 March 1979	Disappeared from Uma Metan, Alas, March 1979	Btn 401/ Hansip?	HRVD 05153, 03427, 03429, 03401. 04071, 04088; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi; Ringkasan Kasus
Ermelita Coelho (Siri Lou)	OPMT Alas	Kolkeu, 11 March 1979	Disappeared from Uma Metan, Alas, March 1979	Btn 401/ Armed 10/ Hansip?	HRVD 05153, 03427, 03429, 03401. 04071, 04088; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi; Ringkasan Kasus

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Eduardo dos Anjos (Kakuk)	Fretilin Central Committee	Kolkeu, 11 March 1979	Disappeared from Uma Metan, Alas, March 1979	Btn 401/ Armed 10/ Hansip?	HRVD 05153, 03427, 03429, 03401. 04071, 04088; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi; Ringkasan Kasus
Placido da Costa	Comandante de companhia	Disappeared from Uma Metan, Alas, March 1979	Disappeared from Uma Metan, Alas, March 1979	Hansip	HRVD 05153, 03427, 03429; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi
Hipolito Fernandes	Comandante de peletao	Disappeared from Uma Metan, Alas, March 1979	Disappeared from Uma Metan, Alas, March 1979	Hansip	HRVD 05153, 03427, 03429; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi
Benjamin da Costa	Comandante Serac, Alas	Disappeared from Uma Metan, Alas, March 1979	Disappeared from Uma Metan, Alas, March 1979	Hansip	HRVD 05153, 03427, 03429, 03414, 03442; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi
Isidoro Fernandes	Falintil	Disappeared from Uma Metan, Alas, March 1979	Disappeared from Uma Metan, Alas, March 1979	Hansip	HRVD 05153, 03427, 03429; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi
Antonio Vicente		Disappeared from Uma Metan, Alas, March 1979	Disappeared from Uma Metan, Alas, March 1979	Hansip	HRVD 05153, 03427, 03429; Community Profile Debu-Waen, Mahaquidin, Alas, Manufahi
Vicente Antonio Dias			Killed between Uma Metan and Betano,1979	ABRI	HRVD 03431
Herminio Baptista			Killed in Lebos, 10 or 11 March 1979	Hansip/Linud 100	HRVD 04071, 04069, 04088, 04100, 04069
Estevao da Costa			Killed in Lebos, 10 or 11 March 1979	Hansip/Linud 100	HRVD 04071, 04069, 04088, 04100

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Maliuca			Killed in Uma Metan, Alas, 10 or 11 March 1979	ABRI/Hansip	HRVD 04088, 04100
Francisco da Silva	Delegado		Killed in Uma Metan, Alas, 10 or 11 March 1979	ABRI/Hansip	HRVD 04088, 04100
Pedro Pereira			Killed in Uma Metan, Alas, 10 or 11 March 1979	ABRI/Hansip	HRVD 04088, 04100
Vidal Cina da Cruz	Comandante	Betano, 1979	Killed in Uma Metan, Alas, 10 or 11 March 1979	ABRI/Hansip	HRVD 04088, 04100
Francisco da Conceicao	Delegado	Betano, 1978	March or July 1979; disappearance; reported killed at Karau Ulun River, Betano	ABRI/Hansip	HRVD 04073, 04081, 04085; CAVR Interview with Saturnino Tilman
Franco da Costa	Assistente Politica	Betano, 1978	March or July 1979; disappearance; reported killed at Karau Ulun River, Betano	ABRI/Hansip	HRVD 04073, 04081, 04085; CAVR Interview with Saturnino Tilman
Paulino Veridial (Teli)	Delegado	Betano, 1978	March or July 1979; disappearance; reported killed at Karau Ulun River, Betano	ABRI/Hansip	HRVD 04073, 04081, 04085; CAVR Interview with Saturnino Tilman
Martinho Pereira (Aulaco)	Delegado, Ailalu	Betano, 1978	March or July 1979; disappearance; reported killed at Karau Ulun River, Betano	ABRI/Hansip	HRVD 04073, 04081, 04085; CAVR Interview with Saturnino Tilman
Sebastiao Nunes	Vice-Delegado	Betano, 1978	March or July 1979; disappearance; reported killed at Karau Ulun River, Betano	ABRI/Hansip	HRVD 04073, 04081, 04085; CAVR Interview with Saturnino Tilman
Bernadino Almeida			March or July 1979; disappearance; reported killed at Karau Ulun River, Betano	ABRI/Hansip	HRVD 04073, 04081, 04085

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Clementino da Conceicao			March or July 1979; disappearance; reported killed at Karau Ulun River, Betano	ABRI/Hansip	HRVD 04073, 04081, 04085
João Nascimento Pires		Nu Laran, Taitudak, Alas	1979; disappeared; reported killed by Hansip in Laclo	Hansip	HRVD 0342, 00802, 03433
Edmundo Amaral			1979; killed by ABRI in Fore Karin, Dotik, Alas	ABRI	HRVD 03438
Crispin			1979; killed in Uma Metan	Hansip	HRVD 04023
Eulalia		Uma Metan, Taitudak, Alas	10 May 1979; killed by Soisara River, Mahaquidan, Alas	Hansip	HRVD 03423, 03456
Turiscai					
Alucio Barbosa	Delegado	Ailelek, Fahinehan, 1979	1979; shot dead in Manumera by Koramil/Hansip/ Linud100/Linud 700	Koramil/ Hansip/ Linud100/ Linud 700	HRVD 06610, 06610, 06525; Community Profile, Manumera, Turiscai
João Dias	Delegado	Aimoulako, Fahinehan, January 1979	February 1979; beaten to death in Manumera	Hansip/Linud 100	HRVD 03491, 03790; Community Profile, Manumera, Turiscai
Tome	Delegado		1979; killed by Hansip in Fatufaelaran, Turiscai	Hansip	Community Profile, Beremeana, Turiscai
Lequibere			1979; killed by Hansip	Hansip	Community Profile, Beremeana, Turiscai
Antonio Monteiro			1979; killed by Hansip	Hansip	Community Profile, Beremeana, Turiscai
Valente Soares			February 1979; killed in Manumera	Linud 100	HRVD 03491, 03790
Mauhalik			February 1979; killed in Manumera	Linud 100	HRVD 03491, 03790

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Nidal			February 1979; killed in Manumera	Linud 100	HRVD 03491, 03790
Armindo Godinho			1979; shot dead in Mindelo	Hansip	Community Profile, Manumera, Turiscai
Berehunuk		Foholau, Turiscai, February 1979	1979; shot dead in Datarua, Fahinehan	Hansip	Community Profile, Manumera, Turiscai
Beremalik		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD 06440
Bere Leki		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD
Ta Mali		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD
Mau Leki		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD
Mau Leki		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD
Mau Leki		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD
Maubere		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
José		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD
Two others		Foholau, Turiscai, February 1979	22 February 1979; shot dead at Saibololo River in Foholau, Turiscai, by Hansip	Hansip	CAVR Interview with Felimina Soares; HRVD
Sebastiao		Foholau, Turiscai, February 1979	23 February 1979; shot dead at Hulala, Liurai between Foholau and Turiscai	Hansip	CAVR Interview with Felimina Soares; HRVD
Maubere		Foholau, Turiscai, February 1979	23 February 1979; shot dead at Hulala, Liurai between Foholau and Turiscai	Hansip	CAVR Interview with Felimina Soares; HRVD
Maubere		Foholau, Turiscai, February 1979	23 February 1979; shot dead at Hulala, Liurai between Foholau and Turiscai	Hansip	CAVR Interview with Felimina Soares; HRVD
Fatuberliu					
Berleki	Falintil		Killed, Saluki, Fatuberliu, 1978		
Marubi	Falintil		Disappeared after capture by ABRI in Wailuhu, Fatuberliu, 1978		
Antonio	Falintil		Disappeared after capture by ABRI in Wailuhu, Fatuberliu, 1978		
Berloi	Falintil		Disappeared after capture by ABRI in Wailuhu, Fatuberliu, 1978		
Adriano Gomes		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776
Bi-Luis		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Cristiano da Costa		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776
Francisco da Costa		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776
Ijimenio da Costa		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776
Inacio da Costa		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776
Jaimito		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776
Lekibere		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776
Maubere		Captured in Aicora, Alas, 1978	Killed by Hansip in Laututo, Fahinehan	Hansip	HRVD 04776
Arneu	Falintil	Captured in Fatuberliu, 1979	Beaten to death at Kopassandha base in Fatuberliu	Kopassandha	HRVD 03018
Ricardo Lobato			Shot dead by ABRI near house in Betun Laku, Clacuc, Fatuberliu, 1979		HRVD 03449
Humberto Hornai	Comandante de companhia		February 1979; shot dead in Welalika, Fatuberliu	Hansip/ Koramil	HRVD 03464; Community Profile Caicasa, Faturberliu
Augusto de Jesus	Comandante, Armas Brancas		February 1979; shot dead in Welalika, Fatuberliu	Hansip/ Koramil	HRVD 03464; Community Profile Caicasa, Faturberliu
Francisco Ximenes	Comandante de pelotao		February 1979; shot dead in Welalika, Fatuberliu	Hansip/ Koramil/ Linud 100	HRVD 03464, 03455; Community Profile Caicasa, Faturberliu
José Ximenes	Povo		February 1979; shot dead in Welalika, Fatuberliu	Hansip/ Koramil	HRVD 03464; Community Profile Caicasa, Faturberliu

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Luis de Andrade (Amatuak)	Comandante de companhia	Aidikmean Tutun, Alas	8 April 1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Jorge da Costa (Jorge de Jesus)	Comandante	Aidikmean Tutun, Alas	5 April 1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Pedro Abilio	Soldier	Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Hilario	Comandante, Armas Brancas	Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Joaquim Magalhaes	Comandante de companhia	Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Martins da Costa	Falintil	Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
João Cairo	Falintil	Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Borfiri		Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Webere		Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Tetiseran		Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
Berkoli		Aidikmean Tutun, Alas	1979; killed in Fatuberliu Old Town (Welaloho?)	Hansip/ABRI	Community Profile, Fatucahi, Fatuberliu
João Abilio Fernandes			1979; killed, Fatuberliu		AI (1985)
João Raul (João Gentio)			1979; killed, Fatuberliu		AI (1985)
Moises Tilman de Araujo			1979; disappeared, Fatuberliu		AI (1985)
Luis Alves			1979; killed at Btn 643 post in Aidiklaran, Fatukmutin, Caicasa, Fatuberliu	Btn 643	HRVD 03470

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Francisco Ximenes		Caicasa, Fatuberliu	1979; shot dead by Linud 100	Linud 100	HRVD 03455
Tobias da Costa		Fatucahi, Fatuberliu, February 1979	1979; disappeared while in custody of Btn 745	Btn 745	HRVD 03424
Caetano de Araujo		Fatucahi, Fatuberliu, February 1979	1979; disappeared while in custody of Btn 745	Btn 745	HRVD 03424
Martins		Fatucahi, Fatuberliu, February 1979	1979; disappeared while in custody of Btn 745	Btn 745	HRVD 03424
João Marmede		Fatucahi, Fatuberliu, February 1979	1979; disappeared while in custody of Btn 745	Btn 745	HRVD 03424
Antonio Fernandes	Comandante de batalhao	Welamusa, Fatucahi, Fatuberliu, December 1978/early 1979	Killed by Hansip in Fatuberliu Town	ABRI/Hansip	HRVD 03424, 07021,Community Profile, Clacuc, Fatuberliu
Zaulino Borges Torazao	Comandante	Welamusa, Fatucahi, Fatuberliu, December 1978/early 1979	Killed by Hansip in Fatuberliu Town	ABRI/Hansip	HRVD 03424; Community Profile, Clacuc, Fatuberliu
Marcos da Costa Fernandes	Assistente	Welamusa, Fatucahi, Fatuberliu, December 1978/early 1979	Beaten to death by Hansip in Fatuberliu Town	ABRI/Hansip	HRVD 03482, 03278: Community Profile, Clacuc, Fatuberliu
Francisco Fernandes	Comandante	Welamusa, Fatucahi, Fatuberliu, December 1978/early 1979	Killed by Hansip in Fatuberliu Town	ABRI/Hansip	Community Profile, Clacuc, Fatuberliu
Luis Ximenes	Falintil	Surrender in Aubaha, Clacuc, Fatuberliu, 1979	Killed by Hansip on top of Mount Clacuc, 1979	Hansip	HRVD 03487, 03488

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Carlos Carlito		Surrender in Aubaha, Clacuc, Fatuberliu, 1979	Killed by Hansip on top of Mount Clacuc, 1979	Hansip	HRVD 03487, 03488
Francisco Lopes	Comandante de pelatao	1979	Killed by Hansip at Fatuk Mutin, Welaluhu, Fatuberliu Lama	ABRI/Hansip	HRVD 03471
Francisco da Cruz	Comandante	Riamori, 1979	Killed by Linud 100 in Riamori	Linud 100	HRVD 03474, 03492
João Baptista		1979	Killed	ABRI	HRVD 03492
João Tariri		Caicasa, Fatuberliu, 13 January 1979	Disappeared; reported killed in Baberuk, Fatuberliu	Linud 100	HRVD 03464
Prudencio Maia	Colaborador Sector Centro Sul	15 April 1979; captured by Linud 100	Killed in front of family on 24 April at Fatubessi, Welaluhu, Caicasa, Fatuberliu by Hansip	Linud 100/ Hansip	HRVD 04030
Felisberto Gouveia Leite	Nurse attached to Comissão de Apoio e Solidaridade (CAS)	January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	HRVD 05759; Testimony of Maria da Costa; CAVR Interview with Bernardo da Costa: AI (1985)
Alexandrina Amelia Augusta Pires Leite	Wife of Felisberto	January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	HRVD 05759; Testimony of Maria da Costa; CAVR Interview with Bernardo da Costa: AI (1985)

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Maria Auxiliadora Filomena Pires Leite (Karilesu)	Child of Felisberto and Alexandre Amelia; wife of Rogerio Lobato; member of CAS	January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	HRVD 05759; Testimony of Maria da Costa; CAVR Interview with Bernardo da Costa: AI (1985)
Dulce Maria Pires Leite (Ililoe)	Child of Felisberto and Alexandre Amelia; member of CAS	January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	HRVD 05759; Testimony of Maria da Costa; CAVR Interview with Bernardo da Costa: AI (1985)
Rui Manuel Baptista Pires Leite	Child of Felisberto and Alexandre Amelia	January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	HRVD 05759; Testimony of Maria da Costa; CAVR Interview with Bernardo da Costa: AI (1985)
Maria de Fatima Baptista Pires	Child of Felisberto and Alexandre Amelia	January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	HRVD 05759; Testimony of Maria da Costa; CAVR Interview with Bernardo da Costa: AI (1985)

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Aurea Fontes Gusmao (Olo Bere)	Foster child of Felisberto and Alexandre Amelia; member of CAS	January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	HRVD 05759; Testimony of Maria da Costa; CAVR Interview with Bernardo da Costa: AI (1985)
Domingos	Bodyguard	January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	CAVR Interview with Bernardo da Costa
Pedro Kulo		January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	CAVR Interview with Bernardo da Costa
Cancio		January 1979; captured/ surrendered in Aituha/ Raimaliak, Alas?	Disappeared February–March 1979 after being transferred from resettlement camp in Fahinehan to custody of Linud 100 in Fahinehan church, Fatuberliu; reported to have been killed at Ailui, Fahinehan	Linud 100	CAVR Interview with Bernardo da Costa

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Same					
Pedro Maumanas	Comandante, Armas Brancas	Wounded and captured in Dolok, Alas by ABRI, 1978	Killed by ABRI in Betano,1978	ABRI	Community Profile, Debu-Waen, Mahaquidan, Alas
Mali Mau		Captured in Likbau, Ulu, Same, 1978	Killed on spot after capture by Hansip	Hansip	HRVD 04918
Mau Buti	Falintil		Taken from home by Hansip on orders of ABRI and killed in Bukuil Ulun, Rototu, Same, February 1978(9?)		HRVD 04765
Lelo Sea	Falintil		Taken from home by Hansip on orders of ABRI and killed in Bukuil Ulun, Rototu, Same, February 1978(9?)		HRVD 04765
Alcino da Costa Vidal	Fretilin delegado, Aldeia Biti-Makerek, Alas		Killed by ABRI on 7 August 1978 in Betano	ABRI	HRVD 05434
Luis Gonzaga			Killed by Hansip in Same Town shortly after surrender, 1979	Hansip	HRVD 04727, 04732
Mário Fernandes			Killed by Hansip in Same Town shortly after surrender, 1979	Hansip	HRVD 04727, 04732
Quei No	Fretilin, chefe de suco Tutuloro		Killed by ABRI in 1979 in Daisua, Same	ABRI	HRVD 05421
Kotimeta			Killed by Hansip in Daisua, Same, 1979	Hansip	Community Profile, Daisua, Same
Kosteti			Killed by Hansip in Daisua, Same, 1979	Hansip	Community Profile, Daisua, Same
Baresi			Killed by Hansip in Daisua, Same, 1979	Hansip	Community Profile, Daisua, Same

Name	Position	Date and place of capture/ surrender	Date of execution/ disappearance	Perpetrator	Source(s)
Daukolik			Killed by Hansip in Daisua, Same, 1979	Hansip	Community Profile, Daisua, Same
Raimundo			Beaten to death by Hansip in Betano, 1979	Hansip	HRVD 04091
About 20 people			Disappeared from Same school building, 1979	Hansip/ABRI	HRVD 05408

315. By late 1978, many inhabitants of the sub-districts of Turiscai, Same, and Fatuberliu had fled to the sub-district of Alas to escape the Indonesian occupation forces. During the years since the invasion, many villagers had taken a tortuous route, including diversions west to Mount Kablaki and east to Lequidoe, before reaching Alas. Much of the population of Alas itself had stayed in the sub-district throughout the years since the invasion, although after ABRI entered Betano in early 1976 many had fled north and west to the mountains before returning to Alas by the time of the Indonesian offensive in 1978. The population of Alas had also been swelled by people from other districts, including Aileu, Manatuto, Ainaro, Dili, Liquiçá and Viqueque.[328] On surrender or capture in late 1978 and early 1979, many of those who had come from Turiscai, Same and Fatuberliu were returned to the sub-district *postos*, where they were concentrated under ABRI control. However, large numbers of outsiders were not returned to their home sub-districts, but were forced to remain in Alas. The largest concentration of these people was held in Uma Metan on the slopes of Mount Lebos. By early 1979 a mixed detachment of ABRI forces was holding around 8,000 displaced people in Uma Metan from all these areas. (see Vol. II, Part 7.4: Unlawful Killings and Enforced Disappearances)

316. Following the surrenders and captures of late 1978 and early 1979, large numbers of people were killed or disappeared in Manufahi. In the course of its research the Commission was given the names of 140 people from all the sub-districts of Manufahi who were killed or disappeared during this period. The largest number of deaths occurred in the sub-district of Alas, particularly in or around Uma Metan. The sub-district of Fatuberliu is believed to have suffered the second largest number of killings in the district.* In each of the sub-districts of Manufahi specific groups of Hansip acting on the orders of ABRI units were the direct perpetrators of many of the killings reported to the Commission. A large number of the victims were people who had been active in the Resistance as Fretilin officials or Falintil commanders.

* Although there were relatively fewer cases in Same Sub-district, there were some [see HRVD Statements 07021, 04765, 04727, and 04732; and CAVR Community Profile, Daisua Village, Same Sub-district, Manufahi District, 3 July 2003]. The relatively small number of cases reported to have occurred in Same is probably accounted for by the proximity of Uma Metan, to which a number of victims originating from Same were reported to have been transferred.

Alas

317. According to information received by the Commission, several groups of people were executed in or disappeared from Uma Metan shortly after their surrender or capture in early 1979.*

318. The community of Manus came out of the forest in February 1979 and surrendered in the area of Tutuloro in Alas. Shortly after, four men from Uma Metan, viz Duarte Almeida, João da Silva, Martins Fernandes and Remigio Baptista, were taken by Hansip led by Capela Ferrão and disappeared. A fifth man, Luis Monteiro, fled and sought refuge in Hato-Udo (Ainaro), but was tracked down by M249 and his men and killed.†[329]

319. A group of at least 12 Fretilin officials and Falintil commanders from the sub-districts of Same and Alas were reportedly executed at Uma Metan after being captured in March 1979. They were: Antonio Cepeda, Same Zone Secretary; Antonio Lisboa, Falintil platoon commander; Luis Marçal, village secretary of Letefoho (Same); José Henrique, a Falintil company commander; Mateus Cortereal, commander of the Same Zone; Jaime Sarmento, commander of Maubisse Zone; Pedro Cortereal, secretary of the village of Hola Rua (Same); and Martinho Cortereal, a platoon commander; Armando da Silva; Jaime; Vidal; and Luciano.

320. All had reportedly been taken to the Kodim in Same after capture and held there for several days. While in the Same Kodim they were reportedly tortured by the Kodim commander, Lieutenant Colonel M250, and members of Kopassandha. They were then transferred to the custody of the Kopassandha commander at Uma Metan, Captain M251. From there they were transferred to a Hansip team led by M249, and executed.[330]

321. Separately a group of Falintil members from Alas were also reportedly killed at or near Uma Metan. They included João Bosco Fernandes, *colaborador* for the Alas sector; Placido da Costa, Falintil Company Commander; Hepolito Fernandes, a platoon commander; Benjamin da Costa, a commander; Isidoro Fernandes, a member of Falintil; and Antonio Vicente, deputy Zone commander.[331]

322. Among the last to surrender in the sub-district of Alas were the Adjunto Mausiri (José Maria), a Fretilin Central Committee member, Eduardo dos Anjos (Kakuk), and

* In addition to the groups whose cases are described below, cases of individuals who were executed or disappeared were also reported to the Commission, such as the disappearances of the commander of the Força Defesa (FADE, Armas Brancas) in Alas, Pedro Matumanas [CAVR, Community Profile, Debu-Waen, Mahaquidan, Alas Sub-district, Manufahi District, 3 December 2003 and the execution of José Nascimento Pires, who was reportedly picked up by Hansip and taken on patrol to Turiscai where he was shot dead. [HRVD Statements 00802, 03433, and 03442].

† The killing of these four was apparently the continuation of a cycle of violence that dated back to the civil war. M249's father, M254, a UDT leader in Alas, was believed to have been implicated in the killing of 11 Fretilin activists in Wedauberek on 27 August 1975 (Alas, Manufahi). When Fretilin took control of Alas in early September 1975, they arrested M254. He managed to escape but was found by a group of Fretilin activists that included M255, M256, M256 Fernandes and M257, and killed [see section 7.2.4.5, above, and HRVD Statements 01585, 01597, 01599 and 03426].

an 18-year-old OPMT official, Siri Lou (Ermelita Coelho). Several groups of those who surrendered were sent back into the forest to find them. In March 1979 seven people were ordered by Airborne Infantry battalion Infantry 700 to go back into the forest to look for the three. They found them at a place called Kolkeu. All three were severely wounded and were easily persuaded to give up their firearms. A helicopter was sent in to bring them back to Uma Metan. According to a statement given to the Commission by Alfredo da Costa Coelho, father of Ermelita Coelho, she had been "sent to school" in February 1979, meaning that she had been killed with Adjunto Mausiri by Armed 10 (Artileri Medan, Field Artillery) and Hansip (M249, M252 and M253) after Kopasssandha had handed them over.[332]

323. In March 1979 a Hansip, Luciano Ribeiro, was asked to draw up a list naming those among the people who had surrendered in Betano in late 1978 who were Fretilin leaders. Among those on the list were: Francisco da Conceição, a former *delegado*; Franco da Costa, a former *assistente*; Paulino Verdial (Paulino Teli) a former *delegado*, Martinho Pereira Aulaku, a former *delegado*; and Sebastião Nunes, a deputy *delegado*. For a time some of them were put to work building roads with a 200-strong gang of those who had surrendered, while others, including Sebastião Nunes, went as TBOs on an operation in Alas, Tutuluru and Mindelo. Then in March, 13 people, including the five on the list, were summoned by the *liurai*, M258 and the village chief, M31, and told that they were going to be "sent to school". The five came home to pick up their clothes. They have not been seen since. They were reportedly killed at the Karan Ulun River in Betano.[333]

324. Around 10 March 1979 another group of 14 men, all of whom had been members of Falintil, were taken from Betano to Uma Metan. They included three section commanders, Vidal da Cruz, Herminio da Costa (from Selihasan) and Estevão da Costa (from Wedauberek), and Maliuca, Francisco da Silva and Pedro Pereira. According to eyewitnesses, Vidal da Cruz and Francisco da Silva were picked out by Indonesian soldiers from a group of prisoners that was cutting grass, saying that they were going to cut wood. Shortly after the rest of group heard gun shots. Then the Indonesian soldiers called out Maliuca and Pedro Pereira, and again the group heard gun shots. The following day, while the rest of the group was being given maps and travel passes (*surat jalan*) in preparation for going out to search for Mausiri and Kakuk, the Indonesian soldiers selected Estevão da Costa and Herminio da Costa. As the rest of the group left Uma Metan to look for Mausiri and Kakuk, they heard the sound of gun shots coming from the direction of Lebos.[334]

Turiscai

325. A similar pattern of targeted killings of surrendered and captured people with leadership positions in Fretilin and Falintil also emerges in Turiscai. One *delegado*, Alucio Barbosa from Foholau, was reportedly shot dead by ABRI or Hansip, reportedly for complaining about the small amount of food given to a group forced to build roads, which gave rise to the accusation that he was "making politics".[335] The local Hansip under the command of M260 (see section on Massacre in Foholau, above) also reportedly beat to death another *delegado*, João Dias, in Manumera and shot dead two other Fretilin activists, Armindo Godinho and Berehunuk.[336]

Fatuberliu

326. In Fatuberliu the local Koramil, the Airborne Infantry battalion battalions, Airborne Infantry battalion Battalion 100, and Airborne Infantry battalion Battalion 745, again with Hansip support, executed many people formerly associated with Fretilin or Falintil, including ordinary members of both organisations, as well as ordinary people. After the people of the sub-district had been concentrated in the town of Fatuberliu, the Koramil commander picked out supposed Fretilin and Falintil leaders with the help of the sub-district administrator, M261. Those selected were Umberto Hornai, a Falintil company commander, Augusto de Jesus, a FADE commander, Francisco Ximenes, a platoon commander, and José Ximenes, described as "one of the people". They were handed over to a Hansip unit from Soibada (Manatuto), led by M262 and M263, and shot dead.[337]

327. The same Hansip unit is reported to have also killed another mixed group of Falintil commanders and ordinary people in Fatuberliu. It consisted of three commanders, Luis Amatuak, Jorgé da Costa and Hilario, three Falintil soldiers and four others, three of whose ages are given as 70.[338]

328. A similar pattern of gross violence directed primarily but not exclusively at Fretilin and Falintil members and their families emerges from the accounts from Fatuberliu from this time. Thus, for example:

- After a group of Falintil surrendered in Fatucahi, Fatuberliu, in February 1979, they were disarmed and beaten. Four of them, Caetano de Araújo, Tobias da Costa, Martins and João Marmede, reportedly after giving false information about the whereabouts of Fretilin, were taken out and disappeared.[339]
- Another group of Fretilin and Falintil leaders, comprising an *assistente* Marcos da Costa, a battalion commander, Antonio Fernandes, and two other commanders, Zaulino Torrezão and Francisco Fernandes were captured in Wemerek (Alas) and sent to Fatuberliu where they were reportedly killed by Hansip led by M262. According to a statement given to the Commission, Marcos had been told by his captors to take a letter to M262. When he handed over the letter, he was beaten with a hammer on his forehead, his ears were cut off and he was ordered to eat them, and a few hours later he was shot dead.[340]
- Fifty-year-old DO, a Falintil commander, came to surrender with his family in Riamori (Fahinehan, Fatuberliu) in 1979. The village chief, M270, told members of Airborne Infantry Battalion (Linud Yonif) 100 that as a commander, he had to be killed or his womenfolk raped. He was in fact killed, but subsequently Infantry Battalion 100 repeatedly raped two of his daughters until Infantry Battalion 100 was replaced by another battalion, 643, in 1980. The daughters were told that they were being raped because one of their brothers was still in forest.[341]
- In 1979 Francisco Lopes, a Falintil platoon commander, came down from the mountains to surrender to the TNI. He was ordered to go home. Later two of the Hansip from Soibada, took Francisco to Fatuk Mutin (Welaluhu, Fatuberliu), where he was shot dead by M271.[342]

- On 15 April, Prudencio Maia, a former Falintil *colaborador* for the South Central Sector, was captured by Airborne Infantry battalion 700 troops. After nine days in detention, he was allowed back to his home in Fatuberliu to visit his family. On 24 April, Hansip, led by M271 and M263, came to Prudencio's house and took Prudencio to a place called Fatubessi (Welaluhu, Caicasa, Fatuberliu), where the seven ordered him to turn his back to them and shot him dead. His family were brought to witness the killing.*

A mass execution in Fahinehan

In February or March 1979, 12-14 people, including seven members of a single family, were executed at Ailui, about one kilometre from the Fahinehan resettlement camp in Fatuberliu. Among those killed were the father of the family, Felisberto Gouveia Leite, who had worked as a nurse in the forest, and three of his daughters, who had worked with the Comissão de Apoio e Solidaridade (Solidarity and Support Committee, CAS), which had provided food for those in need in the forest (see Vol. II, Part 7.3: Forced Displacement and Famine). One of the daughters, Maria Auxiliadora Filomena Pires, was the wife of Rogério Lobato. The Commission was told that until they were executed, they had been living with everybody else in the Fahinehan resettlement camp after surrendering in January 1979. The Commission was also told that Indonesian soldiers had persistently harassed Filomena, trying to get her to be an ABRI wife, but she had persistently rejected them. One day the family were told that they were going to be taken to Dili by plane. They were escorted out of the camp by troops from Airborne Infantry Battalion 100. When the people in the camp heard gun shots, they thought that it was nothing unusual, just that ABRI was killing buffalo again. The Commission has received the names of ten of the people who were shot dead:

- Felisberto Gouveia Leite, husband
- Alexandrina Amelia Augusta Pires Leite, wife
- Maria Auxiliadora Filomena Pires Leite (Karilesu), child and wife of Rogério Lobato
- Dulce Maria Pires Leite (Ililoe), child
- Rui Manuel Baptista Pires Leite, child

* HRVD Statement 04030. Other killings in Fatuberliu are reported in HRVD Statements 03464, 03470 and 03455.

- Maria de Fatima Baptista Pires Leite, child
- Aurea Fontes Gusmão (Olo Bere), foster child
- Domingos, family bodyguard
- Pedro Kulo, "a Portuguese"
- Cancio, "a Portuguese".[343]

Uatolari, Viqueque

Table 16: Persons reported to CAVR to have been killed/disappeared after detention in Uatolari, November–December 1978 and March–April 1979

Name	Position	Place of origin	Date of killing/ disappearance	Circumstance of killing/ disappearance
Acacio				
Acacio de Carvalho	Fretilin/OPJT Matahoi	Afaloicai		
Adelino de Carvalho	Fretilin soldier	Afaloicai, Lena	January–April 1980 (1979?)	
Adolfo		Uato Carbau		
Afonso		Matahoi	1979	
Afonso Barreiro			1983	
Afonso Henrique Freitas		Matahoi		
Afonso Manu Uai		Ossu	Feb-79	
Afonso Menezes	Fretilin		25/11/78	
Agapito Aquino	Falintil		15/3/79	
Alfredo	Fretilin	Afaloicai, Uatolari	January–April 1980 (1979?)	
Alfredo Pereira			Feb-79	
Alfredo Ribeiro			23/11/78	
Amaro		Bobo Laco, Macadique		
Amaro Lourenço Ximenes	Falintil	Macadique		
Amelia			25/3/92	
Antonio da Costa		Ossu, Uaibobo		
Antonio da Costa		Afaloicai, Uatolari		

Name	Position	Place of origin	Date of killing/ disappearance	Circumstance of killing/ disappearance
Antonio do Rosario		Afaloicai		
Antonio Miguel		Ossu, Uaibobo		
Antonio Naco Lai		Ossoai Ua, Afaloicai		
Armando		Afaloicai, Uatolari		
Armindo		Afaloicai		
Bobu		Aba Dere, Babulo	1978	
Cai Mau		Vessoru, Bahabuga		
Cai Mau		Aba Dere, Babulo		
Cai Mau		Macadique		
Celestino		Caidana Lari, Macadique		
Chiquito		Bai Uari, Matahoi		
David Lebre		Uato Carbau	January–April 1980 (1979?)	Detention/ disappearance
David Loi Siba	Comandante Zona Uato Carbau		23/11/78	Disappearance
Domingos		Uma Kiik, Uaitame		
Domingos Hernani			Feb-79	Detention (Ossu)/ Disappearance
Domingos Rosario		Afaloicai	00/00/78	Killing
Domingos Torres		Sana, Uaitame		
Duarte da Costa			Jan-79	Killing
Eduardo	Falintil		1979	Killed outside combat
Ereleto	Fretilin		1976	Detention/ killing
Feliciano	Falintil	Sana, Uaitame	1979	Detention/ torture/killing
Fernando da Silva		Uaitame		
Francisco Soares		Matahoi		
Gaspar	Fretilin	Uatolari	January–April 1979	Detention/ disappearance
Gaspar		Afaloicai, Uatolari		
Gaspar		Uai Cai, Afaloicai		
Gaspar		Bai Uari, Matahoi		
Gaspar Pinto	Delegado	Matahoi	25/11/78	Detention/ torture/killing

Name	Position	Place of origin	Date of killing/ disappearance	Circumstance of killing/ disappearance
Gaspar Raileki			Feb-79	Detention (Ossu)/ disappearance
Germano Fernandes		Balabaciba, Vessoro		
Gregorio		Ossurua, Ossu		
Gregorio Maulelo (Gregorio Cai Kuli Oho)	Delegado Baguia	From Caicoli-Ho Baguia	1979	Detention/ torture/killing
Helena	OPMT	Afaloicai		
Hermenegildo		Sana, Uaitame		
Ildefonso		Uato Carbau		
Isabel de Sousa		Afaloicai		
Jacinto		Afaloicai, Uatolari		
Jacob		Nuno Malau, Afaloicai		
Januario		Nuno Malau, Afaloicai		
Jeremias		Bai Uari, Matahoi		
Jeremias Amaral		Matahoi		
Joao	Falintil	Sana, Uaitame	1979	Detention/ torture/killing
Joao		Lia Sidi, Babulo		
Joao Baptista		Baha Buga, Vessoro		
Joao Bercamas (Joao Berchmans)		Matahoi		
Joao de Menezes		Ossocai Ua, Afaloicai		
Joao Gamu Noko			Feb-79	Detention (Ossu)/ disappearance
Joao Miguel	Delegado	Babulu, Liaside	25/11/78	Detention/ torture/killing
Joao Soares		Beli, Babulo		
Jorge		Afaloicai, Uatolari		
Jorge Barros		Macadique		
José Samor			1978?	Killing
Juliao Sarmento		Baki Laco, Macadique		
Julio Baptista Makikit	Fretilin	Uatolari	January–April 1980 (1979?)	Detention/ disappearance
Julio Pires	Delcom Builale	Afaloicai, Uatolari	23/11/78	Disappearance

Name	Position	Place of origin	Date of killing/ disappearance	Circumstance of killing/ disappearance
Julio Soares		Osso Bubo, Afaloicai		
Juvenal Inacio		Viqueque		
Kong Sung		Baha O, Vessoro		
Lafaek	Falintil	Uatolari	January–April 1980 (1979?)	Detention/ disappearance
Leao		Uani Uma, Matahoi		
Leao de Jesus		Matahoi		
Leao Ximenes		From Sana, Uaitame	1979	Detention/ torture/killing
Lequede	Fretilin		1976	Killing
Lequibere		Macadique		
Lequi-Tek			1978	
Lino		Ossu		
Lino Alokasa		Ossu de Cima		
Loi Cou		Babulu, Abadere		
Luis			1976	Killing
Luis	Falintil		1976	Detention/ killing
Luis	Falintil	Uatolari	January–April 1980 (1979?)	Detention/ disappearance
Luis			1978	
Luis		Uato Carbau		
Luis		Lacarato, Macadique		
Luis Freitas		Matahoi		
Luis Loi Leki		Matahoi		
Luis Pinto		Macadique		
Luis Ualisakar		Macadique		
Manuel	Falintil		1976	Detention/ killing
Manuel		Lari, Afaloicai, Uatolari		
Manuel		Ua Sufa, Matahoi		
Manuel Braga		Goni Uro, Macadique		
Manuel da Costa		Matahoi		
Manuel da Silva			Feb-79	Detention (Ossu)/ disappearance

Name	Position	Place of origin	Date of killing/ disappearance	Circumstance of killing/ disappearance
Manuel Manezes			1976	Killing
Manuel Manumau		Macadique		
Manuel Manusu			Feb-79	Detention (Ossu)/ disappearance
Manuel Soares		Macadique		
Manuel Uaisanua			Feb-79	Detention (Ossu)/ disappearance
Mariano Loi Lequi		Macadique		
Mário		Uai Cai, Afaloicai		
Martins		Lugasa, Viqueque		
Mau Kili		Matau, Vessoro		
Mau Rubi		Uatolari, Macadique		
Miguel		Ossu, Nahareka		
Miguel		Ua Sufa, Matahoi		
Miguel		Matahoi		
Miguel Cai Rubi		Macadique		
Miguel da Silva		Matahoi		
Nau Rubi		Macadique		
Nogueira Freitas		Uatolo, Matahoi		
Oka			1978	Killing
Olokasa	Falintil		Dec-78	Detention/ killing
Palmira		Matahoi		
Paulo Freitas			1976	Detention/ killing
Pedro			1979	Killing
Pedro Nahaloi			1979	Killing
Ricardo	Falintil	From Sana, Uaitame	1979	Detention/ torture/killing
Roberto		Matahoi, Uaniuma		
Roberto Menezes	Falintil	Sana, Uaitame	1979	Detention/ torture/killing
Salvador da Silva		Foho Mano, Uaitame		
Saua Dara		Matahoi		
Sebastiao		Uaitame		

Name	Position	Place of origin	Date of killing/ disappearance	Circumstance of killing/ disappearance
Sebastiao		Caidana Lari Macadique		
Sebastiao Alves da Silva	Delegado Matahoi	Matahoi	23/11/79	Disappearance
Sebastiao Boruloi		Vessoru, Baha O		
Sebastiao Uatocai		Macadique		
Sequito	Assistente		25/11/78	Detention/ torture/killing
Silvino	Falintil	Uatolari	January–April 1980 (1979?)	Detention/ disappearance
Solan	Adjunto	Lospalos	Dec-78	Detention
Tana Mota		Dili		
Tawameta		Dili		
Teofilo Duarte		Matau, Vessoro		
Valente	Falintil	Uatolari	January–April 1980 (1979?)	Detention/ disappearance
Valente		Uato Carbau		

Sources: HRVD Statements 07278, 07450, 07451, 07441, 07528, 04185, 04200, 07459, 03145, 07485, 08069, 06804, 06010, 07331, 07528 and 05252, 03145-2, 07278-4; Community Profile, Uaimori-Tul (Viqueque, Viqueque); Informação Sobre A Situação De Algunas Zonas de Timor Leste, Dili, 13 May 1982; and Informacões, Submission of Napoleão de Almeida to CAVR, 25 May 2004.

329. The Commission has received the names of about 140 persons who were executed or disappeared after being detained in Uatolari. These detainees had been held in one of two places before their execution or disappearance: the Uatolari Koramil, which had been an elementary school in Portuguese times, and a house formerly owned by a Chinese called Mo Tem-Po, which had been requisitioned by Battalions 202 and 721 as the Kotis (Komando Taktis) headquarters for the interrogation of those who had been captured or had surrendered in late 1978. Around 300 people from Uatolari itself, from other parts of Viqueque District and from other districts, including Dili and Baucau, were selected for detention after surrender or capture. Some of these detainees were executed or disappeared soon after.[344] * Many of them were released over the following three months; and others continued to be held and were still in detention in March–April 1979 when most of the killings and disappearances took place.[345] In March–April ABRI ordered the re-arrest of released detainees, who had held positions in the Fretilin and Falintil structures and then embarked on a campaign of killings and disappearances.

* In addition to persons who were executed soon after being taken into detention in Uatolari, there were also cases of people who were killed immediately after surrender [see, for example, HRVD Statements 06804 and 07363].

330. Some of these detainees were reported to have been taken to places outside Uatolari to be killed, including the Kodim in Viqueque and Lacudala in Quelicai (Baucau), and others disappeared.* The killings reportedly started in March, but most probably took place in April.[346] They were carried out at various sites in Uatolari.

331. From a local perspective, two events seem to have triggered the killings. In February 1979 there had been a Falintil attack in Salerin in which four East Timorese and one Indonesian soldier were killed.[347] Shortly after the attack, a meeting may have taken place between six East Timorese who had surrendered the previous November and Kalasa, a Falintil commander still in the forest. Hansip and village officials who had been told about the supposed meeting, reported it to ABRI.†

332. These incidents would have indicated to ABRI that the Resistance was still alive in the sub-district and enjoying the support of surrendered and captured East Timorese people who had been released from detention. However, as in other districts, the victims appear to have been selected not because they were directly implicated in recent resistance activity, but because they had been active members of the Resistance before surrender or capture. They included many people who had been continuously detained since the previous November. For example, one night in March 1979, a group of nine people comprising five *delegados*, one *aldeia* secretary, one *assistente*, one Falintil Zone commander and an OPJT official, were taken from their place of detention and never returned.‡

333. The executions started at around the same time that killings and disappearances of people who had been active in the Resistance before surrender or capture, were also getting underway in other districts. According to one account, it was not until 9 April that they began to be fully organised. On that date, the commander of Battalion 721 reportedly summoned Indonesian-appointed local leaders to a meeting at which he

* Among those who were reported to have passed through the detention centres in Uatolari were two senior Resistance leaders, Solan (Inácio Fonseca) and Olakasa, both of whom are believed to have been executed at Lacudala in Quelicai in March–May 1979 [see below and HRVD Statement 06093]. Brigadier General Taur Matan Ruak told the Commission that he understood that Sera Key (Juvenal Inácio) was killed in Uatolari. Brigadier General Taur Matan Ruak was captured with Sera Key in Ossu in early 1979; he later escaped and personally investigated Sera Key's death. [CAVR Interview with Brigadier General Taur Matan Ruak, Dili, 9 June 2004]. The killing of detainees who had been held in the Viqueque Kodim is reported in HRVD Statement 03602 by a deponent who himself was transferred from Uatolari to the Kodim.

† Whether the meeting really took place is in some doubt. According to the account of Napoleão de Almeida, the information about the meeting came from two men who were caught, apparently looking for buffalo to till their fields. The two had been brought before six village leaders and had told them that they had not been looking for buffalo but for "men in the forest" (*ema ailaran*) and had chanced upon the alleged meeting [*Informações*, Submission of Napoleão de Almeida to CAVR, 25 May 2004]. The six men they claimed to have seen talking to the Falintil commander – Adelino de Carvalho, João Bercamas, Luis Uaisakar Lakarate, Sebastião da Silva, Manuel Braga and Julião Sarmento – were all former Fretilin leaders or Falintil commanders and were all reportedly killed or disappeared in April 1979 [see Table below].

‡ They were: Adelino Umu Segue (*secretario de aldeia*), David Loisiba (Falintil Zone commander, Uatu Carbau), Gregório Maulelo (*delegado*, Baguia), Sebastião Alves da Silva (*delegado*, Matahoi), Acacio de Carvalho (OPJT Matahoi), Julio Pires (*delegado commissariado*, Builale), Sequito (*assistente*), Gaspar Pinto (*delegado*) and João Miguel (*delegado*) [HRVD Statement 07451].

told them to re-arrest the detainees who had come down from Matebian the previous November, most but not all of whom had been released in January. On 15 April at another meeting, attended by 63 members of Hansip, village officials and other East Timorese, the Battalion 721 commander announced that the Fretilin and Falintil members who had been re-arrested were to be killed.[348] The ABRI commanders re-activated the teams composed of East Timorese which had been formed to interrogate those who had been captured or surrendered in November 1978 and to decide "whether we should live or die".[349*] A wave of killing then started on 15 April and continued over the next two days in Ulusu, Uatolari, Lia Sidi, Saqueto and Beaço.[†]

334. The scale and timing of the executions suggest to the Commission that while local factors certainly played a part in the decision to carry them out, they were implemented as part of a larger, centrally coordinated strategy, aimed at eliminating the Resistance once and for all.

335. Lucio Meneses Lopes, one of several prisoners who had never been released from detention since his surrender in Uatolari in November 1978, survived one of the mass executions at Ulusu. He described what happened to the Commission's National Public Hearing on Massacres:

> *Two Hansip brought a list of names of prisoners and called them one by one. This list had been given to the Hansip by the Indonesian military… [My] name was not on the list. But later two Hansip came into the detention centre and added my name to the bottom of the list, which was number 28. They called us and said: "Now we will go to find Fretilin in the forest."*
>
> *The people who escorted the prisoners were [currently still in Kupang] and [who has died in Kupang]. On the way nothing happened to us. Sometimes the Hansip walked ahead of us, and then sometimes we were ahead of them, and they followed us from behind. We walked for two hours on the road to Ulusu. When we arrived in Ulusu, they handed us over to ABRI Battalion 721. When we arrived there, the Bapak [the word meaning father commonly used by East Timorese to refer to Indonesian soldiers] said: "Please rest first. Sit down!" Everyone sat down, [but] a friend and I decided to keep standing. Then they gave us Blue Ribbon cigarettes. The Bapak began to speak: "Now we will go and look for Fretilin"…About 15 minutes later, they spoke again: "Now we will leave to go and search for Fretilin."*

* In November 1978 there were three teams operating at the Kotis headquarters in Uatolari: a ten-person civilian team headed by a village chief of Babulo, M272; a nine-person military team headed by the Sub-district administrator of Uatolari, M273; and a women's team, which seems to have consisted solely of M277 [CAVR, Community Profiles for Matahoi and Macadique Villages, Uatolari sub-district, Viqueque District]. When they were reactivated in March 1979 members of all three teams are reported to have jointly interrogated – and ill-treated – the detainees [HRVD Statement 03602].

† *Informação Sobre A Situação De Algunas Zonas de Timor Leste*, op.cit; The CAVR Community Profile of Matahoi Village, Uatolari Sub-district, Viqueque District gives the places where the executions took place as Ulusu, Munu-Malau, Beaço, Uai-Mahu and Kaidawa Marak. The CAVR Community Profile of Macadique Village, Uatolari Sub-district, Viqueque District gives the execution sites as: Ulusu, Uatu Ila, Liasidi, Hunu Malau, Uatolari Leten and Beaço.

The 14 of us were divided into two groups. Seven were sent to the 17 August Zone, and the others were taken down the hill. We began to walk to a place where the troops were getting ready. Half-way down, my friend Adelino de Carvalho who was with me, said: "Lopes maybe this is the time when we will die." I answered: "Only God can decide whether we live." When we arrived on a hill, they [the Indonesian military] commanded us: "Everyone sit down! Look, there is Fretilin over there!" We sat down. But I did not sit on the ground. I just squatted to be ready, in case something bad would happen. Shortly after that the guns started firing. And I immediately jumped down the hill. They rained bullets on us. A bullet brushed against my head and scratched it. Below the hill, I hid in a hole in the rock. I saw them [the Indonesian troops] were looking for me, but they could not find me.[350]

Table 17: Killings in Manatuto District, February–April 1979

	Position	Date of capture/ surrender	Place of capture	Date of killing/ disappear-ance	Place of killing/ disappear-ance	Perpetrator(s)
Barique						
Francisco Barros	Vice-secretario da Zona	9/3/1978	Casohan, Barique	Soon after capture	Casohan, Barique	
		9/3/1978	Casohan, Barique	Soon after capture	Casohan, Barique	
Laleia						
João Baptista	Secretario da Zona	3/1/1979	Laleia	Soon after capture	Raimea	Btn 745
Antonio da Costa	Comandante de Companhia	3/1/1979	Laleia	Soon after capture	Unknown (TBO dis)	Btn 745
Salvador da Costa	Comandante de Companhia	3/1/1979	Laleia		Unknown (TBO dis)	?
Valdemiro Andre Viegas	Comandante de Companhia	3/1/1979	Laleia		Unknown (TBO dis)	?
Francisco Ximenes	Comandante de Companhia	3/1/1979	Laleia		Unknown (TBO dis)	?
Mariano da Sousa	Comandante de pelatão/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Clementino José Branco Ximenes	Comandante de pelatão/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745

	Position	Date of capture/ surrender	Place of capture	Date of killing/ disappear-ance	Place of killing/ disappear-ance	Perpetrator(s)
João de Brito Ximenes	Comandante de pelatão/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Gregorio Soares	Comandante de secção/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Antonio Rufino da Costa	Comandante de secção/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Felisberto Viegas	Vice-secretario da Zona/Hansip	1/1/1979		February 1979	Laleia?	Btn 745
João Viegas	OPJT, Responsavel da Zona/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Sebastião Gusmão	Secretario de Suco/Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Mario Ximenes	Chefe de Suco/Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Domingos Bartos Ximenes	Falintil member/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Sergio da Costa Gusmão	Falintil member/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Felipe da Costa	Falintil member/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Filomeno Gusmão	Falintil member/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
José Bento	Falintil member/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
José Vong	Falintil member/ Hansip	1/1/1979		February 1979	Laleia?	Btn 745
Paul Malati Soares				February 1979	Laleia	Btn 745/631
Salvador Ximenes				February 1979	Laleia	Btn 745/631

	Position	Date of capture/ surrender	Place of capture	Date of killing/ disappear-ance	Place of killing/ disappear-ance	Perpetrator(s)
Salvador Ximenes	Delegado de Suco			4/1/1979	Karkida (on Laleia-Manatuto road)	?
Antonio Virgilio da Costa Freitas	Soldier			4/1/1979	Karkida (on Laleia-Manatuto road)	?
Manuel Boavida	Soldier			4/1/1979	Karkida (on Laleia-Manatuto road)	?
Francisco Inacio	Soldier			4/1/1979	Karkida (on Laleia-Manatuto road)	?
Tomas Bonaparte Soares	Soldier			4/1/1979	Karkida (on Laleia-Manatuto road)	?
Antonio Soares	Soldier			4/1/1979	Karkida (on Laleia-Manatuto road)	?

Sources: HRVD Statements 03058, 09194, 03190, 05305; CRRN Communiqué, n.d.

Unlawful killings and enforced disappearances by Fretilin/Falintil 1976–1979

336. The Commission heard extensive testimony about the killing of non-combatants perpetrated by Fretilin and Falintil during the period February 1976-79.* During this period leaders and members of both organisations were implicated in fatal violations in most districts across the territory, although the geographical focus of these killings shifted over time. Senior Fretilin leaders and Falintil commanders ordered many of the killings reported to the Commission, and in some instances themselves perpetrated them.

337. Broadly the targets of the killing can be broken down into several categories: those who had belonged to political parties, primarily UDT and Apodeti, which had come into conflict with Fretilin in the months leading up to full-scale Indonesian invasion, both as

* Killings by Fretilin/Falintil during the period December 1975–January 1976 are covered above, par. 172-207.

participants in the civil war and as auxiliaries of the Indonesian forces' infiltrating the territory of Timor-Leste; members of the civilian population in Fretilin areas suspected of having contact with the Indonesians or wanting to surrender; suspected and known collaborators; and those caught up on the wrong side of internal conflicts within the Resistance.

338. In early 1976, after the killings described above (par. 172-207) that took place in the weeks immediately after the Indonesian invasion, Fretilin members continued to kill persons associated with UDT and other political parties. During the course of 1976 tensions within the Resistance developed, between the dominant faction of Fretilin and other nationalists who opposed that faction's strategies and leadership, and exploded late in the year into confrontations that resulted in the execution of a number of prominent members of the internal opposition within Fretilin and their supporters. In the second half of 1977, long-standing differences within the leadership over ideology and military strategy sparked another internal purge, in which those associated with the President of Fretilin and the Democratic Republic of Timor-Leste, Francisco Xavier do Amaral, were the chief targets.

339. While it is possible to identify these three broad phases, they were not in fact clearly distinct. In 1976, one of the areas of dispute between the most prominent of the dissidents, Aquiles Freitas Soares, and the mainstream Fretilin leadership concerned the question of how willing the Resistance should be to work with members of UDT and other political parties. The Commission heard of cases of people formerly associated with UDT and other parties being targeted after 1976. The differences over strategy that underlay the purges of 1976 and 1977 were largely the same, and it is therefore not surprising that survivors of the first round of infighting in 1976 often became targets again one year later.

340. The violence was sparked by differences within the leadership. However, these differences were largely over the role of the civilian population in the Resistance and they often had a damaging and sometimes fatal impact on the already disrupted lives of ordinary people who had evacuated to the mountains and forests with Fretilin. Throughout these years, like their leaders, ordinary civilians, particularly those suspected of wanting to leave the Fretilin base areas and return to their homes, also risked being dubbed "traitors", one consequence of which might be their execution or their death in detention.

341. This section consists of two parts. First it describes the killings committed by Fretilin/Falintil in their political context. The second part summarises the information gathered by the Commission about how people who were ordinary members of the civilian population or of Fretilin and Falintil also became victims of killing during this period.

Fretilin/Falintil killings: the political context

Fretilin/Falintil killings of UDT and Apodeti members

342. During 1976 Fretilin remained in control of large areas of Timor-Leste. The Commission heard of a number of killings during this time committed by Fretilin

against persons who were associated with other parties. Most of the victims known to the Commission were associated with UDT.[351] The killings tended to occur in areas where support for both UDT and Fretilin had been strong and the level of violence during the civil war had been particularly intense.

343. In one case described to the Commission, on 4 March 1976 ten members of Fretilin went to the house of a UDT member named Pedro in the village of Matata (Railaco, Ermera) and arrested him. The members of Fretilin bound his hands and legs with rope then took him in a pick-up truck to Mautaimate in Matata, where they killed him.[352] Other deponents reported other killings and disappearances perpetrated in the Matata area by Fretiliin/ Falintil at around this time.[353] A number of deponents reported that during the period of the UDT armed movement and Fretilin armed insurrection of August–September 1975 both UDT and Fretilin killed people belonging to the other party in Matata.*

344. The collaboration of members of UDT and Apodeti with the Indonesians in the lead-up to and during and after the invasion of 7 December 1975, added a fresh dimension to the hostility between Fretilin and those parties.

345. In some instances members of UDT were killed by ordinary Fretilin members motivated by feelings of revenge. In July 1976, in Carlilo (Aiteas, Manatuto) four Fretilin members reportedly killed an elderly couple, Francisco Soares and Ingracia Soares, who had supported UDT.[354] In other cases there is evidence of higher-level involvement.

346. Soon after ABRI Battalion 330 had passed through Venilale (Baucau) en route to Viqueque in late December 1975, local Fretilin leaders in Venilale took it upon themselves to arrest, beat and kill UDT and Apodeti members, whom they accused of having fraternised with the Indonesians. In five separate incidents between 1–12 February 1976 local Fretilin officials ordered the killing of a total of at least nine people who were believed to be UDT sympathisers.[355] Among the victims were six members of one family; a husband and wife, Claudino Guterres and Maria Boavida, three of their sons, José (Azeca), Faustino and Crisogno, and Claudino's uncle.

347. The killings in Venilale fuelled the conflict between the Fretilin leadership of the Central Eastern Sector (*Sector Centro Leste*), then based in Lobito (Vemasse, Baucau), and the dissident group that had formed in Quelicai (Baucau) around Aquiles Freitas Soares, the Falintil deputy regional commander of the Baucau Zone. Maria Boavida was the younger sister of one of Aquiles's closest associates, Antonio Freitas. On 23 February 1976, M231 took some of his men to Uaimori where they shot dead two commanders, Januario Ximenes and Julio da Silva, whom M231 believed responsible for the killings in Venilale.[356] Three days later, on 26 February, Aquiles Freitas set up the semi-autonomous Boru-Quere Command with M231 as his vice-president (see below).

348. Persons previously associated with UDT were also suspected of spying for the Indonesians. A former member of UDT, Marçal da Costa, was arrested in Soibada (Manatuto) by five members of Fretilin in 1977 and accused of acting as a spy for ABRI.

* See HRVD Statements 01020, 03509, 03510 and 06203, and Section: Unlawful killings between 18-20 August.

He was beaten and then brought for interrogation to a Falintil commander, M232. After five days in detention Marçal da Costa was tied up, hanged and shot dead by a member of Fretilin, M233.[357]

349. Frequently the targets of these killings were deemed guilty by association, being linked to UDT or Apodeti through a relative or friend who was a member of those parties, rather than being members of those parties themselves. As during the conflict within the Resistance in 1976, Fretilin attacks on persons associated with UDT and Apodeti again fed into and fed on the tensions within the Resistance during 1977.

350. On 8 May 1977, Maria Antonia, an OPMT *delegada*, was detained at Haturui, Laclo, on suspicion of having been in contact with ABRI and was brought to the Mahadik Sub-Committee office in Aldeia Fitun. There she saw her uncles, Alexandre, Maharek, Masanak, Makai and Miguel, and other members of her family, and her cousins Maria Fatima and Paulino, who showed signs of already having been tortured. All of them were interrogated, beaten and tortured with hot irons before being tied to trees. The whole family was accused of being traitors. Maria Fatima and Maria Antonia were accused of having been in contact with Maria Antonia's father, Antonio Gregório, who had been a UDT *delegado*. They were then brought to the Fretilin prison at Welihumetan (Hatuconan, Laclo).

351. After a few days they were taken to Roluli, also in Laclo, where they were held for one night and interrogated by, among others, the Vice President of Fretilin, M234. Maria Antonia confessed that she had been in contact with her father. The detainees were then brought to the Fretilin detention centre (Campos de Rehabilitação Nacional, Renal) in Aikurus (Remexio, Aileu).* While they were in the Renal 12 members of the family died as a result of ill-treatment in detention or were killed.†

352. The targeting of former UDT and Apodeti members reportedly continued to occur as late as 1978. For example in that year Matias Amari Pinto and Father João Martins were arrested by Fretilin in the Bautae Zone in Uatolari (Viqueque). Matias Amari Pinto told the Commission that the two were put in a pig pen together with several Apodeti and UDT detainees, and held there for seven months. At different times during that period an Apodeti detainee, Alberto Maupelo, and a UDT detainee, João Brito, tried to escape; both were caught and shot dead.[358]

Killings resulting from the internal Fretilin conflict of 1976

353. Conflict within the Resistance surfaced soon after the invasion and persisted throughout the period that ended with the destruction of the *bases de apoio*. At the core of these ultimately lethal disputes was the mainstream Fretilin leadership's belief

* For further information on the Renal, see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment, section on Renal.

† Those who were killed or died in detention were Maria Fatima (a cousin of Maria Antonia), Paulino (another cousin), Libadasi (her grandmother), Maharek (an uncle), Masanak (an uncle), Makai (an uncle), Miguel (an uncle), Alexandre (an uncle), Biliba (an aunt), Paulina (an aunt), Maria Sibak (an aunt) and Bikristi (an aunt). [HRVD Statements 06498 and 07990; and CAVR Interview with Maria Antonia, Laclo (Manatuto), 20 March 2003].

that "politics commands the gun". One implication of this doctrine was that Fretilin was simultaneously waging both a war and a revolution and that to pursue both these goals at the same time required that it retain a large population base. At the same time ideological differences of other kinds—over the degree to which the Resistance should be centrally controlled, over the extent to which Marxism was compatible with East Timorese culture and religion, over the role of traditional leaders and over how inclusive the nationalist movement should be—also fuelled the conflict. From testimony received from a variety of sources it was also evident to the Commission that while these disputes were expressed ideologically, they frequently had a more personal basis, whether due to personal antagonisms and ambitions, or differences of background, generation and perspective. The course of the war itself also exacerbated the underlying differences within the Resistance; military reverses suffered by the Resistance and the worsening plight of the population in the interior hardened the positions of both sides and sharpened their disagreements.

354. As the rift developed between the Fretilin leadership attached to the Cascol (Comissariado do Sector Centro Leste) in Lobito and Sergeant Aquiles Freitas Soares and his followers during February 1976, the latter set up their own semi-autonomous command, called the Comando da Luta Boru-Quere, in Uaibitae on the slopes of Mount Matebian. Aquiles himself became President of the Comando da Luta Boru-Quere with M231 as his deputy. Aquiles Freitas Soares's authority derived both from his status as the progressive heir to the princedom of Letemumu in Quelicai (Baucau) and his 12-year service in the Portuguese army, most recently with the 6th Cavalry Company in Atabae (Bobonaro) where he had further enhanced his standing after the departure of the Portuguese by his heroic role in the resistance to the Indonesian incursions into Bobonaro in October–November 1975.[359]

355. When Atabae fell to the Indonesians on 26 November, Aquiles, his followers and 64 children from Quelicai who had been sent to Atabae to be educated there under Aquiles's guidance started a long trek eastwards through Dili and Aileu that ended when they reached Quelicai in early January 1976. The group were well-armed; weapons and ammunition brought by Aquiles from Atabae were supplemented by weapons captured by his ally, Sergeant Ponciano dos Santos, who had led a raid at the arsenal at the Portuguese *Quartel Geral* in Taibessi at the time of the Fretilin armed insurrection, most but not all of which he had handed over to Fretilin forces.

356. Ponciano dos Santos was appointed head of the Command's Security Committee. Two brothers and former UDT leaders, João Teodosio de Lima and Augusto Pires, were put in charge of the Political and Administrative Committee. Two priests, Father Eligio Locatelli and Father Luis da Costa, were named as advisors.[360]

357. In May 1976, the Comando da Luta Boru-Quere and representatives of Fretilin held a three-day meeting at the school house in Quelicai to try to resolve their differences. The Political Commissar for the Centro Leste Sector, Vicente Reis (Sahe), headed the Fretilin delegation. At the meeting Aquiles proposed that he be promoted to commander of Region II (Baucau), refused a Fretilin request that he share his weapons with other Falintil units, and asked that the people from Venilale who had sought refuge

in Uaibitae after the February violence be allowed to return to their homes. Fretilin's Marxist-Leninist orientation was also discussed.[361]

358. Aquiles's stance persuaded members of the Fretilin Central Committee that his refusal to give up any of his large stock of arms meant that he was planning a coup. Rumours also began to spread that Aquiles was planning to murder Vicente Reis.[362]

359. The situation came to a head on 28 October 1976 when, after an armed confrontation between the two sides, another meeting was held, this time in Uaibitae. Before the meeting the Boru-Quere group had been persuaded to disarm. The Lobito group then arrested Aquiles and the other leaders of the Boru-Quere group together with several of their followers and suspected allies, including two *liurai* from the district of Viqueque, Fernando da Sousa from Uato Carbau and Adelino de Carvalho from Uatolari.* Some of them, including Antonio Freitas and Augusto Pires, were taken to Baguia (Baucau); others, including Aquiles, Ponciano dos Santos and João Teodosio de Lima, were taken to Ulusu (Uatolari, Viqueque), and then to Lobito, where they were handed over to members of the Fretilin Central Committee.[363] The Committee was apparently divided on how to deal with Aquiles; one faction wanted him executed while others suggested some form of rehabilitation.[364] Some time in December members of the Central Committee decided to execute Aquiles and his key associates.[365] Aquiles, Ponciano dos Santos and João Teodoso de Lima were executed at Lobito, while Antonio Freitas was executed in Baguia, either in December 1976 or January 1977.[366] Others, including Fernando da Sousa and Adelino de Carvalho, were sent for political education.

360. Various sources have reported that Aquiles was condemned because of his opposition to Fretilin ideology, or that he had betrayed the Resistance by actively collaborating with the Indonesian occupation forces.[367] The Commission has not found any evidence that this accusation had any substance.

361. Testimony received by the Commission has implicated Vicente Reis, the commander for the Central Eastern Sector, Maubrani (Cirilo Nunes), the commander of the Baucau Region, Kilik Waigae (Reinaldo Correia), the commander of the Bautae Zone, João Meneses (Darloi), and the commander of the intervention force, José Lemorai, in the capture of the Boru-Quero group on 28 October 1976. According to other testimony received by the Commission from Valente de Sousa Guterres, who was detained with Antonio Freitas in Baguia, those who were brought to Baguia were interrogated by M278 and M279.Their chief executioner was M280.[368] The Commission has not been able to establish who was responsible for the executions of Aquiles Freitas, Ponciano dos Santos and João Teodosio de Lima at Lobito.

362. While these events were unfolding in Quelicai, a similar and related confrontation was developing in the sub-district of Iliomar in Lautém. This conflict pitted another traditional leader, Francisco Ruas Hornay, who had also served in the Portuguese army,

* According to Marito Reis, 36 of the Lobito group were arrested in Uaibitae (CAVR Interview with Marito Reis, Baucau, 23 September 2003). A document in CAVR's possession gives the names of 34 people who were arrested, of whom six were executed, but indicates that the list of detainees is not complete [Document: Quelicai Uaibitae, 28 October 1976, submitted to CAVR by Anthony Goldstone].

against the local and sectoral leadership of Fretilin and Falintil, and caused a deep rift within the villages of the sub-district of Iliomar.

363. Like Aquiles, Francisco Ruas Hornay had demonstrated his commitment to the nationalist cause by resisting the Indonesian incursions into Bobonaro in September–November 1975. He had defended Balibó against Indonesian attacks, and after Balibó fell in mid-October he had joined forces with Aquiles Freitas in Atabae. After the full-scale invasion he too had returned to his home base in Iliomar where he soon came into conflict with the Fretilin Comite da Zona and the local Falintil command. He objected to the Fretilin policy of concentrating the population of Iliomar in encampments (*acampamentos*) on both military and ideological grounds. In June 1976 the political commissar for the Ponta Leste Sector, Sera Key (Juvenal Inácio), and the *adjunto,* Fernando Txay, ordered Francisco Hornay to perform a self-criticism and sent him and his closest followers to the Renal at Belta Tres near Lospalos (Lautém) for 14 days for *justo correctivo*.

364. However, after Francisco Ruas Hornay and his followers returned from Belta Tres to Iliomar the conflict erupted again. Several of his followers were arrested at a meeting organised by the Central Committee in early October 1976, and believing that he himself was about to be arrested, Francisco Ruas Hornay went to visit Aquiles Freitas in Uaibitae. Aquiles agreed to a request from Hornay for arms. As the situation deteriorated, Francisco Ruas Hornay and his followers fled to Mount Paitah. Sera Key and Fernando Txay mobilised the remaining population of Iliomar to encircle Francisco Hornay's followers on Mount Paitah. As a result of this operation most of those who had fled to the mountain surrendered and returned to their villages, but Francisco Hornay and several dozen of his followers escaped to Kuladera in Uato Carbau.

365. Two weeks later in mid-November 1976, Fretilin/Falintil again mobilised the population of Iliomar, this time to capture Francisco Hornay and his followers in Uato Carbau. On 13 November the first killing took place. En route to Uato Carbau, in the area of Irafok in the *aldeia* of Larimi (Cainliu, Iliomar), the Fretilin force captured Paul Hornay and hacked him to death.[369] Shortly after, the force entered Uato Carbau and captured Francisco Ruas Hornay and his followers. On 17 November eight of them – Antonio Oliveira, Oscar Ferreira, Angelo Pinto, Antonio Soares, Silvino Ximenes, Libertino Barros, Bernardo Soares and Juli Ximenes – were reportedly taken to Lore in the sub-district of Lospalos and killed.[370] On 24 November 1976, Francisco Hornay and five others – Duarte Ximenes Pinto, José Nunes, Dinis de Castro, Marcos Pintos and Manuel Sarmento – were reportedly taken to a place called Muapetiti for execution. All but one of the six, Manuel Sarmento, were reportedly executed there. Manuel Sarmento managed to escape, but was found and killed one week later.[371]

366. In October 1976, in the same month that the confrontations with Aquiles Freitas and Francisco Ruas Hornay and their followers reached their climax, in the North Frontier Sector (Sector Fronteira Norte), another, apparently unrelated dispute within the Resistance also ended in fatal violence including executions. On 5 October, the Falintil Deputy Chief of Staff, José da Silva, and around 40 followers, including women belonging to the OPMT, left their base in Fatubessi (Hatolia, Ermera) for Neorema

(Asulai/Sare, Hatolia, Ermera), the joint headquarters of the sectoral military command and the political commissariat. José da Silva's purpose was to contest his demotion from the position of Falintil Deputy Chief of Staff.

367. Sources interviewed by the Commission differ on what José da Silva intended to do once he arrived in Neorema, whether he wanted to discuss his demotion with the leadership and acted against them when they refused, or whether he went there intent on violence.* Whatever his intentions, soon after his arrival in Noerema there was a violent confrontation, during which there were several fatalities and the Fatubessi group arrested the whole sectoral leadership including the Political Commissar, Helio Pina (Mau Kruma), the Sectoral Commander, Martinho da Silva, and his deputy, Sebastião Sarmento.

368. On 6 October, a group loyal to the Neorema Command from Poerema in the sub-district of Ermera, led by Pedro Lemos, counterattacked.[372] They succeeded in securing the release of the detained leadership and capturing many of the Fatubessi force. José da Silva and several others managed to escape to Ponilala (Ermera, Ermera), but were captured there by local troops loyal to the Sectoral Command and brought back to Neorema. Three of those who had been captured were reportedly executed in Neorema on 8 October.[373]

369. During the following year the surviving detainees, who included several of the OPMT women, were continually moved from one place of detention to another, some being eventually released, some dying in detention and some being executed. The Commission heard that in total as many as 40 of them died of deprivation and ill-treatment or were executed.[374] José da Silva was reportedly shot on 15 August 1977, in Fatubessi, allegedly by Helio Pina's bodyguards, M235 and M236. [375] At least one other person, Mateus Alves, was executed in Fatubessi at around the same time.[376] José da Silva was accused of planning to surrender to ABRI and of encouraging others to do likewise, although his surviving followers denied to the Commission that he did these things.[377]

Killings resulting from the internal Fretilin conflict of 1977

370. On 19 September 1977, the Fretilin Central Committee issued a communiqué announcing Francisco Xavier do Amaral's arrest ten days earlier and his impending trial. Calling Francisco Xavier do Amaral "the vilest traitor that our history has known", it recounted a whole range of serious offences that he and his followers were alleged to have committed, including planning the elimination of the leadership of the Central Committee and a number of deviations from Fretilin ideology, including trying to "separate the civil from the military tasks". The communiqué announced that the President of Fretilin had committed the crime of high treason and had been expelled from the party.[378]

371. The communiqué of 19 September alleged that Francisco Xavier do Amaral's support was concentrated in his home area of Turiscai and Fahinehan in Manufahi,

* For these contrasting views, see CAVR Interview with Celestino de Carvalho Alves and HRVD Statement 08385.

Remexio and Lequidoe in Aileu, Laclo, Ilimano and Laclubar in Manatuto, and Maubisse in Ainaro.[379] The campaign against Amaral's supporters was also concentrated in these areas, although it also spread east to Quelicai in Baucau District and Uato Carbau and Uatolari in Viqueque District and reached into areas such as Alas (Manufahi), where Amaral was alleged to be seeking to build up his influence.[380] In all of these areas, alleged Amaral supporters were arrested, and many of them were subsequently executed or died in detention.

372. The communiqué also named a number of "traitors" who had acted as Amaral's "pawns" They included two members of the Central Committee and several middle-level cadres (quadros medios). Most of those named were also executed or died during or soon after a period of detention.*

373. Scepticism among the professional soldiers who had joined the Resistance about the wisdom of trying to sustain a large civilian population at the same time as it was pursuing the military struggle intensified during 1977, as both the military situation and the living conditions of the civilian population worsened and it became clear that the Resistance could not rely on outside help to win the war. From their different perspectives, the professional soldiers and Francisco Xavier do Amaral were in agreement on this question.† Several senior commanders were replaced as part of the purge of Amaral supporters that started in August 1977. Two sector commanders Martinho Soares of the North Frontier Sector (Sector Fronteira Norte) and Agustinho Espirito Santo of the South Frontier Sector (Sector Fronteira Sul), both of whose relationships with their sectoral Political Commissar had been tense for some time, fell victim to these sharpening differences. Martinho Soares was taken prisoner in or around October 1977 and held by Fretilin in Abat (Fatubessi, Ermera) because he was allegedly planning to surrender to the Indonesians. One witness told the Commission that the last time he saw Martinho Soares alive he was being tortured, with the lower half of his standing body buried in the ground while his upper body was being burned with melting rubber. It is probable he was then executed.[381]

374. The decision to remove Agustinho Espirito Santo as commander of the South Frontier Sector was taken at the meeting of the Fretilin Central Committee held in Herluli (Remexio, Aileu) at the end of July 1977, at which it was also decided to expel

* The named members of the Central Committee were Mário Bonifacio do Rego, secretary of the Regional Committee of Manatuto, and Diogo Monis da Silva, commander in the Laclubar area. "Middle-level cadres", both civilian and military, mentioned by name were: José Vicente, secretary of the Laclo Zone; the Vice-Secretary of the Laclo Zone, Antonio Heu; the Secretary of the Laclubar Zone, Afonso do Rego; the Secretary of the Remexio Zona, Ananias da Silva, and the Vice-Secretary of the Remexio Zone, Tobias Mendonça (Fretilin Central Committee communiqué "A Nossa Vitoria", p. 10). It was reported to the Commission that at least four of these seven named people were executed or died as a result of ill-treatment in detention.

† In one of his interviews with the Commission, Xanana Gusmão stated that he believed that Francisco Xavier do Amaral's thinking on this question was in fact the result of pressure from military commanders [CAVR Interview with Xanana Gusmão, Dili, 7 July 2004]. Francisco Xavier do Amaral himself claimed that he had reached the conclusion that the civilian population should be allowed to surrender independently [Francisco Xavier do Amaral, testimony to CAVR National Public Hearing on the Internal Political Conflict 1974-76, Dili, 15–18 December 2003].

Francisco Xavier do Amaral.* The Commission was told that Agustinho Espirito Santo was arrested with about 85 of his followers soon after on the orders of the Political Commissar for the South Frontier Sector, César Mau Laka, and brought to Zulo (Lepo, Mape/Zumalai, Covalima).[382] Tensions had been rising between the two for some time over Fretilin policy towards civilians. Agustinho Espirito Santo and his deputy, João Baptista Soares de Jesus (Bere Loco Meo), were in favour of allowing the civilian population to surrender, both to alleviate their suffering and to give the Resistance forces greater freedom of action.[383] João Baptista, who as a regular in the Portuguese army had fought guerrilla wars in Guinea-Bissau, Mozambique and Angola, was regarded as the foremost military advocate of this view, although he was not touched by the purge.[384] Agustinho Espirito Santo was taken to Fahinehan (Fatuberliu, Manufahi) where he and four others (Juvenal Belo, Alexandre, Paul and Ramerio) were reportedly executed on the orders of the two Central Committee members, M170 and M171 at a site in Mirik Lout in Fahinehan Village.[385] Other Falintil commanders and their troops were arrested and executed or died of ill-treatment in detention during the anti-Amaral campaign.

375. Arrests of Amaral sympathisers began in August soon after the Central Committee held a meeting in Herluli. In Herluli alone, by late August, several hundred prisoners from Remexio, Laclo, Laclubar, Turiscai and Maubisse were being held in a hastily constructed prison which consisted of large holes covered by logs.[386]

376. Francisco Xavier do Amaral himself was arrested by the RDTL Minister of Public Security and Information, M172, at the end of a meeting of the Fretilin Central Committee in Tutuloro (Turiscai, Manufahi) on 9 September 1977. His wife and children, his closest associates and his bodyguards were arrested at the same time.[387]

377. Francisco Xavier do Amaral told the Commission that in the month after his arrest he and the other detainees were taken on a long journey by foot through the villages of Soibada, Fatumakerek, Laclubar in Manatuto and back to Turiscai before being brought to the Renal in Aikurus. Along the way his escort arrested more people so that by time they reached Aikurus the number of detainees in the group had risen to around 50. Every day 4-5 people died, and prisoners who could not walk would be killed.[388]

378. Amaral suffered severe torture and deprivation (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment, section on Renals), but survived. Several of those closest to him, including his bodyguards, were executed and two of his children are reported to have died in detention of hunger.[389]

379. However, the discovery of “traitors” within Fretilin and their public execution did not begin on 20 August 1977. The divisions within the Central Committee that were evident as early as the Soibada Conference of March–April 1976 had grown acute by the time of the Laline Conference in May–June 1977, which was boycotted by Francisco Xavier do Amaral (see Vol. I, Part 5: Resistance: Structures and Strategies).

* CAVR Interviews with Lucas da Costa, Dili, 21 June 2004; and Antonio Amado de Jesus Ramos Guterres, Laclo, 6 November 2003. It is unclear whether the decision to remove Martinho Soares was taken at this meeting, although one person who was present told the Commission that the Central Committee decided during the meeting to dismiss several commanders [CAVR Interview with Lucas da Costa, Dili, 21 June 2004].

380. Accusations of treason were already common by this time, particularly in the North Central Sector. Several months before the purge of Amaral supporters began in August, several killings were reported to have occurred in March–June at the Nundamar Renal (Remexio, Aileu). In March a total of 26 people were reportedly arrested in Aldeia Fitun in Laclo (Manatuto) and brought to Fretilin's Lima Leu base in Remexio (Aileu). They were accused of being traitors who had been in contact with former members of UDT, including Francisco Lopes da Cruz and Cancio Noronha, who were by then working within the Indonesian administration. Three of the detainees – João Adolfo Conceição Cabral de Deus, Manuel Rodrigues Pereira and Mau-Huli – were reported to have died under torture at the Lima Leu base. In April the group was moved to the Renal in Remexio where 21 of them were reportedly killed. During July there were further arrests in Laclo. Three of those arrested at this time – Filomeno Faria Lobato, Bernadino Carceres and Jacinto Correia – were also reportedly killed.[390]

381. Numerous sources also told the Commission about the execution of two people, Maria Fatima and Zacarias, during this period.

382. The two were arrested in Berahu, Aldeia 8 de Março (Liurai) in March 1977, apparently because they had tried to run away from a Fretilin base in Dali. They were accused of being spies and brought to the Nundamar Renal. The population living nearby was told that there was going to be a party. During the party Fretilin leaders asked for volunteers to kill Maria Fatima and Zacarias. No one stepped forward, so a Falintil platoon commander M173 shot the two. Maria died immediately, but Zacarias did not and was dispatched by Adjunto M176. Not long after Maria Fatima's execution her younger brother, Luis Pereira, who had been arrested with her, died in the Renal, reportedly overwhelmed by grief at his sister's death.[391] At around the same time another person from Liurai, João Freitas, was arrested and put in the underground prison, Renal Nundamar, on the orders of Adjunto M176. On 20 May he was taken out of the Renal and stabbed to death by two Falintil soldiers, M176 and M175.[392]

383. According to information received by the Commission, the first mass execution in Herluli itself was carried out in public on 20 August 1977, the second anniversary of the founding of Falintil. Several witnesses described this mass execution to the Commission.[393]

384. Antonio Amado JR Guterres gave the following description:

> *I still remember clearly what happened at midnight on 19 August 1977 during the Fretilin leaders meeting when M234 announced to the public that Francisco Xavier do Amaral was a traitor. At that time Xavier had not yet been captured by Fretilin. On 20 August 1977, at exactly 12 o'clock midday, Fretilin killed seven people at one time in a hole in the ground. Of the seven the only one I knew was Paulina Soares. We had been teachers together during Portuguese times.*
>
> *The executions happened at Herluli… on Falintil's anniversary, 20 August. During the flag-raising ceremony the order was given to prepare the hole. Once the flag ceremony was over the seven of them were put in the hole*

and everyone was asked to come to the site to witness the execution taking place. Once the seven were in the hole, M178 said to them: "You have no more time left. Now you have to prepare yourselves." Before the massacre Paulina Soares said: "Comrades, I am about to die and do not have anything. All I have is a piece of clothing which I give to my mother, who will stay with you to struggle for independence."

After Paulina had delivered her message, she took off her clothes and gave them to someone. Then they spewed out a volley of bullets. I watched them all die except for one large man. The man said: "I am about to die, but you will not win." After this M178 took his bayonet and hacked at the victim's body, which spilled lots of blood. Seeing so much blood pouring out of that man's body I fainted. I must have been unconscious for a long time because I do not know whether those seven people were buried.[394]

385. Another witness said that several of Francisco Xavier do Amaral's bodyguards were among those executed on 20 August.*

386. Domingos Maria Alves (Ambulan) described to the Commission the execution of 10 people, whom he said were killed on the orders of Fretilin Minister of Public Security and Information M172:

The next day they ordered six militia to dig a hole to bury the detainees who were to be killed. At noon they lined up 20 people and took 10 who were going to be killed to the river bank near the office…Then the people were ordered outside to witness [the killing].

M172 ordered the people to pray. Only after they had finished praying did we show the place to them. Their eyes were covered and adjunto M238] was the one who shot them. Two people brought another person; M177 ordered his eyes to be covered, and then M238 shot him. So it went on until all 10 people had been executed. Among the 10 was a woman called Albertina. As she was dragged away, she shouted abuse at the important people who were there:

"All of you important people are pursuing a political line that is wrong. The party you have created is a mess. All you have done is to make us leave our families and our belongings. We are living together, eating and drinking together, but we are killing each other like animals. Those who are innocent are said to be guilty, but what is it that they have betrayed? Those who try to negotiate are also called traitors…"

M172 and his companions answered: "We give you the best place." Then they ordered Albertina to stand on top of the corpses of her friends, but she

* CAVR Interview with Maria Antonia, Laclo, Manatuto, 20 March 2003. Several sources reported the execution of one of Francisco Xavier do Amaral's bodyguards, called Rafael, but that execution seems to have occurred after Amaral was brought to Beutlala, Remexio, in September 1977 [HRVD Statement 08010].

refused. So they threw her on top of the pile of corpses, but she got down again and went on hurling insults at the big shots. They ordered her eyes to be covered, but she refused that too. When they ordered her to say her final words, she also refused. Albertina even refused to pray when they told her to. Finally M238 shot her three times, but Albertina didn't die. She kept standing and talking, so they buried her alive.[395]

387. Several more mass executions followed in Herluli. According to Domingos Maria Alves (Ambulan), public executions became a weekly event during this period.* The Commission received several statements attesting to the public execution of a group of between six and ten people who were arrested in Faturasa (Remexio, Aileu) and then executed in the vicinity of the Renal.† At least some members of this group, José Mendonça, Alarico, Manuel da Silva, Zacarias Mendonça and Francelino Mendonça, were reportedly arrested after writing a letter calling for the removal of Alarico Fernandes.[396] The Vice President of Fretilin M234, who was present at the execution, then reportedly told the people who had been assembled for the execution that they too faced a similar fate if they followed the example of the men who had just been killed.[397]

388. According to statements and interviews given to the Commission, executions continued during the rest of 1977 and into 1978 in Herluli and elsewhere. These reports indicate that senior members of Fretilin and Falintil were directly involved in the killing with the names most often mentioned being those of M172, M176, M177, M178 and M179. During a meeting of the Central Committee in Ailaran, about 10 kilometres from Metinaro (Dili), in October 1977, Alexandre Lemos, who worked as a technician with the Fretilin radio, Radio Maubere, was reportedly beaten to death by M172.[398] Around this time M172 also reportedly killed one of his own bodyguards named Alik in Beutlala, Liurai (Remexio, Aileu). Alik was bound and hanged as a traitor.[399] Probably around the same time five more people, Moises, Mataran, Gaspar, Mauduan, and Beremau from Laclo (Manatuto), were reportedly killed on the orders of M176 near the Renal at Nundamar. Before being killed, the five were told to dig their own graves in the shape of a "T" (for "*traidor*"= traitor).[400]

389. Aside from the killings in Herluli and Aikurus, the Commission was also told of several other killings and deaths in detention that took place in the area of Remexio during this period. Ananias da Silva, the expelled secretary of the Remexio Zone, his deputy, Tobias Mendonça, and Beremau, a Fretilin *delegado*, were arrested by Fretilin commander M180 and his troops at Aimetalau, Remexio, probably in August 1977. They

* Domingos Maria Alves (Ambulan) told the Commission that after 20 August "every week my name was on the list of people who were going to be killed, but when we got to the killing site, my name suddenly was dropped and they called someone further down the list than me." [Domingos Maria Alves (Ambulan), testimony to CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003].

† The various statements attesting to this mass execution [HRVD Statements 05807, 08100, 05812, and 01502] name a total of 10 victims: José Mendonça, João Nenito, Francelino Mendonça, Sebastião Castro, Manuel da Silva, Alarico, Zacarias, João Rumão, Eduardo, and Domingos. The Central Committee communiqué of 19 September accused Domingos Simões of attempting to assassinate Alarico Fernandes on 7 August 1977 ("A Nossa Victoria", p. 19).

were held in Furi, Faturasa (Remexio, Aileu) where the two members of the Central Committee, Mário Bonifacio and Diogo Monis, were also being held. M172 reportedly beat Diogo Moniz and Ananias da Silva, and Diogo Moniz was also reportedly burnt with hot coals. Ananias da Silva and Beremau both reportedly died as a result of their treatment while in detention.*

390. On an unknown date in 1977, M172 ordered the arrest of two women, Ilda Mendonça and Dominggas, who were OPMT office-holders in Aimetalau (Raimerhei, Remexio, Aileu). They were accused of being traitors. They were taken to a Fretilin base located at a place called Kaitasu (Aileu). Ilda Mendonça was hanged to death, while Dominggas was clubbed by M172 until she lost consciousness, but survived.[401]

391. The Commission received reports of executions in the area of Lebutu (Hautuho, Remexio, Aileu). In 1976 the Sector Commander M179 ordered the arrest of Gaspar whom he accused of being a traitor. He was taken to Lebutu (Aileu), where he was imprisoned in a hole in the ground. After two days he was taken out of the hole and shot dead.[402] On 15 August 1978, Falintil reportedly killed five other people in Lebutu: Ana Maria Soares, Domingos Savio dos Santos and his wife, Elsa da Luz, João and an unidentified 16 year old.[403]

392. Killings and deaths in detention were also reported to have occurred in Liquidoe, the sub-district of Aileu to which Fretilin had moved much of the population living in the district under its control earlier in 1977.[404] Several arrests were reported to have been made in the sub-district in August 1977 resulting in executions, deaths in detention and disappearances.[405]

393. The Commission also received testimony about a number of deaths either by execution or as a result of ill-treatment in Laclo (Manatuto). José Vicente (also identified as Vicente Rodrigues Pereira), the former secretary of the Laclo Zone and his deputy, Antonio Heu, had both been denounced by name as "traitors" in the Central Committee's communiqué of 19 September 1977. With several others, including Thomás de Carvalho, Frederico de Carvalho and Felipe dos Santos, they were reportedly arrested in Zona Modok (Laclo). They were held at the Zone headquarters in Aslaran (Uma Kaduak, Laclo), where they all died, reportedly after being severely beaten and burned by Falintil troops under the supervision of the Zone Commander, M150, his deputy, M157, a company commander, M226, and his deputy, M237, who were themselves reportedly acting on the orders of M176 and Adjunto M178.[406]

394. Another person held at Aslaran in 1977, Thomás Antonio Ribeiro, told the Commission that he was detained there with five family members, Antonio, Domingos, Marçal, Orlando and João, after they had been pronounced traitors by Adjunto M178 and Adjunto M177. While in detention, they were not fed. Thomás Antonio Ribeiro was the only member of the group to survive.[407]

* HRVD Statements 05811, 09120, 04815, and 04882; and CAVR Interview with Antonio Amado de Jesus Ramos Guterres, Laclo, Manatuto, 6 November 2003. According to HRVD Statement 09120, Ananias da Silva died after open wounds in his legs resulting from torture became infested with maggots; another account says that an untreated snake-bite killed him [HRVD Statement 04882].

395. Though Turiscai (Manufahi) as the home of Xavier do Amaral was identified by the Central Committee as a hotbed of support for the Fretilin President, most detainees from Turiscai who died during the purges met their fate in Aileu. However, in one case reported to the Commission, members of a group of detainees from Aileta (Liurai, Aileu) died of ill-treatment or were killed in Turiscai. A Fretilin commander, M193, ordered Fretilin troops to arrest Manuel Oliveira from Aileta on suspicion of being a traitor who wanted to bring the people of Aileta to surrender to ABRI. The commander ordered that Jeronimo from Dili be killed. When that happened, the deponent and six others went to Turiscai, hoping to tell Francisco Xavier do Amaral what had happened. After they had been in Turiscai for one week, Commander M193 arrived and arrested them. They were held in a small room for seven days. On the eighth day they were allowed out and ordered to look for food in the forest for the Fretilin troops. A few days later one member of the group, Henrique from Dili, was killed by M195 with a spear. Another member of the group, Maunfoni, died of an illness that was not treated. After four months the deponent was released and returned to Liurai.[408]

396. The Commission also received accounts of killings in Laclubar and Barique (Natabora, Manatuto) both also identified as areas of support for Amaral, and in Metinaro (Dili) in 1977-78 that may well have been part of the anti-Amaral campaign. However, there was not sufficient detail in the statements to determine whether these deaths were in fact associated with the campaign against Amaral and his followers in those areas.[409]

The execution and death in detention of prisoners moved to Ermera and Viqueque

397. As the Indonesians advanced on the area in early 1978, many of the detainees were moved from the Renal in Remexio to places of detention elsewhere. One group of 10-15 prisoners was moved to the district of Ermera, first to Sare (Hatolia) and then to Abat in the sub-district of Fatubessi.[410] Another group of about 30 prisoners, who included Francisco Xavier do Amaral, was evacuated eastwards through Barique and Natarbora in Manatuto and then into the district of Viqueque.[411] Some members of both these groups survived; but others did not.[412] At least five members of the Ermera group, including Mário Bonifacio do Rego and Domingos, were killed at a place called Kakehe Mota Laran (Fatubessi, Ermera).[413] Three other detainees from Ermera, Maliban, Bernadino and Leki Liban, were taken away by an *assistente* called M282 and disappeared.[414]

398. After an arduous journey that took them through Cairui, Barique, Natarbora (in Manatuto) and Uaimori (Viqueque), the group of prisoners who were evacuated east with Francisco Xavier do Amaral were eventually detained in a Renal in Wesoko in the area of the Cai-Ua (Dilor, Lacluta, Viqueque) where the East Central Sector Commissariat (Cascol) had established a new base after the Laline Conference.[415] There they joined a number of other detainees from the Viqueque area.*

* CAVR, Community Profile, Ahic Village, Lacluta Sub-district, Viqueque District identifies José Monteiro (ex-commander of the Viqueque Region), Antonio Guterres (from Ossu) and Lourenço dos Reis Amaral (from Luca) as detainees who were held with Francisco Xavier do Amaral at Wesoko.

399. The Commission has received the names of 14 persons who did not survive the transfer to Wesoko. They were: João Bosco, Domingos Mendonça (the husband of Ilda Mendonça, who was hanged in Kaitasu), Mauhui, Maumali, Vicente, Berloek, Mauleki, Maune Fatu, Mateus, José Karamba, José dos Santos, Leki Timur, Lequibere and Mateus Mendonça.[416] Those who reported these deaths to the Commission did not know how the victims died. The hardships endured on the journey to Wesoko and the subsequent evacuation of the detainees from the Renal in Lacluta to the southern coast of Viqueque pursued by Indonesian forces may well have taken the lives of many of these victims, just as many had reportedly died on the journey from Turiscai to Aikurus after the arrest of Xavier do Amaral and his closest cohorts in September 1977.*

The execution and death in detention of prisoners in the eastern districts

400. The killing of persons who had allegedly collaborated with Francisco Xavier do Amaral spread to the east. Aside from the deaths of those who had been transferred to Viqueque from the districts of Manufahi, Aileu and Manatuto with Francisco Xavier do Amaral (see par. 348 above), people from the districts of Viqueque, Baucau and Lautém, including some who had been arrested during the crackdown on Aquiles Freitas, his allies and followers the previous year, local people also fell victim to the crackdown. The killings that were reported to the Commission were committed in Uatolari (Viqueque), Quelicai (Baucau) and Luro (Lospalos, Lautém). Unlike in other parts of the country, the intervention of senior Fretilin officials, in particular Xanana Gusmão, put a stop to the killing in December 1977. According to one source, on 17 December 1977 the Secretary of the 17 August Zone, João Meneses, ordered that the killings cease, saying that henceforth camps would be used for education and rehabilitation and not for killing.[417]

401. In October 1977, Fernando da Sousa, the Secretario da Zona (Secretary of the Zone) in Uato Carbau (Viqueque), and several others were arrested and executed in Uatolari (Viqueque) as suspected Amaral supporters. In the year since he had been arrested and taken to Lobito with Aquiles Freitas, Fernando da Sousa had been given political education and then appointed Secretario da Zona. He was accused by the Uato Carbau commander, David Lebre, of having made contact with ABRI to discuss surrender.[418] According to an informant who was held with 23 others in a pig-sty in the Zona 17 de Agosto (Zona Bautae), in Uatolari on the orders of three *delegados*, M238, M239 and M240, among those executed were three women, named Alice, Angelina and Coubae, who were taken away and executed in the middle of the night. According to another source, Alice came under suspicion because she had received a letter from her family in the town.[419] The same three *delegados* were also reported to have killed Fernando da

* Then the Fretilin Central Committee decided that Francisco Xavier do Amaral and 20 others, including Diogo Monis, should be sent to the Centro Leste. Where they stopped, the prisoners had to dig holes for themselves. In Uaimori (Viqueque), Francisco Xavier do Amaral had to stay in one of these holes for 1-2 weeks because ABRI was close by. Diogo Monis survived, and was part of the group that was captured by ABRI with Fraqncisco Xavier do Amaral on the south coast of Viqueque in 1978. [See CAVR Interview with Francisco Xavier do Amaral CAVR Interview with Francisco Xavier Amaral, Dili 18 June 2004]

Sousa.[420] The decision to execute him was reportedly delegated to Zone level by higher levels of the Fretilin administration.[421]

402. In addition to Fernando da Sousa and the three women, the Commission was told of 15 other persons who were executed or died as a result of severe ill-treatment in the Zona 17 de Agosto during this period: Mateus Alves (a Falintil platoon commander), his son, Agustinho, Lino Mau-Saba (a Falintil soldier), Mário Mascarenhas (of the Zone Political Propaganda Section), Loi-Siba, Sousa, Germano Xavier, Se-Boro, Germano dos Santos, Labi-Cati, Lobo-Loi, Mateus Cabral, Naua-Cai, Co'o-Nau and Uato-Labi (the last eight were from Quelicai). All the victims had been members of Fretilin or Falintil.[422] The killings reportedly stopped and the 300 or so prisoners held at the base were released after Xanana Gusmão reprimanded the local leadership for their treatment of the prisoners.[423]

403. At around the same time, two groups of high-ranking Fretilin and Falintil officials were arrested as "agents of Xavier". On 19 December 1977, a group of eastern commanders and Fretilin officials, including the Commander of the Ponta Leste Sector, José dos Santos, his deputy, Pedro Sanches, the Regional Secretary for Ponta Leste, Pedro's brothers, Afonso Savio and Benedito Savio, Adão Amaral, Gil Fernandes, Raul dos Santos and Victor Gandara, were summoned to a meeting at the Unit 3 (Unidade Tres) headquarters on Mount Matebian where they were detained on the orders of three members of the Fretilin Central Committee, M208, M209 and M210. A second group, including José da Conceição, Dinis de Carvalho and João Ernestino de Andrade Sarmento, was arrested shortly after.[424] All but one of these detainees, José dos Santos, escaped execution, though all of them were reportedly severely tortured. The Commission received testimony that shortly before the others were released, José dos Santos was stripped naked, and then beaten and burned before being shot dead.[425] The others were released after Xanana Gusmão again intervened on their behalf with his Central Committee and military colleagues.*

404. In Quelicai persons suspected of pro-Amaral sympathies or simply of planning to surrender were also killed during these months. Some were killed in their villages. On 20 October 1977 the local commander, M200, reportedly killed the *liurai* of Uaitame, Francisco Moreira, and two *chefes de povoação*, Francisco Urbano Moreira and Manuel dos Santos, because they were suspected of telling the people of Uaitame to surrender. M200 and his unit also reportedly killed 10 members of the Fretilin administration in Laisorolai (Quelicai), including two named Lucas and Paulo.[426]

405. Others were brought to the 15 August Zone (Zona 15 de Agosto) base in Osso-Mesa (Bualale, Quelicai) or sent to the 17 August Zone (Zona 17 de Agosto) in Bautae (Uatolari). In September 1977 a Falintil commander, Manuel, and one of his men, Ricardo, were arrested in the area of Akauata (Uaioli, Venilale, Baucau) by a Falintil unit commanded by M211. They were eventually brought to the Zona 15 de Agosto base

* Sarah Niner (ed), *To Resist is to Win!: The Autobiography of Xanana Gusmão*, p. 50; and HRVD Statement 00095. All but three of the survivors, Gil Fernandes, José da Conceição and Dinis de Carvalho, disappeared in 1979 during the Indonesian campaign against former Fretilin leaders and Falintil commanders [see 7.2.3.4)

where they were put in a pig pen with five other detainees for 30 days. The two underwent severe beatings over a period of six days during which they regularly lost consciousness as they were interrogated about their alleged activities as spies for the Indonesians. One evening in November 1977, at around 7.00pm, six of the detainees—Alexandre, Loi-Tai, Clementino, Modo-Olo, Joaquim, Luliba and Loi-watu—were taken away, supposedly to receive an education in Fretilin doctrine. They never reappeared.[427] Another deponent, Cecilia da Costa, reported the case of Naha Boru Kili, who was arrested in his garden and brought to the Bautae Zone base where he was held for three months and subjected to repeated beating and kicking until he died.[428]

406. The Commission received the names of 16 other people who were reportedly executed or disappeared at the Zona 15 de Agosto base in October 1977:

1. Manuel dos Santos (Lorico)
2. Mano-Sala
3. Gamo-Sala
4. Ce-Boro (Celestino)
5. Co'o-Quele
6. Gamo-Quele
7. Ano-Quele
8. Bernadino (Tai-Loi)
9. Afonso (Dara-Cai)
10. João dos Santos
11. Nuno Belo
12. Rafael Ximenes
13. Venancio Ximenes
14. Rai-Loi
15. Sedelizio dos Santos
16. Cosme Sarmento.[429]

407. In November 1977, soon after news of Xavier do Amaral's arrest had reached Lautém, another witness, Zeferino Freitas, was detained twice in Luro (Lautém). The second time he was arrested by the Central Committee member and *adjunto*, M242, and taken with another detainee, Cristovão, and their families to Lalapu (Lore I, Lospalos, Lautém) and then to Kaulai on the border between Lore I and Iliomar. Indonesian military attacks in the area forced their evacuation to Besi Manas in Luro Sub-district with three other detainees: Oracio Savio, Alcino Savio, and Julião. The 40 or so detainees held in Besi Manas at the time were subjected to continual beatings and received only one small meal a day. During the month that they were held there, two of the detainees, Julião and Cristovão, died, reportedly as a result of the beatings. The witness attributes the release of the detainees to the arrival of Adjunto Xanana Gusmão.[430]

The killing and disappearance of non-combatants by Fretilin/Falintil

408. The Commission received abundant testimonies about the execution or death perpetrated in other ways of people accused of being ABRI spies. Many of these cases are difficult to assess, although the dates and places in which they occurred sometimes

suggest that they may have been related to internal political conflicts within Fretilin.[431] However, it is also often evident that people were accused of being in contact with the Indonesians when they simply wanted to surrender or were engaged in innocent contact with friends or relatives in Indonesian-controlled areas.

Deaths and executions in Renal and other Fretilin detention centres

409. The Commission received extensive testimony describing the extremely brutal experience of prisoners who were held in the Renal and in other detention centres run by Fretilin. The Commission received numerous testimonies describing victims who were arrested as traitors and subsequently died as a result of ill-treatment, were executed or disappeared.[432] Often the victims of this treatment were ordinary civilians, Fretilin members or Falintil soldiers. As with their higher-level counterparts, in a number of cases where ordinary people fell victim to the purge, it was senior Fretilin leaders who ordered the execution of the victims.

410. A large number of these testimonies described deaths in detention due to ill-treatment and deprivation as well as executions and disappearances.[433] Sometimes prisoners were condemned through a crude form of justice, which, rather than protecting the rights of the accused, grossly violated their rights by subjecting suspects to interrogation routinely involving beatings, burning with hot irons, hangings from trees and other types of ill-treatment and to a process of summary "popular justice". Antonio Amado de Jesus Ramos Guterres, who was present at many interrogations as a note-taker, described them in the following terms: "Victims were forced to admit to something which they knew nothing about and to name people who had nothing to do with the case [under investigation]."[434]

411. Whether a prisoner lived or died was arbitrary in several senses. Conditions in the Renal varied but were almost always life-threatening, since the food, shelter, sanitation and medical treatment that prisoners were afforded were usually grossly inadequate, their inadequacy seemingly being an intrinsic part of the prison regime. Those who died in detention might equally have been arrested for the serious crime of treason or for a minor offence, such as petty theft or being found in prohibited areas looking for food. They might also have been arrested simply because of a family or other relationship to a person deemed guilty of treason or some other crime. The nature of the proceedings to which prisoners might be subjected meant that decisions on the fate of prisoners were often personalised: the inclinations of individual leaders or commanders could determine whether a prisoner lived or died.*

412. The Commission heard an account of Fretilin's justice system from a former Fretilin Assistente who recalled:

> *[T]he guilty person would be brought before the public. There many people would say that he was guilty; nobody challenged it even if we were*

* Aside from the interventions of Xanana Gusmão and others during the purge of Amaral followers in the east, other such instances are described in HRVD Statements 02195 (Liquiçá) and CAVR Interview with Elias Quintão Laclubar, Manatuto, 1 October 2003.

innocent, and no judge would defend us. I witnessed about three cases. People who looked suspicious would be captured in the guerrilla zone… and the commander would accuse him of being a spy. The commander said: "This man was captured in the guerrilla zone. He is a spy." Then people said: "If he is a spy, he must die." A Falintil commander usually handled cases like these and people just went along with him.[435]

413. Immediate public execution conducted with the utmost cruelty often followed these proceedings (see, for example, the accounts of the executions in Herluli, par. 384 above). Victims could just as easily be summarily executed without undergoing a period of detention followed by a judicial proceeding.

414. Most of the deaths of persons held in Renal reported to the Commission were not the outcome of such judicial proceedings in which the victim was sentenced to death, but occurred either as a result of ill-treatment or of an execution which had not been preceded by any judicial process.

415. One deponent described the events surrounding the killing of his uncle, Agapito Soares, in Laclo (Manatuto):

In April 1979 my uncle, Agapito Soares, who was 26 years old and a Fretilin delegado, was suspected by M243, Fretilin Commander M95 and Fretilin Commander M244 of being a traitor…One night at about 12 o'clock, M243, M95 and four of M244's men came with weapons… [They] tied Agapito Soares's hands with rope and then brought him on foot to meet Commander M244…Agapito Soares was tied to a tree and then interrogated by Commander M244…Then Commander M244 handed over Agapito Soares to M30, a Fretilin member from Sanarin, Laclubar, to be killed. Because this was an order from Commander M244, M30 escorted Agapito Soares to a spot on top of the mountain, with his hands tied… M30 stabbed Agapito Soares with a bayonet…in the ribs, three times on the left side and three times on the right side, and then once in the heart. Agapito Soares was still speaking to M30, saying: "I have done no wrong; I did nothing to be suspected of collaborating with ABRI." M30 kicked Agapito Soares once in the stomach. Agapito Soares fell and died.[436]

416. A corroborated case of deaths in detention, reported to have occurred in Ossu (Viqueque) in 1977 contains many of the elements described above.

417. In 1977, after the defection to the Indonesian-controlled town of Ossu (Viqueque) of a *liurai* called Gaspar Reis, 11 people, including children, were detained in the Renal at Leki-Loho on the orders of the Adjunto M245 and three of his assistants, M246, M247 and M248. On the basis of their association with the *liurai* Gaspar Reis, the 11 were accused of being spies and reactionaries. They were kept in a pig pen. During that time the detainees were beaten, slapped and kicked, and given salt water to drink. Reportedly as a result of this treatment at least two of the detainees, Ologari and Loi-Dasi, died. Those who survived were kept in the pig pen for one year and four months.[437]

418. Other cases of deaths in detention resulting from ill-treatment were reported to have occurred in Renal in the districts of Aileu, Manatuto, Viqueque, Liquiçá, and Dili.[438]

419. In other cases deponents reported only that the victim or victims had disappeared after being taken into detention.[439]

420. As during the initial invasion period (see Vol I, Part 3, paragraphs 172-207), the approach of Indonesian forces could result in Fretilin killing its detainees. Two sources reported that in 1978 in the Renal at Aikurus (Remexio, Aileu) members of Fretilin killed detainees by throwing grenades into the holes in which they were confined. The wife of one of the victims testified:

> *We heard that ABRI was going to attack the place where the Renal was. So my husband was put in his hole. Then the assistente, M249, dropped a grenade into the hole. As a result my husband, Mau-Sera, died in that hole.*[440]

421. Prisoners held in at least one other Renal were also reportedly executed or disappeared when Indonesian forces attacked the area.[441]

422. As its name suggests, part of the supposed function of Renal was the rehabilitation through political education of people accused of a range of crimes ranging from ideological ones such as reactionary behaviour to breaches of discipline (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).[442] The outcome of custody in a Renal for "political education" was often the death under torture, execution or disappearance of the victim.[443] In some cases, the Commission was told, victims did not receive the political education that was given as the reason for their detention; in these cases being "taken away for political education" was in fact a euphemism for execution or disappearance. One such case was the disappearance already described of seven persons taken from the 15 de Agosto base in Bualale (Quelicai, Baucau) in November 1977 during the purge of people suspected of being supporters of Francisco Xavier do Amaral.[444] Similar cases were reported from Liquidoe (Aileu) and Laclo (Manatuto) in the North Central Sector and Quelicai in the Central Eastern Sector.[445]

423. Miguel Soares and a husband and wife, Lorenço and Albertina, were arrested separately by Fretilin cadres in Laclo in 1977. They were ostensibly being taken away for political education. Neither Lorenço nor Albertina received political education. Instead they were taken to Hatuconan (Laclo, Manatuto) where they were tortured and ordered to perform forced labour. Both survived. However, Miguel, who was also taken to Hatuconan "for political education", was tortured and subsequently disappeared.[446]

424. What appear to have been purely ideological differences could also be grounds for condemnation as a traitor followed by execution. A group of teachers, Antonio dos Santos, Domingos Temenai, Jorgé, Domingos Pereira Montalvão and Domingos Sousa were detained in the Renal near Metinaro (Dili) where they died or were killed. According to the deponent, they were arrested primarily because of their opposition to the Fretilin doctrine on property.[447]

Killings related to civilian surrender to Indonesian forces

425. The Commission received information of instances where civilians who were suspected of planning to surrender, were in the process of surrendering, or who had actually surrendered, died in detention after arrest or were executed.[448]

426. Fretilin members, Falintil troops and ordinary civilians suspected of planning to surrender were liable to arrest, which could end in their deaths. The suspicion that people were planning to surrender might or might not be well-founded. Sometimes the basis for an arrest and subsequent execution might simply be the victim's relationship to somebody else who was discovered to be genuinely planning to surrender.

427. In 1979, driven by hunger, Elizio decided to surrender to ABRI. His plan was discovered and he was detained in Talik-Wetin (Uma Beco, Barique, Manatuto). Shortly after, his parents, Camilo and Faustina, his three siblings and two of his friends, Estevão and Mateus, were also arrested. While they were detained in Talik-Wetin, Estevão and Mateus were shot dead.[449]

428. In areas where disagreement over whether to surrender or not was particularly acute and pressure from the Indonesian military had become intense, such as in the Northern Frontier Sector (Sector Fronteira Norte) in late 1978, relatives of people who had already been captured or had surrendered might come under suspicion. In October 1978, in Matata (Railaco, Ermera) two Falintil soldiers, Felix da Conceição and Domingos Terlego, came under suspicion of wanting to surrender shortly after Felix's mother, Alda Exposto, and his cousin, Agapito, had been captured by ABRI in Leorema (Bazartete, Liquiçá). The Fretilin secretary, M250, and a section commander (*commandante de secção*), M251, ordered Falintil troops to capture the two. They were shot and hacked to death by the Tihar River in Matata.[450]

429. In some of these cases the victims were local Fretilin or Falintil leaders or members who had encouraged the civilian population to surrender.

430. In 1978 in Railaco (Ermera), because the civilian population was starving, their *delegado*, Eduardo Madeira Soares, told people to surrender. Because of his action, two Falintil members detained him and killed him at Fatumere (Taraso, Railaco) as a traitor.[451]

431. The information that individuals were planning to surrender might not be well-founded, but could still lead to execution. In some instances there were also indications that people were executed simply to discourage further surrenders.

432. In April 1977, soon after the Fretilin base at Tatabei (Atabae, Bobonaro) had been taken by the Indonesians, causing many of its inhabitants to scatter, the Fretilin commander, M252, and the *assistente*, M253, in Guico (Maubara, Liquiçá) ordered the arrest of three men, Lacu Ana, Mateus and Mau-Busa, after receiving the apparently false information that they were planning to surrender. Despite their strenuous denials under interrogation that they were planning to surrender, the three were executed.[452]

Killings during surrender

433. People who actually took steps to surrender also faced execution if they were intercepted by Falintil troops.

434. In 1977, a family decided to surrender after two aunts were killed during an Indonesian attack from the air. However as they walked down to surrender, they were intercepted by two Falintil soldiers at Raiketan (Covalima). The soldiers took them to a nearby river bank and shot dead three of them. The deponent survived only because he fell into the river and was carried to safety by the current.[453]

435. In 1978, Zeferino Freitas and his family were hiding on Mount Matebian. The people on the mountain were coming under relentless attack by the Indonesian military from land, sea and air. The family decided to come down from the mountain and surrender. They headed for Mount Builo (Ossu, Viqueque). On the way five Falintil members stopped them, and shot dead one member of the group whom they accused of spying for the Indonesians.[454]

Killings after surrender

436. The Commission received several testimonies about the killing by Fretilin/Falintil of people who had surrendered to the Indonesians soon after the invasion.

437. A family of about 12 people were allowed by ABRI to go to live in Manatuto Town unescorted after they surrendered in Casohan (Barique, Manatuto) in 1976. They had not even left the Barique area when they were captured by eight Falintil who took their possessions and brought them to their post. They tied one of the family members, Leonardo, to a banyan tree and tortured him by scraping his face with a knife. In the middle of the night they took Leonardo away and killed him. The rest of the family was able to escape and make their way to Manatuto when the Falintil post came under attack by Indonesian forces. [455]

438. Most of the population of Raça Village (Lospalos, Lautém) surrendered to Indonesian forces soon after ABRI entered Lospalos in February 1976. In the aftermath of the Indonesian capture of Raça the people of the village suffered at the hands of both ABRI and Falintil forces. During this time both ABRI and Falintil are reported to have killed villagers suspected of working with the other side.[456]

439. Local Falintil forces disapproved of the decision of large numbers of people from the sub-district of Bobonaro to come down and surrender to the Indonesians in Bobonaro Town in February 1976. Falintil troops reportedly shot dead several of those who had surrendered.*

440. The Commission was informed of victims who after surrender were ordered by ABRI, Hansip or members of the civil administration to return to the interior to try to persuade people still holding out to surrender and who were killed by Falintil when they did so.

* See CAVR Interview with Sister Consuelo Martinez, Dili, 4 July 2003. For a fuller account, see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment.

441. In February 1976, M254, the then sub-district administrator of Moro (Lautém), ordered four men from the *aldeia* of Soloresi (Maina I, Moro), Albino da Cruz, Koupono, Celestino and Tito, to persuade the people of Payahara to come out of the forest and move to Soloresi. When the four reached Payahara, they were arrested by a group of Fretilin supporters led by M255. Celestino and Tito managed to escape, but Albino da Cruz and Koupono were reportedly taken to a forest area of Leuro (Lospalos, Lautém) where they were killed.[457]

442. The father of one deponent was captured by ABRI in Colocau (Wetare, Besusu, Uma Berloik, Alas, Manufahi) in 1978. He was taken to the transit camp at Uma Metan (Mahaquidan, Alas) (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment) and ordered to look for the rest of his family who were still in the forest. While in the forest he was killed on the orders of the Fretilin *adjunto*, M256, on suspicion of spying for ABRI.*

443. Persons who rejoined the Resistance after previously surrendering or being captured by the Indonesians might also be suspected of spying for the Indonesians. In February 1976 Miguel Marques, who had surrendered to the Indonesians, stole some arms from ABRI and went back to the forest with them. In the forest he met two former Falintil comrades in arms, M257 and M258. M257 and M258 took Miguel Marques to their base in Uaimori (Viqueque), handed him over to three other Falintil members, and left. The three killed Miguel Marques on suspicion that he was spying for ABRI.[458]

444. In 1979, some time after surrendering to ABRI Battalion 401 in the area of Lacluta (Viqueque), Lauriano Marques, a Falintil fighter, decided to return to the forest with his younger brother because he feared that the battalion troops were about to kill him. He ran into a Falintil squad, none of whom were known to him. They tied him up and took him to a place called Halifutu Manu where they took out their machetes and killed him. They also hacked at his younger brother's neck, but he survived.[459]

445. Killings also occurred long after surrender. It is not always clear what the motive was for these killings: although in some cases those targeted were clearly collaborating with the Indonesians, this was not always the case.

446. One case that clearly involved the killing of a collaborator occurred in Fuat (Iliomar, Lautém) in 1979. The village chief of Fuat, Francisco Ferreira, went to his garden with five other men to harvest corn. Falintil troops commanded by M270 captured them, tied them up and brought them to a place on the outskirts of Fuat called Korufira. They were told that they could be allowed just to return to the village because if they did, Francisco Ferreira would only oppress the people. They were brought to a place called A'hasan where M270 and M271 killed Francisco Ferreira and two of the other men.[460]

447. In many other cases the motivation for the killing is not clear. After surrender in 1978 Artur Moreira and his family went looking for food. They encountered a member

* HRVD Statement 04303. Almost exactly the same fate may have been met by Duarte Almeida and others in 1979 [see HRVD Statements 01587]. However, two other accounts of the killing or disappearance of Duarte Almeida say that the perpetrator was not Fretilin but Hansip in Alas under the command of Capela Ferrão [see HRVD Statements 01506 and 01576].

of Fretilin called M260, who invited two of them, Gamulabi and Koubou, to look for food in the *aldeia* of Titilari (Ililai, Moro, Lautém). The two never returned. Artur Moreira was later told by another Fretilin member who had recently surrendered to the Indonesians that Fretilin had killed both of them.*

448. As Indonesian forces intensified their operations against the Resistance during 1977 and 1978, Fretilin found it increasingly difficult to maintain their bases. In many areas the population concentrations under Fretilin leadership broke up as increasing numbers of civilians either scattered to locations where they felt safer, or surrendered.† In some areas, such the Northern Central and Southern Central Sectors, it resorted to increasingly harsh measures to prevent their disintegration. The Commission was told of instances where groups of people who broke away from the main population concentrations were captured and some or all of their members executed.

449. The largest-scale killing of this type reported to the Commission was the mass execution of 43 civilians in Manufahi in 1978. The 43 were part of a group of civilians who had taken refuge in the forest in the area of Aituha (Alas, Manufahi) to escape advancing Indonesian troops. There they were arrested by a Falintil unit under the command of M272 and accused of being traitors. After being beaten, the 43 were bound and brought to Laututo in the area of Fahinehan (Fatuberliu, Manufahi) where they were executed.‡

450. Though the executions in Laututo were exceptional in their scale, there were other killings of this type. In the same year, in Laclo (Atsabe, Ermera), as Indonesian forces established a blanket presence in the area, a group of 10 people took refuge in an isolated area in the forest. Falintil troops came and took them from their hiding place. The following day two members of the group, Pedro and Celestino, were shot dead.[461]

* HRVD Statement 02021. Other such cases are described in HRVD Statements 03562 and 03597.

† Many of the Commission's Community Profiles describe this process. Representative examples include the Community Profiles of Hoholau Village, Aileu Town Sub-district, Aileu District; Liurai Village, Turiscai Sub-district, Manufahi District; Baboi Leten Village, Atsabe Sub-district, Ermera District; Beidasi Village and Aldeia Beco, Fatululik Sub-district, Covalima District; Defawasi Village, Baguia Sub-district, Baucau District, Orlalan Village, Laclubar Sub-district, Manatuto District, Aldeia Puno, Pairara Village, Moro Sub-district, Lautém District; and Bibileo Village, Viqueque Sub-district, Viqueque District.

‡ Statements made to the Commission identify the following 43 people as the victims of this mass execution: Graciano da Costa, Rui Luis da Costa, Anita da Costa, Agusto da Costa, Adriano da Costa, Inacia da Costa, Francisco da Costa, Costa, Eugenia da Costa, Jaimito da Costa, Leki Berek, Catarina da Costa, Carlos da Costa, Francisco Lorença, Hermenegildo, Castela da Costa, Anibal da Costa, Cristovão da Costa, Domingos Bere-Malik, Sia-lelok, Maria da Costa, Ernesto da Costa, Miguel da Costa, Cai Uka, Bi Malik, Loa Kolik, Sui Mauk, Coli Malik, Bere Leki, Seu Berek, Duarte Mau Seran, Antonio da Costa, Marcos da Costa, Antonio Bere Malik, Bere Colik, Luis, Filipe da Costa, Maria da Costa, Pedro da Costa, Juliana da Costa, Sara Mauk, Bui Leki Bere Leki. They also identify the following as perpetrators: M272, M302, M303,M304, M305. M306. M307. M308. M309, M310, M311, M312, M313, M314. [HRVD Statements 04802 and 04776].

Executions related to Indonesian attacks and offensives

451. The Commission received reports of killings of civilians by Fretilin/Falintil which occurred as ABRI advanced into an area.

452. Fretilin troops and auxiliaries reportedly killed an estimated 37 people in Kooleu in the village of Lore I (Lospalos, Lautém) as the Indonesians advanced into the sub-district of Lospalos in early 1976. Angelo Araújo Fernandes, who lost nine members of his own family, told the Commission:

> *Fretilin troops, along with the Spear Troops [Pasukan Tombak] led by Commander M303, ordered me and my father and my two older siblings together with five of our friends to go to the village of Pasikenu in Souro, Lospalos to meet with Fretilin leaders. The nine of us immediately left with [the troops], but in the middle of our journey they tied our hands behind us with rope that in the Fataluku language is called "tanu"…When we arrived in Pasikenu, Commander M303 ordered us to stop and he went to see whether or not the Fretilin leaders were there. Not long afterwards he returned and said that the Fretilin leaders were not there. After that he ordered his men to take us under a tree, then to tie people together in pairs with rope so that they were one, something called "kawaha-waha" in the language of Fataluku.*
>
> *I was tied to my older brother. At about 10.00am they began to shoot us and a bullet hit my older brother. The two of us were lifted three to four metres into the air before we fell into a gorge so that the rope that held us together broke. I immediately ran with my hands tied behind me while my friends, including my father and two older siblings were shot…After I managed to run, the Fretilin and Spear troops shot at me. I took off the sarong I was wearing so that I had on only my underpants. I kept running and went into a river so they couldn't see me anymore.*
>
> *In 24 years, I still have not been able to reclaim my family. I want to know who sent [the troops]…to kill my family. Why were they sent? I cannot tell my children who killed their grandparents. My child asks me "Dad, why was our family killed?" I cannot explain it to him.*[462]

453. The Commission received several reports of cases in which failed Fretilin attacks on Indonesian bases and successful Indonesian attacks on Fretilin and Falintil bases were followed by the arrest of alleged saboteurs.

454. Among the many crimes of which the Central Committee accused Francisco Xavier do Amaral and his followers, one of the most serious was the allegation that they had sabotaged the Resistance's capacity as a fighting force, specifically in the areas of Laclubar, Soibada, Turiscai and Maubisse. Amaral's allies were alleged to have "physically eliminated" several commanders, including the legendary Leonardo Alves (Ramahana) in September 1976, and to have failed to put up resistance to the Indonesians when they

advanced through Turiscai and into Same (Manufahi).* The Commission has found no evidence to support these charges.†

455. However, the Commission did receive one report of an execution in the Soibada area (Manatuto) in which the victim was a Falintil soldier alleged to have assisted the Indonesians mount an attack in which a senior commander was killed.

456. In October 1976, Falintil troops under the command of Antonio Lobato (Calohan, younger brother of Nicolau Lobato) went to Lakero, Fatumakerek (Soibada, Manatuto), intending to attack Indonesian troops they believed to be there. When they entered the village, there was no sign of any Indonesian troops, so the Falintil unit returned to its base in Au-Abut. That night Indonesian forces attacked Au-Abut, and Calohan was killed in the fighting.

457. After the attack two Falintil soldiers, João Nifa and João Manufahi, were arrested on suspicion of passing information to the Indonesians. On the orders of the *assistente*, M261, they were bound and put in bamboo stocks and burned with red-hot irons to make them talk. After one month Boru Metan (Caicasa Fatuberliu, Manufahi) came under Indonesian attack, and the two were moved with other detainees to a place called Kian-soru. João Manufahi was brought back to Au-Abut and killed by Falintil troops. After two months of constant movement to escape advancing Indonesian forces, João Nifa and the other detainees were released on the orders of the Minister of Justice, Kakuk (Eduardo dos Anjos). After his release João Nifa discovered that his wife had been unable to find sufficient food while he was in detention and as a result two of their children had died.[463]

458. During the intense bombardment of Mount Matebian, which took many lives, there were instances in which individual soldiers were blamed for the attacks and were executed or disappeared.[464]

459. Any kind of contact with people in Indonesian-controlled areas could arouse suspicions about a person's loyalty and could also prove fatal. The execution of Alice in Uatolari (Viqueque) in November 1977 after she was discovered to have received a letter from relatives in the town has already been described. Even apparently innocent actions that could be interpreted as evidence that the victim had been in touch with the Indonesians could have serious consequences, including the victim's death. In at least one case the possession of a ball was grounds for arrest and execution. Two school-teachers, Miguel dos Santos and Manuel Pereira, were executed after bringing a ball

* "A Nossa Vitoria", pp. 11 and 18-19; and CAVR, Community Profiles of Liurai, Beremeana, Caimauk and Manumera Villages, all in Turiscai Sub-district, Manufahi District put the date of the Indonesian advance into Turiscai as March–April 1976.

† The Indonesian version of the death of Ramahana is that he was killed in Funar (Laclubar, Manatuto) on 23 September 1976 in an Indonesian operation in which Indonesian Kopassandha troops and East Timorese belonging to the Laclubar-based Tonsus participated [Ken Conboy, *Kopassus*, p. 268]. The same source describes a "black letter" campaign, conducted by Kopassus in December 1976. The campaign was designed to sow mistrust among the leadership of the Resistance, and, it is claimed, resulted in the execution by Fretilin/Falintil of at least one commander [ibid. pp. 269-270].

that they had found nearby back to the Fretilin base. Their executioners took the ball as evidence that they had been in contact with ABRI.*

460. In January 1976, ABRI troops entered Dare (Hato Builico, Ainaro) causing many residents to flee to the forest. The deponent asked two members of his family, Benjamin and Bernardo, to return to Dare to assess the situation and make contact with the local priest, Father Ricardo. However, on their way to Dare the two were caught by Falintil who thought them to be trying to make contact with the Indonesian military and shot them dead.[465]

461. As was the case for Maria Antonia's family (see par. 350 above), having relatives who were collaborating with the Indonesians could also have fatal consequences. In another case that ended in executions in Laclo (Manatuto), from where Maria Antonia's family also came, parents whose son had been recruited into ABRI Battalion 744 were interrogated on suspicion of passing information to him and were executed.[466]

Killings of civilians after the fall of the *bases de apoio*

462. After the collapse of the major base areas in late 1978 and early 1979 and the surrender of most civilians, the Resistance began the slow process of reorganisation. Despite the Indonesian policy of relocating civilians in closely guarded settlements and restricting their movement, civilians in the settlements did manage to organise clandestinely. In some instances members of the nascent clandestine movement killed persons who were thought to be collaborating with the Indonesians.

463. One victim of these killings was Alberto Correia, who was active in the clandestine movement in Vemasse (Baucau) but came to be suspected of being an agent of Indonesian intelligence. At a meeting with Falintil in June 1979, he was shot dead by two Falintil soldiers on the orders of Commander M304.[467]

464. In Aubaca, Bucoli (Baucau, Baucau) in January 1979 three clandestine members killed a man called Mario da Costa Ximenes who was suspected of collaborating with ABRI intelligence. One of the youths put his arms around the victim, while another stabbed him in the back killing him on the spot.[468]

465. Falintil killed a prominent local leader with links to Indonesian authorities in Fuat (Iliomar, Lautém) in 1979. The village chief of Fuat, Francisco Ferreira, went to his garden with five other men to harvest corn. Falintil troops commanded by M270 captured them, tied them up and brought them to a place on the outskirts of Fuat called Korufira. They were told that they could be allowed just to return to the village but, if they did, Francisco Ferreira would only oppress the people. They were brought to a place called A'hasan where M270 and M271 killed Francisco Ferreira and two of the other men.[469]

* HRVD Statements 00124 and 00166 both describe the execution in Remexio of persons found with a ball. It is unclear whether the statements relate to the same or different incidents. The latter seems possible: the first statement gives the date of the incident as 1976, the second as 1977; in the first there is one victim, in the second two. In another case, also in the North Central Sector, a man called Gaspar was arrested in March 1977 and detained in the Renal on the orders of the M176, after he returned from Dili with new clothes. Gaspar, however, was released after one month.

466. One deponent told the Commission that after surrendering to the Indonesian military in 1979, he and several relatives were allowed to search for their grandparents in Bibileo (Viqueque):

> *On the road to Bibileo, right at Fetu Beu, we meet seven Falintil troops led by M236. Commander M236 shot my grandmother, Sahe Naha, in the chest. Because she wasn't dead, a Falintil soldier named M264 cut her neck with a sword [surik] until [the head] was severed and [she] died. Meanwhile, five members of my family, Cai Rubik, Laku Fonok, Napoleão, Noko Labu, Julião and Bosi Naha escaped.*
>
> *The rest of my family members were tied to each other with a rope, then they were forced to walk to a place called Wemaran. In Wemaran, they untied the rope and they forced four of my sisters, Luru Caik Etalina, Olinda Rangel, Petrolina Rangel, Clementina Gomes, to cook for them… Commander M236 interrogated my father, Cai Rubik…he was accused of being a spy or a guide for the Indonesian military. Out of fear, he admitted to the accusation. The next day, they were taken to Fatu Uani, Bibileo. There they met my uncle and my aunt, Leki Bosi and Dasi Labu. The two were caught and asked if they had ever met with ABRI or given food to ABRI. They answered: "If we met Falintil we gave them food; the same thing with ABRI." Hearing this, the Falintil troops used a piece of bamboo to hit them. Dasi Labu died immediately. Because Leki Bosi was not yet dead, Falintil troops heated some metal in the fire, then set his body on fire. The corpse of my aunt was simply tossed aside.*[470]

Killings of civilians looking for food or carrying out daily activities

467. Many of the killings by Falintil described to the Commission occurred when Falintil units encountered civilians who had strayed outside areas where they were permitted to go.[471] Very often civilians killed in these circumstances were people living in the Resistance bases who, driven by hunger, returned to their own gardens or went to look for food in areas not controlled by either side. They also included people living under Indonesian control or in areas not fully under the control of either side. Technically, any person found to have ventured beyond the boundaries of the Resistance zone could be accused of making contact with the enemy.[472] Such killings were reported to the Commission to have occurred regularly in a wide variety of circumstances across the territory between 1976 and 1979.

468. During this period both ABRI and Falintil killed civilians caught in areas they did not control, and most killings appear to have been motivated by the suspicion that the civilians were working for the other side.[473] However, on the Fretilin side the desire to prevent a breakdown in discipline in general and to stem the flow of surrenders was also an important factor, particular in the later years of the period. In late 1977 the Fretilin Central Committee introduced formal restrictions on freedom of movement in response to growing Indonesian military pressure, increasing numbers of unauthorised surrenders amid widespread hunger, and widening divisions within the leadership

over the right of people to surrender.[474] A large number of the cases reported to the Commission occurred in 1977-78.

469. An early case of the killing by Fretilin of civilians who went looking for food occurred on Mount Matebian in 1976. Feliciana da Costa and her family had been evacuated by Fretilin to Mount Matebian because ABRI was advancing on the area where they lived. However life was difficult and four members of the family died due to hunger. Two other family members, Naha Saba and Luis Lequi, decided to go with a friend, Agusto, to look for food in the area of Salaek-Lequeissi (Ossu, Viqueque). Falintil soldiers found and captured Naha Saba and Luis Lequi and brought them back to the Falintil headquarters where they were killed. After the killings Feliciana da Costa and the sister of Agusto, who had escaped, underwent torture and interrogation by Fretilin leaders and Falintil commanders at the 16 August Zone headquarters. Specifically they were questioned about the loyalty of the three men to the independence cause.[475]

470. In 1977, many of the people from the *aldeia* of Puno, Pairara (Moro, Lautém) were dying of hunger in the area to which Fretilin had evacuated them. Out of desperation some went to collect food from their gardens in Sikai. On their return five of them were arrested, two of whom were shot dead on the orders of the Fretilin *delegado*.[476]

471. In 1978, in the area of Remexio (Aileu), because they had no food, a group of people that included Bastião da Silva went to find some in the area of Lismori. When they came back to the base, Falintil troops arrested them and put them in the Renal. Some time later all of them except Bastião da Silva were released from the Renal. He continued to be detained on suspicion of having been in contact with ABRI, and eventually died of sickness in the Renal.[477]

472. Persons living in Indonesian-controlled areas who went to work in their gardens were also at risk.* For example, three civilians were shot dead in 1977 by Falintil when they went to harvest corn in an area of Betano, Manufahi where Falintil were present:

> *In March 1977 my three older sisters – Seubere [15 years old], Cotu-Bau [15 years old] and Edumau [16 years old]…went to our garden in Aidere, Bemetan [Betano, Manufahi] to harvest corn. Suddenly Falintil members who were in Bemetan ambushed them in the corn field. My sister, Seubere, was shot and died on the spot. My other two sisters who were still alive, Cotu-Bau and Edumau, cried and screamed so that Falintil troops came and captured the two in the garden. They were taken by Falintil to another location in the region of Aidere. There the two were shot dead by Falintil. After they died, [Falintil] took off their clothes.*[478]

473. Several of these cases were reported to have occurred after the fall of the *bases de apoio*. As in the killing of the village chief of Fuat (Iliomar, Lautém) cited above, the victim in some of these cases may have been targeted as a collaborator. In one instance,

* For examples other those cited in the text, see also HRVD Statements 01711, 03027, 05567 (Bobonaro 1979), 06490 (Carlilo, Manatuto, July 1976).

on 25 October 1979 at Mariasa in the village of Uairoke (Luro, Lautém), Thomás Pinto and his two younger brothers were gathering tubers to eat when they were arrested by a group of eight Falintil members. The Falintil group accused them of working for ABRI. They were bound, then shortly after were released and ordered to dig a shallow hole. Then they were tied up again and all three were shot. Thomás managed to escape, but his brothers died.[479]

474. However, it is often not possible to determine from the information available what motivated the killing. For example, in 1979 Francisco Cardoso and his brother Antonio Tai went to Omelai Guda in Lolotoe (Bobonaro, Bobonaro) to look for food. There they were arrested by Falintil, who took them to the Tepa River and shot at them. Francisco Cardoso died, but Antonio Tai survived.[480]

475. In one case the parents of a deponent were killed in two separate incidents, both occurring while they were carrying out their daily activities. The father, Ricardo Freitas, described as an ordinary member of the public, was shot dead on 17 June 1977 on the shore at Lautém Village (Moro, Lautém) in the presence of his wife, Felicidade de Xavier, as he was about to go fishing. Two years later, in August 1979, Felicidade and a friend were out looking for tubers near their *aldeia* of Solerasi (Maina I, Moro, Lautém) when they ran into a Falintil patrol. Felicidade was arrested and shot dead two days later.[481]

476. Killings of people working in their gardens were sometimes associated with robbery. Recalling another case where Falintil soldiers killed civilians who were gathering food, Marta Ximenes in Lautém told the Commission that:

> *On 17 August 1979, at around 6.00pm, me (Marta Ximenes), my husband Luis Lopes, and our two children, Cicilio Lopes dan Oktavio Lopes, were in the garden at Paitaal, Bauro. Suddenly three Falintil soldiers, one of whom was called Gil, appeared and asked Luis for our travel papers. I was in the field hut at the time while Cicilio and Oktavio were with their father, Luis. He gave the travel papers to Gil, but he tore them up and shot at Luis, but the bullet didn't touch him. Finally they took the linggis [metal digging stick] and used it to stab Luis in the chest…Luis called my name, "Marta." I looked out [of the hut] and saw him. He said, "I'm dying. Take care of the children well." When he stopped speaking they shot at the hut where I was staying and the bullet grazed my left leg so that my leg went out at an angle and I fell. After that Falintil entered the garden and took all of our corn and cassava.*[482]

Killings related to infractions of discipline

477. The Commission also received testimony about executions of Falintil soldiers who had refused to carry out orders[483] and of alleged thieves.[484]

478. In March 1978, in Laclubar (Manatuto), Maukaho and Abrão were arrested by M308 because they had stolen corn belonging to M308. Five Fretilin troops took the two to the Zona Kalohan base. There the men were tied up and stripped. Then the *adjunto*,

M309, announced to the people in Zona Kalohan that the next day two buffaloes would be slaughtered for a party. The following day the two men rather than the buffaloes were killed.[485]

Other killings

479. Some of the killings reported to the Commission do not fit into any of the above categories. For example, the Commission received statements describing several incidents that occurred in 1976 and 1979 in the Natarbora and Soibada Sub-district in Manatuto, in which Fretilin members were reported to have killed people who were accused of being witches (*buan, swanggi*).[486] It is unclear from the statements whether these killings had the institutional support of Fretilin. However, there is at least one instance where the Central Committee is reported to have banned a cult movement called Siloko Nailoko that had gained support in Fretilin-controlled areas in the Central Region in 1977. Its supporters were reportedly arrested and some were reportedly killed.[487]

480. Some other cases defy categorisation. One is the case of Alarico Tilman from Same (Manufahi) who had a habit of going out of the house at night while asleep. One night in 1978 he wandered in his sleep into the forest and walked up to a Falintil post. The Falintil troops captured him and killed him.[488]

Unlawful killings and enforced disappearances by ABRI/TNI 1980–1984

481. In the early 1980s, Resistance forces began to regroup in the interior and attack vulnerable Indonesian military posts, as part of a strategy of conducting guerrilla warfare while mobilising clandestine networks in population centres to provide material support and intelligence.[489] The Indonesian military retaliated by attacking not only Resistance fighters, but also civilian populations throughout the country, and by targeting both combatants and non-combatant members of the clandestine movement. Analysis of the data gathered by the Commission shows an increase in both unlawful killings and disappearances between 1982 and 1984, peaking in 1983. Some testimony submitted to the Commission suggests the increase in executions in the early 1980s was explicitly intended as retaliation for specific Falintil attacks.

482. From 1980 to 1984, the armed Resistance continued to organise and attack vulnerable Indonesian military posts throughout the country. Falintil attacks in Dili, Ainaro, Covalima, Viqueque and Lautém Districts took the lives of Indonesian troops. The Indonesian military retaliated indiscriminately against combatants and civilians alike. After the ceasefire of March–August 1983 broke down, the recently-appointed commander-in-chief of the Indonesian armed forces, General Benny Moerdani, announced that the Indonesian military was launching a new operation, Operasi Persatuan (Operation Unity), and that "this time we're going to hit them without mercy".[490]

Killings and disappearances after the Resistance attacks in Dili on 10 June 1980

483. During the night of 10 June, Falintil troops from the North Frontier and South Central Sectors and members of clandestine networks in Dili launched attacks on the Indonesian post at the broadcasting transmitter in Marabia near Dare and raided the armoury of Company B of Battalion 744 in Becora in eastern Dili.* In the attack on Marabia several Indonesian soldiers were killed.[491] In the aftermath of the attacks hundreds of people were arrested in a massive operation that involved virtually the entire security apparatus in Dili, including units of the territorial structure (the Korem, the Kodim, the Koramils and the Babinsa), the Dili-based Battalion 744, Special Forces (Kopassandha) and Hansip.

484. Among those arrested or captured were Falintil commanders and troops and others directly involved in the attacks, persons belonging to clandestine networks and a large number of people regarded by the Indonesian security forces as having pro-independence sympathies. The Commission received the names of 121 people who were killed, disappeared or died in detention either as a result of torture or severe deprivation in the weeks after 10 June. Most of the victims died in Dili. However, the Commission also received information about the killing or disappearance of people in the districts of Aileu, Manufahi, and Manatuto outside Dili, who were either captured after fleeing Dili following the attacks or who were suspected of being members of clandestine networks which had played a role in the planning of the attacks. The attacks had a serious impact on the wider population, but particularly on ordinary civilians living in the areas close to where the attacks had taken place. Several hundred people, many of them women and children on their own, were sent to Ataúro,[492] The Indonesian military tightened the already tight security conditions under which ordinary people lived: in the aftermath of the attacks ABRI interrogated women and children, and stepped up the frequency of

* According to some sources, on 10 June there were also attacks on ABRI posts in Dare and Lahane [HRVD Statements 06983]. The Commission was unable to resolve many questions about the attacks. It is unclear, for example, which elements of the Resistance in Dili and neighbouring districts were the moving forces behind the decision to bring the date of the attacks forward to 10 June when it would supposedly coincide with a visit to Dili by a US Congressional delegation (which was in fact never scheduled to happen). Elements of the clandestine movement were heavily involved in the attacks, but it is also unclear whether they had the movement's united support. According to Xanana Gusmão, the decision to launch the attacks on 10 June was taken by a group of Falintil commanders despite opposition from the clandestine organisation in Dili. Xanana Gusmão, who had agreed in principle to the operation and whose own forces from the east were heading for Dili when it took place, was very critical of the decision to bring the date forward. He characterised the episode as one of the "bitter experiences" (*amargas experiências*) of the war in which the primary objective of the plan – the capture of arms and ammunition – had been sacrificed to lesser objectives such as that of gaining international attention. It is also unclear how whole-hearted the support of Falintil troops, particularly those from the North Frontier Sector, really was. [For Xanana Gusmão's views on 10 June, see "Companheiro Terus", *Timor Leste – Um Povo, Uma Pátria*, pp. 129-132; and CAVR Interview with Xanana Gusmão, Dili, 7 July 2004. Other sources which throw some light on the events of 10 June include Neil Barrett, Interview with David Ximenes; CAVR Interview with Bernadino Villanova; HRVD Statements 05655 and 06983 and CAVR Community Profiles, Nazare Village, Dom Aleixo Sub-district, Dili District, and Bairro Alto Village and Alto Hospital Village, Vera Cruz, Mascarenhas, Dili District].

compulsory night-time guard duties.[493] Several communities in East Dili underwent the kind of forced displacement from which they had only recently been relieved.*

485. Following the attacks, the security forces indiscriminately rounded up persons connected to the Resistance. In Becora and Culuhun, two of the areas targeted during the crackdown, people who had been "marked" by ABRI when they surrendered were reportedly arrested *en masse*.[494] Those who disappeared or were executed came from a wide spectrum of backgrounds, ranging from former members of the Fretilin Central Committee to children.

Table 18: Persons reported to have been executed or "disappeared" after the 10 June attacks

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Abilio Loli Rai	Manatuto	Manatuto		7/1/1980	Captured in Manatuto; disappeared on night of 8 August 1980
Adão Mendonça	Aileu	Dili	Former District Secretary of Fretilin, Aileu; assistente and commander	01/06/1980 (PL); arrested on 12 June by four soldiers from Koramil Becora at house in Lahane Barat, taken to Kodim (CAVR Interview with Maria de Fatima Martins, Aileu, nd)	Disappeared from the Comarca; taken to Kodim on 12 June (03217)
Adriano dos Santos	Tutuala	Dili		11/06/1980 (HRVD)	Disappeared from the Comarca (PL); disappeared from Kopassandha base, Colmera (HRVD)

* People living on the edges of Balibar (Cristo Rei, East Dili) and Ailok (Becora, Cristo Rei, East Dili) were concentrated in Fatu-Loda in Balibar where they had to stay until 1986 under tight security restrictions that caused many deaths. They had to report to the Babinsa (Village NCO) if they wanted to move out of the area and were not allowed to leave it between 4.00pm and 8.00am [CAVR Community Profile, Balibar/Ailok, Becora, Cristo Rei Sub-district, East Dili]. Shortly after the attacks Hansip burned down houses in Suhu-Rama and forced the people from there to move to Santa Cruz [HRVD Statement 08037]. Conditions that were similar in many respects to those reported in the Balibar/Ailok CAVR Community Profile are also reported in the CAVR Community Profile, Florestal/Laulara and 10 de Junho/Nahaek neighbourhood, Vera Cruz Sub-district, West Dili, Dili District].

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Adriano Mesquita	Dili	Dare		6/1/1980	Disappreared from the Comarca; confirmed in 00072
Afonso Moniz	Dili	Santa Cruz		6/1/1980	Disappeared from the Comarca, some time after 18 June with Agusto, Tomas, Mau Quinta, Camilo, Pedro Lemos and Agusto (08063)
Agostinho Cabral					Disappeared
Agosto Sousa	Dili	Balibar		6/1/1980	Disappeared from Comarca some time after 18 June with Afonso Moniz, Tomas, Mau Quinta, Camilo, Pedro Lemos and Jeronimo (08063)
Agustinho		Dili	Dare	7/1/1980	Killed by Hansip in Dare
Agustinho Soares Laca		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis (former Hotel Askeu) in Manatuto Town for three weeks.
Alberto Monteiro	Dili	Lacoto		6/1/1980	Disappreared from the Comarca
Anastacio Sarmento	Dili	Dare		7/1/1980	Killed in Dare cemetery by three Hansip named Venancio, Januario and Jorge, on 11 June after being arrested at home the previous night
Angelina Soares		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis (former Hotel Askeu) in Manatuto Town for three weeks.
Antonio	Ossu	Dili/Bautu		6/1/1980	Disappeared from the Comarca; probably the Emilio Antonio in HRVD 08108

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Antonio de Carvalho		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis (former Hotel Askeu) in Manatuto Town for three weeks.
Antonio da Cunha		Ailili, Manatuto	"Clandestine chairman"	6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis (former Hotel Askeu) in Manatuto Town for three weeks.
Antonio Leki Mali	Dili	Lacoto		6/1/1980	Disappeared from the Comarca
Antonio Soares Mau Lalan		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis (former Hotel Askeu) in Manatuto Town for three weeks.
Asubere					Disappeared from Comarca (00072)
Bere Loek					Reportedly killed by Btn 744
Bere Mali					Reportedly killed by Btn 744
Bere Mali Soares					Reportedly killed by Btn 744
Caetano	Quelicai	Dili		6/1/1980	Disappeared from the Comarca
Camilo					Disappeared from Comarca some time after 18 June with Afonso Moniz, Tomas, Mau Quinta, Pedro Lemos, and Agusto (08063)
Carlos de Araújo	Dili/ Madaneno	Madaheno		6/1/1980	Died in Comarca due to beatings and hunger
Celestino Maubere	Aileu	Besilau, Aileu		8/1/1980	Disappeared from the Comarca

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Daholo	Dili	Lacoto		6/1/1980	Disappeared from the Comarca; arrested on 14 June by two soldiers from Btn 744 and six other TNI with six others: Joaquim RT, Antonio Bernadino, Paulo Hansip, Joao Hansip, Amandio da Silva Carvalho and Joao Lacoto, and taken to Balibar post. They were tortured from morning to 1 pm. Daholo died under torture (HRVD 06983).
Danilo Coelho					Disappeared from the Comarca
Danilo da Silva	Ossu	Dili		6/1/1980	Disappeared in the Korem
Dau Molik Inan	Dili	Dare		7/1/1980	Killed by Hansip in Dare
Domingos				6/1/1980	Disappeared from Kodim Aileu
Domingos	Manatuto	Manatuto		6/1/1980	Died in Comarca due to beatings and hunger
Domingos Borromeu	Same	Dili		6/1/1980	Disappeared from the Comarca
Domingos Caldeira	Turiscai	Dili		6/1/1980	Disappeared from the Comarca
Domingos Castro					Disappeared after arrest in Toko Baru, Culuhun; reportedly killed by Btn 744 with seven others
Domingos Fatima (Mau Nugo Aman)	Dare/Dili	Tiluri		6/1/1980	Disappeared in the Korem
Domingos Mau Nuca	Dili	Hospital		6/1/1980	Disappeared from his home
Domingos Soares		Culuhun		6/12/1980	Disappeared after arrest in Toko Baru, Culuhun; 06955: reportedly killed by Btn 744 with seven others (Gaspar da Costa, Gaspar, Bere Mali, Bere Mali Soares, Bere Loek, Maurais, and Vidal Soares) and bodies dumped in Fatu Bangku.

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Domingos Soares (Coli Lac)		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis in Manatuto Town for three weeks.
Domingos Soares Bac		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis in Manatuto Town for three weeks.
Edmundo	Ossu	Dili/Bautu		6/1/1980	Disappeared in the Comarca
Eduardo Freitas	Quelicai	Dili		6/1/1980	Died in Comarca due to beatings and hunger
Elias Alves					Disappeared from the Comarca
Francisco	Dili	Lacoto		6/1/1980	Disappeared from the Comarca
Francisco Araújo	Atsabe	Atsabe		6/2/1980	Captured in Atsabe; brought to Dili; disappeared
Francisco Gusmão					Captured in Atsabe; brought to Dili; disappeared
Francisco Soares Laco		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after detention in the Btn 121 Kotis in Manatuto Town for three weeks
Francisco Soares Luli		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after detention in the Btn 121 Kotis in Manatuto Town for three weeks
Francisco Soares Mean		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after detention in the Btn 121 Kotis in Manatuto Town for three weeks
Gaspar					
Gaspar Araújo					
Gaspar Carvalho					

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Gaspar José Soares Guterres					
Guilherme	Balibar	Dili/Bidau		6/1/1980	Disappeared from the Comarca
Hermenegildo	Same	Dili		6/1/1980	Disappeared from the Comarca
Isabel Soares		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after detention in the Btn 121 Kotis in Manatuto Town for three weeks
Jeronimo					Disappeared from Comarca
Joanico Soares		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after detention in the Btn 121 Kotis in Manatuto Town for three weeks
João Batista				6/1/1980	Taken to Comoro Koramil and disappeared
João Barreto	Dili	Vila Verde		6/1/1980	Disappeared from the Comarca
João Bosco				6/11/1980	Disappeared from Comarca on 13 June after being taken by Captain Mustari of Intel (05666)
João Cristo Rei	Manatuto	Dili		6/1/1980	Disappeared from the Comarca
João da Costa	Dili	Lacoto		6/1/1980	Disappeared from the Comarca
João Exposto	Dili	Balibar		6/1/1980	Disappeared from the Comarca; wounded by soldiers from Btn 744 on 10 June, surrendered by Dom Martinho to Comarca on 19 June, and then disappeared (04864)
João Mau Duan	Dili	Lacoto		6/1/1980	Disappeared from the Comarca

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Joaquim Assis					Mentioned in Hera, Cristo Rei Community Profile as being killed with Mario do Carmo and Joaquim Soares; all three were former Falintil commanders
Joaquim Soares					Mentioned in Hera, Cristo Rei Community Profile as being killed with Joaquim Assis and Mario do Carmo; all three were former Falintil commanders
Jordão Fernandes	Dili	Lahane		6/1/1980	Disappeared in Korem; confirmed as Mes Korem in 00072, but says that he was strangled in front of the other prisoners on 20 June; 00076-5: Jordao and Mau Meta Luis were killed in Mes Korem by having their heads submerged in water until they died some time between arrest of deponent on 10 July and his transfer to Comarca on 19 July.
José	Remexio	Remexio		8/17/1980	Died in Comarca due to beatings and hunger
José da Sousa	Laleia	Dili		7/1/1980	Disappeared on 8 August
José Manuel	Dili	Dare		7/1/1980	Killed by Hansip in Dare
José Ramos Soares		Ailili, Manatuto	"Clandestine chairman"	6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis in Manatuto Town for three weeks.
Leão Macedo	Dili	Lacoto		6/1/1980	Disappeared from the Comarca
Lino	Dili	Lacoto		6/1/1980	Disappeared from the Comarca

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Luan Berek	Fatumean	Dili		6/1/1980	Disappeared from the Comarca; 00076-5: Several of the detainees were taken from the Comarca and disappeared, among them Luan Berek, Danilo Coelho and Elias Alves.
Luciano Soares	Manatuto	Dili		6/1/1980	Disappeared from the Comarca
Malaquias Alves	Dili	Bibi Ruak		6/1/1980	Died in Comarca due to beatings and hunger
Mali Mau	Lequidoe	Fahisoi		8/17/1980	Died in Comarca due to beatings and hunger
Manuel	Dili	Ramelau/ Dare		6/1/1980	Disappeared from the Comarca
Marcos Soares	Dili	Dare		6/13/1980	Tortured in Korem; stabbed all over his body; disappeared; possibly killed in Balibar
Maria Barreto	Dare	Dare		7/1/1980	Killed by Hansip in Dare
Maria Teresa		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis in Manatuto Town for three weeks.
Mariano Soares		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis in Manatuto Town for three weeks.
Mário do Carmo		Hera			Mentioned in Hera, Cristo Rei Ccmmunity Profile as being killed with Joaquim Assis and Joaquim Soares; all three were former Falintil commanders
Martinho Saldanha	Dili	Lacoto		6/1/1980	Disappeared from the Comarca; Suco Nazare, according to Dom Aleixo Community Profile

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Mateus da Costa					Disappeared with four others after arrest in Dulaco, Fatuberliu (Manufahi)
Mateus Saldanha	Dili	Lacoto		6/1/1980	Disappeared from the Korem
Mateus Soares	Dili	Balibar		6/14/1980	Disappeared after arrest in Balibar by Btn 744.
Mau Buti	Dili	Marabia		6/11/1980	Disappeared in the Comarca; described as RT in Suhurama, Inur Fuik, Nain Feto Community Profile
Mau Leki	Lequidoe	Fahisoi		8/17/1980	Died in Aileu due to beatings and hunger
Mau Mali	Lequidoe	Fahisoi		8/17/1980	Died in Comarca due to beatings and hunger
Mau Malik Metan	Dili	Lacoto		8/17/1980	Died in Korem due to beatings and hunger
Mau Quinta (Resta Parte)					Disappeared from Comarca
Mau Ranek	Dili	Dare		7/1/1980	Killed by Hansip in Dare
Mau Siri		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis in Manatuto Town for three weeks.
Maubere	Aileu	Besilau, Aileu		8/1/1980	Disappeared from the Comarca
Mausabu					Disappeared from Aileu Kodim after arrest in Rairema, Aileu
Moises					Disappeared with four others after arrest in Dulaco, Faturberliu (Manufahi).
Morais					Disappeared after arrest by Btn 744 in Ailo'ok (Balibar)
Norberto Fernandes	Dili	Dare		6/10/1980	Stabbed to death by Hansip
Paulo Xavier	Dili	Lahane		6/1/1980	Disappeared from the Comarca

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Pedro Gusmão					Disappeared after arrest in Dulaco, Faturberliu (Manufahi)
Pedro Lemos	Ermera	Ermera		6/14/1980	Captured in Ermera; disappeared from Comarca on night of 8 August 1980
Pedro Manek	Dili	Dili		8/1/1980	Disappeared in the Korem
Raimundo Fatima	Dili	Dare		6/1/1980	Disappeared from the Comarca
Romaldo	Lequidoe	Fahisoi		8/17/1980	Died in Comarca due to beatings and hunger
Romão Nunes	Dili	Lahane		6/1/1980	Disappeared in Korem
Rosalino Bonaparte Soares	Manatuto	Santana/ Dili		6/1/1980	Disappeared from the Comarca
Salvador da Rosa de Fatima (Salvador Fatima do Rego)	Tibar	Tibar		6/2/1980	Guerrilla captured in Tibar; reportedly beaten to death in Comarca
Sancho	Venilale	Dili		6/1/1980	Disappeared from the Comarca
Sanchos Lasikona		Quintal Boot, Dili		7/12/1980	Disappeared after arrest by police and ABRI at home in Quintal Boot
Sertorio Marques Soares		Ailili, Manatuto		6/28/1980	Disappeared with 16 others after arrest by Btn 121 after detention in the Btn 121 Kotis in Manatuto Town for three weeks.
Silverio dos Santos		Dili		6/1/1980	Disappeared from the Comarca
Sismundo	Ossu	Dili/Bautu		6/1/1980	Disappeared from the Comarca
Tiago Loi Sara	Dili	Santa Cruz		6/1/1980	Disappeared from the Comarca
Tito	Ossu	Dili		6/1/1980	Disappeared from Comarca
Tomás	Aileu	Besilau, Aileu		6/1/1980	Disappeared from the Comarca
Tomás					Reportedly killed

Name	Place of birth	Place of residence	Position	Date of arrest	Other information
Tomás Soares	Dili	Dare		6/1/1980	Disappeared from the Comarca
Tomás Tilman	Dili	Lacoto		6/1/1980	Disappeared from the Comarca
Venancio Gomes (Mau Seran)	Tibar	Dili		6/1/1980	Reportedly taken from his home Remexio where executed.
Vidal Soares		Culuhun		6/12/1980	Disappeared after arrest in Toko Baru, Culuhun, by Btn 744

Sources: HRVD Statements 03217, 03809, 01626, 08063, 06961, 00072, 00076, 06959, 05738, 05020, 05666, 04864, 08063 and 01439; Neil Barret Interview with Maria Imaculada Araújo, Dili [date?]; CAVR Interview with Maria Fatima Martins, Seloi Malere (Aileu), n.d.; En Nome de Presos de 10 June 1980, CRRN Communiqué, 13 July 1983; Community Profiles, Suhurama, Inur Fuik (Nain Feto, Dili) and Balibar/Ailok (Dili).

486. Venancio Gomes (Mau Seran), a former member of the Fretilin Central Committee who was arrested and detained in Dili in December 1975, was reportedly taken from his home near the Comoro market on 15 June by an Apodeti member called M281 and taken to the Dili Kodim headquarters in a taxi driven by M282. That evening he was taken by helicopter to Remexio and shot dead by a member of the local Koramil called M283. According to a TBO who witnessed the execution, his body was left on the ground and was eaten by dogs.[495]

487. Pedro Lemos (Teki), a former Falintil commander in the North Frontier Sector, was arrested in Ermera on 14 June 1980 and brought to Dili. He appears to have been held in the Dili Kodim before being transferred to the Mes Korem and then to the Comarca (Balide). One night, possibly on 8 August he was taken out of the Comarca and disappeared. According to some accounts, several others, including Asubere, Jeronimo, Thomás, Afonso Moniz, Agusto, Mauquinta, Camilo, and Adriano Mesquita, disappeared at the same time.[496] In the month before the attacks, like Adão Mendonça (see par. 480 below), Pedro Lemos had been in Liquiçá attending an ABRI-run indoctrination course for former Fretilin/Falintil leaders and commanders, which seems to have ended after the 10 June attacks.[497]

488. Adão Mendonça, the former Fretilin Secretary for Aileu District (see Table 18: Persons reported to have been executed or "disappeared" after the 10 June attacks above), was arrested at his house in Lahane (East Dili) by four soldiers from the Becora Koramil and taken to the Dili Kodim. He never returned.[498]

489. Four former Falintil commanders – Joaquim Soares, Mário do Carmo, Bernardo Soares and Joaquim Assis – who had reportedly surrendered in September 1979, were arrested in Hera and told that they were going on a carpentry course at the sub-district office. Only one of them, Bernardo Soares, ever came home.[499]

490. Adriano dos Santos had recently moved to Dili from Tutuala (Lautém) where he had been actively involved in the clandestine movement. He was living with his brother

in Colmera at the time of the attacks. On 11 June he was arrested by Special Forces troops and taken to their headquarters nearby. After having visited him regularly at the Kopassandha headquarters, his brother was told one day that Adriano was no longer there. He has never discovered what happened to him. According to another source, he was taken to the Comarca (Balide) and disappeared from there.[500]

491. However, whether or not someone disappeared or was executed, was largely arbitrary. All four of the alleged Falintil commanders who led the attacks were captured, but only one, Pedro Manek, was executed or disappeared. Clandestine leaders who were alleged to have masterminded the attacks, including Mariano Bonaparte Soares and David Ximenes, survived. Yet, among the hundreds of people who were arrested were three brothers from Ossu, 20-year-old Antonio, 18-year-old Sismundo and 16-year-old Edmundo, all of whom disappeared from the Comarca.[501]

492. As in earlier times, if approached by friends or relatives, authorities would say that the victim had "gone to school" or had become a TBO. The wife of Adão Mendonça told the Commission:

> *When I went to the house of the village head to ask about the whereabouts of my husband, he said to me: "Don't worry about him. The bapaks have sent many of them to school and they haven't come back yet. Let's just wait." To this moment I don't know for sure where my husband has gone. He's disappeared for good.**

493. Members of the security apparatus carried out disappearances and executions in many different parts of Dili. Several hundred of those arrested were brought to the Mes Korem (later the Kartika Sari nursing home) in Mandarin. The Commission has received the names of nine people who were reportedly killed or disappeared from there. Those who survived were either released, sent to Ataúro or transferred to the Comarca (Balide), where another 48 are reported to have either disappeared or died from ill-treatment, including severe beatings and lack of food.†

494. By 16 June 1980, when David Ximenes was taken there, about 200 people were being held in the Mes Korem.[502] Interrogations at the Mes Korem, routinely involving severe and sometimes fatal torture, were reported to have been conducted by a Special Forces (Kopassandha) commander named M284, another Special Forces officer called M285, and officers from the Korem and Kodim intelligence sections, M286, M287, and M288.[503] David Ximenes says that his first interrogation after arriving at the Mes Korem, during which he was not tortured, was conducted by the Korem commander, Colonel Adolf Sahala Radjagukguk. Methods of torture used against detainees included electric

* CAVR Interview with Maria de Fatima Martins, Seloi Malere, Aileu, undated; for other examples of disappeared people being "sent to school" after the 10 June attacks, see HRVD Statement 06961; and CAVR Community Profile, Liurai Village, Aileu Town Sub-district, Aileu District; HRVD Statement 00949 cites the case of a disappeared person who was said to have become a TBO.

† Statements received by the Commission also report about detainees being held in the Dili Kodim before being transferred to the Mes Korem or disappearing [HRVD Statements 00949, 08275 and 08108].

shocks to the genitals and other forms of sexual torture, submersion in water tanks, and strangling (see Vol. III, Part 7.4: Detention, Torture and Ill-treatment). Jordão Fernandes is reported to have been strangled to death in front of other prisoners.[504] Luis Mau Metan is reported to have died as a result of being submerged in a water tank.[505]

495. Throughout late June, July and August detainees were being transferred from the Mes Korem to the Comarca, although newly arrested suspects were being taken to the Mes Korem as late as November. Once there many of them were reportedly tortured, again sometimes fatally.* By late August about 200 detainees arrested in connection with the June attacks were held in Block 2, while others were held in the "Maubutar" and isolation cells.[506] Over this period groups of detainees were taken out of the Comarca in groups at night and disappeared.[507] At least nine others were either beaten to death or died from a combination of forms of ill-treatment, including beatings and deprivation of food.[508] Overcrowded cells and inadequate provision of food were acute problems. The new detainees were reportedly fed only once a day at best: some reported not being fed at all, resulting in deaths from hunger.[509] The increased prisoner population combined with a fixed allocation of food for the prison meant that prisoners who had been in detention before 10 June also complained of cutbacks in their food.[510]

496. Maria Immaculada, a young woman who belonged to a clandestine cell, was detained on 12 June 1980. After she was interrogated and tortured at the Mes Korem, she was transferred to the Comarca in Balide where she witnessed other prisoners being taken out of the prison at night and disappearing:

> *They would take people out after 10 o'clock at night. Two or three vehicles would be waiting outside the Comarca. The lights would go off. The detainees they would take out would have their mouths covered and be handcuffed. Then they would be taken away in the vehicles. Then the lights would come on again. They might take detainees out like that two or three times a night. Among people I knew who were taken out in this way were Afonso Moniz, João Barreto, José da Sousa, who had been in the military police, and the son of a nurse called Tito who died. His three brothers, Antonio, Xismundo, and Edmundo, also disappeared till this day.*[511]

497. The Commission did not generally receive corroborated information about the place of execution of those who disappeared. Deponents reported that victims were taken to Areia Branca to the east of Dili, Tacitolu to the west of Dili, Metinaro, and Hera. One said that he had been taken from detention in the Dili Kodim to Tacitolu where he expected to be executed. He was not in fact executed, for reasons that are unclear.[512]

498. However, the Commission believes there is strong evidence that many of those who disappeared were executed at sites in Hera. Large numbers of people were taken to Hera after the 10 June attacks. They were held there for up to 40 days during which they were required to perform forced labour. Most of them appear to have survived.[513] One of

* HRVD Statement 00949 and eight other persons cited in "En Nome de Presos de 10/6/80", CRRN Communiqué, 13 July 1983.

them told the Commission that he was taken to Fatuahi where he saw a truckload of people with their mouths sealed. He assigned his brother, a now deceased former Falintil commander, to spy on the executions taking place there. The brother reported back that executions were being carried out at Besukaer, Fatu Banko, and Rikalai Mate.[514] The Commission was told that the bodies of eight people who were arrested in Toko Baru were reportedly disposed of in Fatu Banko (see par. 504 below).

499. People living in areas, such as Dare and Becora, near the sites of the attacks, were particularly liable to be targeted by the security forces deployed in their area.

500. In a letter to Archbishop Leo Soekoto of Jakarta, written on 12 July 1980, the Apostolic Administrator of Dili, Monsignor Martinho da Costa Lopes, described five of the killings that occurred in Dare in the aftermath of the 10 June attacks:

> Friday 13/6/80: Norberto [Fernandes] surrendered to the military command (Korem) escorted by the Bishop of Dili Monsignor Martinho da Costa Lopes, Father Ricardo, Vicar General of the Diocese of Dili, and Father J Falgueiras SJ, Rector of the Seminary of Our Lady of Fatima [in Dare]. Monsignor Martinho urged one of the commanders to protect Norberto, asking that he should not be beaten or killed. The commander agreed to this request and promised not to ill-treat Norberto.
>
> A few days later Norberto was taken to Dare. There, in the hall of the Seminary…members of Hansip beat and tortured him until he was near death…
>
> Saturday 21/6/1980: Norberto was put to death and his body thrown into a ravine to the north of the Seminary of Our Lady of Fatima.
>
> Wednesday 2/7/1980: Anastacio [Sarmento] was brutally ill-treated in the yard of the Dare seminary. He was tied to a volleyball post and beaten before a large crowd of people. After that he was taken to a spot in the Seminary garden to be killed. There a grave had been dug for him because, before his public beating, the Hansip had ordered local people to dig a hole.
>
> Thursday 3/7/1980 José Manuel Martins (a relative of Anastacio), Maria Barreto (wife of José Manuel Martins) and Agustinho (a relative of hers) were murdered in Dare Seminary after undergoing severe torture from local Hansip.[515]

501. Both Norberto Fernandes and Anastacio Sarmento were reportedly killed by Hansip under the command of M289.[516] Two other people, Mau Ranik and Dau Molik Inan, were reportedly killed by Hansip in Dare.[517]

502. Others from Dare were reportedly taken to the Mes Korem and then to the Comarca from where they disappeared. They included: Gaspar José Soares Guterres, Adriano Mesquita, Marcos Soares, Raimundo Fatima, and Tomás Soares.[518]

503. Others near the scene of the attacks also came under suspicion and some of them disappeared. In the early morning of 10 June, when the attack took place, three brothers, Agusto Monteiro, Alberto Monteiro and Francisco Restoparte, were on compulsory guard duty at the post in Fatuloda (Balibar, East Dili). While on guard they heard gunfire, but did not know where it was coming from or the reason for it. The next morning four Hansip and two ABRI, all fully armed, came to their house and immediately started beating up Agusto and Alberto. The two were bound and tied to a tree. When their sister, Amelia, tried to intervene, she was stabbed and threatened with being shot. Augusto and Alberto were then taken away and disappeared. A few days later Francisco was arrested and he too disappeared.[519] Others arrested in Balibar by the same Hansip unit included Antonio Xavier, Martinho Saldanha and Domingos Caldeiras. They too disappeared.[520]

504. Battalion 744 troops arrested many people living in the area of the Company B barracks in Becora. Several of those taken into the custody of Battalion 744 were reportedly executed or disappeared. They included a group of eight men from Aiturilaran and Mota Ulun – Vidal Soares, Domingos Soares, Bere Mali, Bere Mali Soares, Gaspar Araújo, Maurais, Bere Loek, and Gaspar – who were hiding in a house in Toko Baru (Culuhun) and were arrested by troops of Battalion 744 on 12 June, and disappeared. The Battalion 744 soldiers killed them in Becora and disposed of their bodies in Fatu Banko, according to one deponent, who was given this information by a member of Battalion 744.[521] It also mobilised troops from its headquarters in Taibessi, who also arrested people who later disappeared. In Suhu-Rama (Inur Fuik, Nain Feto, East Dili) troops from the battalion arrested about 40 people, among whom at least five disappeared.[*] [522] Battalion 744 also set up a post in a chapel in Balibar where it also detained people after 10 June. One of them was Mateus Soares who disappeared after being taken from his home in Fatuloda to the chapel in Balibar.[523]

505. Local Koramils also carried out arrests. The Becora Koramil was particularly active. Some of those it arrested subsequently disappeared or died under torture.[†]

September 1981: Executions at Aitana during the Fence of Legs Operation

506. Between June and September 1981, the Indonesian military forcibly recruited tens of thousands of East Timorese civilians to participate in a massive military operation to search out and destroy the remaining armed resistance in the mountains. The operation was officially dubbed Operation Security (Operasi Keamanan), but is known to most East Timorese as the Kikis Operation (Operasi Kikis), the Fence of Legs Operation (Pagar Betis) or the Aitana Movement (Gerakan Aitana) (see Vol. I, Part 3: The History of the Conflict).

* The five reported to have disappeared were: Domingos de Fatima de Carvalho (reported to have disappeared from the Mes Korem) and Jeronimo, José da Sousa, Maubuti, and Tomás (all reportedly disappeared from the Comarca) [CAVR Community Profile, Suhu-Rama, Inuk Fuik, Nain Feto Sub-district, East Dili; and "En Nome de Presos de 10 Junho 1980", CRRN Communiqué, 13 July 1983].

† HRVD Statements 05666, 06983 and 08037. The Comoro Koramil is also reported to have arrested a person who disappeared [HRVD Statement 05020].

507. Some witnesses told the Commission that the group they were with did not engage in armed conflict with Falintil, did not make any arrests and did not kill anyone during the entire operation. Nevertheless, the Commission received information about several fatal violations during the operation. Anselmo Fernandes Xavier, for example, told the Commission that he was with a group of "Partisans" that arrested and immediately executed seven individuals near Cacavem in the sub-district of Lospalos (Lautém).[524] Abilio Quintão Pinto told the Commission that a Falintil member attacked his group at night, killing four ABRI members before being shot to death.[525] Another informant told the Commission that the soldiers he was with captured and killed two civilians in Uato Carbau (Viqueque).[526] The Commission also heard the testimony of Domingos Guterres who was forcibly recruited in the Aitana operation. He witnessed the arrest and execution of an old man, and saw a corpse that was beheaded, somewhere during their march to Aitana.[527] Another witness told the Commission about the killing of a female school teacher, by members of Battalion 744, who then took away her two children. Their whereabouts are unknown.[528] Several informants reported that when they reached Aitana they saw two persons being captured, bound and killed.[529] One informant told the Commission that he saw three corpses while walking home from Aitana to Ossu.[530]

508. Operasi Kikis reached its culmination in September 1981 when military units and TBOs, including members of Battalions 321, 744, 745, Hansip and Indonesian marine units, converged on the region around Mount Aitana on the rugged border between the Districts of Viqueque and Manatuto. A large number of Fretilin and Falintil leaders and members had gathered in the area the previous May together with family members and other civilians to hold a conference at Maubai.[531] During its march from Laleia in Manatuto towards the north side of Mount Aitana, Battalion 744, and possibly Battalion 745,[532] accompanied by Indonesian marines, engaged Falintil near the Waidada River, located just below Mount Aitana and Mount Santo António. Nearby, Fretilin/Falintil had recently concluded its national conference at Maubai. By 17 September only Fera Lafaek's Company 4 remained in the area of Aitana with a large number of civilians. According to accounts received by the Commission, a large number of civilians, including women and children, were killed when Battalion 744 reached the Aitana region and engaged armed Resistance fighters over a period of several days.* In addition, the Commission was told that and at least 20 of them were executed near Waidada River by members of Battalion 744.[533] The Commission also received testimony suggesting that more than 100 people, including women and children, were subsequently killed on the slopes of Mount Aitana and Mount San António, either by being shot or being burned to death in the grassland to which ABRI had set fire. After the surrender or capture of the survivors another 25 people, all of them reportedly wounded, by the Waidada River, and five others were reportedly killed at the Kotis headquarters in Waidada.[534]

* CAVR Interview with José de Jesus dos Santos, Dili, 28 June 2004. He says that the engagement took place between 1 and 10 September.

Witnesses to the mass killing around Mount Aitana, September 1981

Sebastião da Cunha, a Hansip member who participated in the Fence of Legs Operation, told the Commission about the massacre in Aitana:

Operation Fence of Legs was held in 1981. All Hansip members were obliged to participate in the operation. For two or three days people were forcibly taken to participate in this operation…My fellow members of Hansip on duty in Laleia were transported with me to Manatuto and we stayed there for two days. From Manatuto we were brought to Remexio near Aileu. After three days in Remexio, Battalion 744 came…and divided us into groups to carry out the Fence of Legs Operation. Two Hansip members were assigned to each group, joined with ABRI and other people…Then we started advancing from Remexio in the direction of Cribas. We operated each day, moving east, resting only at night…

After several days, we reached Mount Betuto near Aitana. Mount Coibere is located between Mount Betuto and Aitana. We rested there for a while, but not long afterwards we heard the sound of gunfire. It seems there was armed contact between Falintil and ABRI in Oedada. We were ordered to remain behind with the people. As Hansip members we couldn't do anything. The armed contact began at 8.00am and lasted until late in the afternoon. ABRI broke through because they were far more powerful than us. Lots of Falintil members were shot dead on the spot. Battalion 744 and Marines from Barique advanced....

Then ABRI called members of Hansip and civilians to go down to Waidada River. We saw lots of civilians had been killed, including men, women and children. We couldn't count the number of people who had been killed… We were ordered to stop at that place and prepare sleeping places.

The next day, ABRI launched another operation in the area and killed many of the civilians who had survived. Among these victims there was a tall white man who had already been buried by the locals. But ABRI ordered me and some others to exhume the body and take it to Kotis at the Waidada River because they thought this man was Xanana Gusmão. When we arrived at the Kotis headquarters, we saw lots of bodies without heads on the floor, in several lines. I couldn't count them. Many civilians who had survived were summoned to the headquarters. They said that these people would be put in a helicopter, but this didn't happen. They were shot dead with a machine gun and noone survived. I was standing quite far away but I could see how they were shot. There were more than 20 people. The people who were killed in Waidada were from several places.

People who were wounded during the attack were not given any medical treatment, but instead they were killed in the headquarters…

We stayed for three days in Waidada. We couldn't eat or drink because the spring water in the area was full of human blood from those who had been killed by ABRI. After that we went toward a place called Santo António near Aitana and Laline. We stayed in Aitana for a week. Many civilians were also killed in Aitana. I couldn't count them. I saw five civilians brought to Kotis and then killed…the killings did not only take place in Waidada, but also in the surrounding area. I would estimate the total killings at more than a hundred. The killings started from Santo António, then in Waidada, in Aitana, and finally in Fatuk-Kado.[535]

Anacleto Ximenes was only about ten years old when he witnessed this mass killing. He was among the hundreds of civilians with Fretilin/ Falintil in Mount Aitana:

In the morning we heard gun shots and we realised that we were encircled. Not long after that, we were attacked, we were shot at. At that time Indonesian military was mixed with civilians. The civilians were placed in the front line and at the same time were ordered to beat drums all along the road. We were many people at that time, including women and children. They [ABRI] screamed while they shot at us, but we could do nothing to defend ourselves. I tried to run to the river, but ABRI started shooting at others in the river and lots of them died…I was with a friend who was my age and a Falintil soldier, but both of them were hit by bullets and died…I was still chased and shot at. I somersaulted into a small river. There was lots of thick grass, and I hid in the grass…

I was still hiding in the grass when I heard the pregnant wife of commander Maukalo run and collapse under a eucalyptus tree. She had been shot in her belly…and her unborn baby was also hit. I watched this from [my hiding place] in the grass, and I was so scared.

They [ABRI] then shouted out "Burn the grass! There are some people hiding in the grass!" I thought the fire would flare up in a minute. Rather than be burned like a snake, I preferred to get up and be shot. Lots of soldiers were standing and watching for us to come out. Before I came out, I took four boxes of bullets and a knife out of my bag. Then I came out and stood still with my hands in the air and said: "I surrender, Sir."

I saw and I know that there were 160 people [killed]. The 160 were not only Falintil soldiers, but also women and children. We took the bodies of the victims and gathered them at Waidada River. We were ordered to carry the bodies on our shoulders and bring them to the Waidada River. They then took photos of the dead bodies. There were 25

people who had been captured, all of them wounded. The got medical treatment and were held by the military. I was under the control of Iswanto, the Commander of Battalion 745. These 25 people were shot dead in that place. I saw with my own eyes they were ordered to form in lines of four and were shot.[536]

509. The Commission received testimonies about several other unlawful killings and disappearances that occurred during 1981-82. In 1981 members of Battalion 521 arrested and executed five civilians in Bualale, Baucau District.[537] In the same year, in Lautém, 13 people were sent to the island of Jaco where they were executed. They comprised two groups of six men, one from Luro, of whom only Mateus, João Reis, José Reis and Adelino Moreira were identified by name, and a second from Tutuala, including Carlos, Coroso, Cristovão, Reimalai, Pailuan and Gilberto, and one individual called Macario Ximenes from Maluro (Lore I, Lospalos).[538]

510. In 1982, in Fuiloro (Lospalos, Lautém) a group of men and women were arrested by Hansip, detained and tortured at the Kodim Lospalos; two of these men were killed and another disappeared.[539] In May of that year, members of Battalion 745 killed a pregnant woman who was searching for tubers in the forest in Wairoke (Luro, Lautém).[540] In June, two more civilians, also searching for tubers, were killed by Indonesian troops in the sub-district of Moro.[541] In Uato Carbau (Viqueque) the sub-district administrator (camat) ordered local Hansip members to arrest 12 individuals. These men were beaten and two died while in detention.[542]

August–December 1982: Unlawful killings and enforced disappearances after Falintil attacks in the area of Mount Kablaki

511. In late 1982, in the aftermath of Falintil attacks on Indonesian security forces in the area around Mount Kablaki (in Ainaro and Manufahi Districts) on August 20,[*] Indonesian military personnel were responsible for the murder and disappearance of many civilians in Ainaro District.[543] When Indonesian military units from Maubisse and Ainaro converged on Dare and Mau Chiga (Ainaro) and Rotuto (Manufahi), resistance fighters and a large proportion of the local population fled to Mount Kablaki. Many of those remaining were detained at the Kodim in Ainaro. After Mau Chiga was razed in a retaliatory action by the military, several hundred people were relocated to the island of Ataúro, leaving the village nearly empty (see Vol. II, Part 7.3: Forced Displacement and Famine).[544] In the weeks and months after the attack, Indonesian military personnel, in particular those from Kodim Ainaro, Koramil Dare and the 5th Combat Engineering Battalion (Zipur 5), made many arrests, resorted to torture and rape during interrogations, burned hundreds of houses to the ground, and killed

* Attacks were conducted by Falintil and villagers from Mau Chiga, Rotuto who targeted the Koramil in Dare, the Koramil and Kapolsek in Hato Builico (Ainaro) and the Hansip posts in Aitutu, Raimerhei and Rotutu (Manufahi).

civilians, sometimes in public (see Vol. I, Part 6: Profile of Human Rights Violations; Vol. II, Part 7.3: Forced Displacement and Famine; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment; Vol. III, Part 7.7: Sexual Violence).

512. The Commission received many accounts of unlawful killings during this period. According to several accounts, the Commander or Deputy Commander of Battalion Zipur 5 publicly executed a man by cutting off his head with an axe, forced members of his own battalion to eat parts of the head, and displayed pictures of the severed head to the local population.[545] A man suspected of having supplied food to Falintil was arrested by Hansip and held at the Koramil in Dare. After one or two months of detention, he was taken to a public place near the Koramil headquarters, stripped naked and questioned in public in the presence of Hansip, Koramil and Zipur 5 personnel. With each question, a soldier chopped at his fingers, hands, arms, cheeks and forehead. A local villager was then reportedly forced to kill him, and his hands were then hung from a tree, which the people were afraid to remove.[546] Other reports of executions received by the Commission include that of a man who had been detained at the Koramil in Dare being lashed onto a motor bike and burned alive, and of another man "tied up like Jesus" and shot at the elementary school in Dare.[547] The resistance organisation, the CRRN, also reported that two members of the armed Resistance were captured or surrendered between 22 and 24 August, and were tortured and executed at the Koramil in Ainaro.[548]

513. In retaliation for the August attack, in the neighbouring village of Rotuto (Manufahi), members of the Indonesian military lined up civilians and threatened to kill them. Alberto Alves told the Commission:

> *In 1982, the ceasefire between Falintil and ABRI and Hansip ended in Rotuto. After Falintil returned to the jungle, Battalion 745 and Hansip ordered us to line up, women and children in one line, men in a separate line., After we lined up, Battalion 745 wanted to shoot us. However, because a member of the Battalion from Bobonaro objected, the killing was halted.*[549]

514. ABRI searched for civilians who had fled, killing some in the process. Laurinda dos Santos recalled:

> *I ran away with 95 civilians to Kablaki on the Same side of the mountain. ABRI chased after us and killed my friend Domingos Lobato. Then they arrested me and the 95 other civilians.*[550]

515. Another deponent told the Commission that an East Timorese Hansip who was operating with Indonesian troops accidentally shot an Indonesian soldier and was immediately executed.[551] Other individuals were executed while under detention in Dare.

> *In the (Battalion) 321 Dare Post, I saw Hansip M290 and members of Battalion 321 hit my friend Alberto. I saw M290 strike Alberto in the chest with his weapon, then his forehead, hands and feet until he died. M290,*

M291 and M302 dug a hole to bury Alberto but suddenly Alberto revived and made to run away. Hansip M291 caught him… M290 took a machete and beheaded him, then Hansip Orlando cut his ten fingers off for M291 to cook and forced us to take them to the ABRI Post in Dare..[552]

516. According to another report, one man was doused with kerosene and set on fire by a soldier from Battalion 321.[553] Other individuals were taken by Indonesian security forces, including members of the Special Forces (Kopassandha) and Hansip, to Builico and executed at a location commonly referred to as Jakarta 2.[554]

Jakarta 2: A site of execution

In the weeks after the Falintil attack on Mau Chiga many civilians suspected of sympathising with the Resistance were detained at the Kodim in Ainaro and executed at Builico, a cliff about 300 metres high, south of the town of Ainaro, named Jakarta 2 by the Indonesian military.* The Commission received accounts from Mau Chiga, Hato Builico and Dare of people being executed and having their bodies thrown over the cliff at Jakarta 2, sometimes after being burned alive. According to one account, a child from the school in Dare was wrapped in a plastic bag, doused with petrol and set on fire before being thrown over the precipice at Jakarta 2.[555] In another account, four people were detained at the Kodim in Ainaro and subsequently taken to Jakarta 2, where three of them - one from Zumalai and two from Dare - were executed.[556] According to testimony given to the Commission, detainees held in Ainaro were typically tied up and taken to the cliff in the middle of the night where they were stabbed and thrown off the cliff.

At 1.00am the detainees were put into sacks, tied up tight and taken in a blue-coloured Kijang vehicle to the edge of the road; the sacks were opene; they were ordered to stand up and were stabbed with knives… These people were thrown from the steep cliff.[557]

The Commission also received accounts about the execution of villagers from Mulo, Nunumogue and Mau Chiga at Jakarta 2 shortly after the August attack. For one woman during this time, the only alternative to death at Jakarta 2 was rape and sexual slavery.[558]

* Among those detained at the Kodim in Ainaro and killed at Builico in the aftermath of the August 1982 attack were Ouei-Beri, Adelina Barbosa (female), Mateus Jeronimo, Leto-Mali, Cirilio Alves, Gabriel, Lorenço, Daniel de Araújo, Oscar Araújo, Antonio Mau Kura [see Appendix G, CAVR Women's Research Team, Women and Conflict, April 1974-October 1999, February 2004].

In addition to extra-judicial executions at Jakarta 2, a large number of people in Ainaro disappeared during this period. According to testimony given to the Commission, throughout the 1980s and 1990s Indonesian military personnel and civilian government officials continued to threaten people with the prospect of being "taken to Jakarta". The Commission received information suggesting that the TNI may have disposed of the body of at least one victim of violence in September 1999 by throwing the corpse over the precipice at Jakarta 2:

On 21 September 1999, a militia/TNI member, M304 and four others forced people to go to Atambua. They shot at the chief of the sub-village of Lebulau, Liquiçá, but missed. They ordered a man named Felix de Aldoreida to climb a flagpole. They shot him until his intestines spilled out and they threw a sword at him. He fell down. They got rid of his body by tossing it over Jakarta 2.[559]

517. Testimonies received by the Commission in connection with the Mau Chiga attacks and military reprisals report the unlawful killing of about 20 males. The Commission also received a list that identifies 14 Falintil members and 18 civilians who were reportedly killed or disappeared in relation to the incident.[560] In all, the Commission received reports that the following civilians were either killed or disappeared:

Table 19: Civilians killed or disappeared from Ainaro and Manufahi, 1982, as reported to the CAVR*

Name	Date	Location	Age	Description	Sources
Buimali	c. 20 Aug 1982	Mau Chiga	-	Shot	07231
João Tilman	20 Aug 1982	Mau Chiga	32	Beheaded	07191, 07269
Ernesto	Aug 1982	Kodim Ainaro	-	Shot	07191, 07269
Domingos Lobato	1982	Kablaki	-	Shot	07241
Gebo Antonio José	1982	Kablaki	-	Disappeared	09018
Trindade	1982	Kablaki	-	Beheaded	04923
Kusia	1982	Daisua	-	Beheaded	04923, Community Profile (CP) Mau Chiga
Alarico	1982	Daisua	25	Shot	List; CP Mau Chiga

* HRVD Statements 07177; 07186; 07204; 0723; 07231; 07241; 07242; 07253; 07255; 07256; 07258; 07191; 07269; 04923; 06257; 09018; List of victims at Mau Chiga, 1982, Submission to CAVR from Abilio dos Santos Belo, 3 June 2003.

Name	Date	Location	Age	Description	Sources
Mau-Sur	1982	Daisua	50	Beheaded	List; CP Mau Chiga
Mateus	1982	Daisua	55	Beheaded	List; CP Mau Chiga
Manuel Berelau	1982	Daisua	-	Killed	CP Mau Chiga
Verdial Lopes	1982	Daisua	-	Killed	CP Mau Chiga
Armando	1982	Nunomogue	-	Shot	07242; CP Nunomogue
Paulino	1982	Nunomogue	-	Shot	07255
Alberto	1982	Dare	-	Beheaded?	07258, 07253
Tomás Tilman	1982	Dare	-	Burned alive	Women's Research Team
Quei-Bere	1982	Dare	35	Executed	List; CP Dare
Clementino Baloc	1982	Casa	-	Killed	06257
Cristina Lawa	1982	Casa	-	Killed	06257
Antonio Mau-Kura	1982	Jakarta 2	-	Burned to death	List, 07256
Beremali	1982	Jakarta 2	-	Executed	04923
Berleki	1982	Jakarta 2	-	Executed	04923, 07204
Besimau	1982	Jakarta 2	-	Executed	04923
Mau Felix	1982	Jakarta 2	-	Executed	04923
Adelina Barbosa	1982	Jakarta 2	25	Executed	List
Mateus Jeronimo	1982	Jakarta 2	35	Executed	List
Leto Mali	1982	Jakarta 2	40	Executed	List
Daniel de Araújo	1982	Jakarta 2	50	Executed	List
Oscar Araújo	1982	Jakarta 2	25	Burned to death	List; CP Nunomogue
Cirilio Alves	1982	Jakarta 2	39	Executed	List, CP Dare
Lourenço Soares	1982	Jakarta 2	39	Executed	List, 07186
Gabriel da Costa	1982	Jakarta 2	41	Executed	List, 07177
Orlando Tilman	1982	Lisuati	50	Shot	List
Rodolfo Tilman	1982	Lisuati Balisa	49	Shot	List
Valente	1982	Hatuquero	35	Shot	List
Bere Mau	1982	Rotuto	45	Shot	List

518. According to reports received by the Commission, the unlawful killing of pro-independence supporters, including public executions and killings in detention, continued well after the 1982 attacks. For instance, the Commission received reports that in 1983 an East Timorese police officer was tied to the back of a vehicle and driven around the city for an entire day, after which his body was burned in front of the market

in Ainaro.[561] The Commission also learned that four men suspected of being members of the clandestine movement – Moises Araújo, Lourenço Araújo, João Xavier and Oscar – were detained and held in custody for several weeks,[562] most likely by officers of Chandraca 11, a Special Forces unit. The men were executed by officers in Hatu-Udo some time between May and July 1984 and their bodies were subsequently buried in Hatu-Udo.[563]

August–October 1983: Killings in Viqueque after the Kraras incident

Violations before the Kraras uprising

519. From 1976 until 1978-79, most of the residents of Bibileo lived in the mountains outside of Indonesian control. Those who surrendered or were captured in 1978-79 were relocated to the town of Viqueque where they lived for several years. In 1981 they were relocated to a flat plain north of the Viqueque-Luca Road, but well south of Bibileo, which is further north in the mountains. This new settlement was called Kraras.

520. The Commission received reports of human rights violations in the Kraras region in 1982 and early 1983. ABRI began to suspect that the local Ratih were working clandestinely for the Resistance and in late 1982, 80 of them were sent to Tacitolu (Dili) where they were supervised by members of Battalion 744 who "punished" them. Around the same time two people from Kraras – Loi Rubik and Susukai – were killed because they were suspected of being "two-headed"; Loi Rubik was a Ratih.[564]

521. A series of meetings between the Indonesian military and Fretilin/Falintil led in late March 1983 to a ceasefire agreement, resulting in a marked decrease in hostilities and relative freedom of movement for both Resistance fighters and civilians (see Vol. I, Part 3: The History of the Resistance). During the ceasefire, Resistance fighters operating in the mountains above Viqueque met with the Indonesian military and also held flag-raising ceremonies attended by members of the local Hansip forces and civilians from Bibileo/Kraras.

522. Nevertheless, tensions between the Indonesian military and the local people persisted. There are also reports of conflict between East Timorese members of Hansip and the Indonesian military. At the time of the ceasefire, the Indonesian military was in the process of reorganising the various civil defence forces in Timor-Leste. This reorganisation included downgrading some civil defence personnel from Hansip, who were armed and paid, to civilian defence Ratih (Rakyat Terlatih, "trained people"), who were unarmed and did not receive a regular salary. The community of Bibileo told the Commission that the Ratih had refused to hand in their weapons after a detachment of the Airborne Battalion 100 had shot and killed four local people.[565] Several sources also told the Commission that in July 1983 Indonesian soldiers sexually harassed local women, including the wife of an East Timorese Ratih member.[566]

Uprisings in Viqueque

523. On 8 August 1983, Falintil forces and local Ratih members under the command of Virgilio dos Anjos (Ular) staged a joint attack on an Indonesian military post in Kraras. Fourteen Indonesian soldiers from the 9th Combat Engineering Battalion (Zipur 9) were killed; one or two escaped alive. The Ratih members fled, together with other clandestine activists from the village, into the mountains to join Fretilin. Soon thereafter hundreds of villagers from Kraras and neighbouring *aldeias* also fled into the forest. A day later another group of Ratih in the village of Buanurak (Ossu, Viqueque), led by Domingos Raul (Falur) also defected from the Indonesian security forces and joined Fretilin/Falintil.[567]

524. The Commission received reports about four other Falintil attacks in Viqueque District in the first month after the Kraras attack. In Lacluta, Falintil reportedly attacked an Indonesian post, killing three East Timorese. On 10 August 1983, Falintil engaged in a fire-fight with troops from Battalion 745 in Nahareka, during which an East Timorese man was wounded and subsequently executed by Indonesian forces. On 19 August 1983, Falintil forces reportedly staged an attack in Bahatata (Uato Carbau) killing one civilian. And on 6 September, Falintil attacked Indonesian troops at a place called Sukar Oan in the village of Caraubalau, but there were no casualties.[568]

Indonesian retaliation in the vicinity of Kraras

525. On 7 September 1983, one day after the Falintil attack in Caraubalau, Indonesian troops entered the nearly empty village of Kraras and burned most of the houses. The Commission was told that that 4-5 people who had stayed behind in the village, including an old woman, were killed in this attack. The bodies of several of those killed were allegedly left in their houses, which were then burned.[569] In the following weeks Indonesian soldiers conducted patrols throughout the neighbouring mountains and forced those who had fled to return to the villages of Kraras and Buikaren, and to the town of Viqueque. The Commission received reports that a number of individuals were executed during these operations, including a 15-year-old boy on or about 12 September, and three other individuals on 15 September.[570] During this time a large number of people were also detained and tortured, many at Olobai, where a company of Battalion 745 was based.

Massacre at Caraubalau

Table 20: Individuals killed in the Kraras area, September 1983, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Joaquim Amaral	7 Sept. 1983	Kraras	-		Shot/burned?
Funu Lequi	7 Sept. 1983	Kraras	-		Shot/burned
Ana Maria	7 Sept. 1983	Kraras	-		Shot/burned
Namo Funuk	7 Sept. 1983	Kraras	80		Shot/burned
Domingos Gomes	12 Sept. 1983	Uma Ki'ik	~15		Shot

Euclides da Costa S.	15 Sept. 1983	Haiboho	-		Shot
Wailiba	15 Sept. 1983	Haiboho	-		Shot
Nahamodo	15 Sept. 1983	Olobai	-	Ratih	Shot

526. The Commission received reports of a mass killing that occurred in the village of Caraubalau on 16 September 1983.* According to one account, a large number of villagers from Kraras who had initially fled to Bibileo were captured by Indonesian soldiers and taken to Viqueque, where they were housed in a school building in Beloi. On the morning of 16 September, Indonesian soldiers and Hansip reportedly took at least 18 of them, including women and children, to the village of Caraubalau. The villagers were allegedly handed over to Indonesian soldiers from a different unit, then taken to a location called Welamo where they were told to stand in a hole created by a landslide and executed.[571] An eyewitness told UN investigators in later years:

> Three Hansip led the way and other military personnel surrounded the group of people so no one could escape… We started to walk at around 3.00pm and arrived at the location on the mountain at approximately 4.00pm…We sat down and again military personnel surrounded us to avoid any escapes…Then more Indonesian soldiers arrived…When they arrived we were given the order to stand up. I was standing, along with everyone else, facing the valley. Then we were told to walk. I took one step and the Indonesian soldiers opened fire on us. I fell to the ground, along with my brother. People who had been shot fell on top of me. The Indonesian soldiers shot everyone in the back. Then the gunfire ceased and the soldiers were having a rest and a cigarette. One member of the Indonesian army told Jerónimo [a Hansip commander] to speak in his language, Tetum, and tell anyone who was still alive…to stand up. No one answered this command. Then the soldiers opened fire again, on the bodies lying there. Then I heard two small children, one girl and one boy, [who were] about 1-2 years old. When the soldiers fired they were not hit. Then Jerónimo…went over to the two babies and took a knife and stabbed them to death. Then the Indonesian [soldiers] and Hansip took a break and had another cigarette.[572]

527. Informants provided different figures for the number of victims, ranging from a low of 18 to a high of 54.† The Commission has compiled the following list of victims executed at Caraubalau:

* Other informants describe a massacre at "Casese," but this appears to be the Caraubalau incident. See CAVR Interview CAVR José Gomes, Lalerek Mutin, Viqueque, 8 December 2003, who said that 50 people were killed on 15–16 September.

† This account is based on the Serious Crimes Unit interview with José da Costa Carvalho; see also CAVR Interview with Jeronimo da Costa Amaral, Viqueque, 10 March 2004, who said there were 18 victims; Filomena de Jesus Sousa, Lalerek Mutin, Viqueque, 10 March 2004, who said there were 26 victims; and Silvino das Dores Soares, Viqueque, 10 March 2004, who said there were 54 victims.

Table 21: Civilians executed at Caraubalau, Viqueque, 16 September 1983, as reported to the CAVR

Name	Age	Gender	Name	Age	Gender
Basi Nono	56	Male	Kai Uai	32	-
Bere Nahak	33	Male	Kena Kaik	3	Female
Bere Lirik	21	Male	Kena Liri	24	Female
Bosi Dasi	48	Male	Kena Liri	35	Female
Bosi Naha	16	Male	Lau Loi	35	Female
Bui Nahak	7	Female	Labu Olo	36	Female
Builai	50	Female	Leki Labu	61	Male
Builoi	29	Female	Leki Mono	48	Male
Dare Modo	-	Female	Leki Uai	2	Male
Dasi Leki	46	Female	Liba Bosi	21	Female
Child of Dasi Leki	-	-	Loi Uai	1	Male
Child of Dasi Leki	-	-	Madalena A. Sousa	31	Female
Dasi Rubik	35	Female	Martinha Amaral	27	Female
Filomena Amaral	27	Female	Martinha Tilman	26	Female
Francisca	19	Female	Naha Bosi	36	Male
Hae Boe	17	-	Naha Lirik	27	Male
Hare Kaik	28	Female	Olo Berek	61	Male
Hari Lequi	25	Female	Olo Bosi	4	Male
Hare Loi	46	Female	Olo Lohi	7	
Hare Modo	40	Female	Pai Rubik	31	Male
Hia Lequi	23	-	Sahe Mau	49	Female
José Soares	17	Male	Sahe Uai	40	Female
Kai Bosi	6	Male	Siba Labu	49	Female
Kai Ho'o	11	Male	Tali Bai	25	Female
Kai Ho'o	51	Male	Tali Bosi	16	Male
Kai Mui	14	Male	Tali Dasi	24	Female
Kai Rubik	28	Male	Tali Deki	34	Female
			Wono Kai	3	Male

Massacre at Tahu Bein

528. On 17 September 1983, Indonesian military personnel approached a large group of refugees from Kraras who had fled to the nearby village of Buicarin. The village of Buicarin was surrounded and those from Kraras were rounded up. The men were separated from the women and were told that they would be marched to Kraras under the supervision of the military to carry food. According to one report, 6-8 Indonesian soldiers and two East Timorese Hansip escorted dozens of men to Wetuku River in an

area known as Tahubein, where they were surrounded and shot. Only four people are reported to have survived the massacre. One informant provided this description:

> *The men were ordered to march from Buicarin to get food in Kraras. When we started out from Buicarin [we] were escorted closely by Hansip, police and soldiers from the Kodim. When we arrived in an area called Tahubein the troops ordered us to sing Foho Ramelau. But no one sang the song. Then they asked us to count. We started to count "one", "two", "three". After we had counted up to three, they fired on us. I threw myself to the ground. My friends fell on me, and my body was smeared with blood. After the shooting, ABRI started to check us. They wanted to make sure that we were all dead. I heard a voice of [a member] of Hansip say " If anybody is still alive, stand up and go with us" [ABRI]. I heard that but did not move. Then I sensed that two of my friends stood up, and then were shot dead. The soldiers then left the massacre site. [When] I thought that there were no soldiers around, I got up and ran away to the forest.*[573]

529. The Commission received reports about the involvement of various ABRI units in this massacre, including members of Kodim 1630/Viqueque, Infantry Battalions 328, 501 and 745, and the Secret Warfare Command (Kopassandha). There are conflicting reports about the number of victims killed at Tahubein, with figures ranging from a low of 26 to a high of 181.* The Commission received the names of 141 victims, all of whom were male.

Table 22: Civilians executed at Tahu Bein, Viqueque, 17 September 1983, as reported to the CAVR

Name	Age	Name	Age	Name	Age
Abel Soares	40	António Alves	28	Bosi Nahak	37
Abilio Baptista	28	Armando	29	Cai Fonok	29
Abílio Gomes	17	Armando Bau Dai	40	Camilio Guterres	39
Agustinho Gomes	31	Bai Alak	42	Cancio Gomes	20
Agusto Gomes	17	Bai Lekik	15	Carlos Soares	51
Alak Nahak	50	Basi Dero	58	Constantino Gomes	27
Alfredo Nunes	28	Be Kikik	29	Daniel Braz	25
Alcino Gomes	15	Belarmino	31	Daniel Gomes	20
Ana Maria	25	Beni Kaik	27	Diku Funuk	49
Angelo Amaral	27	Beni Nahak	18	Dau Kaik	59

* CAVR Interview with Miguel Viana, Viqueque, 17 July 2003, who cited 181 killed; CAVR Interview with Silvino das Dores Soares, Viqueque, 10 March 2004, who cited 143 killed; CAVR Interview with Manuel de Jesus Pinto, Buikaren, Viqueque, 20 March 2004, who said he counted 82 bodies; see also HRVD Statement 04146, which states 23 individuals were killed and three men – Antonio Naha Fahik, Toni Rubik and Leki Rubik – survived. See also HRVD Statement 00155.

Name	Age
António	30
Domingos Gomes	30
Domingos Gomes	17
Dom. Naha Fonok	30
Domingos Ventura	-
Duarte Tilman	35
Ernesto A. B.	30
Eugenio Marques	17
Feliciano Amaral	20
Feliciano Gomes	50
Fernando	42
Fino Lekik	15
Fino Lekik	35
Fino Olok	40
Fono Leik	37
Gaspar Nunes	29
Gilberto	30
Hana Rubik	60
Heu Supu	50
Hia Bosi	34
Ilidio	28
Jacob Gomes	60
Jaime de Jesus	24
João Gomes	33
João Soares	28
Joaquim Baptista	23
Joaquim Gomes	18
Joaquim Guterres	-
Joolino (Filo Fuhuk)	70
José Ole Leki	29
José Susu Nahak	34
Julio Alves	40
Kai Dokik	40
Kai Fromok	47
Kai Labu	41
Kai Lirik	45
Kai Mauk	-

Name	Age
Benjamim Alves	49
Kai Nahak	30
Kalti Leki	18
Labu Dekik	62
Lau Kau	10
Leandro Gomes	50
Leki Kaik	42
Leki Lerik	20
Leki Mauk	45
Lemo Rai	29
Leopoldo Amaral	28
Leopoldo Brandão	40
Lihu Modo	50
Liku Lobu	45
Loi Kaik	47
Lui Nahak	45
Manuel Soares	49
Manuk Sesan	45
Marcelino Gomes	29
Marciano Baptista	40
Marcus Amaral	18
Martinho Gomes	40
Mau Kaik	25
Miguel Gomes	51
Miguel Rangel	25
Miguel Soares	39
Modo Liba	54
Naha Dedak	27
Naha Kaik	59
Naha Lirik	40
Naha Mauk	20
Naha Rubik	35
Napoledo	43
Noegeria Amaral	28
Noema Baptista	24
Nono Kai	25
Nono Kaik	38

Name	Age
Dirgo Amaral	33
Nono Modo	48
Olimpio Amaral	23
Olo Lirik	38
Olo Susuk	46
Paulino Gomes	29
Pedro	42
Pedro de Araújo	38
Pedro F. Amaral	23
Raimundo Baptista	62
Rogéria Amaral	23
Rubi Berek	37
Rubi Dahik	60
Rubi Domok	30
Rubi Fonok	39
Rubi Heuk	45
Rubi Kaik	45
Rubi Katik	34
Rubi Laik	61
Rubi Lerik	40
Rubi Modo	27
Rubi Nahak	39
Siko Loik	49
Susu Beik	35
Susu Bosi	37
Tedi Susuk	35
Teofilo	30
Tomás Brandão	20
Tomás Guterres	50
Tomás Soares	49
Tomás Tilman A.	39
Tui Saan	17
Vasco Gomes	41
Vitolimo Ribeiro	54
Vitorino Monteiro	23
Wai Dirik	36
Watu Bata	50

Other killings in the Kraras region

530. The Commission also received information about a number of other executions of civilians in the Kraras region, including at Mali Aba Ulu and Kaken Kilat.[574]

531. The Commission received information that on 22 September Hare Cae and Celestino dos Anjos, the wife and father of the former Ratih commander of Kraras, Virgilio dos Anjos (Ular) were killed by Hansip members near Kaijun Laran, and that a man named Abel was executed nearby.[575] A deponent told the Commission that Cipriano Pereira was arrested in Kaijun Laran, detained in the Kodim headquarters and subsequently disappeared.[576] Another deponent told the Commission that Indonesian soldiers and the village policeman (Bimpolda) arrested her husband, Antonio Carada, and four of his friends, Agustinho Amaral, Daniel Amaral, Cipriano Pereira and Serafin Soares, and took them away in the direction of the town of Viqueque. None of them was seen again.[577]

Table 23: Unlawful killings and enforced disappearances in the Kraras area, 1983, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Susuki	19 Sept. 1983	Sukar Oan	-	-	Disappeared
Hare Cae (Alda)	22 Sept. 1983	Kaijun Laran	-	-	Killed
Celestino dos Anjos	22 Sept. 1983	Kaijun Laran	-	-	Killed
Abel	22 Sept. 1983	Kaijun Laran	-	-	Killed
Albino Soares	17 Oct. 1983	Lalerek Mutin	-	-	Disappeared
Bosi Modo	17 Oct. 1983	Lalerek Mutin	-	-	Disappeared
Daniel	17 Oct. 1983	Lalerek Mutin	-	-	Disappeared
Lacaros	17 Oct. 1983	Lalerek Mutin	-	-	Disappeared
Manuel	17 Oct. 1983	Lalerek Mutin	-	-	Disappeared
Toni Siku	17 Oct. 1983	Lalerek Mutin	-	-	Disappeared
Rubi Bere	17 Oct. 1983	Lalerek Mutin	-	-	Disappeared
Wai Bosi	17 Oct. 1983	Lalerek Mutin	-	-	Disappeared
Cipriano Pereira	1983	Viqueque	-	-	Disappeared
Antonio Carado	1983	-	-	-	Disappeared

Other unlawful killings and enforced disappearances in the eastern region (1983–1984)

Viqueque

532. The Commission received copies of lists of persons suspected of being active in the Resistance that were drawn up in late 1983 by village authorities. The Commission also has evidence that, on the basis of these lists of members of the "GPK" (Gerombolan

Pengacau Keamanan, Security Disturbance Group, i.e. Falintil), the military targeted individuals who were then executed or disappeared. The Commission possesses lists from seven villages in the sub-district of Uato Carbau (Viqueque) with a total of 182 names. Among them is one signed by Francisco Pinto, head of Bahatata Village in 1983, that lists 13 former members of the "GPK". Besides names, the list provides information about the age, year of surrender, former positions while in the mountains, current employment and current residence.

533. The Commission received corroborating evidence regarding the role of Indonesian security forces in the disappearance of people listed as "GPK". For example, in a military document dated 19 April 1984, a group of 11 detainees were to be transferred from Piton 12, a Kopassus unit, to Battalion 511 in Viqueque, and then to Dili. The Commission received a number of testimonies which show that the 11 individuals listed in this document all disappeared after being handed over to Battalion 511.[578] One witness told the Commission:

> *On 19 April 1984, at 9.00am, troops from Battalion 511 brought out my husband and 10 detainees, including Ermenegildo da Conceicao, Jeremias Xavier, Gaspar de Carvalho (my brother), and Francisco Lebre Correia,(my husband). I was bringing a meal, seprei and a mat for my husband at the time. But when I got there, my husband and the other captives were already in the vehicle, their eyes and hands bound… I asked the TNI: "Where are you taking my husband?" They said they were being taken to Viqueque to own up to their mistakes but then would be freed. It was only an excuse and my husband was taken who knows where and has never come back.*[*]

534. According to one testimony, these men were ordered to look for Falintil in the forests. During this time one of the men, Ricardo Madeira, ran off. When the group reported back to Piton 12, they were ordered to find Ricardo and kill him. He was killed in late March 1984 by his friends.[579]

535. The Commission also received information about several other killings and disappearances in the district of Viqueque. In 1983 the Hansip commander in Ossu arrested Celestino dos Reis and he subsequently disappeared.[580] On 20 March 1984, Cipriano Uala was arrested in Ossu by members of the Kodim, taken to a place called Leque Meta and executed.[581]

536. In 1983 Antonio, Manuel, Miguel, José and a woman called Hare Nahak were reportedly shot to death by members of Infantry Battalion 742 and Marine Battalion 503 in Uma Kiik (Viqueque).[582] In October of that year, a man named Antonio was reportedly arrested and killed in Buikarin.[583] On 23 November 1983, five men were

* HRVD Statements 06957, 07335, 07521, and 06786. The four names mentioned all appear in "Daftar Nama Anggota Ex-GPK di Desa Bahatata Kecamatan Uato Carbau diturun Tahun 1978," (List of Names of Ex-GPK Members in Bahatata Village, Uato Carbau Sub-district) signed by Bahatata village head, M305 and dated 11 November 1983. See also CAVR Interview with Mateus Pinto, Uato Carbau, Viqueque, 5 October 2003.

reportedly arrested by members of Chandraca 7, taken to the Kodim in Viqueque and subsequently disappeared.[584] And on or about 28 March 1983, two men, Jeremias Soares Pinto and Caetano de Fátima, are reported to have disappeared from the Kodim in Viqueque.[585]

537. The Commission received various reports that on or about 21 March 1984 16-18 individuals disappeared after being taken into custody at the Chandraca 7 post in Uaitame.[586]

538. In Matahoi (Uatolari, Viqueque), men named Domingos and Pedro were allegedly killed by members of Battalion 511.[587] In Makadiqui (Uatolari, Viqueque) a man named Julio da Silva was reported to have been forcibly recruited as a TBO by Battalion 406 and then disappeared.[588]

539. In 1984, a captured Falintil combatant was reported to have disappeared from the Kodim headquarters in Viqueque.[589] In February 1984, Calistro Soares, Benjamin and Paulo Gusmão were arrested by members of the Special Forces (Kopassus) members, detained at the Kodim office in Viqueque and subsequently executed in Olobai.[590]

Table 24: Individuals executed and disappeared in Viqueque, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Celestino dos Reis	1983	Ossu	-	-	Disappeared
Antonio	1983	Uma Kiik	-	-	Killed
Manuel	1983	Uma Kiik	-	-	Killed
Miguel	1983	Uma Kiik	-	-	Killed
José	1983	Uma Kiik	-	-	Killed
Hare Nahak	1983	Uma Kiik	-	-	Killed
Domingos	1983?	Matahoi	-	-	Killed
Pedro	1983?	Matahoi	-	-	Killed
Julio da Silva	1983	Makadique	28	-	Disappeared
Manuel Soares	23 Nov. 1983	Lugasa	-	RK	Disappeared
Manuel Soares	23 Nov. 1983	Lugasa	-	Village Sec.	Disappeared
Mariano Meneses	23 Nov. 1983	Lugasa	-	-	Disappeared
Armindo Rangel	23 Nov. 1983	Lugasa	-	-	Disappeared
Gregório da Cruz	23 Nov. 1983	Lugasa	-	-	Disappeared
Calistro	11 Feb. 1984	Haderai	-	-	Executed
Benjamin	11 Feb. 1984	Haderai	-	-	Executed
Paulo Gusmão	11 Feb. 1984	Haderai	-	-	Executed
Cipriano Uala	20 Mar. 1984	Ossu	-	-	Executed
Jeremias S. Pinto	28 Mar. 1984	Kodim Viq.	-	-	Disappeared

Name	Date	Location	Age	Occupation	Description
Caetano de Fatima	28 Mar. 1984	Kodim Viq.	-	-	Disappeared
Mateus do Rosario	Mar. 1984	Uaitame	-	-	Disappeared
Katorje	Mar. 1984	Uaitame	-	-	Disappeared
Manuel	Mar. 1984	Uaitame	-	-	Disappeared
Alberto	Mar. 1984	Uaitame	-	-	Disappeared
Rui	Mar. 1984	Uaitame	-	-	Disappeared
Paulo 1	Mar. 1984	Uaitame	-	-	Disappeared
Paulo 2	Mar. 1984	Uaitame	-	-	Disappeared
Caetano	Mar. 1984	Uaitame	-	-	Disappeared
Angelina	Mar. 1984	Uaitame	-	-	Disappeared
Adriano	Mar. 1984	Uaitame	-	-	Disappeared
Lino	Mar. 1984	Uaitame	-	-	Disappeared
Luis	Mar. 1984	Uaitame	-	-	Disappeared
Afonso Pereira	Mar. 1984	Uaitame	-	-	Disappeared
Ricardo Maderia	31 Mar. 1984	Uani Uma	-	-	Beaten to death

Lautém

540. During the 1983 ceasefire Fretilin/Falintil had also been in contact with East Timorese members of Hansip and the civil administration in the sub-district of Iliomar (Lautém) and an uprising of Hansip was scheduled to take place on 8 August. However, before the plan could be carried out, Hansip members loyal to the Indonesian military killed two members of the Resistance, Amilcar Rodrigues and Venancio Savio, during a meeting.*

541. At around the same time as the uprising was taking place in Kraras and the one planned for Iliomar was discovered, Miguel dos Santos, the *liurai* of Mehara (Tutuala, Lautém) organised and led the defection of Hansip members in the village of Mehara. One deponent told the Commission that 33 Hansip defected with weapons taken from the Indonesian military and the police, together with 40 civilians, including a number of children.[591] Antonio dos Santos told the Commission:

> *In 1982 many people already knew about the connection between Raja [King] Miguel and Xanana, including the meeting with Bishop Dom Martinho held here (Mehara). Many people also passed information to the Indonesian military about the activities of (Raja Miguel) so that after*

* For a description of events, see CAVR Community Profiles for Cainliu, Ailebere, Iliomar I and Iliomar II, all Iliomar Sub-district, Lautém District; CAVR, Field Report of the Displacement and Famine Research Team on the sub-district of Iliomar, 27 May–4 June 2003; HRVD Statements 03930 and 04008; and Ernest Chamberlain, *The Struggle in Iliomar: Resistance in Rural East Timor*, 2003, p. 24.

the meeting with Dom Martinho, Raja Miguel was terrorised and he was almost arrested. Because of that, in 1983 he ran away…he run away to the forest on 9 August…taking several members of Hansip with him.[592]

542. The Commission also received information about uprisings in Leuro, in the Lospalos sub-district, where ten Hansip defected on 8 August 1983, and in Serelau, Moro sub-district. [593]

543. ABRI's response to these events was extremely harsh. Its tactics included purging the ranks of Hansip and the civil administration of possible Falintil sympathisers and the execution of suspected clandestine members, sometimes in public. Many ordinary civilians were also caught up in the crackdown that followed.

544. After the killing of Amilcar Rodrigues and Venancio Savio in Iliomar, their bodies were brought to the Koramil headquarters. The Koramil commander ordered the Hansip to summon the population by sounding a bell. When the people came, the arrests started. Among those arrested were the heads of all six villages in the sub-district, who had been involved in contacts with Fretilin during the ceasefire.[594]

545. In Iliomar, the military response was particularly brutal including multiple arrests and the sending of about 300 families from the sub-district to the island of Ataúro, ill-treatment and torture, killings and public executions. The repression was most intense in the villages of Iliomar I, Cainliu, Fuat and Ailebere, although it reached all the villages in the sub-district.[595] Although village officials and Hansip and Ratih were among the chief targets of the repression, the arrests spread far wider than this group, and the whole population suffered from the reimposition of restrictions on their freedom of movement, which often made farming impossible and forced the population to scavenge for roots and leaves to survive. In 1983-84, 97 people are reported to have died from hunger and disease.[596] As in earlier times there were cases of people going out in search of food being shot dead.[597]

546. Many Hansip and members of the civil administration were arrested in the second half of October. Among them were three persons who were working in the local government, including the chief of the *aldeia* of Leilor in the village of Ailebere, Francisco Serpa Rosa, and a fourth man Manuel da Costa, who was a carpenter. The four had all reportedly been appointed to act as go-betweens between ABRI and Falintil during the ceasefire.[598] After all four had been severely tortured by Hansip attached to the Iliomar Koramil, Francisco Serpa Rosa and Manuel da Costa were handed over to the Battalion 315 post in Hiilari, from where they were taken out and killed.* In November 1983 Hansip members Carlos da Costa, Luis Lopes and Ernesto Madeira were killed by other Hansip members in Dirilofo (Iliomar I, Iliomar).[599] Probably in the same month another Hansip member, Filomeno da Gama, who also worked in the sub-district administrator's office, was executed, reportedly on the football field in Iliomar.[600] This was followed by the arrest, release, and re-arrest of several individuals,

* HRVD Statement 04393 and CAVR Community Profile, Ailebere (Iliomar, Lautém). The other two, Americo Jeronimo and Fernando da Costa, were taken to Dili where they were subsequently tried.

including women who were ill-treated. On 3 December, in the presence of the Koramil commander and a Special Forces officer, the village head ordered six of the women detainees to bludgeon Belmonte Jeronimo, a deputy village head, to death. One of the women told the Commission:

> *Two Hansip arrested me and took me to the Iliomar Koramil. I saw a man called Belmonte who had been beaten, tortured and fallen unconscious. There was also the head of village, M306, and a Nanggala member called M307 standing where Belmonte had fallen. M306 called me "You stand here". He gave me a piece of wood. Then he called M308 and M309. They were also pieces of wood. Then we were ordered to beat Belmonte to death.*[601]

547. Soon after, possibly the following day, Fernando dos Santos was killed by a Hansip member in Uatamatar (Ailebere, Iliomar), and Joachim dos Santos was killed by another Hansip member in Titililo Village.[602] On 9 December, two more men were executed. A deponent told the Commission:

> *My two friends Humberto and Marcelino were interrogated in the village of Cainliu. During the interrogation both mentioned my name (Lourenco, that I was involved in clandestine activities. Then my two friends Humberto and Martinho, were taken by Hansip to Cainalor, in the area of Cainliu, and killed.* [603]

548. Koramil and Hansip forces also ordered villagers in Cainliu to beat Margarida da Costa and her husband, Paulo Fernandes, to death. A deponent told the Commission:

> *In 1983… M310 arrested Margarida da Costa and her husband, Paulo Fernandes, and detained them in the Cainliu Village office in Iliomar. For seven days both were undressed and they were only allowed to wear underpants. M310 then gathered the Cainliu community and displayed both victims. After they were displayed to the Cainliu community, Paulo Fernandes and his wife Margarida da Costa were taken to Suamutur in the Cainliu area to be killed. Their grave had been dug the previous day. They were killed with blows to the neck. Margarida fell into the prepared hole, as did her husband Paulo Fernandes. The community of Cainliu were told by M310, M311 and M312 to witness the executions.*[604]

549. Soon after the killing of Margarida da Costa and Paulo Fernandes, their seven-month-old baby, Carsolita, reportedly died from lack of milk.[605]

550. At about the same time the Iliomar Koramil and Hansip also forced civilians in Cainliu to kill Martinho, Venancio and Americo in public.[606] Carlos Correia, Joaquim Sanches, José Anunciacão and Antonio Jeronimo were beaten to death in public in Dirilofo (Iliomar I, Iliomar).[607]

Table 25: Individuals executed in Iliomar, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Filomeno da Gama	9 Sept. 1983	Iliomar	26	Hansip	Killed
Carlos da Costa	Nov. 1983	Dirilofo	27	Hansip	Killed
Luis Lopes	Nov. 1983	Dirilofo	24	Hansip	Killed
Ernesto Madeira	Nov. 1983	Dirilofo	23?	Hansip	Killed
Manuel da Costa	Nov. 1983	Larimata, Ailebere	-	-	Killed
Francisco Serpa Rosa	Nov. 1983	Larimata, Ailebere	-	-	Killed
Belmonte Jeronimo	3 Dec. 1983	Iliomar	-	Deputy Village Chief	Fatal beating
Fernando dos Santos	4 Dec. 1983	Tirililo	25	-	Shot
Joachim dos Santos	4 Dec. 1983	Tirililo	20	-	Shot
Marcelino Hornay	9 Dec. 1983	Cainliu	22	-	Shot
Margarida da Costa	14 Dec. 1983	Cainliu	24	-	Public execution
Paul Fernandes	14 Dec. 1983	Cainliu	37	-	Public execution
Martinho Monteiro	22 Dec. 1983	Cainliu	-	Hansip	Public execution
Humberto da Cruz	22 Dec. 1983	Cainliu	-	Hansip	Executed
Venancio da Costa	22 Dec. 1983	Cainliu	24	-	Public execution
Americo Cipriano	22 Dec. 1983	Cainliu	25	-	Public execution
Carlos Correia	22 Dec. 1983	Dirilofo	35	Fretilin Sec.	Public execution
Joaquim Sanches	22 Dec. 1983	Dirilofo	36	Catechist	Public execution
José Anunciacão	22 Dec. 1983	Dirilofo	20	-	Public execution
Antonio Jeronimo	22 Dec. 1983	Dirilofo	-	-	Public execution
Claudio Fereira	Dec. 1983	Iliomar II	-	-	Disappeared
Amilcar dos Santos	1983	Iliomar I	34	***	
Ernesto dos Santos	1983	Iliomar I	35	***	
Mateus Pinto	1983	Iliomar I	48	***	
Alfredo Pinto	1983	Iliomar I	51	***	
Joao Ruas	1983	Iliomar I	30	***	
Raimundo Pinto	1983	Iliomar I	56	***	
Antonio da Costa	1983	Iliomar I	34	***	

551. In Mehara, from where Hansip led by Miguel dos Santos had defected, there were also large-scale reprisals. Indonesian troops are reported to have killed João Albuqueque in late August 1983.[608] A number of military units were despatched to the village, including Sater 515, Battalion, 641, Special Forces (Kopassus) and Airborne Battalion

100. They carried out arrests and torture and sexual violence as well as killings and disappearances. People from the *aldeia* of Loikere and Porlamano were moved to the primary school and the church in Mehara where they were kept for several months.[609]

552. Battalion 641 and Airborne Battalion 100 are reported to have perpetrated many executions and disappearances against the villagers. Airborne Battalion 100 is reported to have executed one man on 7 October,[610] another on 15 November and on 20 November,[611] and two more on 25 November.[612] Sabina das Dores told the Commission about one of these executions:

> *On 14 November 1983 I was arrested and taken to the Infantry Battalion 641 post and Airborne Battalion 100 in Mehara. I was tortured by being burnt with cigarettes and other things…On the same day Mateus was killed. His body was just thrown away, and until today we don't know where it is.*[613]

553. In Poros (Mehara, Tutuala, Lautém), in late 1983, the Indonesian military conducted public executions and a number of individuals disappeared after being taken into custody.[614] In October, seven individuals, including one Hansip member, were taken to the Kodim and Battalion 100 base in Lospalos and disappeared.[615] On 13 November 1983 five persons, Karasu Malay, Frederico do Carmo, Francisco Cristovão, Gilberto and Manuel de Jesus, were publicly executed one by one by the Macakuro Cave in Poros, reportedly by members of Battalion 641. The killing was reportedly in reprisal for the Falintil killing of a TBO.[616] On 25 December 1983, three men, Oscar Lopes, Alvaro Gomes and Francisco Lopes, were arrested in Poros by members of Battalion 641, taken to the Kodim headquarters in Lospalos and subsequently disappeared. The wife of Oscar Lopes, Gracilda Guimarães, spoke at a Commission national public hearing about the detention and disappearence of her husband.*

> *My husband was a primary school teacher in Poros and a leader of the clandestine organisation called Loriku Assuwain. In 1983 a group of Hansip from Poros joined Falintil in the forest. Several weeks later the military Commander of Tutuala forced my husband to take part in a Fence of Legs operation for one month to look for the Hansip members who had run away. On 13 November 1983 Hansip, together with ABRI 641 in Poros, came to the house to arrest my husband. Several days later he was released. [After being detained for three nights] my husband…and several of his friends were taken to Kodim Post 1629 in Lospalos. To this day my husband and two of his friends have never returned. A third friend was released and returned to live in Poros.*[617]

554. The Commission received information about the execution or disappearences of the following people in Mehara in late 1983 and early 1984:

* Gracilda Guimarães was also detained and became a victim of sexual harassment. She was detained together with her baby. Her baby became ill with malaria (see Vol. III, Part 7.7: Sexual Violence)

Table 26: Individuals executed in Mehara, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
João Albuqueque	Aug. 83	Mehara	30	Peasant	Shot
Jorgé Nascimento	7 Oct. 83	Loikere	~50	Peasant	Burned to death
Mateus Gonzaga	15 Nov. 83	Loikere	~63	-	Executed
Orlando	20 Nov. 83	Tolofai	-	-	Shot
Gaspar Nunes	25 Nov. 83	Porlamano	37	-	Burned to death
José Manuel Inacio	25 Nov. 83	Loikere	42	-	Burned to death
Alexandre Correia	1983	Porlamano	-	-	Shot
Ernesto da Americo	1983	Loikere	-	-	Shot
Francisco Lopes	Oct. 83	Poros	29	RT head	Shot
Cristovão Lopes	Oct. 83	Poros	30	-	Disappeared
Constantino da Costa	Oct. 83	Poros	24	-	Disappeared
Damião Lopes	Oct. 83	Poros	24	Hansip	Disappeared
Loureiro	Oct. 83	Poros	28	-	Disappeared
Alvaro dos Santos	Oct. 83	Poros	31	-	Disappeared
Antonio Soares	Oct. 83	Poros	19	-	Shot
Karasu Malay	13 Nov. 83	Poros	50	-	Executed
Francisco Cristovão	13 Nov. 83	Poros	30	-	Executed
Frederico	13 Nov. 83	Poros	32	-	Executed
Gilberto	13 Nov. 83	Poros	28	-	Executed
Manuel de Jesus	13 Nov. 83	Poros	34	-	Executed
Oscar Lopes	7 Jan. 84	Poros	25	Teacher	Disappeared
Alvaro Gomes	7 Jan. 84	Poros	32	-	Disappeared
Mateus Pedro	11 Jan. 84	Poros	23	commander	Disappeared
Raul dos Santos	11 Jan. 84	Poros	-	-	Disappeared
Amancio	11 Jan. 84	Poros	18	student	Disappeared
Joaquim	11 Jan. 84	Poros	17	student	Disappeared
Olinda	11 Jan. 84	Poros	22	-	Disappeared
Ermelinda	11 Jan. 84	Poros	22	-	Disappeared

555. The crackdown extended to places in Lautém where there had been no uprising. Members of Hansip/Ratih and the civil administration, suspected members of clandestine networks and the families of people with relatives in the Resistance, including above all those who had recently fled to the forest, were particular targets.

556. For example, on 28 August 1983, members of Battalion 745 arrested Paulo Marques, a 24-year-old member of Hansip in Home, near Lospalos, and subsequently executed

him. On 5 September, Kodim personnel arrested Nicolau Flores, a Ratih member in Moro and executed him several days later. In early January another Ratih member named Tiago Bandeira dos Dores was arrested and tortured. In late January 1984, in Moro, a third Ratih member named Alfredo Coutinho was arrested and tortured. His wife, who had regularly been bringing him meals, reported that he disappeared from detention in April.[618]

557. In Lore (Lospalos, Lautém) in August 1983, the Indonesian military responded to the Hansip uprising by arresting a number of women suspected of having relatives in the Resistance. Some time thereafter, Falintil attacked the Indonesian forces in the Lore area. Battalion 641 retaliated by firing mortars into the Maluro settlement camp (Lore I, Lospalos), killing nine individuals between the ages of three and 50. In November 1983, four individuals were arrested, one of whom was executed.[619] In late 1983 Kopassus members arrested six men. The body of one of these individuals was subsequently paraded through the village; the other five are reported to have been disappeared. According to Raul da Costa Pite:

> *After the [Falintil] attack, Commando members named M313 and M314 brought me and my friends to the Commando Post…When we arrived at the post, we were tied by the hands and left out in the sun. The Commando members threw stones at us.*
>
> *The next morning, they gathered all the people of Maluro for an assembly. The inhabitants brought Antonio's body and buried it. But to this day I don't know the whereabouts of the others.*[620]

558. Two other people, Amando Castanheira and Jeferino, are also reported to have been killed by a "Komando" (a term usually applied to members of the Special Forces, Kopassandha/Kopassus) and local Hansip in Lore in 1983.[621] In February 1984, one man was executed and a Ratih member was arrested. Deponent IA told the Commission that in 1984 members of the Special Forces arrested five men in Maluro and executed them.[622] Another deponent told the Commission that Hansip members killed Mário Nogueira in Maluro in 1984.[623]

Table 27: Individuals killed in Lore, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
J. Levano	4 Nov. 1983	Maluro, Lore I	40	-	Mortar
Ana Moe	4 Nov. 1983	Maluro, Lore I	18	-	Mortar
Halu Palinu	4 Nov. 1983	Maluro, Lore I	12	-	Mortar
Kaia Moe	4 Nov. 1983	Maluro, Lore I	20	-	Mortar
Paia Moe	4 Nov. 1983	Maluro, Lore I	15	-	Mortar
Jacinta Ximenes	4 Nov. 1983	Maluro, Lore I	26	-	Mortar
Celia Ximenes	4 Nov. 1983	Maluro, Lore I	3	-	Mortar

Name	Date	Location	Age	Occupation	Description
J Romono	4 Nov. 1983	Maluro, Lore I	16	-	Mortar
Kulu Leve	4 Nov. 1983	Maluro, Lore I	50	-	Mortar
Amand Castanheira	17 Nov. 1983	Horo Lata, Lore I	28	Teacher	Executed
Jaime Castelo	6 Feb. 1984	Lore 2	23	Mechanic	Executed
Antonio Pinto	1984	Maluro, Lore I	-	-	Killed
Luis Bianco	1984	Maluro, Lore I	-	-	Killed
Ratumkia	1984	Maluro, Lore I	-	-	Killed
Mauromonu	1984	Maluro, Lore I	-	-	Killed
Letilere	1984	Maluro, Lore I	-	-	Killed
Mário Nogueira	1984	Maluro, Lore I	-	-	Killed

559. The Commission also received information that many individuals were killed at or disappeared from the Kodim headquarters in Lautém during 1983. This includes a group of four individuals detained at Kodim headquarters who were subsequently executed,[624] a group of six who were killed or disappeared,[625] an individual named Armindo da Silva who disappeared,[626] a man named Damião Dias Martins who was detained and disappeared,[627] and a man named José from Com who disappeared.[628] In 1984, Pedro Cardoso, Gabriel Correia and Antonio Oliveira reportedly disappeared from the Kodim in Lospalos.[629] Three more individuals – Antonio, Gabriel and Pedro – are reported to have been detained at the Kodim in Lospalos and to have subsequently been executed on or about 28 July 1984.[630] Finally, in December 1984, a man named Teodoro was reportedly killed by members of the 131st Infantry Battalion in Serlau Village (Lospalos, Lautém).[631]

Table 28: Individuals executed or disappeared in Lospalos, 1983, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
José Monteiro	1983	-	-	-	Executed
Sebastião	1983	-	-	-	Executed
Raimundo	1983	-	-	-	Executed
Risantula	1983	-	-	-	Executed
Armindo da Silva	1983	-	-	-	Disappeared
Damião Dias Martins	Sept. 1983	Kerana	-	-	Disappeared
Antonio de Oliveira	14 Oct. 1983	-	-	-	Disappeared
Pedro dos Santos	14 Oct. 1983	-	-	-	Disappeared
Mário Pinto	14 Oct. 1983	-	-	-	Disappeared
Orlando Mendes	14 Oct. 1983	-	-	-	Disappeared

Name	Date	Location	Age	Occupation	Description
José Eurico	14 Oct. 1983	-	-	-	Disappeared
Antonio da Silva	14 Oct. 1983	-	-	-	Disappeared
Fernão F. Gusmão	Feb. 1984	-	-	-	Lethal injection
Antonio	28 July 1984	Kodim Lospalos	-	-	Killed
Gabriel	28 July 1984	Kodim Lospalos	-	-	Killed
Pedro	28 July 1984	Kodim Lospalos	-	-	Killed

560. In Fuiloro, a man named Fernando da Conceição was killed by a Kopassandha officer in 1983.[632] Also in Fuiloro, a man named Agustinho was reportedly killed by Nanggala troops on 25 August 1984.[633]

561. In Raça Village Luis Silveiro, a member of the local parliament was arrested and taken to Kodim headquarters in Lospalos where he was tortured and subsequently disappeared on or around 4 December 1983. One deponent told the Commission:

> *On 20 September 1983, Babinsa M315, Police officer M316 and a TNI soldier broke into Luis Silveiro's house and took all the clandestine-related documents and cassettes. Several hours later a Military Police officer and five Hansip came and arrested him. When he was arrested the perpetrators said to Luis's wife, Casilda Serra, that Luis was being taken away to study… Luis was taken to the Lospalos Kodim and put in a cell. After one month cell occupied by Luis was empty. Luis disappeared until today.*[634]

Public execution in Muapitine

In a particularly brutal incident in Muapitine (Lospalos, Lautém) in late 1983, Indonesian soldiers forced local villagers to murder other villagers suspected of sympathising with Falintil.[635] The following account was given by Mariana Marques, the wife of one of the victims, at the Commission's National Public Hearing on Massacres:

On 25 November 1983, three ABRI members from Kodim 1629 Lospalos came and captured my husband, Angelo da Costa, and two of his friends: Lino Xavier and Alvaro Pereira. ABRI also arrested Alberto, José Vicente, Gilberto, Leonel Oliveira and Alarico. My husband was arrested because he was the Responsável Principal *(Resistance leader) in Muapitine, while Lino Xavier was his deputy. Alvaro Pereira was a member of Ratih who often supplied bullets to Fretilin (Falintil). On 6 December 1983, ABRI released Gilberto, Alarico and José Vicente from detention in the Lospalos Kodim 1629. The next day, 7 December 1983, we heard an announcement by the Village Head of Muapitine*

that the next morning all the people of Muapitine… had to gather at the village office to wait for the ABRI commander, a colonel.

At around 6.00am, the people of Muapitine gathered at the village office to welcome the colonel with tebe-tebe dances. At 7.00am he arrived with Battalion 1629, the District Administrator of Lautém, Claudio Vieira, my husband, and my husband's four friends – Lino Xavier, Alvaro Pereira, Alberto and Leonel Oliveira.

When they arrived, the ABRI colonel and the District Administrator of Lautém placed three bottles of palm wine on the table and poured it into five glasses. Then they called my husband and the four others to drink it. When they had finished the wine, the District Administrator stood up and said that my husband and his four friends had committed crimes and were going to be killed.

Then they called my husband and ordered Julio, the head of Muapitine Village, to kill him. Julio stepped forward and said to my husband: "Angelo, lift your head because I am going to cut your throat." My husband lifted his head and Julio slashed his neck with a bayonet. My husband fell to the ground, still breathing. After that they called Lino Xavier and ordered Armando to kill him. Armando stabbed Lino's chest with his machete, but Lino did not die. Armando ordered the people who were present to cut Lino into pieces. Out of fear the people did what they were told.

Next they brought Leonel Oliveira. Aleixio stabbed Leonel's chest with a bayonet until he died. Then Verisimo stabbed Alberto to death. Then they called Alvaro who cried saying: "What crime have I committed to deserve public execution?" But they ignored him and the head of Muapitine Village killed Alvaro as instructed by the authorities.

After the five men were executed, the District Administrator of Lautém, Claudio Vieira, ordered the community of Muapitine to take the bodies to their home villages to be buried. [However, my husband] Angelo da Costa had not yet died. A member of Hansip from the Kodim, Victor, was ordered to stab my husband. Victor stabbed Angelo's body with a bayonet but still Angelo did not die. With the Puakelu community, I took Angelo to Puakelu aldeia. When we arrived in Puakelo, Angelo was still breathing. At 5.00pm we still had not buried him because he was still alive.

A member of Battalion 641 ordered them to bury my husband. But my husband said: "Why bury me, when I am still alive?" Then a member Battalion 641, who also a religion teacher, asked me to take off Angelo's shirt, clean up his blood and treat his wounds.

My husband asked me to talk to the Commander of Post 641 so that they would not bury him. I went to the 641 Post and gave the Commander my husband's message. The Post Commander asked me to wait while he reported Angelo's condition to the District Administrator in Lospalos by radio…The District Administrator insisted that Angelo be buried. The Post Commander told me the response from the District Administrator of Lautém, saying: "Even if only one of his arms was cut off, if the District Administrator gives the command to bury him, he must be buried".

Guarded by two members of Battalion 641, my husband,had to be buried. After he was put in a hole about half a metre deep, he raised his hand and said: "Kiss my hand. Go and care for our two children because I do not want my line to be lost". Hearing these last words from my husband, I approached and kissed his hand. After that Battalion 641 accompanied me home. My husband was buried alive at 6 pm in the aldeia of Puakelu.[636]

562. The Commission compiled the following information about the age and occupation of the five men executed in Muapitine.

Table 29: Individuals executed in Muapitine, December 1983, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Angelo da Costa	7 Dec. 1983	Malahara	29	Clerk	Public execution
Alvaro Freitas	7 Dec. 1983	Muapitine	30	Ratih	Public execution
Lino Xavier	7 Dec. 1983	Pefitu	30	RT head	Public execution
Alberto dos Santos	7 Dec. 1983	Vailoro	31	Wakil Kades	Public execution
Lionel Oliveira	7 Dec. 1983	Muapitine	36	-	Public execution

563. In March 1984, a large number of civilians, including Ratih members, were arrested in Luro by Special Forces personnel. Several of these individuals were executed or subsequently disappeared.* The Commission also received a report stating that in 1984 members of Battalion 315 killed a man named Felix da Costa in Lakawa,[637] and Luis Adelaida was arrested and subsequently disappeared.[638]

* HRVD Statements 02777; 02796; 02797; see also Document No. 4/Ag/84, Submission to CAVR, Anthony Goldstone, CAVR Archive, which reports the disappearance of a number of individuals who were apparently detained in Dili, but subsequently released.

Table 30: Individuals executed/disappeared from Luro Sub-district, 1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Ilifai [Elifahi]	3 Mar. 1984	Luro	-	-	Shot
João Freitas	3 Mar. 1984	Luro	28	-	Executed
Luis Ramos	3 Mar. 1984	Luro	-	Liurai	Death by torture
Felix da Costa	1984	Lakawa	-	-	Shot
Luis Adelaida	1984	Luro	-	-	Disappeared

564. Although the first killings in Lautém took place in late August and early September, the bulk of these cases occurred during the last three months of 1983, after which there was a sharp decrease in the number of extra-judicial executions and disappearances of civilians.

Table 31: Fatal violations and disappearances in Lautém, August 1983-March 1984, as reported to the CAVR

Location	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	month?	Total
Mehara	1	-	8	9	-	8	-	-	2	28
Moro	-	1	-	-	-	1	-	-	1	3
Home	1	-	-	-	-	-	-	-	-	1
Fuiloro	-	-	-	-	-	-	-	-	2	2
Raça	-	-	-	-	1	-	-	-	-	1
Muapitine	-	-	-	-	5	-	-	-	-	5
Lospalos	-	1	6	-	-	-	1	-	8	16
Lore	-	-	-	10	-	-	1	-	11	22
Iliomar	-	1	-	3	15	-	-	-	9	28
Luro	-	-	-	-	-	-	-	3	2	5
Total	2	3	14	22	21	9	2	3	35	111

Baucau

565. The Commission received information about unlawful killings and disappearances of at least 27 persons in Baucau District in 1983–1984. Of the 27 persons reported to the Commission as killed or disappeared, only eight cases did not involve detention before the fatal violation. This number does not include at least 20 people from Baucau who were taken first to Dili and Kupang where they were killed or disappeared. However, even if those persons are included in the total number of unlawful killings and disappearances that occurred in Baucau District in 1983-84, the Commission believes that the actual total is likely to have been considerably higher.

566. The Commission received information that in Osso-Ala (Vemasse) at least ten persons were detained by local Hansip members attached to a paramilitary unit called Team Lorico, in September 1983 and disappeared.[639] Francisco Sebastiao Gomes told the Commission:

> *On 22 September 1983, Andre Gusmão was arrested by the Indonesian military in the village office of Osso-Ala together with his nephew Alexandre Gomes at 3.00pm. They were arrested with 9 other people, namely Alexandre da Costa Freitas, Celestino Pereira, Raimundo Pereira, Feliciano Correia, Jacob Correia, Mário Pereira Gusmão, Raimundo Freitas Correia, Cosme Gusmão, [and] Rui Francisco Correia by Team Lorico, one of the Hansip groups in Baucau. After that, the 10 detainees were taken on foot to Ostico with their hands tied together. They were arrested because they were [suspected of] often meeting the Falintil commander-in-chief Xanana Gusmão in Diuk. Since their arrest until now nothing is known of their whereabouts.*[640]

Table 32: Individuals disappeared from Osso-Ala Village, 23 September 1983, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Mário P Gusmão	23 Sept. 83	Osso-Ala			Disappeared
Cosmé Gusmão	23 Sept. 83	Osso-Ala			Disappeared
Celestino Pereira	23 Sept. 83	Osso-Ala			Disappeared
Raimundo Pereira	23 Sept. 83	Osso-Ala			Disappeared
André Gusmão	23 Sept. 83	Osso-Ala			Disappeared
Felicano Correia	23 Sept. 83	Osso-Ala			Disappeared
Alexandre da Costa	23 Sept. 83	Osso-Ala			Disappeared
Raimundo F Correia	23 Sept. 83	Osso-Ala			Disappeared
Rui F Correia	23 Sept. 83	Osso-Ala			Disappeared
Jacob Correia	23 Sept. 83	Osso-Ala			Disappeared

567. José Meneses was reportedly tortured to death by the Indonesian military in July 1983 while in detention in Baucau.[641] A man named Sies Co'o Saba was reportedly arrested in Tekinomata (Laga); and taken to Lacudala where he was executed by the Indonesian military.[642] In Gariuai (Baucau) a man named João Bosco and four other individuals were reportedly executed by the Indonesian military in 1983.[643]

568. This pattern of detention and killing or disappearance continued in Baucau District into 1984. On 8 March 1984, Simplisio Guterres was reportedly arrested in Uailili (Baucau) by members of Hansip and disappeared.[644] According to reports, on 24 March 1984 Hermenegildo P. Guterres was reportedly killed by members of the Battalion 501 in Baguia.[645] Also in March the Indonesian military arrested Joaquim Neto da Costa in Triloka (Baucau); he was reportedly killed in May 1984.[646] On 13 May

1984 Falintil troops attacked Cairabela Taci (Vemasse) kiliing at least two Indonesian soldiers, two Hansip and three civilians. The Indonesian military retaliated by arresting and killing an unspecified number of people.[647] In Bucoli (Baucau), on 30 May 1984, the Indonesian military arrested Tomás da Silva, Jacinto da Silva and Vicente Freitas, and took them to Baucau. That night they were reportedly killed.[648]

569. Another deponent told the Commission that in May 1984 men named Antonio Ximenes and Domingos Castro disappeared from the Kodim in Baucau. Their wives were told that they had been sent to school.[649] The Commission also received a report that in August 1984 two men were killed in Baguia by members of Battalion 501 and another man named Leão was tortured and subsequently died in the hospital in Baucau.[650]

570. A typical occurrence of detention and disappearance took place at the Kodim in Baucau in November 1984. According to witness testimonies, six civilians were detained at the Kodim in Baucau, of whom two disappeared. A deponent told the Commission:

> *On 1 November 1984, around 3.00pm in a place called Osso-Ala, Bimpolda of Tasi Village came with weapons and arrested us: me, Isabel Soares, Felizarda Soares, Juliana Soares, Faustino da Costa and Filomeno da Costa. [We] were taken to the Nanggala's place in Loihubu and then moved to the Baucau Kodim. One by one we were interrogated by a man called M320. He asked about our family who were still in the forest. In the Baucau Kodim we were detained separately. Two others, Filomeno da Costa and Faustino da Costa and I were detained at the Nanggala post for three days. [However] the whereabouts of the two others is not known to this day.*[651]

571. The Commission also received information about the extra-judicial execution of a man named Raimundo Ximenes, who was detained from Manatuto and was reportedly executed at the Kodim headquarters in Baucau, possibly by members of Hansip.[652]

Table 33: Individuals executed or disappeared in Baucau, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
João Bosco	1983	Gariuai			Executed
Sies Co'o Saba	1983	Lakudala			Executed
José Meneses	July 83	Baucau			Death by torture
Simplisio Guterres	8 Mar. 84	Wailili			Disappeared
Filomeno Guterres	8 Mar. 84	Osso-Ala			Disappeared
Hermenegildo. Guterres	24 Mar. 84	Baguia			Killed
Joaquim N da Costa	May 84	Triloka			Killed
Tomás da Silva	30 May 84	Baucau			Executed

Name	Date	Location	Age	Occupation	Description
Jacinto da Silva	30 May 84	Baucau			Executed
Antonio	May 84	Kodim Baucau			Disappeared
Domingos	May 84	Kodim Baucau			Disappeared
Gaspar	1984	Kodim Baucau			Killed
Jacinta	1984	Kodim Baucau			Disappeared
Hermenegildo	Aug. 84	Baguia			Killed
Leão	c. Aug. 84	Baucau hospital			Death by torture
Filomeno da Costa	Nov. 84	Kodim Baucau			Disappeared
Faustino da Costa	Nov. 84	Kodim Baucau			Disappeared
Raimundo Ximenes		Kodim Baucau			Executed

Unlawful killings and enforced disappearances in Dili and the Central Region 1983–1984

572. Dili and the central districts showed relatively lower incidences of fatal violations during this period compared to the high number of killings and disappearances reported to the Commission during this period in the eastern region.

Dili

573. In Dili District, most fatal violations followed a period of detention. For example, the Commission received a report that in 1983 eleven unidentified civilians detained in the Balide Prison were taken out and subsequently disappeared.[653] Another informant told the Commission that a man named Antonio Mesquito was disappeared from Balide Prison in October 1983 by the Korem commander.[654]Yet another informant told the Commission that João Soares (from Viqueque), Antonio Piedade (from Ossu, Viqueque) and Helder Jordão (from Dili) were disappeared from the Sang Tai Hoo detention centre in Dili in December 1983 or early 1984.[655]

574. Other disappearances reported to the Commission include a man named Julio Maia who was disappeared from Dili, allegedly by the Special Warfare Command, in 1984.[656] In early January 1984, Francisco de Jesus was arrested and then disappeared from the Koramil headquarters in East Dili.[657] On 4 February 1984, Laurindo Sarmento Tilman was allegedly disappeared by the Indonesian military in Dili.[658]

575. Many of those caught up in the nationwide crackdown were brought from their home districts to Dili for interrogation. Among them were some who disappeared or were killed while in detention. About 25 members of a group of about 40 people who had been detained in Dili were killed after being transferred to Penfui Prison in Kupang (West Timor, Indonesia) in late August 1983. They included members of clandestine organisations from Viqueque, Baucau and Dili itself as well as about 17 persons from Laga (Baucau) who had been arrested with the Falintil commander,

Cancio Gama (Lima Gama). This group included 15 Falintil troops, one woman and a child.* The first of the transferred prisoners to be taken out of the prison and disappear were these 17 people. Others reported to the Commission to have disappeared were five members of the clandestine network from Baucau: Antonio Espirito Santo, Isidoro Caibada, Benjamin Leki Osso, Carlos Nahareka (Carlos Alves) and Adolfo Fraga from Uailili. In addition to detainees who were taken out of Penfui Prison and disappeared, there was at least one member of the group, Duarte Ximenes from Bazartete (Liquiçá) who died because of the grossly inadequate food at the prison.

576. Only 14 of the original group of 40 survived. They almost certainly owe their survival to prisoners on Ataúro who told the ICRC about the plight of the Penfui detainees. The ICRC secured their return to Dili in July 1984. On their return several of them were tried and sentenced.[659]

Table 34: Individuals executed or disappeared from detention in Dili, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Antonio Mesquito	Oct. 1983	Balide Prison			Disappeared
João Soares	Late 1983 or 1984	Sang Tai Hoo			Disappeared
Antonio Piedade	Late 1983 or 1984	Sang Tai Hoo			Disappeared
Helder Jordão	Late 1983 or 1984	Sang Tai Hoo			Disappeared
Julio Maia	1984	Dili			Disappeared
Francisco de Jesus	Jan 1984	Koramil			Disappeared
Laurindo S. Tilman	4 Feb 1984	Dili			Disappeared
Cancio Gama	Aug-Sept 1983	Kupang, West Timor		Falintil	Disappeared
Antonio Espirito Santo	March 1984	Kupang, West Timor			Disappeared
Isidoro Caibada	March 1984	Kupang, West Timor			Disappeared
Benjamin Leki Osso	March 1984	Kupang, West Timor		Teacher	Disappeared
Carlos Nahareka	March 1984	Kupang, West Timor			Disappeared
Adolfo Fraga	March 1984	Kupang, West Timor			Disappeared
Duarte Ximenes	1983-84	Kupang, West Timor			Died in detention

* According one source, Cancio Gama and his followers had been captured at the time of the breakdown of the ceasefire because he had been too slow to leave Laga where he had been living during much of the ceasefire [CAVR Interview with Justo Talenta, 3 November 2001]. The extremely harsh treatment he and his group received may have been connected to his "chance" meeting with an Australian parliamentary delegation on the road near Soba on 29 July 1983 at which he held a conversation with and presented a letter to the delegation's leader, Senator Bill Morrison [see *Official Report of the Australian Parliamentary Delegation to Indonesia*, Appendix 22: Documents Associated with Chance Meeting with Fretilin, Friday 29 July 1983 at Soba, East Timor, pp. 154-171].

Aileu

577. Similarly in Aileu District during this period, military operations resulted in detention and subsequent killing or enforced disappearances of civilians. On 30 August 1983, at least 16 men were arrested and detained by the Indonesian military at the Kodim headquarters in Aileu. Four of them were killed, and one, Moises Sarmento, disappeared. According to a witness testimony they were detained because they were suspected of helping Falintil around the time of the ceasefire. A deponent told the Commission:

> *On 2 September 1983, I was arrested with my friends Luis Mouzinho, Mariano de Deus, Agustinho Pereira, Caitano Soares, Joaquim Hendrique, Crispin dos Santos, Paul Soares, Moises Sarmento, Graciano Pinto, Antonio de Deus, Bernardino, Victor Augusto, Afonso and Ananias by Kodim troops and a [member of] Hansip. They took us to Likerelau, Fatisi Village. There, Luis Mouzinho was beaten with an iron stick until his forehead was torn and bleeding. Then he was taken by the troops to Ruasu and was shot dead.*[660]

578. Four other individuals were reported killed or disappeared from this group of detainees.[661] On 16 October 1983, Felix Amaral was reportedly executed by the Indonesian military in Laulara (Dili, on the border with Aileu). The Commission identified the following victims in Aileu:

Table 35: Individuals executed or disappeared in Aileu, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Luis Mouzinho	2 Sept. 1983				Shot
Ananias Soares	3 Sept. 1983				Disappeared?
Antonio	Sept. 1983				Beaten to death
Afonso	Sept. 1983				Beaten to death
Moises Sarmento	1983				Disappeared
Felix Amaral	16 Oct. 1983	Laulara			Executed

Manufahi

579. The targeting of whole families by Indonesian security forces meant that some families experienced multiple loss and suffering, as described in the following two examples from Manufahi District. The deponent told the Commission about the detention and disappearances of his family members:

> *In 1983 TNI arrested 12 civilians, including my family members Francisco da Costa, Erminia da Costa, Pedro da Costa, Frederico da Costa, Filomena da Costa, and Maria da Costa. I don't know the names of the other victims.*

They were arrested at the Same District police station, and then ABRI took them out and killed them in an unknown place. Only Maria da Costa survived these killings…

Then, in the same year, my younger brother Domingos Ribeiro was arrested by members of Same Kodim and members of Same District police in Ailau, Letefoho. They told me that he was "taken to school in Dili". After two weeks, I went to visit him and brought him food but he wasn't to be found. Later I heard from someone that my brother and two other people had died in a cave in Same.[662]

580. Moises Fernandes told the Commission how he and his family were detained by Indonesian soldiers in Alas. While in detention, he witnessed the killing of a detainee from repeated beatings. His own daughter died from illness in detention:

On 1 May 1984, I was arrested with my family members, Lucia Maria de Fatima and Nijela Libania, by Battalion 512. We were detained for 4 days in Taitudak [Alas, Manufahi] with two others named Paul and Zacarias. On 4 May 1984 Paul and Zacarias and I were forced to move to the Manufahi Kodim. We were interrogated by Section Head I of the Manufahi Kodim who was named M321. Three days later a member of TNI put me in a pond for 3 hours. After that they beat, punch and kicked me. I was burned with cigarettes, hit with a buffalo horn and weapons. I was detained in the Manufahi Kodim for 3 months. Around that time, a detainee called João Guido was tortured and kicked by a policeman until he died. In the same year my daughter Nijela died in detention because of sickness.[663]

581. On 7 August 1983, Domingos, Agusto and Leopoldino were allegedly killed by members of the Special Forces (Kopassandha) in Hola Rua.[664] In September 1983, members of the Kodim killed Jaime da Costa, aged 20, and Américo Tomás, aged 32, in Tutuloro.[665] The Commission also received a report about the execution of three unnamed individuals in Babulo, Manufahi in 1983.[666]

582. In April 1984, Filomeno de Jesus Borges, Mateus and Manuel were reportedly beaten to death by members of the Indonesian military in Manumera.[667] In 1984, an individual named João Zino is also reported to have died while detained at the Same Kodim headquarters.[668]

Table 36: Individuals executed or disappeared in Manufahi, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Domingos	7 Aug. 1983	Hola Rua			Killed
Agusto	7 Aug. 1983	Hola Rua			Killed
Leopoldino	7 Aug. 1983	Hola Rua			Killed

Name	Date	Location	Age	Occupation	Description
Jaime da Costa	Sept. 1983	Tutuloro	20		Killed
Américo Tomás	Sept. 1983	Tutuloro	32		Killed
Francisco da Costa	1983	Same			Killed
Erminia da Costa	1983	Same			Killed
Pedro da Costa	1983	Same			Killed
Frederico da Costa	1983	Same			Killed
Filomeno da Costa	1983	Same			Killed
Domingos Ribeiro	1983	Same			Killed
Filomeno Borges	April 1984	Manumera			Beaten to death
Mateus	April 1984	Manumera			Beaten to death
Manuel	April 1984	Manumera			Beaten to death
João Zino	May 1984?	Same			In detention

Ainaro

583. The Commission did not receive reports of fatal violations occurring in Ainaro District in 1983. However, during the first half of 1984, Indonesian security forces tortured and executed a number of individuals in Ainaro. On 20 February 1984, Silvano de Araújo was reportedly killed in his garden in Soro Village by a member of Babinsa and a member of Hansip.[669] On 19 March 1984, a man named Manuel, aged 42, was killed, and on 29 March 1984, a man named Nuno was killed.[670] On 29 May 1984, members of a Nanggala unit allegedly arrested and executed Lourenço dos Reis in Hato Udo.[671]

584. Duarte Gaspar Corte Real told the Commission that in 1984 a Nanggala unit entered Hato Udo and killed many people. As the head of the village Institute for Community Sustainability (Lembaga Ketahanan Masyarakat Desa, LKMD), Duarte was asked to make a list of 50 names and give it to the head of Chandraca 11 in May 1984. Between June and July 1984, Nanggala 11 killed at least four civilians in Hato Udo.[672] According to Duarte, another four civilians were also targeted to be killed. However, when new troops arrived to replace Chandraca 11, the four names were not handed over to the new troops as a going-away party was organised by the community to distract them from this task.[673]

Table 37: Individuals executed in Ainaro, 1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Silvano de Araújo	20 Feb. 1984	Soro			Killed
Manuel	19 March 1984	Ainaro	42		Killed
Nuno	29 March 1984	Ainaro			Killed

Name	Date	Location	Age	Occupation	Description
Lourenco dos Reis	29 May 1984?	Hato Udo			Executed
Valente Amaral	29 May 1984	Hato Udo	50s		Executed
João Xavier	29 May 1984	Hato Udo	60s		Executed
Moises Marineiro	29 May 1984	Hato Udo	45		Executed

Unlawful killings and enforced disappearances in the Western Region (1983–1984)

Covalima, Bobonaro and Liquiçá Districts

585. After an attack by Falintil during which seven Indonesian military personnel were killed in Zolo (Zumalai) on 7 December 1983,[674] Indonesian military personnel in Bobonaro District arrested a large number of people in the sub-district of Bobonaro as well as in the neighboring sub-district of Zumalai (Covalima). They were subsequently detained at the Koramil headquarters in Bobonaro.[675] Both men and women were subject to arbitrary arrest, sometimes merely because their names were similar to those suspected of aiding the Resistance. Among those detained, many were brutally beaten or tortured, others were executed or disappeared.[676]

586. According to some accounts, Indonesian military personnel and Hansip members would remove four prisoners at a time from the prison in Bobonaro at night, tie them up with rope and take them to be executed. When the military personnel and Hansip returned to the prison, they told the other detainees that those taken "have already moved to a new house". Armando dos Santos, a teacher of religion, told the Commission:

> *I was arrested…on 20 April 1984. Before I was detained I had already heard that [ABRI] had brought people out and killed them six times in a month. Each time they brought out four people. I saw it with my own eyes when I was in the jail. The next victims [of disappearance] were José, Marcello, João Mauati and João Dasimau. This was the last killing at Easter time in Bobonaro. Before they were killed, we gathered together, embraced each other and cried. I knew them well because they are my students. They were taken out to be killed after the Easter Mass.*[677]

587. The Commission has reason to believe that as many as 40 civilians were killed or disappeared in the Bobonaro Koramil in 1984.*

* See list of 40 victims titled "Daftar Nama Korban yang Dibantai Tahun 1984 di Bobonaro" ("List of Names of Victims in Bobonaro in 1984") provided by Olandino Guterres, in "Laporan Distrik Bobonaro, CAVR" (CAVR Research Report, Bobonaro District), 11–14 June 2003; see also HRVD Statements 05169; 08182; 08143; see also Amnesty International Report, 1985, pp. 216-217.

Table 38: Names of individuals executed or disappeared from the Koramil Bobonaro, 1984, as reported to the CAVR

Name	Address	Age	Occupation
Miguel Bere Loco	Colimau, Bobonaro	45	Hansip
Alcino Dato Daci	Colimau, Bobonaro	34	
Cipriano de Araújo	Malibu, Bobonaro	32	
Armindo Ati Mau	Malibu, Bobonaro	29	
Armindo Mau Mali	Malibu, Bobonaro	16	Student
Armando Malilesu	Malibu, Bobonaro	17	Student
Afonso Beremali	Malibu, Bobonaro	15	Student
Marcus Mauleto	Malibu, Bobonaro	56	
Abel Bere Dasi	Colimau, Bobonaro	24	
Manule Bere Sura	Colimau, Bobonaro	26	
Clementino Bere	Colimau, Bobonaro	36	
José Ati Mali	Colimau, Bobonaro	45	
Afonso Mali Tai	Kotabot, Bobonaro	46	Hansip
Florindo Mau Ati	Kotabot, Bobonaro	41	
Pedro Noronha	Kotabot, Bobonaro	14	Student
Julio Mau Loko	Kotabot, Bobonaro	35	
José Rasi Bere	Kotabot, Bobonaro	21	
Mateus Sina Boe	Kotabot, Bobonaro	38	
Mariano Bere Tai	Colimau, Bobonaro	18	
Afonso Mau pelu	Kotabot, Bobonaro	53	
Dominggos Bere Tai	Carabau, Bobonaro	49	
Marcelo Pereira	Carabau, Bobonaro	27	
João Manu Tai	Carabau, Bobonaro	24	
João Francolin	Carabau, Bobonaro	28	
Mateus Malimau	Carabau, Bobonaro	30	
Mateus Maia	Tasibalu Carabau, Bobonaro	45	
Daniel Maubere	Uduhai, Carabau, Bobonaro	16	Student
Carlito Tasi	Uduhai, Carabau, Bobonaro	18	Student
Tailoko Baluk	Tasibalu, Carabau, Bobonaro	35	
Anastacio A das Neves	Tasibau, Carabau, Bobonaro	48	
Francisco Bere Mau	Lefo, Zumalai-Suai	48	
Angelino Mauleso	Lefo, Zumalai-Suai	19	
Martinho Bere Mau	Lefo, Zumalai-Suai	26	

Name	Address	Age	Occupation
Ernesto Bere Dasi	Lefo, Zumalai-Suai	39	
Felix Mau Loko	Lefo, Zumalai-Suai	15	Student
Alfredo Soares	Lefo, Zumalai-Suai	35	
Paul Bere	Lefo, Zumalai-Suai	49	
Fernando de Sena	Lefo, Zumalai-Suai	50	
Agustino L	Lefo, Zumalai-Suai	53	
Felisiano Mau Ati	Lefo, Zumalai-Suai	42	

588. According to one informant, members of the Indonesian military executed Afonso Maia, Alfedo Nascimento, José de Sena and Martinho de Sena at the Lomea River in 1984.[678] Another informant told the Commission that in 1984 Rojito dos Santos, Carlos Magno and João Magno were detained at the Zumalai Koramil and subsequently executed at the Lomea River.[679] Yet another informant told the Commission that eight unidentified individuals were executed by the 412th Infantry Battalion in Talegol Lolo Leten in early 1984.[680] In late February 1984, Afonso da Cruz was arrested, interrogated, forced to help ABRI search for Fretilin/Falintil and then killed by Hansip members in Baganasa (Zumalai). On 8 March 1984, José Cardoso was arrested in Lour Village for hiding a Fretilin flag in his house. He was taken to the Koramil office, tortured and then executed.[681]

589. The Commission received reports about further arrests and killings in Lour following a major confrontation between ABRI and Falintil there in July 1984. On 13 July, Simião Pereira, Miguel Pereira and Jaime de Jesus were arrested in Lour and taken to Bobonaro where they were killed by the Indonesian military.[682] At least 20 people from Lour were arrested and killed by the Indonesian military, including Special Forces based in Bobonaro. Olandino Guterres told the Commission:

> *On July 1984, ABRI troops from Infantry Battalion 407 together with members of Hansip came to Pelek, [Lour]…They came with SKS and AR-16 weapons. About 20 people were arrested. I knew some of them: Vitorino, Joaquim and Luis. After being arrested, they were beaten until black and blue then separated: seven victims were handed over to Infantry Battalion 412 to be killed, while 13 other people were taken by Infantry Battalion 407 to be handed in to the Sub-district administrator of Bobonaro. All the victims were killed there.*[683]

Table 39: Individuals executed or disappeared in Covalima and Bobonaro Districts, 1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Afonso Maia	1984	Lomea			Killed
Alfredo Nascimento	1984	Lomea			Killed
José de Sena	1984	Lomea			Killed
Martinho de Sena	1984	Lomea			killed

Name	Date	Location	Age	Occupation	Description
Rojito dos Santos	1984	Lomea			Killed
Carlos Magno	1984	Lomea			Killed
João Magno	1984	Lomea			Killed
Afonso da Cruz	Feb. 1984	Baganasa			Killed
José Cardoso	8 Mar. 1984	Zumalai			Executed
José	March–May 1984	Bobonaro			Executed
Marcello	March–May 1984	Bobonaro			Executed
João Mauati	March–May 1984	Bobonaro			Executed
João Dasimau	March–May 1984	Bobonaro			Executed
Simião Pereira	July 1984	Bobonaro			Executed
Miguel Pereira	July 1984	Bobonaro			Executed
Jaime de Jesus	July 1984	Bobonaro			Executed
Vitorino	July 1984	Bobonaro			Executed
Joaquim	July 1984	Bobonaro			Executed
Luis	July 1984	Bobonaro			Executed

591. The Commission also received a list of 40 individuals from Bobonaro and Covalima Districts reportedly killed by the Indonesian military in 1984.[684]

591. The Commission received information about a number of people who were executed or disappeared after being taken into custody by the Infantry Battalion 412. Alberto was killed in Tibar (Liquiçá) in 1984;[685] Domingos Lobato was killed in Ulmera in 1984;[686] on 14 February members of this battalion disappeared a man named Lekimosu in Tibar (Liquiçá);[687] in April a man named Mausera disappeared in Riheu;[688] and Afonso de Araújo disappeared in Liquiçá;[689] and in November 1984 Cananti da Silva was arrested, reportedly taken to Dili and then disappeared.[690] Other reports of disappearance in Liquiçá which were received by the Commission include the disappearance of Manuel Soares from Ulmera in 1983;[691] the arrest and disappearance of João Martins Pereira from his home in Tibar on 22 April 1984; and, on 27 April 1983, the arrest and disappearance of Maubere and Orlando in Fahilebo (Bazartete) by members of the Special Forces (Kopassandha).[692]

Table 40: Individuals executed or disappeared in Liquiçá, 1983–1984, as reported to the CAVR

Name	Date	Location	Age	Occupation	Description
Manuel Soares	1983	Ulmera			Disappeared
Alberto	1984	Tibar			Killed
Domingos Lobato	1984	Ulmera			Killed

Name	Date	Location	Age	Occupation	Description
Lekimosu	14 Feb. 1984	Tibar			Disappeared
Mausera	April 1984	Riheu			Disappeared
Afonso de Araújo	April 1984	Liquiçá			Disappeared
João Martins Pereira	22 April 1984	Tibar			Disappeared
Maubere	27 April 1984	Fahilebo			Disappeared
Orlando	27 April 1984	Fahilebo			Disappeared
Cananti da Silva	12 Nov. 1984	Tibar			Disappeared

Unlawful killings and enforced disappearances by TNI 1985–1989

592. In contrast to the previous period, extra-judicial executions and disappearances from 1985-88 decreased sharply. Most of the cases documented by the Commission occurred in the eastern districts (Lautém, Baucau and Viqueque) with only a small number occurring in other districts. Many of the victims during the late 1980s were targeted because they were members of clandestine networks or because they were related to members of Fretilin or Falintil. During this period the peak military command, Koopskam, was run by Kostrad's 1st Infantry Division, which conducted Operations Watumisa 1 and 2. Military publications report the arrest of large numbers of alleged "GPK" (Gerombolan Pengacau Keamanan, Bands of Security Disruptors – generally the name used to refer to the Resistance or those suspected of links to the Resistance): 328 in 1985, 364 in 1986, 327 in 1987, and 98 between January and 8 July 1988. However, skirmishes between Falintil and Indonesian forces continued during this period. During these years, ABRI lost 122 personnel in 1985, 169 in 1986, 92 in 1987 and 66 during the first six months of 1988.*

593. The December 1988 decision to "open" Timor-Leste was accompanied by the adoption of a new, "softer" military policy (see Vol. I, Part 4: The Regime of Occupation), which was reflected in a further decrease in fatal violations commited by ABRI towards the end of the 1980s.

Unlawful killings and enforced disappearances in Eastern Region (1985–1989)

594. The Commission received reports of at least 42 persons being killed or "disappearing" during this period in Lautém, Baucau and Viqueque Districts. The majority of these cases involved the detention and subsequent killing or disappearance of the victim as shown in the examples below:

* 35 Tahun Darma Bakti Kostrad, [no bibliographic information available], pp. 86-88.

- In 1988 a woman named Carmila Cabral was taken from the home of Alcina Maria in Lore I (Lospalos, Lautém) by members of a combat engineering battalion (Zipur). She had been staying at Alcina Maria's house for two months after her mother, Rosa Maria, went to hide in the forest. She was handed over to Battalion 744, and never returned.[693]
- On 15 August 1985 Adolfo Fraga, coordinator of the clandestine network in Baucau, was arrested by a Kodim intelligence officer at the house of the Sub-district administrator of Baucau in Bahu, Baucau, where he was hiding. He was taken to the Kodim in Baucau, and subsequently disappeared.[694]
- In March 1988, four men were arrested in the *aldeia* of Fatulia (Venilale, Baucau) by members of Infantry Battalion 328 and the village head of Uatulia. They were detained at the battalion post in Ubanakala and were tortured when they refused to give information about the whereabouts of Falintil. One of them named Joaquim was reportedly executed.[695]
- On 7 March 1985 Miguel Soares and his friend Luis - both of whom were active in the clandestine movement - were arrested in Babulo (Uatolari, Viqueque) by the hamlet chief (*chefe de povoção*), and taken to the security post in the *aldeia* of Aliambata. There both were severely beaten. Miguel died as a result of the beating.[696]
- On 8 March 1985, José da Costa, the head of the *aldeia* of Iralafai (Bauro, Lospalos, Lautém), and five others, Cristovão Caetano, Francisco dos Santos, João Graciano, Pancracio Pereira and Leopoldino, were summoned by the local Babinsa and executed.[697]
- In 1986, a man called Armando was reportedly arrested and killed by Indonesian military in Ossu (Viqueque).[698]
- On 7 April 1986, a group of men were reportedly arrested in Buicaren (Viqueque, Viqueque) where they were detained by a Nanggala (Kopassus, Special Forces) unit. Luis Pinto was allegedly tortured and subsequently died.[699]
- In Viqueque, in December 1986, after a Falintil attack, members of Battalion 122 summoned a number of men in Beaço to be interrogated. One informant told the Commission:

> *On 16 February 1986, Fretilin forces attacked a number of students (junior and senior high school) in Wenara. The students were: Armindo Almeida, Julio da Silva, Alipio Soares, Jeronimo, Lourenco, José Mariano and José. During the attack two of the students – Julio da Silva and José Mariano – were shot dead by Fretilin forces, while the others managed to escape. As a result of that attack, on 18 December 1986 TNI forces from Battalion 122 arrested 6 people from Beaço; among others: Pedro Martins, Raul Izak, Alberto Sequilari, Miguel Gusmão, Paul de Araújo and Paul da Silva. I don't know where they were taken after their arrest, they just disappeared, and their whereabouts are unknown to this day.*[700]

595. Another pattern was the killing of civilians who had been forcibly recruited to take part in military operations, as occurred in the earlier years of the occupation. For example:

- In September 1986, members of Kopassus arrested Martinho Madeira, the chief of the *aldeia* of Fuat (Iliomar, Lautém). He was taken to Baucau and then returned to Iliomar. On his return to Iliomar he was ordered to look for Falintil in the forest, accompanied by members of the military. Once in the forest, the soldiers killed him and burned his body, according to two eye-witnesses.[701]
- In 1987 Sergeant Bayani, commander of the Kopassus post in Mehara (Tutuala, Lautém) ordered a woman rape victim to search for her husband, a member of Falintil, in the forest. As this woman, Josefina, looked for her husband, members of Battalion 144 found her and shot her dead.[702]
- In February 1987, Elias Fernandes was forced to join Hansip members in Vessoru (Uatolari), but was then killed by members of the Indonesian military.[703]
- In 1988, members of Infantry Battalion 726 and members of Tim Makikit allegedly killed Luis da Cruz and Carlos da Silva as they were going to do guard duty in Lacluta, Viqueque.[704]
- Also in Viqueque, on 14 July 1985, members of the Infantry Battalion 321 killed an East Timorese man involved in a military exercise in Afaloicai (Uato Carbau). A deponent explained what happened:

  On 14 July 1985 the Indonesian Army from Battalion 321 shot Adelino Boro Kili dead in the sub-district of Uato Carbau, the village of Afaloicai, to be precise in the area known as Betu Ana. At the time, the victim had been ordered by Battalion 321 to undertake anti-guerilla training. The training was in anticipation of an attack by Falintil. Some TNI from Battalion 321 disguised themselves as Falintil and attacked Afaloicai at 3.00am. The victim and his friends were acting as village security, and were composing a plan to capture Battalion 321, who were disguised as Fretilin. Just as the victim moved to capture the enemy, he was shot dead by one of the members of Battalion 321, in the area of Betu Ana Ho'o. [705]

596. Most of the victims of these fatal violations had some connection to Fretilin/Falintil. Carlos dos Santos, for example, was killed by ABRI troops in Lautém in 1986 when he was running to the forest to join Falintil forces.[706] On 4 March 1987, in Mehara (Tutuala, Lautém), Francisco Teles met another man to discuss setting up a clandestine cell. The man denounced him to Battalion 745. Members of Battalion 745 came and shot dead Francisco Teles and his friend Pedro Secundo.[707]

597. However, other fatal violations seemed to be random cases of the killing of civilians who were simply at the wrong place at the wrong time or for some reason antagonised a member of the security apparatus. Such cases are illustrated in the table below.

Table 41: Summaries of random fatal violations against civilians in the eastern area, 1985–1989

District	Summary
Lautém	Following a Falintil attack on the village of Ailebere in January 1985, a man named Zeferino Hornay injured his leg as he was rebuilding his house which had been burned, along with many others, in the attack. Members of the Indonesian military brought him on consecutive days to the Indonesian military command post in Iliomar to be treated for the injury. After his second visit to the command post he never reappeared.[708] Also in 1987, Infante Pereira was killed by members of Battalion 327 in Lore, Lospalos. He was killed at their base on Mount Maureno by being stabbed in the stomach with a bayonet.[709] In August 1987, members of Battalion 745 killed Manuel Mesquita in Fuiloro (Lospalos).[710] On 7 August 1988, members of Battalion 511 were reported to have fired on a group of four men from Duadere (Moro), who were out looking for food. One of the four, Victor Morais, was wounded in the leg and, unlike the other three, was unable to escape. Members of Battalion 511 then shot Victor Morais dead.[711] On 28 March 1988 Lamberto Nunes, Angelo Baptista and Albino were ordered by troops from Kodim 1629 to fetch some bamboo in the forest. On their way home Albino climbed a coconut tree. Albino taunted some Indonesian soldiers by challenging them to attack. Suddenly a member of Battalion 315 stationed in a fort about 300 metres away began shooting at them and Lamberto Nunes was shot dead.[712]
Viqueque	On 13 March 1987, members of the Kopassus unit Nanggala 15, allegedly shot and killed Domingos da Costa who was with his father in their garden in Beto-Abu (Ossurua, Ossu).[713] Some time in 1988, Julio Amaral went with his dog to work in his rice field in Daibonubai (Uaibobo, Ossu). Soon after his family heard gunfire, and some time later his dog returned without his master. His wife went to the rice field and found her husband dead with a cloth tied over his eyes. His widow suspects that troops from Battalions 328 and 215 were the perpetrators because they were on an operation in the area at the time.[714] On 6 May 1988, members of Battalion 407 are reported to have fired on four civilians in Ossu, killing a man named Ernesto. Two of the others were wounded and taken to the Battalion 407 post, while the fourth man escaped to the forest. The two captured men were interrogated about the whereabouts of Falintil and released after receiving treatment for their wounds.[715]
Baucau	In 1986 or 1987, members of Battalion 516 from Lariguto (Asalaitula) are reported to have shot dead Mateus do Régo and another man also named Mateus. After they were killed, their mouths and throats were reportedly slashed with machetes, and their legs riddled with bullets. A third man, Abel Sico Lai, who was with the other two, was taken away and disappeared. The three were digging cassava in their gardens in the *aldeia* of Ro'o Isi (Uai-Oli, Venilale) when the soldiers opened fire on them.[716] Also in 1987, in Ossohuna (Baguia, Baucau), Domingos da Costa was killed by members of Battalion 713 while on his way to his garden.[717] In 1988, members of the Infantry Battalion 713 are reported to have summoned Julião Ximenes from Samaguia (Tequinomata, Baguia) to go with them to Indonesia. He has not been seen since.[718] On 12 January 1988, Francisco and Domingos were reportedly killed by members of Battalion 315 in Badoho'o (Venilale) while on their way to their rice field.[719]

Other killings and disappearances (1985–1989)

598. Many victims in districts outside the eastern region were also targeted because of their clandestine activities or family relationships to persons still in the forest. However, other victims were peasants who had started to work land further from population centres who were killed at random by frustrated or suspicious military personnel. The following table shows fatal violations reported to the Commission during this period.

Table 42: Summaries of random fatal violations against civilians in other districts, 1985–1989

District	Summary
Manufahi	On 15 December 1985, members of Battalion 410 are reported to have killed Julio Tilman in Betano because he was suspected of working with Falintil.[720] In January 1986, a Hansip member beat Raimundo Sarmento, aged 58, in Raifusa (Betano, Same) because he was suspected of making contact with Falintil. He was rushed to hospital but the doctor said that his condition was terminal; he was taken home and died one week later.[721]
Ainaro	In 1986, Hansip members in Manetu (Maubisse) arrested Abrão Rodrigues on the orders of the village head. He was held in the village office for one year where he was beaten continually and deprived of food and water until he eventually died.[722] In September 1986, Julião de Araújo was ordered to go hunting with the village head and a Hansip in Hato Udo. He never returned.[723]
Ermera	In 1987 members of the Indonesian military allegedly killed six youths in Atara, (Atsabe, Ermera).[724] The Commission received an unconfirmed report that in 1988 members of the Indonesian military burned Maubere Ketil and Alberto alive in the *aldeia* of Leimea, Sarin Balu (Letefoho).[725]
Dili	On 28 August 1985, Antonio Simões was reportedly killed by members of the Indonesian military in Kampung Alor. He had been told by an Indonesian soldier to attend school in Dili, but had argued with the soldier before he was killed.[726] On 17 August 1987 Paul de Jesus, a member of Hansip, was shot in Vila Verde by members of the Indonesian military who found out that his father was a clandestine leader.[727]

Unlawful killings and enforced disappearances by Indonesian security forces, 1990–1998

599. The Commission found that from the late 1980s until the explosion of violence in 1999, significantly fewer unlawful killings and massacres were reported, with the dramatic exception of the Santa Cruz Massacre of 12 November 1991. Despite the decrease in reported executions, even excluding the executions and disappearances that occurred during and after the Santa Cruz Massacre, the Commission received testimonies from most districts regarding at least 185 killings and disappearances during this period. The Indonesian military responded to the activities of a small number of armed Resistance fighters and an increasingly sophisticated clandestine movement by subjecting civilians

sympathetic to the Resistance to arbitrary detention, torture and ill-treatment, and enforced disappearances and killings. The witness testimonies below show that the Indonesian military continued to terrorise the population and kill civilians.

Santa Cruz Massacre (November 1991)

600. On the morning of 12 November 1991, Indonesian security forces opened fire on a thousand or more demonstrators gathered at the Santa Cruz Cemetery in Dili. This demonstration against Indonesian occupation, led by clandestine groups in Dili, was the largest since 1975. Tensions in Dili heightened with the August announcement of a planned visit by a Portuguese parliamentary delegation. The Resistance was preparing a large demonstration to coincide with the visit, which was scheduled for 4 November. However, on 25 October the Portuguese parliament suspended the visit in protest at the Indonesian demand that journalists, including Jill Jolliffe and Rui Araújo, not be allowed to accompany the delegation. The cancellation of the visit disappointed the Resistance, especially as the preparations made by the clandestine movement throughout the country had risked exposing its networks to Indonesian intelligence. Towards the end of October, the military's harrassment of activists in Dili escalated, culminating in a raid on the Motael Church on 28 October. The raid left two dead, an East Timorese "intel" and a clandestine activist, Sebastião Gomes Rangel, whose funeral was held the next day. The Resistance decided to use the occasion of the flower-laying service for Sebastião Gomes on 12 November – while the UN Special Rapporteur on Torture, Professor Pieter Kooijmans, was also in Dili – to demonstrate for independence.

601. Approximately 3,500 people attended a mass at the Motael Church that ended at about 7.00am on 12 November. A procession then started from the Church and headed towards the Santa Cruz Cemetery. It immediately turned into a demonstration. Activists displayed pro-independence banners and flags. After passing in front of the Governor's office the march turned south at the T-junction where the Kodim headquarters was located, because the road to Hotel Turismo was blocked by Brimob (Mobile Police Brigade). At about 7.15am, in front of the Dharma Wanita office, a scuffle occurred in which Major Andi Gerhan Lantara was stabbed and his assistant, Private Domingos, was also injured. Leonardo de Araújo, a demonstrator, told the Commission that he was also stabbed in the right leg by a man in a camouflage uniform just near the Kodim.* As the demonstration proceeded, some marchers threw stones at the Summa Bank and the Regional Police (Polwil) headquarters on Bispo Madeiros Avenue. The march turned east at the intersection of the Military Police Detachment and the Balide Church, and arrived at Santa Cruz Cemetery at approximately 7.50am where some 500 other demonstrators were already waiting.

602. In 2004, the Commission obtained six Indonesian military documents concerning the events of 12 November 1991 that list the units which were mobilised for the

* CAVR Interview with Leonardo de Araújo, Dili, 27 November 2004.

demonstration.[*] They included the following:

- A platoon from Brimob 5486 under the command of First Lieutenant (Police) Maman Hermawan.
- A Combined Company led by Second Lieutenant Sugiman Mursanib comprising a platoon of Brimob 5486 under the command of Second Lieutenant Rudolf A. Roja and three platoons from Battalion 303 comprising Company C under the command of Second Lieutenant John Aritonang, Company D under the command of Lieutenant Handrianus Eddy Sunaryo and another company whose commander is not known.
- A group of about 24 soldiers from Company A, Battalion 303 under Captain Yustin Dino. This included at least three Milsas (East Timorese recruited from civil defence units, such as Hansip, into the regular military structure), namely Second Privates Jorge Barreto, Domingos da Conceição and Financio Barreto.
- An anti-riot detachment from Battalion 744.

603. The Military Police (Pom) investigation identified First Sergeant Udin Syukur as the first soldier to open fire.[†] At his trial Sergeant Syukur said that he and the demonstrators had had an altercation, which, he claimed, led him to shoot either side of them though he claimed no one was hit. Marito Mota told the Commission that he saw one of the demonstrators approach the soldiers and try to say something. This person was the first to be shot and he said that after this the demonstrators began to flee in panic.[‡]

604. A period of intense firing quickly followed. Russell Anderson, one of the foreign eyewitnesses of the massacre, described this sudden escalation of firing by the soldiers.

> Bob Muntz and I decided we should leave. I had taken ten hurried steps north along the cemetery wall and was glancing back to see the helmets of the military front line bobbing up and down, jogging or marching towards the crowd. The crowd began to walk backwards, walk away, some were already running.
>
> Suddenly a few shots rang out, continued by an explosive volley of automatic rifle fire that persisted for two to three minutes. It sounded

* Two of the documents were issued by the Regional Military Command IX Udayana, East Timor Operation Implementation Command (Kolakops): as follows: *1: Special Report on the 12 November 1991 Incident in Dili, East Timor, No. Lapsus/26/XI/1991*, 13 November 1991; *2: Special Report on Uncovering Rioters Involved in the Demonstration of 12 November 1991 Incident at Santa Cruz, Dili, East Timor, December 1991.*
Four documents were issued by the Regional Military Command IX Udayana, Military Police Detachment IX/4: *1. Special Report on the Brief Resumé of the Investigation of Riot Control Officers relating to the Demonstration by Anti-Integration Group and its Supporters on 12 November 1991, No. Lapsus/487/XI/199*1, 26 November 1991; *2. Report on Investigation into the 12 November 1991 Incident, No. R/488/XII/1991*, December 1991; *3. Special Report on the Result of the Investigation of Riot-Control Officers at the 12 November 1991 Demonstration, No. Lapsus/03/XII/1991*, January 1992; *4. Case Investigation File Concerning the Case of the Accused: First Sergeant Aloysius Rani, Denpasar, No. DPP-10/A-09/Military Police Regional Command IX/1992*, April 1992.

† *Special Report on the Result of the Investigation of Riot-Control Officers at the 12 November 1991 Demonstration, No. Lapsus/03/XII/1991*, January 1992

‡ CAVR Interview with Marito Mota, 28 November 2004.

> like the whole 15 in the front row had their fingers pressed firmly on the trigger. They were firing directly into the crowd. *

605. The Third Military Police Report concluded that "elements" of Battalion 303's two platoons, under Second Lieutenant Mursanib, along with the Battalion 303 company from Taibessi, overtook the Brimob platoon because the latter looked as if they were hesitant to proceed. These "elements" formed into a unit in front of the Brimob platoon. Mursanib ordered two warning shots, but by the second shot troops, including three East Timorese auxiliaries to Battalion 303, were already shooting directly into the crowd. Jacinto Alves, a clandestine activist involved in organising the demonstration, heard the order to shoot as he passed troops coming from Taibessi. Many years later, he told UN investigators:

> On reaching a bridge called "My Friend", which is about 100 metres from the cemetery, a group of Indonesian soldiers, bare-chested and armed, passed me and stopped two metres ahead. I identified them as Battalion 744 members because of the direction they were coming from. One of them, whom I do not know, instructed his colleagues to shoot the demonstrators on the spot. I did not expect the orders to be carried out owing to the presence of the [UN] human rights rapporteur in Dili at the time…[A]fter I heard these orders I turned and started heading for my residence. After walking approximately 200 metres, I heard rapid gun-shots for about five minutes, followed by isolated single shots that continued long after I reached my house.[728]

606. The bare-chested troops Jacinto Alves saw advancing were in fact a group of soldiers under the command of Yustin Dino from Battalion 303. At least four Brimob members testified to the military investigators that they saw shots fired by bare-chested soldiers.[729] Soldiers also started shooting from inside the Indonesian Seroja Heroes' Cemetery directly opposite Santa Cruz Cemetery. Marcio Cipriano Gonçalves told the Commission that he saw soldiers inside the Heroes' Cemetery pointing their guns at the demonstrators and that he was almost hit by a bullet fired from that direction.[730]

607. Many witnesses recalled that they continued to hear shooting for some time.[731] Simplicio Celestino de Deus told the Commission that many were killed during the main burst of firing, but that many others were also killed in various ways in its immediate aftermath:

> *When I got into the cemetery, the guns were still being fired and continued to be for about 10 minutes. Inside the cemetery I looked for a place to hide. Then the military stormed in, beating victims with rifles and kicking them. Many were killed in the cemetery, but many more were killed outside the cemetery as they tried to run away or were taken from their homes and other places where they were hiding, and murdered.*
>
> *The military found me, beat me and wounded my ear. Later a policeman came and severed it completely…Because of all the blood they threw me into the back of an Indonesian military truck full of dead bodies. When the*

* Russell Anderson, Statement on the Massacre in East Timor on 12 November 1991, first submitted to the Joint Parliamentary Committee for Trade and Defence (Australia), 2 December 1991.

truck started moving I realised that one of the people in the truck was still alive. He tried to get up and asked the guards for water. Instead of giving him water, the soldier in charge slashed his throat with a bayonet.[732]

608. Medical files presented at the trial of Gregório da Cunha Saldanha, a clandestine leader involved in organising the 12 November demonstration, list 19 dead and 91 wounded. They also indicate the general pattern of the shootings.[733] Of the 17 victims listed as shot at the cemetery, six were hit by bullets fired from in front of them and which lodged in the upper part of the body, mostly around the chest. This suggests deliberate firing directed at the demonstrators' bodies. Of the 91 wounded victims, 43 sustained bullet wounds, 21 of those with bullet wounds were shot from behind and were hit in the back, the buttocks, and the back of their legs and necks.

The death of Kamal Bamadhaj

Kamal bin Ahmed Bamadhaj, 21, was the only foreigner who lost his life in Dili on 12 November 1991. He was watching the demonstration at Santa Cruz Cemetery together with six other foreigners. It is likely he was standing close to the front line of demonstrators, as security forces were gathering at the T-junction. He somehow escaped the massacre and reached Bispo Madeiros Avenue where he was shot by a passing patrol. The Indonesian military court-martialed two low-ranking East Timorese soldiers – Second Private Afonso de Jesus and Second Private Mateus Maia – on charges related to the death of Kamal.

Helen Todd, Kamal's mother, spoke about his death during the Commission's Public Hearing on Massacres:

Kamal was a student who was born and educated in Malaysia. He was a Muslim. At the time of the Santa Cruz Massacre, Kamal was a second year university student in Australia. When he moved to Australia to study, he was shocked to learn of the situation in Timor. In neighbouring Malaysia he had never heard about East Timor.

Kamal was not shot at Santa Cruz. After the shooting at the cemetery he was walking along the road of the old market. As you know, an "intel" agent had earlier been stabbed. The ABRI unit that took him to the hospital was returning and saw Kamal walking alone and shot him. A member of the International Red Cross tried to take the bleeding Kamal to the civilian hospital, but was refused entry and obliged to go the military hospital, losing precious time. He died after admission from loss of blood. Kamal's death was one small part in the struggle of

thousands and thousands. A small thing, but you will understand that it is important to me.

There were so many lies after Kamal's killing. Max Stahl was graphic about the lies told after the Santa Cruz Massacre. I can testify that this is true. For three days the Indonesians denied that any internationals had been killed. Then the official Indonesian report was that Kamal was killed in the crossfire. Then it was suggested that he was some sort of stupid tourist, killed because he should not have been there.

The New Zealand government was initially very helpful in terms of the retrieval of the body, but once this was done it was back to business as usual, [doing] anything to please Indonesia. Malaysia barely acknowledged the killing. The major English-language newspaper wrote of the killing, editorialising generally that young people should not get mixed up in politics, that if they do they are somehow troublemakers.

The Red Cross in Dili was a great help. Kamal was first buried in an unmarked grave in Hera. It was only because of the efforts of the Red Cross representative, Anton Manti, that we had his body removed and were able to have him buried in Malaysia.

This year, on the anniversary [of the massacre], I walked to the place where Kamal was shot. People came out to tell me that the place was a little further along the road. Later that day, I came back to the place. Somebody had come and placed flowers and candles at this place. I thank you.[*]

Alleged killings at Wirahusada Hospital

609. In 1994, two people came forward to claim that they witnessed the killing of people who had been taken to the Wirahusada military hospital after being wounded at Santa Cruz. At the time of the massacre Aviano Antonio Faria was a pupil at the Santo Yosef senior high school and João Antonio Dias a laboratory technician at the Wirahusada Hospital. The two were smuggled out of Timor-Leste and testified to the 50th session of the United Nations Commission on Human Rights in 1994. The Commission interviewed the two witnesses and a new witness, Inocêncio da Costa Maria Freitas, who had worked for the intelligence branch of the Dili Kodim.

610. Aviano Antonio Faria told the Commission that after he was wounded at Santa Cruz, he was taken from the cemetery to the Wirahusada Hospital and not long afterwards was placed in the morgue.[734] Two Indonesian soldiers came into the room. One had a big stone and the other had two plastic bottles that contained water and some

* Helen Todd, testimony to the CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003.

kind of medicine. The soldier with a big stone dropped it on the heads of the seriously wounded. When Faria's turn came, he suddenly stood up and lied to the soldiers that he was an informer for Kopassus, who had been sent to monitor the demonstration. The soldiers allowed him to go, but before that they ordered him to take the medicine. After the medicine induced vomiting, he was taken to the hospital and received treatment. On the night of 12 November, soldiers came into the room where Aviano Antonio Faria and other patients were sleeping. They asked which of them had come from the morgue. Faria remained silent, and they did not take him.

611. João Antonio Dias told the Commission that tablets of formaldehyde were given to the wounded.[735] He told the Commission that he was ordered to help take the bodies brought in to the hospital on trucks. This made him feel sick and he went to the bathroom of the laboratory where he heard a conversation between his supervisor and a group of four soldiers who had come to the laboratory to get sulphuric acid. The soldiers said they wanted to kill the wounded quickly and silently. His supervisor told them that people would scream if they were given sulphuric acid, so the soldiers left and returned later with a drug. When this was administered to the victims, many screamed and then fell silent. The soldiers took away and burned the clothes and shoes of the dead in front of the morgue. Then a water truck came and washed the ground.

612. Inocêncio da Costa Maria Freitas, a member of the Kodim intelligence section, reported to the Commission that he came to Wirahusada Hospital that morning carrying Major Gerhan Lantara who was wounded.[736] While he was there, Kamal Bamadhaj and Gerhan Lantara's assistant, Private Domingos, were brought to the hospital. Hino trucks began arriving and he saw about 200 bodies carried into the hospital. He went to the morgue and there he saw two Indonesian soldiers crushing the heads of the wounded lying on the floor with a stone.

Culpability

613. The Indonesian military and civilian investigations described the demonstrators as *bringas* or "wild" and claimed they were armed with rifles, pistols, grenades, swords and knives. Both investigations also claimed that the demonstrators threw a grenade and attempted to seize firearms from the soldiers. One witness told the Commission that some of the demonstrators had grenades.[737] Fernando Tilman, a witness at the trial of Gregório da Cunha Saldanha, is recorded as having told the court that he saw a demonstrator, Atino Brewok, shoot a weapon and saw two other demonstrators carrying rifles.[738] However, he told the Commission that what he had told the court was false.[739] The Indonesian investigations failed to present evidence such as photographs or film that showed armed demonstrators. Adding to the sense that these allegations were frabricated was the fact that the Indonesian list of weapons supposedly seized frequently changed.

614. Because the massacre was filmed by the British film-maker Max Stahl and shown around the world it caused unprecedented international outrage, which the Indonesian government could not ignore. The military's strategic intelligence agency, Bais, immediately started an internal investigation, but never announced its findings.[740] A

National Commission of Inquiry (NCI) was appointed by President Soeharto to carry out an investigation. Its advance report, issued on 26 December 1991, assigned most of the blame to the demonstrators. It concluded that the response of the Indonesian security personnel was a spontaneous reaction to defend themselves, and, because it had occurred without orders from above had resulted in excessive shooting at the demonstrators.[741] Its full report was not made public. In 1992, ten low-ranking members of the security forces were court-martialed and received sentences of from eight to 18 months. The Indonesian government put the number of confirmed deaths at 19 and those missing at 56 as of 29 November 1991.[742] However, other sources put the death toll far higher. For instance, the list of victims compiled by two Portuguese non-government organisations, published in 1993, contains the names of 271 dead, 382 wounded and 250 missing.[743]

615. The figure for the number of wounded on the list compiled by the Portuguese NGOs was confirmed by an internal Indonesian military investigation, which put the number of wounded taken to Wirahusada Hospital at about 400.[744] In a brief survey of selected Dili neighbourhoods the Commission was able to establish that the whereabouts of 59 people on the Portuguese list of missing people were still unknown. In addition it received the names of a further 18 missing people through its statement-taking process. Excluding duplicated names that were given to the Commission through both processes, the Commission collected the names of a total of 72 people who have been missing since November 1991. It is clear to the Commission that the total number of missing people must be much higher. The Commission's survey was far from comprehensive, covering only a few of Dili's neighbourhoods and excluding much of the area immediately around the Santa Cruz Cemetery itself. Moreover, it is clear that many of those who joined the demonstration came from outside Dili and though it is known that several of them too were killed or disappeared, their number is not known.[745] The Commission has no way of judging how many are still missing, but it believes that a figure of 200 is not an unreasonable estimate.

616. The Commission has also received several reports of extra-judicial executions outside Dili at around the date of the Santa Cruz Massacre. In Sorolau (Ainaro, Ainaro) four clandestine activists were killed by soldiers identified as members of Kopassus and East Timorese Milsas.[746] In Maubisse (Ainaro) a group of 14 men were arrested by East Timorese Sukarelawan acting on the orders of the Maubisse Koramil. They were taken to the local Koramil where they were bound and beaten, and interrogated about their supposed clandestine connections. Two of the men died as a result of the beatings.[747]

617. The Commission believes that a more comprehensive survey than its own is needed. It finds credible reports there is at least one mass grave in Tibar and possibly another one in Hera and believes that a more rigorous investigation is required.[748] The Commission recalls that in his report to the United Nations on his mission to Indonesia and Timor-Leste, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Bacre Waly Ndiaye, cited Article 17, Paragraph 1 of the Declaration on the Protection of All Persons from Enforced Disappearance, which states: "Acts constituting enforced disappearance shall be considered a continuing offence as long

as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified."[749]

Case study: Indonesian investigations into the events at Santa Cruz Cemetery on 12 November, 1991

Introduction:

618. When film footage of the massacre at Santa Cruz* was broadcast to audiences around the world it provoked a significant international outcry against the practices of the Indonesian military in Timor-Leste. It brought an unprecedented level of pressure upon Indonesia about the actions of its armed forces in Timor-Leste. However, as the research presented in this section demonstrates, even in the face of strong international demands to bring those who had killed unarmed demonstrators to account, the institutional practices of ABRI/TNI provided the majority of perpetrators who were most responsible with effective impunity.

619. As reported in this section, scores of unarmed demonstrators were executed by heavily armed members of the Indonesian military forces in the course of what has come to be known as the Santa Cruz Massacre. This included shooting civilians in the back when they were running away, stabbing wounded civilians to death, or killing the wounded who were incapacitated by blows to the head. However, the series of subsequent investigations which were carried out by civilian police, military police and the local military command resulted in the demonstrators, who were the victims of the massacre, suffering even further punishment. Demonstrators were variously killed, rounded up, arrested, or faced unfair trials designed to guarantee convictions and ensure long prison sentences.

620. The investigations were not carried out by independent authorities, but were conducted by persons who were connected institutionally to those under investigation. The investigations were thus designed to condemn the demonstrators and in turn exonerate those responsible for the violence. Ultimately, those military officers who were directly involved in shooting or commanded troops who shot the unarmed demonstrators were protected, with only a few low ranking officers facing court martial on relatively minor charges.

Background:

621. The events leading up to and including the killings at the Santa Cruz Cemetery on 12 November 1991, as well as the trials of demonstrators, are examined at length in

* Cameraman Max Stahl filmed the demonstration and the reaction by the Indonesian military on 12 November 1991. The film was smuggled out of Timor-Leste within days and broadcast on networks across the world. The Commission has examined this film footage, and holds copies in its Archive. José Ramos-Horta told the Commission that this film footage had changed international perceptions of the situation in Timor-Leste (José Ramos-Horta, Closing Address to the CAVR National Public Hearing on Famine and Forced Displacement, 2003).

other parts of this Report.* The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mr Bacre Waly Ndiaye (Senegal) visited Indonesia and East Timor from 3 to 13 July 1994 and examined the events of the massacre at Santa Cruz. He presented his report to the UN Commission on Human Rights in February 1995.[750] The evidence which has been presented to the Commission generally confirms the findings of UN Special Rapporteur Ndiaye in his 1994 report on the extra-judicial killings at Santa Cruz.

622. In particular, the UN Special Rapporteur found that:

- The procession was a peaceful demonstration of political dissent.
- The claims of some officials that the security forces had fired in self-defence and had respected the principles of necessity and the proportionality of use of lethal force were unsubstantiated.
- Security forces had used unnecessary force beyond the extent needed for the performance of their duties.
- The security forces had advance information of the preparations for the demonstration.
- The demonstrators carried no firearms.
- The only act of violence by demonstrators, namely, the stabbing of Major Andi Gerhan Lantara and his assistant, Private Domingos, took place some time before the crowd reached Santa Cruz cemetery.
- No security forces had been killed at or around the cemetery, the site at which they opened fire.[751]

623. The established international standards for assessment of investigations involving possible violation of the right to life are set out in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.[752]

624. According to these principles, the massacre at Santa Cruz required a thorough, prompt and impartial investigation. In line with Principle 9, the purpose of the investigation should have been:

> [T]o determine the cause, manner and time of death, the person[s] responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses.

625. On this basis, the Indonesian investigations should have attempted to:

- Identify the numbers and identities of the dead and missing.
- Distinguish between the different reasons for death: natural death, accidental death, suicide and homicide.
- Assess whether a person's right to life was unlawfully taken, that is, taken arbitrarily, for a non-lawful purpose, or in a disproportionate way, or taken summarily.

* See in particular, Vol. III, Part 7.6: Political Trials; Part 7.4: Detention Torture and Ill-treatment; and Vol. I, Part 3: History of the Conflict.

- Determine to a sufficient degree individual and/or command responsibility of person(s) under review in order to recommend further action where such action is justified.

626. This section examines the extent to which the various investigations and actions by Indonesian authorities in response to the killings at the Santa Cruz Cemetery satisfied these standards and therefore discharged Indonesia's duty to hold the perpetrators accountable through a genuine process of investigation, prosecution and punishment of perpetrators.

627. The Commission has considered:

- The investigations conducted by the civilian police in Timor-Leste.
- The investigations conducted by the military in Timor-Leste.
- The investigations conducted by the military police into the actions of military personnel at the incident.
- The investigation of the National Commission of Inquiry (NSI).
- Action taken against members of the armed forces, including the trials of members of the armed forces.

Civilian police investigation*

628. The Indonesian legal system did not provide the police with authority over the military, and so they could only investigate the actions of civilians. In this case the civilians were the demonstrators and victims of crimes allegedly committed by security forces. Nevertheless, the police were required to undertake a fair and diligent investigation into the entire circumstances of the events before they decided that criminal action against the demonstrators was required.

629. It is clear that the police undertook a large-scale investigation. On 13 December the Chief of Police for Timor-Leste (Kepala Kepolisian Wilayah Timor-Timur), Drs. Ishak Kodijat, formally opened an investigation by a 28-person team.[753] However, this investigation was focused from the beginning on bringing the demonstrators to trial. Indeed, on the day of the demonstration and before the investigation had even commenced, the civilian police concluded that subversive crimes had been committed.[754] As a result, the investigation was neither comprehensively nor impartially conducted. The impartiality of the police was further compromised by the fact that the police force was part of the Indonesian armed forces apparatus.

630. The failings in the investigation into the demonstrator's conduct have been discussed in detail in Vol. III, Part 7.6: Political Trials. The evidence examined by the Commission, which included hundreds of official court files and the evidence of witnesses, clearly demonstrated that the court proceedings were designed and implemented to guarantee the conviction of those demonstrators who were charged. Many confessions were obtained through torture, evidence was fabricated, in most cases no defence witnesses

* The Commission uses this terminology to distinguish the "civilian police" from "military police". At the time of the incident and until 1999, both were part of the armed forces.

were called by court appointed lawyers, none of those charged were acquitted and no appeals were successful. The findings of the Commission included the following:

- The investigation was directed at punishing the demonstration organisers for their defiance and then to pin blame for events at the cemetery on the demonstrators. The Records of Interview and the court transcripts show that the authorities went to great lengths to draw out details about the alleged brutality of the demonstrators and how the security forces were attacked and provoked into shooting in self-defence, while avoiding the issue of what actually happened at the cemetery when dealing with demonstrators or organisers.
- There is nothing on the files of the defendants to indicate that police investigators attended, let alone secured and conducted a forensic investigation, at the site of the mass killings at the Santa Cruz Cemetery.[*] Further, the materials examined by the Commission also do not indicate that any investigation into the alleged stabbings of the two ABRI soldiers outside the Kodim was carried out.[†]
- Admissions made during interviews by suspects were made under conditions of duress, sometimes torture, and in the absence of obligatory defence lawyers (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).
- The court files contain the medical reports for the two ABRI members who were attacked by demonstrators, but there was no documentation whatsoever about the demonstrators who were killed or wounded by security forces. There were not even details of the 19 persons (18 unidentified persons plus the Malaysian student Kamal Bamadhaj) that the authorities alleged were the only persons who were killed that day. UN Special Rapporteur Ndiaye concluded the following:

> According to the Chief of the East Timor Police, the bodies of the acknowledged 19 victims were buried at Hera on 13 November, one day after the killings. No adequate autopsy had been performed, no pictures of the corpses had been taken and,

* The Santa Cruz files in the District Court of Dili reveal that on 12 November the police were gathering items in relation to the stoning of the Bank Summa and the old Regional Police Station (Polwil Lama): Achmad Bey, Kebag Serse (head of the investigation section), issued an order for the seizure of a rock and shards of glass from the Bank Summa and five rocks and shards of glass from the Polwil Lama [Surat Perintah Penyitaan, No. Pol. SPPNY/illegible/XI/1991/Serse, 12 Nopember 1991, Kebag Serse, Achmad Bey]. The next day, the police informed the District Court of Dili that they had identified José Francisco da Costa in relation to the stone-throwing and sought to have the confiscation of the rock and shards of glass legitimised [Mohon Persetujuan Penyitaan Barang Bukti, No.Pol. B/1294/XI/1991/Serse. Under the KUHAP, confiscation of evidence requires a court order. An immediate confiscation requires retrospective approval of the court. This was provided by the District Court of Dili on 17 December 1991 in its Penetapan No. 154/Pen.Pid/1991/PN.DIL.]. The same was done in relation to José Barreto, suspected of having thrown the rocks at the Polwil Lama. [Mohon Persetujuan Penyitaan Barang Bukti, No. Pol. B/1243/XI/1991/Serse. Approval was granted by the District Court of Dili on 17 December 1991 in its Penetapan No: 153/Pen.Pid/1991/PN.DIL.].

† However, the Second Warouw Report, *infra*, states that Major Gerhan Lentara was stabbed by Mariano and Siko (witness Julio da Costa) and Private Dominggos da Costa was attacked by Francisco Amaral, p.4.

to date, 18 of the bodies remain unidentified. It is not known what measures were taken as regards the bodies of victims allegedly buried in mass graves. The Special Rapporteur therefore reached the same conclusion as the NCI, which reported that "there was careless handling of those who died, because although the *visum et repertums* were performed the deceased were not properly identified. Little opportunity was given to the families/friends of the victims to identify the bodies."*

- No photographs of the allegedly armed, violent and "brutal" demonstrators, who taunted and attacked the security forces, were included in the files. This is particularly surprising given the number of intelligence officers who were monitoring the movements of the crowd (one of whom was Major Gerhan Lentara, who was taking photographs when he was stabbed).† Only manually drawn diagrammes of events were included. The Commission observes that audio and visual recordings and equipment were confiscated and there was one video in wide circulation showing what happened at Santa Cruz – that made by Max Stahl and shown by Yorkshire Television of the United Kingdom. This was never taken into consideration.‡ Likewise, neither military nor police case files contain statements from any of the foreigners who were present.
- The police failed to properly identify the weapons said to have been seized at the Santa Cruz Cemetery and used against the security forces by demonstrators. There is nothing to indicate who found what, where and when, and thus nothing to show that the items were actually found at the cemetery or on the persons of demonstrators. There is only a list of items on the files accompanied by the description:

> Some of the items of evidence were found in the TKP by members of Brimob, and then handed to the Sub-Regional Police of East Timor, then confiscated by Investigators.

- Specific notes were made about items seized from the Bank Summa and the old Sub-Regional Police Station, as well as items seized from the home of

* Ndiaye Report, para 56. The Special Rapporteur reported that all the East Timorese witnesses whom he met said that there had been no public appeal for families to come and identify the bodies, as had been claimed by East Timor's Chief of Police.

† The absence of this material puts it out of the usual pattern of virtually all the political trials that the Commission has examined. For instance, the case file of Inacio de Jesus dos Santos in relation to a demonstration at the University of East Timor on 9 January 1995, contains several photographs of the demonstration and the arrest of the accused. [Inacio de Jesus dos Santos, Case File: 36/PID.B/1995/PN.DIL].

‡ The Commission observes that the failure to use relevant evidence was also a feature at the trials in Jakarta conducted by the Ad Hoc Human Rights Court on East Timor in 2002 and 2003 – perhaps the most striking being the failure to consider film footage showing militia leader Eurico Guterres' addressing a crowd of militia, in the presence of senior Indonesian officials, just prior to militia going on a rampage around Dili, attacking the home of Manuel Carrascalão and killing at least 12 people. The Commission has also examined this film footage and holds copies of the footage in its Archive.

accused demonstrators Francisco Branco and Jacinto Alves.[755] The list of items that the police entered in evidence was different from the several military lists (see below), above all for containing no firearms. This discrepancy is significant, for it was the police who were said by the military police to have been in possession of the firearms.[756]

631. The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions found that the civilian police investigations were inadequate because:

- As a part of the armed forces, they lacked independence and impartiality.
- Forensic examinations, in particular autopsies and ballistics tests, were inadequate: "The Chief of Police told the Special Rapporteur that the necessary technological means were not available in East Timor."
- The criminal investigation was inadequate, failing to identify either perpetrators or victims, nor even the number of victims or ascertain the number and whereabouts of missing persons. He particularly noted that the police simply focused on investigating the demonstrators.[757]
- There was careless handling of the bodies of the deceased, including burial of the bodies one day after the killings without adequate autopsies, photographs or thorough identification.[758]
- Little effort went into identification of bodies and the Rapporteur did not accept that any public appeal had been made for families of the missing to examine bodies at the morgue.[759]

Reports by the military command in Timor-Leste

632. The military command in Timor-Leste conducted its own investigations into the events at Santa Cruz. Two reports were prepared by the head of the Operations Implementation Command in East Timor (Komando Operasi Pelaksana Timor Timur, Kolakops Timor Timur, Kolakops), Brigadier General Rudolf S. Warouw, and sent to the Regional Military Command based in Bali. These reports, dated 13 November 1991 and 30 December 1991, presented the official military version of what happened at the demonstration and explained the response of the security forces.* They are referred to here as the First and Second Warouw Report respectively.† No attempt appears to have been made by the military to investigate the unlawful killings on 12 November 1991 or the other serious human rights violations which took place there.

* These documents were submitted to the Commission by the Minister of Foreign Affairs and Cooperation of the RDTL, José Ramos-Horta, and are held in the CAVR Archive. They were among those requested, but never received, by Special Rapporteur Ndiaye.

† Laporan Khusus Lapsus/26/XI/1991 tentang Peristiwa '12 November 1991' di Dili, Timor Timur, Special Report Lapsus/26/XI/1991 regarding the '12 November incident' in Dili, East Timor dated 13 November, from Komando Pelaksanana Operasi Timor Timur (Pangkolakops). The 22-page report from the chief of Kolakops was sent to the commander-in-chief of the Regional Military Command, based in Bali, and copied to 10 others including the Commander-in-Chief of the Indonesian Armed Forces (Panglima ABRI), and the Chief of Staff of the Army (Kepala Staf Angkatan Darat); Laporan Khusus Tentang Pengungkapan Para Perusuh Yang Terlibat Dalam Peristiwa Demonstrasi 12 Nopember 1991 Di Santa Cruz, Dili, Timor Timur, [Special report on the disclosure of the rioters of 12 November 1991 demonstration in Santa Cruz, Dili, East Timor] dated December 1991 (no day entered) signed and sealed by Komando Pelaksana Operasi.

633. The District of Dili was designated "Sector C" by Kolakops and the sector was under the command of Infantry Colonel Binsar Aruan. Colonel Binsar formed the Combined Company on the night of 11 November to manage the flower-laying ceremony for Sebastião Gomes Rangel, which the military was aware was to happen the next day. The Combined Company was composed of one platoon of the Police Mobile Brigade (Brimob) and two platoons of soldiers from Battalion 303. Some soldiers apparently also came from the Dili District Military Command (Kodim Dili), as well as from Battalion 744.

The First Warouw Report

634. The First Warouw Report reveals that military investigations were carried out immediately after the incident but that only members of the security forces were interviewed. The Report contains a 22-page document signed by Brigadier General Warouw, which is based on a 12-page accompanying document by Colonel Binsar Aruan. Colonel Binsar was the commander of Sector C, the military area covering Dili. He had formed the Combined Company, comprising two platoons from Battalion 303 and one Brimob platoon, the evening before the demonstration. The Combined Company was commanded by Second Lieutenant Mursanib.

635. As well as the two written documents, the First Warouw Report also contains diagrammes showing troop movements in relation to the visit of the United Nations Special Rapporteur on Torture, Professor Pieter Kooijmans, which was taking place at the time, and in anticipation of and following the demonstration. It contains details of weapons seized from the Santa Cruz Cemetery and reports that the injured were taken to hospital and 308 persons were taken to police headquarters. Of those, 49 were kept in detention and 259 returned to their families.

636. It is clear that this investigation was not impartial. First, it was made by the person in charge of the armed forces in Timor-Leste, and therefore responsible for the actions of the military at the cemetery. Second, from the outset the military assumed that the demonstration was organised by the Resistance, providing justification for the military's conduct. The First Warouw Report's stated aim was to:

> [R]eport to the Command on the case of the demonstration by an anti-integration group with the support of GPK Fretilin…with the purpose of becoming material for consideration in determining what policy should follow.*

637. The military's analysis of the incident relies on the notion that the demonstration was planned by radical and criminal elements; it was not merely a peaceful commemoration mass. The First Warouw Report states that "those we faced were not demonstrators but were armed guerrillas". Two of the differences between this demonstration and a peaceful mass, which were noted by the First Warouw Report, were merely examples of the exercise of the right to freedom of expression:

* The Kolakops commander-in-chief, Brigadier General Rudolf Warouw, ordered an "investigation of the case of the demonstration by a Fretilin group and their supporters". See the First Warouw Report of 13 November.

- This was the first public display of Fretilin and Falintil flags.
- The demonstrators carried posters and banners of GPK leaders said to be symbols of the national unity of Timor-Leste.

638. It was alleged that the demonstration was part of a larger plan by the GPK (that is, the Resistance), to influence a small number of people, including students and youth, to conduct destructive anti-integration activities. This plan was said to include strategies of blowing issues out of proportion and using religion and the Church to influence people. The Report acknowledged that the cancellation of the visit of the Portuguese parliamentary delegation caused much disappointment. The military found that the leadership of the Resistance took the opportunity to plot destructive acts to provoke repressive actions from the security forces. It reported that the Resistance spread false rumours about ABRI. The Report indicates that members of ABRI viewed the demonstrators as part of the Resistance, and therefore as enemies. Demonstrators were therefore seen as deserving, if not legitimate, targets of attack.

639. This demonstration was also said to be different because "demonstrators deliberately attacked ABRI personnel, tried to grab their weapons and insult their honour. This sort of brutal demonstration was a typical insurgent ploy". The supposed armed and aggressive character of the demonstrators was the second key point in the military's analysis of the incident. According to the report, Mursanib ordered his men to fire warning shots into the air but the crowd surged forward again, there were shouts to attack and stones were thrown. After a second round of warning shots were fired a grenade with the pin intact was allegedly thrown at the military and caught by Second Lieutenant Mursanib. There were skirmishes as demonstrators tried to wrestle weapons from soldiers and one soldier's hand was hurt. Finally, given the critical situation, shots were fired for between six and eight seconds and then the crowd stampeded and many were crushed.

640. The Report's view, in light of this version of the facts, was that the security personnel acted in self-defence, without premeditation in a pressured situation where the attacking crowd was threatening their lives and shouting out very hurtful insults. It noted that professional soldiers are required to take firm, quick and precise action at critical moments when their lives and weapons are under threat. It reported that the developments were regretful, but this matter involved ABRI's efforts to defend the honour and sovereignty of the nation because GPK/Fretilin were a national enemy that had to be destroyed.*

641. Recommendations were to:

- Prosecute the leaders and participants in the disturbance for subversion.
- Bring those members of the security forces against whom there was evidence to a court, while those who took part and against whom there was insufficient evidence be sanctioned.
- Refuse entry to journalists pretending to be tourists because of operational reasons.

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* The UN Special Rapporteur, who did not have access to the documents examined by the Commission, was nevertheless able to conclude that: "[T]he actions of the security forces were not a spontaneous reaction to a riotous mob, but rather a planned military operation designed to deal with a public expression of political dissent in a way not in accordance with international human rights standards." [Ndiaye Report].

Failures in the military investigation methods

642. The Commission has identified numerous gaps and failings in the way that the military went about its investigation. First, there were important issues of conflict of interest. The military relied on the officers responsible for the Combined Company for its version of what took place at the cemetery. Further, it used the security forces who had been involved in the massacre to investigate the scene of the crime. In the course of the "cleaning-up" operation, soldiers from Battalion 303 and Brimob gathered together evidence against the demonstrators. They also removed corpses and survivors before forensic investigation of the scene of the crime could be done.

643. The opportunities for planting or destroying evidence in such a situation were manifold. No proper chain of custody of evidence records were kept. There is one general diagramme on file showing where certain weapons were found, but only one weapon (the Mursanib grenade) was recorded as being found by an individual. Other weapons were simply marked as found by military unit, for example, Battalion 303 or Brimob. There was also a high risk of evidence being destroyed. Demonstrators have reported that before the security forces removed them from the cemetery, they saw blood being washed off the road.[760] In fact, this destruction was to continue into the next few days, as bodies of victims were secretly disposed of, without proper forensic handling and without being returned to their families.

644. No records were kept of where each body or injured person was found, or the condition of the body or person. The location of shot persons is particularly important given the claim of self-defence raised by the military. If the military genuinely fired in self-defence, then the victims would have been those closest to the security forces and there would not have been any victims of gunshot wounds inside the cemetery or away from the "confrontation line" between security forces and demonstrators.

The Second Warouw Report

645. The second report from the commander-in-chief of Kolakops in Timor-Leste, dated more than six weeks after the first report, focused on conveying the intelligence information that had been obtained from individuals charged and interrogated about the Resistance in Timor-Leste. It contained:

- Records showing who was arrested and released or still detained and the charges that had been laid against certain detainees.
- Hand-drawn diagrammes of the structure of the Resistance network.
- Intelligence reports on the activities of the foreigners who were present at the demonstration.

646. The report was not an investigation into responsibility for the killings and other serious human rights violations perpetrated by security forces at Santa Cruz. Rather, through its detailed descriptions of the structure and strategies of the clandestine network and summaries of testimonies extracted from detained demonstrators, it seems to suggest that this intelligence triumph was a justification for the killings at the Santa Cruz Cemetery.

Investigations by the Military Police

647. The investigations into the conduct of the military in Timor-Leste regarding the Santa Cruz killings were carried out by the military police operating out of the Regional Military Command (Kodam) in Bali. The Commission has come into possession of three reports by the military police commissioned to report on investigations into the actions of the Combined Company.* These reports, referred to here as the First, Second and Third Military Police Reports, were dated 26 November 1991, December 1991 and January 1992 respectively.[761]

The First Military Police Report

648. All three reports accept the Kolakops version of the facts of the demonstration, particularly the political background and the dangerous character of the demonstrators. The First Military Police Report states for example:

> The mass of Demonstrators carrying out the demonstration on 12 November 1991 were brutal, emotional and wild as a result of outside instigation from the Anti-Integration group, which is suspected of masterminding the demonstration.

649. The report confirms that the Combined Company members did everything possible to control the crowd through persuasive means, through positioning and warning shots in accordance with procedures. It states that the security forces could not have anticipated that the mob would get increasingly violent and attack them with sharp weapons, firearms, and grenades. The troops were forced to fire in self-defence. The report stressed that Article 49 of the Criminal Code (KUHP) provides that a person acting in self-defence to a direct threat to body, honour or personal property may not be punished. Exceeding the limits in self-defence is permissible when it is the "direct result of offence [lit. shakiness of heart] caused by the attack". So, the report concludes, the security forces acted in accordance with the law.

650. Further, it stated that the attacks by the demonstrators on Major Gerhan Lentara and Private Dominggos were criminal acts requiring legal processing.

The Second Military Police Report

651. The Second Military Police Report, at seven pages, presents a new explanation for the serious human rights violations perpetrated at Santa Cruz. It mentions members of the Combined Company and other ABRI members who acted outside of command. Three members of the Dili Kodim reportedly left the Kodim without being ordered to do so, went to the cemetery and fired at the crowd. The three men were Sergeant

* The Commission has examined the original report of the massacre, made to the Military Police, and contained in the Berkas Perkara of Sgt. Aloyisus Rani (see below). Police Report no. LP-28/A-22/Military Police Detachment IX/4/1991, was filed by Second Sergeant Zainuddin, reporting on: "a disturbance between security forces and demonstrators opposed to integration with Indonesia. The cause of the aforesaid disturbance was that a group of youths against integration with Indonesia carried out a violent and brutal demonstration that resulted in security forces opening fire".

Major Petrus Saul Meda, First Sergeant Aloysius Rani and First Sergeant Udin Syukur. A member of the police, First Corporal Marthin Alau, also went to the site without orders and stabbed a demonstrator because of his heightened emotion on seeing the actions of the crowd and the tearing of the Indonesian flag in front of the Dili Police Station. The report concludes that these personnel acted on their own initiative, and did so in violation of Article 103 Military Criminal Code (KUHPM).

652. The Commission observes that it is unclear why this element of the story only emerged in the Second Military Police Report in December 1991. All four of the "own initiative operators" say they reported back immediately on return to their respective bases on 12 November and surrendered the weapons they had taken to await disciplinary action. Their role would therefore have been known by the time that the Warouw reports and the First Military Police Report were prepared.[762]

653. Of serious concern in the Second Military Police Report is the alteration to an original statement given by witness Second Lieutenant Mursanib, who was eventually dismissed from his post. The Commission has examined an original signed copy of the first Mursanib record of interview. It has compared this to the copy of the statement that appears in the Second Military Police Report, a photocopy of the original. At two points in the copied document related to the finding of the grenade the wording has been blocked out and then typed over. These changes were not initialled by the deponent or the interrogators.

The Third Military Police Report

654. The Third Military Police Report, just five pages, introduces two major new features – the role of the Battalion 303 from Taibessi and six other soldiers who acted on their own initiative. It contains summaries of the statements of 36 witnesses and lists 12 potential accused. It highlights the roles of:

- Private Mateus Maia and Private Alfonso who shot dead a foreign journalist (Kamal Bamadhaj) in front of the office of the Dili Department of Information.
- Three Milsas who were attached to Battalion 303/SSM who shot at the crowd after passing Brimob at My Friend Bridge (in Taibessi, near the cemetery).
- Three members of Battalion 744/SYB named Sergeant Major Adolfo Tilman, Corporal Mustari, and Private Gomboh. They allegedly beat and jabbed their rifles towards some of the demonstrators.
- Second Lieutenant Alex Penpada, platoon commander for intelligence in the Sub-Regional Military Command 164/Wira Dharma. He allegedly beat demonstrators and saw a member of Railakan militia beat demonstrators.

655. New analysis was carried out revealing the role of Battalion 303/SSM that came from Taibessi on hearing about the developing situation at the cemetery:

> A unit of Battalion 303/SSM passed in front of SST Brimob from the direction of Taibessi and also from the military police detachment, which it is suspected occurred because SST Brimob appeared doubtful about facing the critical moment described above.[763]

656. It makes the point that because of this, Battalion 303/SSM arrived before Brimob to confront the demonstrators:

> [A]t the time of the second shots, some soldiers pointed directly at the target, some of [the soldiers] were ex-Milsas soldiers under the command of Battalion 303, which caused fatalities among the demonstrators. Besides the acts of the riot police above, which were inappropriate, some soldiers, without order, exacerbated the chaotic atmosphere and joined in shooting the demonstrators. When consolidation took place, where the prisoners were grouped together, some members of the security forces, in full uniform, not in full uniform and in civilian clothes, continued to ill-treat the demonstrators.[764]

657. According to the report, the change of status and tasks of Battalion 303/SSM played an important role in why personnel behaved the way they did. Battalion 303 was initially posted to Timor-Leste as a combat force "with the task of hunting, finding, and destroying the enemy". It was noted that the unit was not trained for Territorial duties such as riot control and that given their strong patriotism, the provocation they faced led them to act to solve the problem in the way they knew best.[765]

The military police method of investigation

658. The military police based their findings mainly on interviews. The First Report contains 38 Records of Interview (RoIs) with original signatures of the interviewees. The interviews were conducted with 30 members of the Combined Company, eight members of Brimob and 28 soldiers from Battalion 303, four members of Battalion 744 and four civilians. These civilians, Viktor Benovedes (sic, 15 years), Joaniko (sic) dos Santos, Yose (sic) Francisco da Costa, and Manuel Eduardo Dossantos (sic), were the first civilians to be interviewed in any of the military and police investigations. Their statements were made and signed at the Military Police Detachment Headquarters IX/4 but it is unclear if they were in detention at the time. The Rols confirm that the demonstrators were violent and aggressive and had weapons such as sticks, knives and rocks.

659. The Second Military Police Report contains five additional RoIs – those of the Kodim chief of staff, Pieter Lobo, and the members of ABRI suspected of acting outside of command.

660. The Commission observes that the statements of the security personnel were extremely consistent, often word-for-word, in describing the genuine threat to the security forces and how they acted in self-defence. All security personnel interviewed reported the same aggressive, "wild" and "brutal" crowd; they all heard the same taunts and saw or heard the same things. Such consistency may well be because it reflects the truth; but it may also reflect perversion of the course of justice through a common agreement on the version of events or one that was imposed by investigators. Given that independent witnesses, as reported by international organisations, report with equal consistency that the demonstrators were unarmed, non-violent and did nothing to provoke the security forces who gave no warning before opening fire, a

genuine investigator should have considered both versions to make an objective and fair assessment of facts. The fact that the existence and consistency of other accounts was never even considered in the course of the Indonesian investigations is cause for genuine concern about the integrity of the process.

661. The military police apparently carried out a forensic investigation at the cemetery on 14 November 1991, but this investigation was far from comprehensive.[766] The extent of the investigation was the number of bullet marks noted down on a basic diagramme of the crime scene. Seventy-two bullet marks were counted. All except one were outside the cemetery and were on the cemetery's front wall, trees and electricity poles. However, angles of entry were not recorded and checked against troop locations and embedded bullets were not removed and taken for ballistics testing. There seem to have been no checks of the site for evidence of other ill-treatment that may have taken place, such as lacerations on the gravestones from sharp weapons or rifle butts. There were no conclusions drawn from the crime scene investigation.

Unanswered questions

The omissions in the investigations conducted by Indonesian security agencies provide valuable insight into the credibility of the process.

The Commission observes that some questions that should be basic to any genuine and impartial investigation into the lethal use of force by law enforcement officials do not seem to have been asked, and if asked, given appropriate consideration. This is particularly notable in light of the starkly opposed versions told of what happened. For example, it was never asked:

- What sort of forces were deployed to deal with the demonstrators and what sort of equipment were they given? Were these appropriate forces and equipment for the situation at hand? Were standard riot gear such as rubber bullets, water cannons and tear gas used?
- What exactly was the threat faced by the security forces? What evidence is there that the soldiers acted in self-defence?
- If the use of force and firearms was unavoidable, as alleged by the military and the NCI, did the security forces exercise restraint and act proportionally in relation to the threat against them and the legitimate objective to be achieved? Was the threat so great as to justify the number of shots that were fired?*

* The overall picture that emerges from the files is that about 140 shots were reported to have been fired. Weapons checks after the event reveal that those members of the Combined Company from Battalion 303 fired 73 times and those from Brimob fired 33 times. Nine warning shots were fired by Battalion 744. At least 25 shots were fired by the Battalion 303 who came from Taibessi. Thus, 140 shots are known to have been fired. In addition, 72 bullet marks were found at the site by military police.

- If the use of force was unavoidable and used in self-defence, why is it that, in accordance with questions raised by the UN Special Rapporteur:

[D]emonstrators who were trying to flee were shot in the back. Why, after the shooting had stopped, did soldiers continue stabbing, kicking and beating the survivors (including the wounded) inside the cemetery, on the way to the hospital and in neighbouring villages during the rest of the day, and possibly for several days?[767]

- Why were combat soldiers (Battalion 303) used and not simply Brimob who were trained to deal with riot situations?
- Was there anyone in overall control of the situation at the cemetery? Who should have been in overall control? What were the methods of coordination between the different forces present?
- What happened to the dead and disappeared?

Failure to question relevant actors

Although the statements taken by military investigators of lower ranking security force personnel appear to have been quite comprehensive, some senior officers involved in the incident were not interviewed by the military police. The commander of Sector C, Colonel Binsar Aruan, and the commander of Battalion 303, Asril H. Tanjung, do not appear to have been questioned as part of the fact-finding investigations that the Commission has been able to examine.* Neither were other relevant actors such as the Kodim and Battalion 744 commanders, and those involved in intelligence. The key questions of who was in charge, what was actually ordered on 12 November, and what was done to avert the violence, were, therefore, never clarified. Significantly, Colonel Binsar Aruan was the person responsible for writing the first military version of events, which was adopted in general by all later investigators, even though he was then dismissed.

The testimony of the foreigners who were with the demonstrators was not taken. They were eyewitnesses to what happened and some, such as Allan Nairn and Amy Goodman, were at the front of the demonstration and although not shot, were physically attacked by

* The Commission must assume that some kind of investigation into their roles was carried out because these commanders were eventually disciplined. However, it is notable that for some reason their evidence was not taken into account in an attempt to obtain an accurate picture of what happened at the demonstration.

the security forces. No reason was apparent from the files why they were not formally interviewed or why their public statements were never considered by investigators.

Inconsistencies in the evidence

Investigators failed to resolve numerous inconsistencies in the evidence. Major inconsistencies included:

- Each of the reports from Kolakops, the military police and other statements and records of interview noted numbers and types of weapons recovered from the site. This is important because it goes to whether the demonstrators were indeed armed and whether the security forces had cause to shoot in self-defence. The civilian police found no firearms, only weapons including 26 machetes, 70 knives, one spear, and 19 sickles. A member of Brimob testifying in the trial of Jacinto Alves also mentioned only knives, spears, machetes, pipes, and flags.[768] Other witnesses and reports mentioned numerous firearms that were reportedly recovered from around the site of events, but these reports were also highly inconsistent. The commander of the Combined Company, Second Lieutenant Mursanib, described one G-3 rifle and two FN pistols.[769] This was confirmed in the First Military Police Report in late November. The earlier First Warouw Report, however, prepared the day after the demonstration, reported that as well as those firearms there was one Mauser rifle and one Smith and Weston gun found along with bullets. The Second Warouw Report added another Mauser and a Colt rifle, with the serial numbers of all weapons. No attempt to determine the reason for these inconsistencies appears to have been made by the investigators.
- There were also inconsistencies in the evidence given by individuals. Second Lieutenant Mursanib provided three written statements to military police investigators.* These statements had serious contradictions that were never resolved.† For example, in his first two records of interview, Mursanib states that he ordered the members of the Combined Company to fire warning shots

* 17 November 1991 [First Mursanib BAP], contained in First Military Police Report; 25 December 1991 [Second Mursanib BAP], contained in the Rani file; 21 March 1992 [Third Mursanib BAP], contained in Rani file. The Commission has observed that while Mursanib's later two statements were part of the dossier against Aloysius Rani, the First Mursanib BAP was never submitted to the Military Court.

† The documentary material examined by the Commission suggests that Mursanib's changes in testimony may have not been challenged by investigators because the whole exercise was engineered. This is supported by the leading nature of the questions put to him, and the pursuing of questions in supplementary issues when the matter appeared to have been well-settled in earlier interviews, as well as the failure to admit the original Mursanib statement as evidence in the Rani case.

into the air. In his third statement however, he denies having ordered any warning shots. In answer to the leading question: "Is it true that you gave the order to fire a warning shot and how did that command sound?" Mursanib replied:

> *I did not give an order for a warning shot at that time because the crowd was making a racket. I heard shouts from the south of the small food stall, and the sound of weapons being loaded and members of the 303 that formed part of the Combined Company started firing. I saw members of 303 shooting and yelled at them to stop. [answer to q.6b5]*[770]

- Mursanib's role was described inconsistently. In the first RoI of 17 November 1991, Mursanib is clearly identified as the Commander of the Combined Company and this is how he is described in the second RoI of 25 December 1991. However, in the third RoI of March, he describes himself only as a Socio-Political officer, that he never gave any commands, and indeed says that there was never a Combined Company, that the term was possibly just used for convenience.[771]

The fact that these inconsistencies were ignored by investigators, when they are clearly crucial to whether the security forces acted according to procedure and how they were commanded, either reveals striking incompetence or a deliberate effort to obscure the truth.

Gaps in the forensic investigation

Similarly, investigators ignored important gaps in the forensic investigation. The projectiles in the bodies of the wounded and dead were vital evidence that should have been preserved and sent for ballistics testing for matching against the weapons that were fired by the security forces. The files contain no information on what happened to the projectiles removed from the wounded and made no attempt to match those to weapons.

Further, the position remains confused on what forensic work was done with the dead bodies - while members of the public claim was that there were no facilities for autopsy in Timor-Leste, the First Military Report claims an autopsy was carried out on a body on the day of the massacre itself and that the cause of death was a bullet that was not fired from a military issue weapon; also there are 110 names on a list in the court martial file of Aloysius Rani, said to be "autopsy reports". The UN Special Rapporteur was told by the chief of police that the 18 unidentified bodies and the body of Kamal

Bamadhaj were buried on 13 November 1991 because the morgue of the hospital could only accommodate three to four bodies. The chief of police also told the Special Rapporteur that medical certificates had been issued by the hospital concerning the 19 bodies.[772]

It is known that the bodies of these 19 persons were hurriedly disposed of at Hera cemetery and not returned to their families.* Further, this is not the complete death toll, and reports of mass burials of persons killed at, or after, the events at Santa Cruz were not followed up. The NCI exhumed a grave at Hera with a tractor. The UN Special Rapporteur was not impressed with those efforts:

> "The Special Rapporteur cannot help being surprised that such an indiscriminate means of digging, contrary to the basic methodology of any expert exhumation and likely to be detrimental to the outcome of any subsequent forensic analysis, was used. The conclusions drawn from this exhumation were irrelevant: the victim was buried in a coffin, completely dressed, and there was only one corpse in the grave. No autopsy was conducted on the body, and therefore no pertinent information, such as the identity of the corpse or the cause of death, was given."[773]

National Commission of Inquiry investigation and report

662. On 18 November 1991, through Presidential Decree No. 53, President Soeharto appointed a National Commission of Inquiry (Komisi Penyelidik Nasional, NCI).[774] The Commission's review of the NCI's inquiry is limited because it has had access only to the one-page conclusions of a nine-page preliminary report of the NCI dated 26 November 1991. These conclusions were published by Amnesty International and reproduced as an Annexe to the Ndiaye Report. The NCI's full report has never been made public. Nevertheless, it is clear from the conclusions to

* International standards, reflected in the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, for such investigations require that bodies may not be disposed of until an adequate autopsy is conducted by a suitably qualified expert. Those conducting the autopsy shall have the right of access to all investigative data, to the place where the body was discovered, and to the place where the death is thought to have occurred. If the body has been buried and it later appears that an investigation is required, the body shall be promptly and competently exhumed for an autopsy. Principle 13 states: "The body of the deceased shall be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to be carried out. The autopsy shall, at a minimum, attempt to establish the identity of the deceased and the cause and manner of death. The time and place of death shall also be determined to the extent possible. Detailed colour photographs of the deceased shall be included in the autopsy report in order to document and support the findings of the investigation. The autopsy report must describe any and all injuries to the deceased including any evidence of torture."

the preliminary report and the critiques by other human rights organisations, that the NCI investigation was not comprehensive or impartial. Indeed the NCI agreed with the military version of events without question, despite considerable evidence to the contrary.

663. One of the most serious concerns about the NCI was its lack of independence. It was composed of seven people representing different branches of the government and military establishment: it was headed by a Supreme Court judge with a military background, and members came from ABRI headquarters, the President's Supreme Advisory Council and the People's Representative Assembly, as well as the ministries of justice, foreign affairs and home affairs.* Amnesty International pointed out that this composition was perhaps the NCI's most intractable weakness and accordingly East Timorese did not perceive the commission as an impartial body but as a representative of the Indonesian government and military.[775] The NCI acknowledged that it faced difficulties in persuading East Timorese witnesses to deal with it:

> [B]ecause of doubt and concern that they would be directly incriminated in the 12 November 1991 Incident in Dili, or out of fear they would be regarded as belonging to the anti- integration group.[776]

664. The NCI methods of investigation are described in the report of the UN Special Rapporteur. Work, which commenced on 21 November 1991 after one week of research in Jakarta, was:

> [F]ollowed by an investigation in Timor-Leste from 28 November to 14 December 1991. The National Commission of Inquiry [NCI] met with a variety of representatives of the local authorities, members of the Church, members of the armed forces, private individuals and eye-witnesses; visited hospitals and police detention centres; inspected Santa Cruz Cemetery; exhumed one grave at Hera Cemetery; and carried out unsuccessful inspections and excavations at locations at Pasir Putih, Tasi Tolu [sic], and Tibar in response to information received from the local people alleging that those were places of mass burial of victims".[777]

665. Among the key officials who the NCI met were Governor Mario Carrascalão, Brigadier General Rudolf S. Warouw, and Bishop Carlos Ximenes Belo. It also interviewed 132 witnesses.[778]

666. The Commission observes that the Advance Report opted for the version of events set out in the early Warouw and Military Police Reports: the demonstration was not a religious ceremony in honour of the deceased Sebastião but a carefully planned criminal

* This Commission consisted of: Djaelani, SH, Supreme Court Judge; Drs. Ben Mang Reng Say, Vice President of Supreme Advisory Council; Harisugiman, General Director of Politics and Social of Home Affairs Department; Hadi Wayarabi, Director of International Organisation of Foreign Affairs Department; Anton Sujata, SH, General Inspector of Justice Department; Rear Admiral Sumitro, General Inspector of ABRI.

act, masterminded by Fretilin. Like the military, the NCI blamed the demonstrators for the attacks on the two security personnel outside the Kodim, and for provoking the security forces with their Fretilin flags, banners and shouts, by being belligerent, aggressive, and by attacking them. The security forces were therefore forced to defend themselves.

667. Also like the military police reports, the NCI report found that there had been "a group" of rogue security forces ("*pasukan liar*") out of uniform and acting outside any control or command. It concluded that the killings were not an act ordered by or reflecting official policy, and what happened on 12 November 1991 was essentially a tragedy that should be deeply regretted. The report found that there were weaknesses in the implementation of proper riot-control procedures and some excesses by security personnel. The NCI did not accept the official figure of 19 casualties and 91 wounded, citing unspecified "strong grounds" for concluding that the death and wounded toll exceeded 50 and 91 respectively, but it did not identify those victims.

668. The NCI criticised the handling of the dead. While autopsies were conducted, families were not properly notified and identification was not correctly handled. The NCI recommended that:

> [I]n order to uphold justice, action must be taken against all who were involved in the 12 November 1991 Incident in Dili and suspected of having violated the law, and they must be brought to trial in accordance with the Rule of Law, Pancasila and the 1945 Constitution upon which the Republic of Indonesia is based.[779]

669. It did not substantiate this with recommendations of named individuals for further investigation and prosecution.

670. Based on its own investigations into the situation, Amnesty International was particularly strong in its condemnation of the NCI – stating that its composition and work were fatally flawed and the findings were "unacceptable".[780] According to Amnesty International, the NCI gave undue credence to military accounts while ignoring or misconstruing independent evidence to the contrary. Interviews with East Timorese eyewitnesses were not conducted in a safe and confidential environment. In fact, those of the 132 eyewitnesses who were not security personnel were either in hospital or in detention when they were interviewed.

671. Further, the NCI's conclusion that the demonstrators provoked the security forces was tantamount to saying that the expression of political dissent may serve as a justification for the use of lethal force or other unlawful measures against civilians. Criticism of the security forces by the NCI was kept to a minimum. Amnesty International accused the NCI of having failed to obtain accurate details of the numbers and identities of the dead and missing, how they died and their whereabouts, and of missing the point when conducting its one and only exhumation of a grave. There were no specific recommendations for prosecution, beyond the general statement that legal action should be taken against those "involved" in the "incident". Amnesty

International also alleged deliberate obstruction of independent investigation and human rights monitoring following the massacre.*

672. UN Special Rapporteur Ndiaye found that while this first ever Indonesian commission of inquiry into gross violations of human rights was an encouraging initiative, there were fundamental flaws that rendered the investigation incompatible with international standards, specifically those set out in the United Nations Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions:

- The institution lacked credibility for lack of independence from the State and was not trusted by the East Timorese;
- Its members lacked the necessary technical skills and did not conduct their investigations in a professional manner, for example by using a tractor to excavate alleged burial sites;
- Most of the eye-witness investigations were held in prison or at the military hospital and appear to have been monitored by the security forces.

673. The Special Rapporteur's concerns were so serious that he recommended that a new commission of inquiry conduct an additional investigation.[781]

Action taken against those held responsible

674. Despite the failings in the investigative process, action was taken against both senior officers and members of the military in relation to the killings at Santa Cruz. Further, although the military structure in Timor-Leste did not change for another two years, there were shifts in personnel.

Action against senior officers

675. On 28 November 1991, before the NCI had issued its final report, the most senior military figures in the region, Major General Sintong Panjaitan (the commander-in-chief of the Regional Military Command Udayana IX) and Brigadier General Rudolf S. Warouw (the commander-in-chief of Kolakops Timor-Leste), were dismissed from their positions.[782]

676. In February 1992, the Chief of Staff of the Army found six officers guilty of misconduct on the basis of a report by a Military Honour Board that he had convened on instructions from President Soeharto. The disciplinary steps taken, as reported

* Amnesty International alleged that the ICRC was prevented from speaking privately to those detained in relation to the events, including those hospitalised; that "the authorities have taken measures to ensure that witnesses, human rights activists and independent observers are not in a position to dispute the official version of events. Some witnesses are said to have been killed and scores have been detained"; that NGOs were threatened, demonstrations were banned and newspapers threatened (in one case three journalists from Jakarta were dismissed after the weekly publication's publisher was officially warned for publishing the testimonies of 12 East Timorese who witnessed the massacre); that tight restrictions were imposed on access to and reporting about Timor-Leste by foreigners [Amnesty International, Indonesia/East Timor – Santa Cruz: The Government Response, AI Index: ASA 21/03/92, February 1992].

by Indonesia to the United Nations Commission on Human Rights, resulted in the following: three officers were dismissed from military service, two were not given any post within the organisational structure of the Army although remaining on active duty, and one was temporarily not given a post within the organisational structure.[783] UN Special Rapporteur Ndiaye was informed that these six officers were responsible for intelligence and security in Timor-Leste and should have taken steps to forestall the demonstration.[784] Asia Watch reports that these officers were:

- Dismissed: Infantry Colonel Gatot Purwanto (Intelligence officer Kolakops Timor-Leste); Infantry Colonel Binsar Aruan (commander of Sector C); Brigadier General Rudy (sic) Warouw (commander-in-chief of Kolakops Timor-Leste).
- No post but still on active duty: Infantry Colonel Sepang (deputy commander-in-chief of Kolakops Timor-Leste and concurrently commander of the Sub-Regional Military Command 164/WD); Infantry Lieutenant Colonel Wahyu Hidayat (Commander of the Kodim 1627/Dili).
- Temporarily not posted but still on active duty: Major General Sintong Panjaitan (commander-in-chief of the Regional Military Command Udayana IX).[785] (Note that Sintong Panjaitan was reported by the same organisation to have been dismissed on 28 November 1991).

677. The Commission has not been able to obtain any information on the proceedings or examined any documents or material that may cast light on these disciplinary actions. However, the Commission notes that there was not an open and transparent judicial process, which victims and families had access to or were able to participate in. This in itself ensured the process was not an effective remedy for gross violations of human rights. The Commission is not in a position to assess if the accused officers enjoyed fairness and due process in the course of the proceedings against them.

Internal purges

678. Independent observers report that there were major personnel movements within the command of Timor-Leste following the massacre at Santa Cruz. Asia Watch reported that every single one of the six Kolakops assistants was transferred out of Timor-Leste, along with Kodim commanders. The commander of the Sub-regional Military Command was also replaced. Battalion 303 was deployed out of Timor-Leste in November 1991.[786]

679. Asia Watch also reported that three officers were given administrative sanction: Lieutenant Colonel Cherry Bolang, chief of staff at the Sub-regional Military Command; Infantry Colonel Dolgi Rondonuwu, operations assistant at Kolakops Timor-Leste; and Infantry Colonel Michael Suwito, territorial assistant at Kolakops Timor-Leste.[787]

The courts martial in Bali

680. Ten low-ranking members of the security personnel involved in the events of 12 November 1991 were tried and convicted before Military Courts in Denpasar, Bali. Sentences ranged from eight to 18 months and all those convicted were dishonourably discharged.

Table 43: Summaries of charges and sentences on ten security personnel in relation to the Santa Cruz Incident

Name	Unit	Charge	Verdict and sentence	Notes
Udin Syukur	Kodim 1627	Disobeying or exceeding orders (Article103 KUHPM)	Convicted 18 months	Acted on own initiative. Fired four shots or two shots* at the demonstrators, but not charged with killing.
Aloysius Rani	Kodim 1627	Disobeying or exceeding orders (Articles 103, 126, 124(1) KUHPM); Article 351 KUHP.	Convicted 14 months	Acted on own initiative. Fired two shots at the demonstrators, but not charged with killing.
Petrus Saul Meda	Kodim 1627	Disobeying or exceeding orders (Article103 KUHPM)	Convicted 12 months	Acted on own initiative. Fired either 10 or three shots at the demonstrators, but not charged with killing.
Mateus Maya (sic)	Kodim 1627/Dili	Disobeying or exceeding orders (Article103 KUHPM)	Convicted 8 months	On garrison patrol, shot a foreigner (Kamal Bamadhaj). Not charged with killing.
Afonso de Jesus	Kodim 1627/Dili	Disobeying or exceeding orders (Article103 KUHPM)	Convicted 8 months	On garrison patrol, shot at a foreigner (Kamal Bamadhaj) he had earlier seen in the crowd of demonstrators. Missed. Not charged with attempted murder.
Mursanib	Dan Ki Gab or Sospol officer †	Disobeying or exceeding orders (Article 103 KUHPM)	Convicted 14 months	Loss of control of troops.
John Harlan Aritonang	Platoon leader Battalion 303 II	Disobeying or exceeding orders (Article 103 KUHPM)	Convicted 12 months	Loss of control of troops.
Handrianus Eddy Sunaryo	Platoon leader Battalion 303 III	Disobeying or exceeding orders (Article103 KUHPM)	Convicted 12 months	Loss of control of troops.
Yohanes Alexander Penpada	Deputy Intel Officer for Korem 164	Disobeying or exceeding orders (Article103 KUHPM)	Convicted 8 months	Assault on a demonstrator after the shootings.

* Contradictory information on the Third Military Police Report.

† Contradictory information provided by Mursanib.

Name	Unit	Charge	Verdict and sentence	Notes
Martin Alau	Police	Assault, (Article 351 KUHP)	Convicted 17 months	Acted on own initiative. Stabbed twice, one cutting the ear of an identified demonstrator (Simplicio Celestino de Deus). All committed after the shootings.

Decision to charge

681. There were at least 72 security personnel directly involved in acts of violence at the Santa Cruz Cemetery, but only 10 were tried. All members of the Combined Company, other than the two Battalion 303 platoon commanders and Second Lieutenant Mursanib, escaped prosecution. It is notable that the Brimob platoon commander, whose men were reported to have fired 33 shots without order to shoot, was not prosecuted.

682. The failure to prosecute any of the Battalion 303 platoon from Taibessi is also remarkable, given that the Third Military Police Report specifically identified East Timorese soldiers from this battalion and their commander as suspects. Investigations found that they cut across hesitating Brimob and shot at the demonstrators. They included Private Jorge Barreto, Private Antoni Beretus, Januario Guterres, Venancio Barreto and Carlos Soares. All said that they were ordered to go to Santa Cruz by their company commander and they shot at the demonstrators upon his order.

683. Even if these men were not charged on the basis that they were following orders,* it is unclear why their commanding officer, Infantry Captain Yustin Dino (NRP.30011), was not tried. The Third Military Police Report recommended he be charged and a case was prepared against him on the grounds that it was he who ordered about 24 Battalion 303 soldiers from Taibessi to Santa Cruz and then ordered them to fire on the demonstrators. For some reason this case never went ahead.

684. As a consequence, the blame for the many deaths and injuries at Santa Cruz was shifted onto Second Lieutenant Mursanib, two out of three of his platoon commanders, and a collection of rogue elements comprising individual members of the Kodim, police and intelligence and two members of the Kodim garrison, all of whom acted "on their own initiative".

Appropriateness of the charges laid against members of the security forces and the punishment imposed

685. Serious violations of human rights including unlawful killing, enforced disappearance, torture and severe ill-treatment of civilian demonstrators occurred at

* Under Article 51 of the KUHP, one cannot be found guilty if one acted in pursuance of superior orders in certain circumstances. The United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions provides that an order from a superior officer or a public authority may not be invoked as a justification for extra-legal, arbitrary or summary executions.

Santa Cruz. This was not reflected in the charges filed against those members of the security forces who were put on trial. Only two individuals were prosecuted in relation to assaults committed in the cemetery itself, but they were only charged for failure to follow orders or control subordinates.

686. The reason given to UN Special Rapporteur Ndiaye for only minor charges being laid was that it was impossible to link individual killings to individual soldiers. This is not convincing for two reasons. First, it would have been possible to carry out ballistics testing on the bullets removed from the bodies that underwent an autopsy and the bullets matched to individual guns.* Second, some killings were clearly linked to individual perpetrators. The Third Military Police Report found that the Malaysian Kamal Bamadhaj was shot at by two soldiers but hit by the shot of Private Mateus Maya (*sic*), who was out patrolling with the garrison. Reports from the military proceedings in Bali indicate, however, that this evidence was ignored and Mateus Maya (*sic*) was described only as having fired at unidentified demonstrators when taking the wounded Major Gerhan Lentara to the hospital.†

687. The military trials underplayed the seriousness of what occurred at Santa Cruz on 12 November 1991, and light sentences were imposed. The Commission endorses the finding of UN Special Rapporteur Ndiaye that:

> [T]he inadequacy of the charges and the inappropriately light sentences imposed by the court martial on the few members of the armed forces accused of having been implicated in the 12 November 1991 incident are in no way a fulfilment of the obligation to punish perpetrators, and thus to provide a deterrent for the recurrence of a similar tragedy in the future. On the contrary, he feels that they illustrate that little importance is given to the respect of the right to life by Indonesian law enforcement officials in East Timor. On the other hand, the 13 civilians involved in the peaceful protest during and after 12 November 1991 were sentenced to terms of up to life imprisonment.[788]

688. Asia Watch also criticised the light sentences and the secrecy surrounding the questions of how the shooting started or what happened to the bodies of those killed:

> [T]he glimpse they offer into military behaviour on November 12 is a carefully managed one, which serves to strengthen the "official version" of events.[789]

The case against Aloysius Rani

689. The Commission obtained an English translation of the Case Dossier against

* The Commission notes that a bullet removed from the body of 19-year-old João Mica Alves was tested and found to have come from a Mauser, which evidence was used to incriminate the demonstrators.

† Asia Watch, The Massacre Courts-Martial, p. 4. The timing suggests that the shooting would have taken place on their return from the hospital, for the two Kodim staff were wounded about an hour before.

Aloysius Rani from his court martial in Bali.* The Commission has also examined the Asia Watch reports on the Court Martial held in Bali between 29 May and 6 June 1992, as well as its report *Remembering History in East Timor*, as well as the Commission's collection of military documents in relation to Santa Cruz and the Ndiaye Report by the UN Special Rapporteur.[790]

690. Aloysius Rani was a member of Kodim who worked on equipment maintenance, and one of four security force members who were alleged to have acted "spontaneously". He was tried for taking a weapon without permission, going on his own initiative to the Santa Cruz Cemetery and shooting at demonstrators on the basis that he was deeply offended by the actions of the demonstrators and their attack on the members of Kodim. This version of events can be traced back to the Second Military Police Report.[791]

691. The case against Rani was based primarily on witness testimony, from security forces and civilians, including demonstration organiser Gregório Saldanha.† The only evidence of Rani shooting any of the demonstrators comes from Rani's own admission that he fired two shots. Not one of the other witnesses saw Rani shoot anyone. Rani's admission was "supplemented" by a photograph of the gun he is supposed to have taken (G-3, Weapon number 059108, Rifle Butt Number 39) and two bullet cartridges. There were no ballistics tests to confirm if they were fired from the said gun, and there was no description of where, when or how the bullets were found or by whom and how it is known that those bullet cartridges were those fired by Rani.

692. The Commission is not persuaded by the factual scenario put forward by the military in Rani's case. Not only was this Kodim soldier not part of the Combined Company, but he worked on equipment maintenance at the Kodim. The Commission notes that after seeing the two wounded Kodim staff brought in, he was sufficiently composed to go back into the canteen to have some tea, not overcome with patriotic emotion as suggested. While in the canteen, someone is supposed to have come in to tell him he had been left behind so he grabbed a G-3 weapon from the guardroom without permission and headed out to the Santa Cruz Cemetery in a taxi. There, he was sufficiently composed to wait for the Combined Company, not his own unit, in the taxi before joining them in a formation. He then fired two shots, not an emotional outburst as portrayed.[792]

693. This explanation is so unlikely and convenient that the Commission concludes that it was devised by the military for the purpose of scape-goating an individual

* Regional Military Command, Udayana, Military Police, Case Investigation File, No. DPP-10/A-09/Military Police Regional Command IX/1992, April 1992. The documents in it are consistent with documents contained in the military documents on Santa Cruz in the Commission's possession [for example, statements on a particular date are satisfactorily translated when compared to original language versions]. The CAVR therefore believes it may consider this to be a reliable translation of a file which it has not cited in original form.

† In a 2001 interview with UNTAET Civpol (police), after relating how he was beaten many times in detention by Sergeant Martinus Wae and another, Gregório Saldanha stated that "I cannot remember the date but I was also made to sign a statement for Aloysius Rani, an Indonesian Army soldier who was charged by his superiors for acting without orders. I do not know the name of the person who made me sign the statement". [Gregório Saldanha, interview with UNTAET Civpol, 31 March 2001].

and thereby avoiding any responsibility being attributed to the military command structure.

Conclusions

694. The Indonesian authorities conducted investigations into the massacre at Santa Cruz through at least four channels: the civilian police, the local military command, the regional military police and a commission of inquiry appointed by the President. Despite the number of personnel involved and the number of reports produced through these investigations, the Commission is of the view that Indonesia did not meet the standards set out in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. In particular there were inadequate efforts "to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses". The Commission notes in support of this that:

- Not one of the investigations was sufficiently impartial or independent to conduct an objective and credible investigation. The civilian police, the local military command in Timor-Leste and the military police were all part of the apparatus that was under investigation. Their findings and the way in which they carried out their investigations reveal that from the outset their role was to exonerate the military as an institution and condemn the demonstrators. This position was only confirmed by the report of the NCI, which was composed of individuals who were part of the Indonesian government and military establishment and thus insufficiently distanced from the State apparatus being investigated.
- The entire investigation process, including the NCI and various military and civilian investigations, was secretive and lacked transparency. Only the Advance NCI report was made public.[793] The courts martial of the eight low ranking officers were public, but the proceedings against senior officials were in secret.
- The previously confidential documents that the Commission has examined reveal that these investigations were wholly biased in favour of the security forces and focused on justifying the actions of the security forces. There was no examination of the contentions of both sides, rather the version of events provided by the military officers responsible for the incident was accepted without question. The First Warouw Report, which provided this version of events, was completed the day after the massacre and was based solely on military sources.
- There were striking inadequacies in the investigation of the crime scene by all investigators. The civilian police did not carry out any forensic examination at the scene of the deaths. The "clean-up" efforts of the military were inadequately documented and carried out in a way that left manifold opportunity for fabricating and/or destroying evidence.
- The evidence of the witnesses interviewed by investigators raised numerous questions about what occurred at the Santa Cruz Cemetery which were never adverted to by the investigators, let alone resolved satisfactorily. Further

questions that were central to the claims of self-defence by the military personnel were never asked by any of the investigators during the course of the investigations, leaving the picture of what occurred vague and unconvincing. These irregularities are of such significance that the Commission concludes that they were part of an attempt at manufacturing an account of what happened on 12 November.

- The light charges (disobeying orders, assault) and sentences for the security forces were wholly disproportionate to what happened and are particularly objectionable given the serious charges and sentences imposed on the demonstrators. This reveals not just imbalance but deliberate and cynical manipulation of the criminal justice process. Even if the security personnel who were punished were involved in violations of human rights, it appears likely that they were scape-goated in order to shield others.

695. Overall, the complex tragedy of Santa Cruz was made all the more tangled by what appears to have been damage limitation and deliberate attempts to manufacture a version of what happened by representatives of the Indonesian security forces. The processes of accountability that were provided were deeply flawed and unbalanced, and involved collaboration between military, police and judiciary. The Commission is satisfied that a deliberately manipulated version of events at Santa Cruz was presented and accepted by both military and civilian courts dealing with the matter. The investigations and trials were not intended to seek the truth of why the massacre at Santa Cruz happened, how events unfolded and the full consequences in terms of human life. They were also not intended to bring those responsible to account, but rather served to continue and strengthen the institutional mechanisms of impunity which protected members of ABRI/TNI involved in serious human rights violations.

696. In 1994 UN Special Rapporteur Ndiaye concluded that the victims of human rights violations and their relatives had not had an effective remedy.[794] The Government of Indonesia has still not provided to the victims and families either basic information on the dead and disappeared or justice or reparation for harms suffered. The Government of Indonesia has not made public any information that would contribute to the public record of what happened, nor has it provided assistance with locating or identifying dead and missing persons. This uncertainty is the cause of continued suffering for the families of victims. This is a continuing violation of the right to an effective remedy, and the failure to resolve the issue of the disappeared is a continuing human rights violation, as well as of violation of Indonesia's international obligations.

697. The failure of the State of Indonesia to respond in an appropriate manner to the unlawful actions of its security forces violated its treaty obligation as an occupying power to investigate, prosecute and punish those responsible for grave breaches against civilians (Article 146, Geneva Convention IV).

Unlawful killings and enforced disappearances (1992–1995)

698. In 1992 the number of fatal violations committed by ABRI again decreased significantly from their annual level in the previous decade. In March 1993, the

Operations Implementation Command (Kolakops) in Timor-Leste was abolished and the Korem again became the peak military command responsible for the military's full territorial structure as well as for external troops deployed from outside Timor-Leste in both territorial and combat roles. During 1993 and 1994 the Indonesian military committed relatively few fatal violations.

699. In 1995, however, there was not only an increase in fatal violations committed by the Indonesian military, but also a marked shift westwards in their location to the districts of Ermera, Bobonaro and Liquiçá.

Executions in Gariana, Liquiçá (January 1995)

700. On 12 January 1995, members of the Liquiçá Kodim killed six unarmed men near the *aldeia* of Gariana, Vatuvou (Maubara, Liquiçá), allegedly while searching for Resistance fighters who had participated in an armed clash with ABRI the day before in Leotela Village (Liquiçá, Liquiçá). Those killed were: José Nunes, the sub-village head of Gariana, Agusto Pinto, Abel Nunes, Victor, Americo de Araújo and Osorio Soares. Eyewitnesses who later spoke to the Indonesian National Human Rights Commission (Komnas HAM) about the killings reported that five of the six were lined up in a ditch and executed.[795] Testimony given to the Commission confirms that all six were executed and that more than one may have been beaten before being killed.[796]

Testimony of Jacinta Alves Correia

One witness to the killings at Gariana was Jacinta Alves Correia. Jacinta, her mother and her father were beaten by Indonesian soldiers who searched her house in pursuit of a suspected member of Falintil. Two of those killed were her younger brothers, Americo and Osorio. She gave the following testimony about the incident to the Commission:

My father, mother, big sister, and little brothers Osorio and Americo, and me, all went to weed the corn field. In the afternoon, at around 5.00pm, we returned home. My mum and dad sent the five of us home first. When we got home, my little brothers, Osorio and Americo, put the buffalo in its pen. My sister and I hung the clothes out to dry on the fence. While we were hanging out clothes and bringing the soap back inside the house, suddenly we saw my Uncle Antonio, carrying his bag, running through the front door. Lots of soldiers were following behind him.

Antonio was a member of Falintil. He entered the house. The military began to surround our house. My two brothers, back from tending the buffalo, arrived and saluted the soldiers. The soldiers didn't accept their greetings, they were angry. My sister, her four-year-old child Joaquina, my brothers and me, approached a few steps and greeted the soldiers, but

they said nothing and didn't accept our greetings. Among the military that came was one named Custodio, who had his weapon fully cocked, chasing Antonio. The two of them were fighting inside the house.

The five of us just stood there, shocked, watching. After that Antonio ran off, I don't know where. The soldiers shot at him from behind, but he wasn't hit. Then the soldiers came back with their guns and approached Osorio and Americo. The soldiers hit them with their guns, kicked them with their boots, and threw rocks at them. I came to say sorry to the soldiers, and said: "Sorry, soldier, sir, we were all in the fields, we just got back, and the boys were putting the buffalo away in its pen." They said "Am I your husband or boyfriend that you can speak to me like that ?

They hit me twice in the back with their guns, and twice in the face. They also hit my sister with their weapons. They said: "Kill them all, don't let these two live". Then they came running back carrying machetes to kill my sister and I. Luckily, however, they just hit us. After that, I saw the soldiers start hitting my two younger brothers. They hit them with guns, kicked them and threw rocks at them, until Osorio collapsed. It looked like Americo was still standing, but then they tied him up with four other people from Maubara: Abel, Victor, Augusto and José.

After being tied together, they were taken away. Just then my mum and dad came home. As they approached, a soldier lifted up his machete and said: "Old man you are lucky, if you had been here a few minutes ago, you would be dead by now." The soldier hit my mum and dad a couple of times with the machete…After that, they dragged the five young men into the gutter. They tied Osorio's feet up to some bamboo, and dragged all six of them into the gutter, and shot them on the spot.[797]

701. Four days later Indonesian soldiers returned and burned Jacinta Alves's house to the ground.[798] In June 1995, Jacinta Alves was flown to Bali where she gave testimony before a military commission. In the end, two of the perpetrators – First Lieutenant Jeremias Kase and an East Timorese, Private Rusdin Maubere – were sentenced to four-and-a-half, and four years in jail. Both men were dismissed from the military, but it is unclear whether either of them served any time of their sentences.[799]

Executions in Baucau and Manatuto during the visit of European Union (EU) representatives (June 1997)

702. East Timorese youth, particularly those who participated in rallies and demonstrations, were often the target of the Indonesian military violence during this period. For example, when a European Union delegation arrived in Baucau on 29 June 1997 to meet with Monsignor Basilio Nascimento, the Bishop of Baucau, a student demonstration in support of East Timorese independence was held outside

of the Church of Santo Antonio. According to one report, shortly after the delegation entered the Church, a group of approximately five East Timorese and Indonesian men, dressed in black and armed with Indonesian military-issue weapons, arrived at the demonstration and began to threaten the youths gathered there.[800] One of the men reportedly shot and killed a student named Orlando da Costa. Approximately seven other youths were injured in the clash.[801] Shortly after the shooting, Indonesian trooops from the Baucau Kodim, led by Kodim Commander Lieutenant Colonel Wisnu, arrived on the scene. Rather than retrieve the body and pursue the killer, the commander instead warned church officials that they should not be harbouring pro-independence supporters in the Church. The parish priest of the Baucau had to intervene to prevent a further clash between Indonesian military personnel and the demonstrators.[724]

703. On 16 June 1997, shortly before the EU visit, another youth was shot dead by Indonesian military in Aitas (Manatuto). The killing led to protests in Dili and ultimately to an admission of responsibility by the Indonesian military.[803] A third youth was killed on 28 June during a clash between Indonesian military forces and protesters trying to make their way to Dili for the arrival of the EU delegation.[804]

Executions and disappearances in Alas, Manufahi (November 1998)

704. An Indonesian military crackdown in the sub-district of Alas, Manufahi District in November 1998 resulted in numerous extrajudicial killings as well as "disappearances" and unlawful detentions. It seems that these killings were retaliation for two attacks by the Resistance that caused the deaths of numerous Indonesian soldiers. In late October 1998, members of the Resistance executed four people suspected of being intelligence agents for the Indonesian Special Forces in Same and who had allegedly tried to infiltrate a clandestine meeting at a transmigration camp in Weberek, near Alas, (Manufahi).[805] The four men were reportedly captured, disarmed, bound with rope and stabbed with spears by Falintil troops. Three of the four men died immediately. The fourth allegedly escaped to Same, but subsequently died. In the aftermath of the killings, most of the villagers in Weberek fled to the mountains fearing retaliation by ABRI. Although a patrol of Indonesian soldiers reportedly visited Weberek shortly after the killings, there was no immediate retaliation until after a Falintil attack on the Koramil in Alas.[806]

705. On the morning of 9 November 1998, Falintil fighters and young civilians from the *aldeia* of Lurik, Taitudik (Alas, Manufahi) attacked the Koramil in Alas.[807] Three Indonesian soldiers were killed and at least 11 were taken into Falintil custody. After the attack the group of approximately 50 attackers fled in two groups toward Turiscai.

706. In the immediate aftermath of the Falintil attack, local residents fled to the church in Alas Town, located approximately 200 metres from the Koramil itself. On the afternoon of 9 November Adriano Fernandes, who had reportedly participated in the raid but was unarmed, was shot by ABRI soldiers from the Koramil in Alas as he ran towards the church to seek protection.[808] Reportedly, the body of Adriano Fernandes was hacked to pieces and left in a swamp 50 metres from the road, behind the military base near Dotik.[809] According to one report, shortly before the killing of

Adriano Fernandes, the Koramil commander, Antonio Pereira went to the church and demanded to know where to find the weapons stolen from the Koramil.[810] Soldiers from the Koramil subsequently forced those seeking shelter in the church to move to the school across from the Koramil.[811]

707. The Indonesian military intensified its operations in the aftermath of Falintil's attack on the Alas Koramil, detaining a large number of people during the following weeks and destroying the fields and livestock of many Alas residents.* Shortly after the attack, soldiers from Battalion 744 arrived in Alas and began to chase the group of attackers northward toward Turiscai.

708. On the morning of 13 November, Indonesian soldiers from Battalion 744 detained and executed Vicente Xavier, village head of Taitudak (Alas, Manufahi), for his alleged involvement in the 9 November attack. He was executed in the house of a friend in Bakiri, Fahenean (Faturberliu, Manufahi), where he had gone to hide after the incident.† On 13 and 14 November, ABRI soldiers from Battalions 744 and 745 also detained and beat numerous people in Alas Town and Lurin, and attempted to kill others. In one case, a man was reportedly tied up for a week until 19 November in Taitudak, when he was stabbed with a knife in the back which pierced his chest.[812] During this time Vicente Sarmento also disappeared from Dotik. It is suspected that he was killed by Indonesian soldiers from the Koramil in Alas. The Commission has received testimony that several days after the attack, military personnel also searched the home of a suspected Falintil sympathiser in the village of Bubususu (Fatuberliu, Manufahi). They were looking for documents and for youths injured during the attack in Alas. In the process they killed at least one person.[813]

709. After the killings in Alas and Fahinean, (Fatuberliu, Manufahi), Battalion 744 continued moving north, searching for clandestine members suspected of being involved in the attack. In an incident on 17 November, members of Battalion 744 shot Armando Enrique Pereira, also suspected of involvement in the attack, as well as Patriçio and another man who were with Armando at the time.[814] Patriçio died from the gunshot wound. Armando and a second man, Remecio, survived and then, reportedly, were beaten and tortured with machetes, put in a military helicopter and never seen again.[815]

710. The Commission has reason to believe that several other residents of the Alas area were executed or "disappeared" in the period from 9 November until December 1999. In the following weeks, a further 13 people are believed to have been killed, all of them known members of the Resistance.[816] A number of people who fled from Alas after the attack were reportedly among the refugees killed during the attack on Manuel Carrascalão's house on 17 April 1999.[817]

* Human Rights Watch, "*East Timor Massacre Reports Still Unconfirmed, Both Sides Must Respect Rights*". [date not listed], http://www.hrw.org/press98/nov/etimor1123.htm at 19 May 2005; according to HRVD Statement 01531, two people were detained for seven days beginning 9 November.

† HRVD Statements 01581 and 03483. The Korem commander, Colonel Tono Suratman, confirmed the death of Vicente Xavier in a statement published in the Dili daily newspaper *Suara Timor Timor*, November 1998.

Precursors to 1999 militia killings

711. Although most militia groups were formally established in 1999, some groups were already active before then. The fall of President Soeharto and the rise of the spirit of Reformasi in Jakarta led to more open campaigning by pro-independence supporters in Timor-Leste, including an increase in Falintil activities. The Commission has received reports of killings attributed to militia throughout 1998. Several of these militia were long-established, but new groups were also beginning to form. For example, the Commission received reports of killings by Halilintar militia, which had been active in Bobonaro since 1994, in January 1998, including the killing of four men in Atabae by Indonesian intelligence and a group of Halilintar militia led by Paul Gonçalves.[818] Militia activity was documented in the districts of Bobonaro, Baucau, Liquiçá, Oecussi, Covalima and Manufahi during this time. The Commission received testimonies which mention the Halilintar,[819] Tim Saka,[820] Dadurus Merah Putih,[821] Darah Merah,[822] Besi Merah Putih,[823] Sakunar, [824] Laksaur[825] and ABLAI[826] militias as perpetrators in extra-judicial executions during 1998. Most of these testimonies are about killings that occurred in the final months of 1998.

Table 44: Fatal violations and disappearances of civilians committed by ABRI, 1990–1994, as reported to the CAVR

Location	1990		1991		1992		1993		1994	
	Killed	Dis.	Killed	Dis.	Killed	Dis.	Killed	Dis.	Killed	Dis.
Lautém	2	-	2	-	2	-		-	1	-
Viqueque	-	-	-	-	-	-		-	-	-
Baucau	-	1	1	1	2	1		-	-	-
Manatuto	-	-	2	-	-	-		1	-	-
Manufahi	-	-	1	-	-	-		1	-	-
Ainaro	2	-	7	-	-	-		-	-	-
Aileu	-	-	-	-	-	-		-	-	-
Ermera	-	-	-	-	-	-		-	1	-
Covalima	-	1	-	-	-	1		-	-	-
Bobonaro	-	1	-	-	-	-		-	2	-
Liquiçá	-	-	-	-	-	-		-	-	-
Dili	1	1	21-34	6	-	-		-	-	-
Total	5	4	34-47	7	4	2		2	4	-
Combined	9		41-54		6		11		4	

Table 45: Fatal violations and disappearances of civilians committed by ABRI, 1994–1998, as reported to the CAVR

Location	1995		1996		1997		1998	
	Killed	Dis.	Killed	Dis.	Killed	Dis.	Killed	Dis.
Lautém	-	-	1	-	-	-	-	-
Viqueque	2	-	1	-	1	-	-	-
Baucau	?	-	1	-	2	1	4	-
Manatuto	-	-	3	-	-	-	4	-
Manufahi	3	-	-	-	-	-	10	-
Ainaro	-	-	-	-	-	-	-	-
Aileu	-	-	-	-	-	-	-	-
Ermera	6	1	5	1	12	2	4	-
Covalima	-	-	-	-	2	-	-	-
Bobonaro	1	-	2	-	5	-	15	1
Liquiçá	7	-	-	-	2	-	-	-
Dili	-	5	1	-	4	1	1	-
Not known	-	-	1	2	-	-	-	-
Total	19	6	15	3	28	4	38	1
Combined	25		18		32		39	

Fatal violations committed by Fretilin/Falintil, 1980–1999

712. Between 1980 and 1999 there were sharp fluctuations in the number of killings of civilians by Fretilin/Falintil. It is difficult to assess the number of unlawful killings of civilians by Fretilin/Falintil at any time for two conflicting reasons. On the one hand the Commission acknowledges that there may be under-reporting of fatal violations committed by Fretilin/Falintil because survivors, witnesses, or family members may be reluctant to implicate persons and institutions which played a critical role in the struggle for independence.

713. On the other hand, because East Timorese society became so heavily militarised during the Indonesian occupation, the status of many of the civilians who were killed by Fretilin/Falintil was often ambiguous. These included people who were forcibly put in harm's way, whether as Hansip, TBOs (*tenaga bantuan operasi*, operations assistants), members of militia groups or persons required to perform night guard duties. The Commission believes that responsibility for deaths in these circumstances should rest primarily with those who put the victim in harm's way. Moreover, roles which in most of Indonesia were not heavily militarised, including those of Hansip and village chiefs and other members of the civil administration, became highly militarised in occupied Timor-Leste.

714. Because the dividing line between combatants and non-combatants was often blurred, it has not always been possible for the Commission on the basis of the information available to it to judge whether a violation has in fact occurred, and if it has, where responsibility for it lies. All of the categories of victims discussed in this section—"civilians", "Hansip" and TBOs—should be regarded as subject to these caveats. According to data received by the Commission, the highest number of reported fatal violations by Fretilin/Falintil took place in 1982, 1984 and 1998–1999. There was a steady decrease in reported violations from 1985 to the early 1990s. However, after 1995 the number of fatal violations continued to rise, reaching a peak in 1999. In all years, however, the number of unlawful killings of civilians committed by Fretilin/Falintil was smaller than those committed by ABRI/TNI and its auxiliaries, and in almost all years it was much smaller.

Unlawful killings and enforced disappearances by Fretilin/Falintil in 1980s

715. In the early 1980s, Falintil staged a large number of attacks on military-controlled settlements, often burning houses. It appears that these attacks were intended to demonstrate to the population now under Indonesian control that Falintil had survived and, at times, to warn, even threaten, that resistance would continue.[827] As more and more East Timorese civilians were forcibly recruited to take part in Indonesian military operations, Fretilin/Falintil forces began also to target them during skirmishes with Indonesian forces.

716. In August 1980, the Indonesian military forced civilians in Viqueque and Baucau to participate in the Operasi Kikis, to search for the remaining Falintil forces around Mount Matebian.[828] During the course of this operation a number of civilians were killed, some shot by Falintil and others killed in crossfire when ABRI and Falintil forces engaged in armed combat. For example, the Commission heard about the killing by Falintil forces of six East Timorese men who had been recruited as TBOs for Operasi Kikis in Quelicai (Baucau).[829] In another testimony, a deponent told the Commission about the killing of his brother, in similar circumstances:

> *In July 1980, in Abere, Luro, Battalion 141 forced my brother Miguel, along with his friend Abilio Kuluina, to take their belongings and go to a place called Luturo, in the forest near Laga. Once there, they stayed three nights. Suddenly they were attacked by Fretilin forces, and there was shooting between ABRI/TNI and Fretilin. My brother was shot during that attack and later died from his wounds.*[830]

717. The Commission has also received information about several cases in 1980 in which Indonesian military personnel ordered civilians to search for relatives in the forest on their own. Suspicious of informants and wary of being attacked, on occasion Fretilin/Falintil arrested, threatened and in some instances killed civilians. In Macadiqui (Uatolari, Viqueque), for instance, an informant told the Commission:

On 6 September 1980, Sebastião Mau Lequi, Manuel Kaidawalita, Julio Boru Kumu and Valente Noco Rau were forced by ABRI/TNI, the Vessoru Village Chief Jose Fernandes and the Neighbourhood Head of Waniuma, Afonso Mascarinhas, to go to the forest to look for Falintil. In an area called Makhili they encountered Falintil and Sebastião Mau Lequi was shot dead by Falintil. The four others successfully escaped to Uatolari town.[831]

718. Another deponent told the Commission about a similar case in Caicasa (Fatuberliu, Manufahi) in 1980.

In 1980, Miguel Maia, José Kehimau, and Domingos Berleik were forced by ABRI/TNI to look for weapons in the forest near Caicasa. When they arrived at Uma Creda, in the Caicasa area, all three were captured by Falintil. But Miguel Maia ran away and was shot by Falintil and wounded in the right arm. The other two others were bound and then killed by Falintil. Their bodies were beheaded and then dumped, in the same location.[832]

719. The Commission received only one report about the deliberate execution of a civilian by Falintil in 1980. In this case Falintil executed a man named Bere Alas, who was reported to be politically "opposed" to Fretilin, in Laclubar, Manatuto.[833]

720. In contrast with the year before, in 1981 Fretilin/Falintil carried out very few military actions. The Commission received only two reports of civilians killed by Fretilin/Falintil forces, both of which occurred in relation to Operation Security (Operasi Keamanan, also known as Operasi Kikis) and in both of which the victims were reported to be TBOs.[834]

721. There are several possible reasons for this lull in killings. First, in March 1981 Fretilin held a national conference at Mabai (Lacluta, Viqueque), meaning that many local commanders were either travelling or engaged in the political re-organisation that followed the conference. Second, between June and September the Indonesian military staged the massive Operation Security, during which Fretilin/Falintil forces were forced to lay low and find ways to avoid being detected. Third, Falintil suffered large-scale casualties in the Aitana region in September 1981, after which time was needed to consolidate forces and re-establish contact between commanders.

722. In 1982, however, there was a dramatic increase in Falintil attacks on both military and non-military targets. These cases are evenly distributed throughout the eastern half of the island (Manatuto, Manufahi, Viqueque, Baucau and Lautém). Some of these attacks were directed against village guard posts, resulting in the death of members of the civil defense force or other civilians posted on guard duty. The Commission heard the account of the victim of a Falintil attack on the village of Manumera (Turiscai, Manufahi) in 1982. Martinho de Jesus and three others, Manuel de Jesus, Filomeno de Jesus Borges and Mateus were on night guard duty in Talimera:

At the time the four of us were sound asleep. [Suddenly] we were woken by Falintil who had surrounded us. They tied our hands behind our backs. They said: "Normally you would run into the forest so that TNI would chase you and get us. Tonight you all must die". The Falintil commander, who wore white pants and had his face covered, then took a machete, cut Mateus' throat and threw him about 10 metres. After that he returned to cut Filomeno's throat and pushed him to the ground. He then bagain to my brother Manuel's throat and pushed him to ground. Then he came towards me and cut my throat three times and pushed me to the ground. But my throat was not severed. After they left, I tried to get up and saw my three friends were dead. I tried to get up and walked about 20 metres. I sat in a stream of water until morning. In the morning a man came to take the three corposes and me to Turiscai. I was then taken by plane to Dili for treatment.[835]

723. In early 1982 Falintil also allegedly attacked and killed a Hansip member named Gaspar Soares, who was walking home from the market with his wife in the sub-district of Baguia (Baucau).[836] In addition to attacks on guard posts, Fretilin/Falintil also killed a number of civilians in the eastern half of the territory. For example, the Commission heard about this attack in Lore, where a woman was killed:

In 1982 a Falintil member, I don't know his identity, entered Maloru village, in Lore I (Lospalos, Lautém) and approached the house of Cecilia Sarmento. He forced the door open, entered the house and beat Cecilia until she screamed but out fear no-one was game to come out of their houses to help her. Cecilia was then taken outside and the house was set on fire. Cecilia's husband, Marcos Sarmento, who was on night duty at the Neighbourhood Security Post, arrived and quarrelled with the Fretilin/Falintil. A member of Fretilin/Falintil wounded Marcos Sarmento's arm and his hands were tied behind his back. Cecilia Sarmento was killed with a machete in front of her husband and her body thrown into the burning house. The perpetrators went into the kitchen and took all the kitchenware, such as plates, pots, jerry-cans, and then the Fretilin/Falintil left the village shooting wildly.[837]

724. In 1982 the people of Timor-Leste took part in an Indonesian national election for the first time. Fretilin/Falintil carried out several attacks before and at the time of the election, apparently in an attempt to embarrass Indonesia and prove that the Resistance was still a force. On 14 April FaIintil attacked a guard post in Leohat (Soibada, Manatuto), killing Antonio Lopes and Antonio da Costa.[838] On 24 April 1982, Falintil attacked the village of Lugasa (Viqueque, Viqueque), burning homes and killing two people, João Soares and Labi Mau.[839] The day before the election Falintil reportedly carried out a number of attacks in Viqueque, causing the authorities to move all the voting centres into the town of Viqueque.[840]

725. On the day of the election Falintil reportedly killed four civilians in Bahoik (Iliheu, Manatuto, Manatuto). A deponent told the Commission:

On 5 May 1982, Falintil attacked the civilian community, taking their property and livestock. At the same time, they killed three people: Casametan, Marac Cipriano, and Olosaba.... In Metadolok, Falintil killed my father, Leki Mau, but my brother Altur Soares managed to escape. After this incident, ABRI/TNI moved the people of Bahadik to Laclo for three days. After three days, the community returned to their original village, because ABRI/TNI set up permanent security there.[841]

726. Falintil also staged attacks immediately before or on the day of Indonesian public holidays or important anniversaries in the Resistance calendar.* On 16 August, a day before Indonesian Independence Day, Falintil forces killed two Hansip members, Teofilo and Julio Mendes, who were travelling to the town of Laga (Baucau).[842]

727. The most dramatic Falintil attack occurred four days later, on 20 August, which was the anniversary of the founding of Falintil held in various locations in Ainaro and Manufahi Districts; however, no information is available about civilian casualties (see par. 511-517, above). A month after the attack, as the Indonesian military was conducting a brutal crackdown on civilians in Ainaro, Falintil forces staged another attack in Manufahi District. An informant told the Commission:

On 27 September 1982, Falintil attacked and burnt 13 civilian homes in the village of Lurin (Taitudak, Alas, Manufahi)... They arrested Marçal, Domingos da Costa, Domingos and Bernardo, and took them to the forest. After several days, three of the captives ran away and returned to the village. The fourth, Bernardo, had been killed already.[843]

728. Civilians who took positions in the Indonesian local government structure were targeted by Falintil. On 5 October 1982, Indonesian Armed Forces day, Falintil conducted a bold attack on Com (Moro, Lautém), killing the village secretary, along with two Hansip members. A deponent told the Commission:

On 5 October 1982, at 12.00 midnight, a group of Fretilin, 60 of them, led by M231, attacked the aldeia of Com. The community was assembled under a banyan tree in the village of Vailovaia. Then they [members of Fretilin] summoned various people, Francisco, Orlando, and Modesto, whom they suspected. My father, Francisco, was shot dead straight off by M231, because at the time my father was a member of Hansip. Fretilin considered them to be traitors, who had to be wiped out. After the killings and detentions, they [Fretilin] returned to the forest, and didn't come back to Com again.[844]

729. Soon after the Indonesian military ordered a group of civilians to search for Falintil guerrillas in the forests of Moro. A deponent explained to the Commission:

* According to one former Falintil commander, one reason Falintil carried out attacks on Indonesian public holidays was that ABRI reduced its vigilance on those days [see CAVR Interview with José da Conceição, Dili, 19 October, 2004].

On October 1982, ABRI/TNI Battalion 315 sent a local person form Daudere, named Paul, to fetch me (Manuel Marques), José Cabral, José Celestino, Adão Soares, and Nocomata to look for Fretilin in the forest. seek We went to Malauro, and the next day to Makaledo, near Moro, and then to Soruwaku, near Maina I. After four days, Fretilin caught one of us, José Celestino, who was ordered to cook for us… In the afternoon when the rest of us went to eat, Fretilin was waiting for us in the bushes. We were ordered to surrender our machetes and belongings. Then a member of Fretilin stabbed Paul to death on the spot. The rest of us ran away and reported the incident to TNI Battalion 315.[845]

730. Some time in 1982 Falintil also attacked the village of Carlilo (Aiteas, Manatuto, Manatuto), killing two or three people.[846]

731. As these cases illustrate, during 1982 Falintil carried out a series of attacks on Indonesian military forces, members of the civil defence and East Timorese civilians who were recruited to take part in military operations. At times Falintil forces also burned villages. In late 1982, however, Indonesian military officers sought to make contact with members of the Resistance and there was a decrease in fatal violations committed by both ABRI and Fretilin/Falintil. The March 1983 cease-fire meetings between ABRI and Fretilin led to a four-month period during which the number of killings by either ABRI or Falintil fell sharply. Following the August 1983 uprisings and the massive new Indonesian military operation that followed them, Fretilin/Falintil is reported to have committed very few fatal violations against civilians during the second half of 1983.[847]

732. In 1984, however, there was a marked increase in Falintil attacks, including the killing of civilians.[848] Most of the cases occurred in Lautém and Viqueque. The available data strongly suggests that, in response to the brutal military crackdown on civilians and new operations against the Resistance, Falintil retaliated. The Commission has received reports about eight attacks in which Falintil burned homes and killed at least one civilian (two cases in Lautém, three in Viqueque, two in Baucau, and one in Ainaro). The data suggests that the primary targets of these were individuals known to be collaborating with the Indonesian occupying forces (most frequently Hansip members), and that the burning of homes was intended as a warning to the rest of the community about the consequences of collaboration. For example, on 10 February 1984 Falintil forces attacked Uani Uma (Uato Carbau, Viqueque), killing a Hansip member and three civilians and burning houses. A deponent told the Commission:

On 10 February 1984, Falintil forces attacked the Hansip base in the aldeia of Uani Uma, Uato Carbau, causing the deaths of Hansip member Sico Ana and three other people, from bullet wounds. Meanwhile, the houses of Pedro, Luis, Martinho Pinto, Bernardo Loirei, Pedro, Gregório, Antonio and Alberto were burnt. Apart from that, they stole 20 Banpres (Presidential Aid) buffalos, that were intended to be shared out among the community. That night the villagers were afraid, and ran away to another village until the situation was safe.[*]

* HRVD Statement 06001. HRVD Statement 07521 and Statement 07515, which reports the attack taking place on 16 February 1984.

733. In another case, in Ainaro, a deponent explained that the victims of the attack were people known to be from families affiliated with the (pro-integration) Apodeti political party:

> *In November 1984, the Falintil commander M232, along with his subordinates attacked Cassa, burned civilian houses and killed two members of Apodeti, Maukoli and Adolfo.*[849]

734. Elsewhere, civilians were killed during Falintil attacks on Indonesian military personnel, as illustrated by this testimony from Same (Manufahi):

> *In 1984 we went to the Same Church to organise some letters. I returned home with two Indonesian soldiers, Pak Dor and Pak Usi and a man called Manuel. At Bisakrem or the Grotto, we were attacked by Falintil, and Pak Usi and Manuel were killed. I was shot in the back. At the time, there was heavy rain and mist, and I couldn't tell which members of Falintil shot me. When I regained consciousness, I was taken by some people to the Same Hospital with the other victims.*[850]

735. The Falintil offensive in 1984 appears to have been strategically targeted. Despite the large number of Falintil attacks in 1984 the Commission received only two reports of civilians who were ordered by the Indonesian military to search for Falintil and were subsequently killed.[851] A deponent told the Commission about a Falintil attack in Builale (Ossu, Viqueque), but justified it on political grounds:

> *In 1984 in the aldeia of Builale at 10.00pm, an incident occurred, when a member of Falintil…attacked the Builale community, burning their houses and destroying their property…Not only that, but they killed a citizen from around there… called Olocai. They did this to prove to the international community that there was still war in Timor Lorosae.*[852]

Table 46: Civilians and Hansip/TBO killed by Fretilin/Falintil, 1980–1984, as reported to the CAVR

	1980		1981		1982		1983		1984	
	Civilian	Hansip	Civilian	Hansip	Civilian	Hansip	Civilian	Hansip	Civilian	Hansip
Lautém	-	-	-	-	3	2	1	1	8	-
Viqueque	1	-	-	-	2	-	1	-	10	7
Baucau	2	-	-	3	3	-	1	-	1	-
Manatuto	1	-	-	-	6	-	-	-	1	-
Manufahi	-	-	-	-	7	-	-	2	1	-
Ainaro	2	-	-	-	-	-	-	-	2	-
Aileu	-	-	-	-	-	-	-	-	-	-
Ermera	-	-	-	-	-	-	-	-	-	-
Covalima	-	-	-	-	-	-	-	-	-	-

Bobonaro	-	-	-	-	-	-	-	-	-	-
Liquiçá	-	-	-	-	-	-	-	-	1	-
Dili	-	-	-	-	-	-	-	-	-	-
Total	6	-	-	4	21	2	3	3	24	7
Combined	6	-	4	-	23	-	6	-	31	-

Fatal violations committed by Fretilin/Falintil, 1985–1989

736. From 1985 to 1989 Falintil carried out a large number of attacks on ABRI and the civil defence forces. There are also many reports of Falintil attacks on villagers. One reason for this may be that the Indonesian crackdown in 1983–1984 disrupted, and in places destroyed, the clandestine networks supporting the Resistance, and hence Fretilin/Falintil was now forced to obtain food and supplies by force.

737. Whereas in 1984 there was a resurgence of attacks by Falintil against military and civilian targets, in 1985 and 1986 there was a significant shift to direct combat between ABRI and Falintil forces. An Indonesian military publication reports that ABRI lost 122 personnel in 1985 and 169 in 1986, after which the figures are much lower.[*] The most dramatic Falintil attack occurred in 1987 when Falintil killed 30 Indonesian combat engineers in Iliomar, Lautém.[853] The increase in direct combat between ABRI and Falintil was accompanied by a corresponding reduction in civilian fatalities committed by Falintil.

738. Nevertheless, during this period there were a number of notable developments. First, there was a sharp decrease in Falintil attacks in which civilian dwellings were burned: four cases in 1985, none in 1986, one in 1987, one in 1988 and none in 1989.[854] Second, in 1985–1986 half of all people killed by Falintil were Hansip: two in Iliomar, four in Viqueque, and seven in Manufahi. Most significantly, fatal violations committed by Falintil shifted from the traditional Falintil strongholds in Lautém, Viqueque, and Baucau to the districts of Manatuto and Manufahi. For example, a deponent told the Commission about a Falintil attack on the village of Manehat (Barique/Natarbora, Manatuto) in which houses were burned and several civilians were killed:

> *On 5 May 1985, Falintil attacked the area of Manehat during the night. During the attack Falintil burned 15 people's home in Manehat, including my home (João de Carvalho). Apart from the arson, they shot two civilians dead and injured one person. Falintil also stole the people's belongings including their food, clothes and cattle.*[855]

739. The increase in cases such as this in Manatuto in 1985 might be related to the ongoing political conflict within Fretilin – including the disappearance of Falintil

* *35 Tahun Darma Bhakti Kostrad*, [no bilbiographical information provided], pp. 86-88. This pattern roughly corresponds to data collected by the Commission from gravestones in Indonesian military cemeteries in Timor-Leste, although that data shows peaks of 62 in 1985 and 32 in 1986, after which the annual totals are in the low 20s.

commander Kilik Wae Gae and the subsequent surrender of Mauk Moruk – and the appointment of new Falintil commanders in the region.

740. In 1987, when Indonesia held another national election, there was an increase in the number of civilians killed by Falintil but there are no reports about Hansip being killed. At least one (and perhaps more) of the Falintil attacks in 1987 was directly related to the election. A deponent told the Commission about a Falintil attack on a group transporting election boxes in Natarbora, Manatuto.

> *My husband, João Oscar, with three of his friends, Americo, Mário Belo and Sebastião Alves (Milsas), went to Betano [Same, Manufahi] on a tractor…intending to pick up election boxes. As they were on the way back, Falintil blocked the road and shot them dead. I was told this by friends of my husband, who collected his body from the site and brought it to my house.*[856]

741. As was the case five years earlier, in 1987 Falintil also carried out attacks on 17 August, Indonesian Independence Day.

> *On 17 August 1987, at 9.00pm, four Falintil attacked the village of Besusu, Uma Berloik (Alas, Manufahi). I (Joaquina Fernandes) did not know them but I knew they were Falintil… During the attack, the perpetrators burned down my neighour's house and fired shots to frighten the community. We fled to the rice fields nearby for safety… I yelled from the rice fields to my husband (Duarte Vassalo) to get out of the house quickly. fast. As he came out he was shot and died on the spot because the shot went straight through his ear. They burned three houses.*[857]

742. In contrast to the tumultous years of the mid-1980s, the Commission received very few reports about fatal violations committed by Falintil in 1988 and 1989. Most of these killings appear to have been targeted at specific individuals who collaborated with the Indonesian military or, in one case, a former Falintil fighter who had surrendered and returned to his community.*

Table 47: Civilians and Hansip/TBO killed by Fretilin/Falintil, 1985–1989, as reported to the CAVR

	1985		1986		1987		1988		1989	
	Civilian	Hansip	Civilian	Hansip	Civilian	Hansip	Civilian	Hansip	Civilian	Hansip
Lautém	1	2	2	-	1	-	-	-	-	-
Viqueque	-	4	2	1	-	-	-	-	-	-
Baucau	3	-	-	-	-	-	3	-	-	-
Manatuto	6	-	-	-	9	-	1	-	3	1

* For the latter, see HRVD Statement 00666. Note too that one attack and killing in 1989 took place on Indonesian Independence Day; see HRVD Statement 03037.

Manufahi	-	-	1	7	1	-	-	1	1	-
Ainaro	-	-	-	-	-	-	-	-	-	-
Aileu	-	-	-	-	-	-	1	-	-	-
Ermera	-	-	-	-	-	-	-	-	-	-
Covalima	-	-	-	-	-	-	-	-	-	-
Bobonaro	-	-	-	-	-	-	-	-	-	-
Liquiçá	-	-	-	-	-	-	-	-	-	-
Dili	-	-	-	-	-	-	-	-	-	-
Total	10	6	5	8	11	-	5	1	4	1
Combined	16		13		11		6		5	

Fatal violations committed by Fretilin/Falintil, 1990–1998

743. Continuing the trend established in the late 1980s there were few reports to the Commission of fatal violations by Falintil during the first half of the 1990s. This trend is explained by several related developments. In 1987 the armed Resistance, Falintil, was formally separated from Fretilin, and a new policy was adopted shifting the focus of the struggle to urban protest. Although Falintil remained alive and militarily capable, this policy shift gave greater prominence to public protests in the towns than to Falintil's previously favoured tactic of demonstrating that it was a force still be reckoned with through shows of force in the countryside. This trend was accelerated by the Indonesian decision in late 1988 to "open" Timor-Leste to Indonesians, to allow greater freedom of movement and to allow foreign tourists to visit the territory. This policy shift by Indonesia reinforced the new focus on non-violent urban protest. At the same time the decision to pursue a "national unity" strategy and to build as broad as possible a base of support for the Resistance, including by winning over East Timorese who were collaborating with the Indonesians, probably also contributed to the decline in violence in these years.

744. Between 1996 and 1998, however, there was a sudden surge in fatal violations committed by Falintil. There are several notable features of these killings. First, unlike in the 1980s, when the majority of civilians killed by Fretilin/Falintil were in the eastern half of the territory, during the late 1990s these cases were evenly divided between the east (Lautém, Viqueque, and Baucau) and the west (Ermera, Covalima, Bobonaro, and Liquiçá). This shift reflected the change in leadership on the ground in Timor-Leste following the capture of Xanana Gusmão. Although Xanana Gusmão remained Falintil Commander-in-Chief while in prison, Konis Santana, in his capacity as CNRM chief of staff, acted as day-to-day commander of Falintil and established his base in Ermera (see Vol. I, Part 5: Resistance: Structure and Strategy).

745. Second, unlike in the 1980s when Falintil targeted members of the civil defence force, guard posts manned by civilians, individuals out hunting or those sent to search for Falintil, in the late 1990s most extra-judicial executions committed by Falintil

were targeted against collaborators or civilians working as spies for the Indonesian military.*

746. However, Falintil continued to carry out occassional attacks on the Indonesian military and members of the civil defence groups, as well as civilians on guard duty. In March 1990, for example, Falintil attacked a guard post in Carlilo (Aiteas, Manatuto, Manatuto). A deponent told the Commission:

> *On 23 March 1990, I (Mateus Soares Mauk), with my friends José Soares Laka, Domingos Ramos, Sebastião Ximenes, Antonio Coli, Domingos Larak, Hermenegildo Soares and my father, Antonio Soares, were on night duty at the Neighbourhood Security Post in Carlilo, Kampung Baru. Around 9.00pm Falintil attacked the Post and my father Antonio Celo Soares died during the attack, while I and my friends José Soares Laka and Domingos Larak were injured on the thigh, buttock, and leg from the shooting. The Falintil also stole corn, rice, clothes and a pig belonging to Mateus Go'o.*[858]

747. The Falintil attack and execution at the home of a teacher named Castelo in Fuiloro (Lospalos, Lautém) is illustrative of the targeting of those seen as collaborators. On the evening of 28 May 1997 Castelo, his family and several Indonesian teachers were watching television when Falintil guerrillas arrived at the house and asked why they had signed documents supporting the integration of Timor-Leste with Indonesia. Castelo, two of his children and a friend were shot, and when the other teachers tried to flee they too were shot. The Commission received the following testimony from the wife of one of the victims:

> *On 28 May 1997 at about 6.20pm in the village of Ira-Ara, Lospalos, my husband, EP, went to C's house, to watch them put up their satellite dish. Not long after, Falintil attacked C's house and asked Z, my younger sibling: "Where is C?" Z told them that C was in the house, and we began to hear shooting from the teacher's house and C's house. After that I, E, wanted to find out what was happening at C's house, but hearing the shooting going on I had to hide in the bushes. After the shooting stopped at 10.00pm, I went to C's house to find out what had happened. I found my husband, EP, laid out dead on the floor with his friends C, V and B.*[859]

748. Another example of a Falintil attack against civilians working for the Indonesian military was described by a deponent in Dilor (Lacluta, Viqueque):

> *Manuel de Araújo was forcibly recruited by Kopassus to spy on Falintil in the forest and report back to Kopassus. He continued to do that until 1 July 1996 when he went ot the forest with his friend Andre Sarmento to get tuak. That evening we heard shooting... and because they did not*

* Although there were also cases in which Falintil killed the wrong person [see HRVD Statement 04156].

return that night we reported it to Kopassus and Koramil…. The following day, 2 July 1996, the Kopassus Commander Raul, his deputy Mamat, and the Milsas Commander Filipe Parada, a Koramil named Jacinto, Babinsa named Julio Riberu, Binpolda named Lorenco, village head called Jose Maria Soares, and some of the Dilor community went to Kulu Uhi to look for Manuel and Andre. Theyf found their corpses. They died not from shooting but because their hands were tied behind their backs, and they had been struck and stabbed with a knife, and their heads stoned. Their bodies were hanging in a tree. *

749. The third notable feature of Falintil attacks during this period was the string of election-related actions in May 1997. In early May, Falintil attacked a truck carrying Brimob members (Police Mobile Brigade) in the sub-district of Quelicai (Baucau), killing several of them.[860] Days before the election, due on 25 May, clandestine members, cooperating with Falintil, staged a bold attack on the Brimob compound in Bairro Pite, Dili. Several civilians were reported killed during the attack, although the statements received by the Commission indicate that they were hit by shots fired from the Brimob compound rather than by the attackers.[861]

750. There were also occasions when Falintil members committed what can only be described as criminal attacks on civilians. One deponent from Akaderu Laran (Kakae Uma, Natarbora, Manatuto) told the Commission:

On 13 February 1994, Falintil attacked around 9.00pm. At the time my mother, Faustina Soares, had just come out of the kitchen and was entering the house when she was shot twice by Falintil, one bullet hitting her in the head. She died immediately. As my mother died, my wife, Antoneta Lopes, came out of a room and caught a glimpse of a long-haired Falintil as he left. The Falintil also stole three sacks of fertiliser that they thought was rice and I (Elizio) shouted at them "you are not men, you don't seek the enemy and just kill poor, innocent people".[862]

Fatal violations by Falintil in 1999

751. As is the case for extra-judicial executions committed by the Indonesian military and militias, the killing (and disappearance) of civilians by Falintil in 1999 can be divided into three periods: (i) January until the end of May; (ii) the UNAMET period from the beginning of June until the Popular Consultation on 30 August; and (iii) September until the end of October.

752. The patterns of Falintil killings of civilians during these three periods more or less mirrored those of killings by the Indonesian military and the militias, though their scale was incomparably smaller throughout: relatively high numbers of cases were reported in the first and third of these periods, while there was an almost complete lull during the UNAMET period from June until the ballot on 30 August. Moreover, as with the

* HRVD Statement 00474.

killings by militia groups and the Indonesian military, Falintil's fatal violations were heavily concentrated in the western districts, particularly in Ermera and Bobonaro. For almost all of 1999 Falintil was under orders from its high command not to respond to militia violence in kind. In view of the fact that these orders were generally obeyed and the number of incidents reported was small, the degree of institutional responsibility for those violations that did occur may not be high.

753. The Commission has received reports about 11 fatal violations (killings and disappearances) committed by Falintil between January and May: in February three civilians were killed in Covalima; in March two civilians were killed in Ermera; in April two civilians were "disappeared" in Baucau and one individual was killed in Bobonaro; and in May individuals were executed singly in Ermera, Covalima and Liquiçá. In terms of the number of violations, the identity of victims and the locations, these cases appear to be a continuation of the pattern observable during the previous three years. Of all these cases the one with the most far-reaching consequences during the first half of 1999 was the killing of Manuel S. Gama, the former sub-district head of Cailaco (Bobonaro) and a well-known pro-autonomy figure, and an Indonesian soldier near the village of Porogoa (Cailaco, Bobonaro) on 12 April 1999. These deaths led to a massive retaliatory crackdown in Cailaco and beyond by the TNI and their militia allies, and the mobilisation of new militia groups in Bobonaro District (see par. 779-781 below, for a full account).[863]

754. During the UNAMET period, from June to August, violations by Falintil virtually ceased. The Commission received only one report, about the disappearance of a man in the district of Baucau.[864] It is also worth noting that on 16 May, Falintil forces in the sub-district of Lolotoe (Bobonaro) attacked Indonesian military personnel and militia members, killing three combatants.[865]

755. When the results of the Popular Consultation were announced, the Indonesian military and militias launched a massive attack on the civilian population and destroyed both public buildings and private dwellings throughout the territory. Although Falintil continued to be cantoned, in the western districts of Ermera, Bobonaro and Liquiçá members of Falintil carried out what appear to have been revenge killings against individuals who were identified as pro-autonomy, even though complicity in the earlier violence was not always clear.[866] There were also instances where Falintil retaliated against militia groups and TNI units during this period. A deponent provided this description of one such incident in Lautém:

> *On 8 October 1999, Falintil forces led by M233 ambushed some members of Tim Alpha [militia] at a place called Warusira, Tenu, in the sub-district of Moro (now Lautém)… During the incident Mário João Lopes and his companions were killed by Falintil forces… because they were suspected of killing some nuns…. I got this information about the killings from the Falintil commander M233.*[867]

756. In all the Commission received information about 22 extra-judicial executions and seven disappearances committed by Falintil in 1999, 17 of these coming in the post-ballot period.

Table 48: Civilians and Hansip (in brackets) killed by Fretilin/Falintil, 1990–1999, as reported to the CAVR*

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Lautém	2	-	1	-	-	-	1	7	-	1
Viqueque	-	-	-	-	-	-	10	1	2	-
Baucau	-	-	1	-	-	1	-	1	9	5
Manatuto	-(1)	-	-	-	1	-	-	-	-	-
Manufahi	-	-	-	-	-	-	-	-	-	-
Ainaro	-	-	-	-	-	-	-	-	-	-
Aileu	-	-	-	-	-	-	-	-	-	-
Ermera	-	-	1	-	-	-	7	3	5	10
Covalima	-	-	1	-	-	-	-	-	1	3
Bobonaro	-	-	-	-	2	1	1	2	-	9
Liquiçá	-	-	-	-	-	-	3	1	-	1
Dili	-	-	-	-	-	-	-	-	-	-
Total	2(1)	-	4	-	3	2	22	15	17	29

Unlawful killings and enforced disappearances, 1999

757. The Commission estimates that in 1999 TNI and militia were responsible for the unlawful killings of between 1,400 and 1,500 civilians.†* The Commission received statements reporting the unlawful killing of 785 people by the TNI or the militia in Timor-Leste between 1 January and 25 October 1999. Another 27 persons were reported to the Commission to have been killed in refugee camps in West Timor.‡ Bobonaro, Covalima, and Oecussi were the three districts that reported the highest number of killings and disappearances.

758. All accounts agree that Bobonaro District suffered the highest number of unlawful killings and disappearances in 1999. The Commission received statements describing the deaths of 141 civilians from killings and disappearances in the district.§ At least nine militia groups existed in Bobonaro in 1999 and each of the six sub-districts had at

* The figures for 1999 include seven individuals who were allegedly disappeared by Falintil: in Baucau two individuals in April and one in June, and in Ermera four individuals in September.

† The estimate of 1,400 is quoted, among others, by the Secretary-General's progress report to the Security Council on the UNMISET, 18 February 2005, S/2005/99. The indictments filed by the Serious Crimes Unit in Timor-Leste cover 572 of the estimated 1,400 murders.

‡ A study commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR) and submitted to the Commission estimates between 1,200 and 1,500 killings took place in 1999 [Geoffrey Robinson, *East Timor 1999 – Crimes against Humanity*, Report commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR), July 2003, Submission to CAVR, April 2004, p. 1. Subsequently referred to as OHCHR submission to CAVR].

§ The OHCHR study estimated there were 229 killings in Bobonaro (OHCHR Submission to CAVR, p. 142).

least one militia group. The oldest aggressive militia group in the district was Halilintar, led by the Integration Fighters' Force (Pasukan Pejuang Integrasi, PPI) supreme commander, João Tavares (see Militia Table in Vol. I, Part 4: Regime of Occupation). Halilintar, based in Maliana and Atabae, operated in the whole district and, at times, beyond it. Among the other major militia groups, Dadurus Merah Putih (Maliana), Firmi Merah Putih (Balibó), Saka Loromonu (Balibó) and Hametin Merah Putih (Bobonaro) were the most active. The TNI's relations with militia groups in the district were close. The Kodim commander, Lieutenant-Colonel Burhanuddin Siagian, was a strong supporter of militia groups. Lieutenant Sutrisno, the Maliana Kodim Chief of Intelligence, was another TNI officer heavily involved in organising the militia groups and coordinating their activities.

759. Covalima District was almost as badly affected as Bobonaro. The number of killings and disappearances reported to the Commission was 131.* The main militia group in the district, Laksaur, was active as early as January 1999 in the central and western areas while the eastern sub-district of Mape/Zumalai was mostly covered by the Mahidi militia group from the neighbouring district of Ainaro. The Laksaur militia group, led by Olivio Mendonça Moruk, received strong support from the local military and civilian authorities including the Kodim commanders, Lieutenant-Colonel Achmad Mas Agus (who was replaced by Lieutenant-Colonel Lilik Koeshardianto in late August 1999) and the district administrator, Colonel Herman Sediyono.

760. Oecussi District reported 125 killings and disappearances to the Commission.† The majority of the reported killings occurred in the post-ballot period. The early departure of UN staff and international observers, the absence of armed pro-independence groups and the late arrival of Interfet gave the TNI and militia groups free rein to create havoc for two months after the announcement of the ballot result. The geographical proximity to Indonesian territory also provided a safe haven for the preparation of operations. The militia group in Oecussi, Sakunar, was led by Simão Lopes, former sub-district administrator in Passabe and Oesilo in the 1980s, and who in 1999 worked in the Fishery Agency of Oecussi District. Sakunar received the full backing of the highest military and civilian authorities in the district, including District Administrator Filomeno Mesquita da Costa, the chief of police, Lieutenant-Colonel Wilmar Marpaung, and the Kodim commanders, Lieutenant-Colonel Kamiso Miran and Lieutenant-Colonel Bambang Sungesti, who replaced Lieutenant-Colonel Miran in early August 1999.

761. Based on testimonies received by the Commission, a significantly larger number of unlawful killings took place in the western districts than in the eastern districts – the western districts being closer to the Indonesian border and being where the more notorious militia were based. Other than the three districts mentioned above, Dili and Liquiçá also registered high levels of killings and disappearances in 1999. The remaining two districts which suffered relatively high numbers of fatalities were Ermera and

* The OHCHR study reports that at least 190 killings occurred in Covalima District (OHCHR Submission to CAVR, p. 149).

† The OHCHR study estimated there were at least 170 cases in Oecussi (OHCHR Submission to CAVR, p. 184).

Lautém. Viqueque and Aileu were the least affected districts. One of the main factors determining the scale of the killings was the strength of the local militia group in each district. Notorious militia groups such as Dadurus Merah Putih, Laksaur, Aitarak, Tim Pancasila, Mahidi, Besi Merah Putih, and Sakunar were based in the districts that suffered the highest levels of fatal violence. Meanwhile, Aku Hidup untuk Integrasi in Aileu and Tim Makikit in Viqueque were less aggressive than other militia groups.

762. The unlawful killings were usually enacted by multiple perpetrators using a variety of weapons ranging from machetes, to homemade guns, to automatic firearms. Victims were often individually targeted for their pro-independence affiliations. Particularly vulnerable were students, those participating openly in CNRT campaign activities, and East Timorese staff of UNAMET. Violence was targeted at not only its direct victims but also at intimidating others in the community. Apparently for this reason victims were often mutilated before or after they were killed.

763. There are clear signs that TNI co-ordinated with militia groups in the killings. Coordination existed at various levels including funding, training, directing, or even commanding militia at the scene of an attack. In some cases TNI members were directly involved in killing civilians. As a general pattern, TNI members were more directly involved in violence where the local militia group was still weak. This was particularly the case in the early months of 1999. If TNI members were not directly involved, they were often at the scene doing nothing to prevent militia members from carrying out atrocities, giving tacit approval to the violence. Some militia leaders, such as Joanico Belo, commander of the Saka militia group in Baucau, and Cesario Tilman, a member of the Mahidi militia group in Ainaro, were in fact TNI soldiers. Civilian authorities such as district administrators, sub-district administrators and village chiefs were also often involved in supporting or carrying out militia activities.* Some local civilian leaders were also members of local militia groups.

764. The victims of unlawful killings by TNI and militia were mostly real or suspected supporters of independence. Many of them were known independence supporters including CNRT members, clandestine members, Falintil supporters, student activists and their relatives. Sometimes a list of the persons to be killed had been made. Local leaders who were seen to be sympathetic to the independence cause and Catholic priests, nuns and brothers were sometimes targeted. Victims also included ordinary people who attempted to escape from TNI and militia out of fear, and villagers who fled to the mountains after the ballot, thus disobeying orders to go to West Timor (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment, section on displacement before and after the Popular Consultation, 1999). Because of these actions these people came under suspicion of having pro-independence sympathies. In a very arbitrary pattern, the TNI and militia also attacked suspected pro-independence villages by burning

* Links between the Indonesian military, civilian authorities and the militia were embodied in individuals such as Vidal Doutel Sarmento who was a District Administrator (Bupati) in Manatuto, a member of TNI Special Forces (Kopassus) and a founder of and adviser to the Mahadomi militia group. Olivio Mendonça Moruk, a Bupati and military commander in Covalima was also leader of the Laksaur militia. The AHI (Aku Hidup untuk Integrasi, I Live for Integration) militia in Aileu were set up and supported by the civilian district administration.

houses and killing civilians. Many random killings also occurred, particularly after the announcement of the result of the ballot, by soldiers of Battalion 745 in late September as they withdrew from Lospalos to Dili.

765. The violence in 1999, including killings and disappearances, occurred in three distinct phases, each with its own patterns of abuse. The first covered the months January to May, the second covered the months from June to 29 August and the third covered from the day after the ballot on 30 August until late October when Interfet had established control over the whole territory.* The majority of unlawful killings took place in the periods before the arrival of UNAMET and after the ballot, suggesting that these killings may have been closely related to the presence or absence of the United Nations and international scrutiny of TNI behavior.

January to late May

766. The militia, often in collaboration with ABRI/TNI, committed many serious atrocities, including mass killings and disappearances, before UNAMET began its operations in Timor-Leste. This is the period during which militia groups began to take their characteristic form through recruitment, training, inaugurations and consolidation within an overarching structure. During this period militia targeted people regarded as having pro-independence sympathies. The Commission received testimonies showing that between January and the end of May 1999, more than 250 people were unlawfully killed or disappeared. Beginning in January, the violence accelerated to a peak in April before falling off in May. It included several attacks on places of refuge for internally displaced persons that occurred as negotiations leading to the 5 May Agreements, signed by the Portuguese and Indonesian governments under UN auspices, reached their final phase.

Early June to 30 August

767. The number of people killed in acts of political violence fell sharply as UNAMET, international observers and journalists established a presence throughout the territory from early June. Executions during this period also took a different form. Killings were committed primarily by East Timorese militia, sometimes with the aid of Indonesian TNI personnel in civilian clothes. The Indonesian military apparently tried to disguise their direct involvement in executions and other violations during this period. In late August, however, coinciding with the designated campaign period, there was a surge in violations of all kinds, including killings. The main targets of these killings were students and CNRT members participating in campaign activities. During this period more than 30 cases of killings and disappearences were reported to the Commission.

30 August to late October

768. This period of relative calm ended dramatically as soon as the voting concluded, when militia and TNI executed local UNAMET staff on 30 August and 2 September.

* Geoffrey Robinson discusses these three periods as the pre-UNAMET period, the UNAMET period and the post-ballot period (OHCHR submission to CAVR, pp. 44-47).

In much of the territory, however, the violence began in earnest on 4 September, the day the result of the ballot was formally announced. The announcement was made in the morning, and by early afternoon the militia, TNI soldiers and police had taken to the streets in towns and villages across the territory, firing their weapons, attacking supporters of independence, and burning houses and public buildings. Formally the TNI took over responsibility for law and order from the police on 4 September and on 6 September President Habibie declared martial law in Timor-Leste. Despite these actions, ostensibly taken to restore order, the number of killings and disappearances peaked during this period with more than 560 incidents. The number of killings reported to the Commission as having occurred in this relatively short period was 528, by far the highest number reported for any of the three periods described above.

Table 49: Killings and disappearances of civilians by militia and TNI in 1999, as reported to the CAVR

Location	Jan-May		Jun-Aug		Sept-Oct		Total reported fatal violations
	Killed	Dis.	Killed	Dis.	Killed	Dis.	
Lautém	4	-	1	-	41	-	46
Viqueque	4	-	3	-	4	-	11
Baucau	3	3	-	-	13		19
Manatuto	5	1	-	-	19	-	25
Manufahi	8	1	-	-	13	-	22
Ainaro	5	-	-	-	29	-	34
Aileu	-	-	-	-	15	-	15
Ermera	30		2	1	12		45
Covalima	22	10	1	-	98	-	131
Bobonaro	52	-	9	-	81	-	142
Liquiçá	50	-	3	-	6	-	61
Dili	24		6	-	52		82
Oecussi	1	-	4	1	118	-	125
West Timor	-	-	-	-	27	-	27
Sub-totals (comprise killings and disappearances)	223		34		528		785

January–May: unlawful killings and disappearances before the arrival of UNAMET

769. Before June, it was common for unlawful killings to be carried out by both TNI and militia groups working together. The open collaboration of TNI and the militia contrasts with the period when UNAMET was present and the Indonesian military

made some effort to disguise its role in the violence. The Commission received reports of killings and disappearances during the first five months of 1999 in 12 of Timor-Leste's 13 districts, the exception being Aileu.

770. The most killings and disappearances that occurred from January to May as reported to the Commission occurred in Bobonaro and Covalima Districts, with 52 and 50 respectively. The majority of the cases reported to the Commission from Bobonaro gave evidence of close cooperation between the TNI and militia groups. The following tables summarise these cases except for those that occurred in April 1999 which are discussed separately below.

Table 50: Killings and disappearances jointly by TNI and militia groups, January–March, May 1999, Bobonaro District

HRVD Statement	Summary
1122	On 4 January members of the Joint Intelligence Unit (SGI) and Halilintar militia, led by M295, killed a Fretilin supporter, Valentino Guilhermino, in Aipusra, Atabae (Atabae).
1828	On 27 January members of SGI and Halilintar militia attacked Abel Martins at his home in Faturasen, Rairobo (Atabae). He was shot dead.[868]
2485	On 16 March BMP militia together with TNI members from the Koramil Atabae, were checking travellers at Sukaer Laran in Atabae. They captured Armindo Bento, a passenger on a bus going to Dili, because his identity card had expired. Bento was reportedly severely tortured, then killed.
2418, 2585	On 19 March TNI and Halilintar members raided a meeting of clandestine members in Ritabou (Maliana). Witness testimonies cite the presence of Halilintar Commander M295, M56 and a member of the TNI, M57 [East Timorese]. Shot to death in the attack were Pedro dos Santos, Domingos dos Santos, José Barros and Fonseca Asu Mau. Other participants in the meeting escaped.
8630	A CNRT leader, Bonifacio Barreto, was abducted by members of Kodim Maliana, the SGI and the Saka Loromonu militia in May. He was taken to the beach in Batugade, where he was reportedly murdered and his body put in a bag and thrown into the sea.[869]
2551	On 7 May Halilintar militia, led by M295 killed Agusto Soares at Bea Horo, Ritabou Village. On 17 May Longuinos Batu Mali was reportedly stabbed to death at the Bulobu River in Ritabou by Dadurus Merah Putih members and members of the District Military Command in Maliana.

Table 51: Killings and disappearances by militia groups, January–March, May 1999, Bobonaro District

HRVD Statement	Summary
1135, 1786, 1159	Members of Halilintar militia, under M295, reportedly killed Luciano from Hauba (Maliana) on 17 May and Petrus Santos on 19 May and were implicated in the disappearance of Eugenio da Silva Gonçalves, a high school student from Maliana, on 29 May.
6683	Hametin Merah Putih militia reportedly killed Domingos Lole Mau in Edeoa, Kota Boot Village (Bobonaro, Bobonaro) on 9 May.

8227	On 11 May Dadurus Merah Putih militia, including M58, killed Pedro de Jesus in Holgaul, Leber Village (Bobonaro, Bobonaro).
8241-03	On 17 May Dadurus Merah Putih members arrested Fernando Correia at a church in Bobonaro, took him to the DMP post in Bobonaro, and then to the *aldeia* of Manu Aman, Tunu Bibi (Maliana) where he was reportedly killed.

771. During this same period two militia groups, Mahidi and Laksaur, were active in the sub-districts of Covalima District. The Commission received testimony describing an unlawful killing in the *aldeia* of Oebaba, Mape (Zumalai, Covalima) by a TNI soldier and three Mahidi members. According to João da Costa Fernandes Cardoso, on 24 January, Fernando Cardoso was beaten by the soldier and two Mahidi members before he was shot dead by a third Mahidi member who stole his motorcycle and Rp800,000.[870]

772. The table below summarises all the cases reported to the Commission of killings and disappearances which took place in Covalima District from January to May 1999, except for incidents in April 1999 which are reported separately below.

Table 52: Killings and disappearances by militia groups, January–March, May 1999, Covalima District*

HRVD Statement and/SCU Case	Summary
3684;and SCU Case no. 2003/06	On 24 or 25 January Mahidi militia, under the command of Cancio Lopes de Carvalho attacked the village of Galitas, Mape/Zumalai, because villagers were suspected of providing food to Falintil. Olandino Pereira, his pregnant daughter Angelica de Jesus and her brother Luis Pereira, were all killed. Another villager, Adelino Barreto, was seriously wounded during the attack.
8446-02	On 27 February Mahidi and Laksaur militia groups went on an operation in Suai Town and abducted three persons known as Pedro, Francisco and Vitorino who were beaten, then taken away in a car and not seen again.
5117	On 3 March Mahidi militia killed Luis dos Santos, his wife Fatima Mesquita and their daughter Sabina Mesquita, in Mape Village (Zumalai) because Luis had refused to be recruited into the militia.
5163	On 24 March Mahidi militia killed Fernando Caldas in Raifila, Mape (Zumalai).
5115	A Gadapaksi commander told a deponent that his men killed a man named Ernesto dos Santos. The victim was reportedly abducted in Salele (Tilomar) on 15 March on the way to Dili to see his sick wife.
SCU Case No. 2003/14	On or about 13 May José Afonso Amaral was killed by Laksaur militia in Fotoloro (Fatululik) when he and others were trying to prevent the militia group from taking away his brother to kill him.[871]

* Killings and disappearances which took place in April 1999 reported in the section below.

SCU Case No. 2003/14	On 28 May Laksaur militia under the command of Egidio Manek attacked a hut in Weisei forest near Oegues (Maucatar, Suai Town), where Domingos Martins and Gabriel Amaral were hiding. The two, both supporters of independence, were killed.[872]
SCU Case No. 2003/14	On or about 28 May a member of the clandestine movement, Vasco Amaral, was abducted in Fatumean by a group of Laksaur militia, under the command of Henrikus Mali. Henrikus Mali told the villagers not to look for Vasco Amaral as "Vasco Amaral was no more". His body was found on or around 30 May.[873]

The coordinated surge of violence in April 1999: killings in Liquiçá, Cailaco and Dili

773. The Commission has received evidence showing coordinated violence throughout Timor-Leste taking place in April 1999, in the month before the 5 May Agreements. In April 1999, three incidents involving major violations of human rights occurred in Liquiçá, Bobonaro, and Dili.

774. The first massacre in 1999 took place at the Liquiçá Church on 6 April. This incident, during which as many as 60 people seeking refuge at the church were killed,[874] is illustrative of the organised nature of TNI/militia violence. Before this incident, in early April, TNI and Besi Merah Putih (BMP) militia intensified their campaign of violence against pro-independence activists and the civilian population of Liquiçá. On 5 April, in three separate incidents, three supporters of independence – Herminio dos Santos, Ilidio dos Santos, and Laurindo da Costa Gonçalves – were abducted by members of BMP.[875]

775. In response to this deterioration of security, people from the sub-districts of Liquiçá and Maubara began to seek refuge at the Catholic church in Liquiçá town (Liquiçá, Liquiçá). Approximately 2,000 people, including women and children, had gathered at the church compound by 6 April. Early on the morning of 6 April, BMP militia along with TNI troops, including ones from the District Military Command in Liquiçá, the Sub-district Command in Maubara, also Mobile Police (Brimob) from Dili, members of the Special Forces Command (Kopassus) and Battalion 143, and local police, arrived at the church. Two police officers demanded that Father Rafael dos Santos hand over Jacinto da Costa Pereira, the village chief of Dato (Liquiçá, Liquiçá), along with another man, as both were identified as pro-independence leaders.

776. The Commission received a large number of statements about the massacre at the Liquiçá Church.[876] According to a witness, between noon and 1.00pm, Brimob members fired shots into the air and then militia members entered the compound.[877] Tear gas was thrown into the priest's residence forcing many people to flee. As they fled, they were brutally attacked by TNI and militia members waiting for them outside. According to Father Rafael's account the assailants killed the men but allowed the women and the children to leave the area.[878] Then they entered the priest's house and executed any persons they found inside. The BMP commander, M61, was seen inside the church compound with his men. When most of the refugees had left the church and the parish house, BMP members, police, and soldiers, including Sergeant M62

[East Timorese], came in looking for stragglers. Those they found were killed.[879] Some people fled to the house of the district administrator, Leoneto Martins, where pursuing militia and soldiers killed or severely injured them.

777. It is difficult to estimate the exact number of victims because the bodies of the dead were taken away.[880] While the official provincial police (*polda*) report said that only five people died in the attack and its aftermath, other estimates put the number between 30 and more than 100.[881] After the massacre at the Liquiçá Church many people fled to Dili and sought refuge at the house of Manuel Carrascalão where they were attacked again by BMP and Aitarak militia on 17 April.

778. Killings of real or perceived supporters of independence in Liquiçá continued after the Liquiçá Church massacre.[882] On 7 April, Fernando da Costa was allegedly stabbed to death at the Koramil in Liquiçá by militia members.[883] On 9 April on the orders of M65 [East Timorese], a BMP commander for Bazartete and Liquiçá, a man known as Carlos was allegedly arrested, taken to the beach in Pala near the Indonesian military cemetery and killed. He had documents concerning CNRT activities in his pocket. On 14 April, Henrique Borges, Carlos dos Santos da Costa, and Leo Lakon were killed at the beach in Pilila, Leohata (Liquiçá, Liquiçá) by an Indonesian TNI member, M302[884] On 21 April, Felix Barreto was killed by BMP militia members in Ulmera (Bazartete, Liquiçá).[885] On or about 27 April, Tobias Alves Coreia and Elias Ataidi were killed by militia in Tutuge, Loidahar (Liquiçá, Liquiçá) because they were identified as pro-independence supporters. It is alleged that their names were on a list drawn up by TNI officer Sergeant M62 [East Timorese] and others.[886] On 26 April in Maubara, a man named Abel was arrested and taken to the lake to be executed. Abel has not been seen since.[887]

A survivor of the Liquiçá Church Massacre[888]

On the morning of 5 April 1999, I was walking from the Social-Political Affairs office in Liquiçá to my house when I met my friend Lukas, from Flores, Indonesia. He encouraged me to go home quickly, saying, "I've heard that the Besi Merah militia are at the border of Liquiçá and Maubara." But I decided not to go home. I went instead to a meeting about the Easter youth commemoration in Manatuto. I met with my friends Jacinta, Suzi, and Ermelita. We weren't sure whether it would be a good idea to participate in the commemoration so we went to ask Father Rafael's opinion. While we were meeting with Father Rafael, the village head, Jacinto da Costa came and told us that a youth had been killed and others wounded in an attack by the militia and military.

We left Father Rafael's house early in the afternoon. When I got home I went to see Aquilina to get some more information. Aquilina lives close to the Welcome sign in Liquiçá. As soon as I got to her house I heard more shooting, coming from the direction of Pukalaran. I went straight home

and found that my family had already fled to the church in Liquiçá. I joined them there. There were many people hiding in the church including people from the villages of Dotasi, Guilu, Leopa and Upper and Lower Caimeo. In the afternoon the militia and the military looted and burnt down the houses of the sub-district administrator, João Bosco, and Agustinho. For the two days that we were in the church we did not do anything else but pray. At night we couldn't sleep, and outside the church the militia were harrassing us with threats and foul language.

At 9.00am on 6 April Eurico Guterres and his men came to the church office in Liquiçá to talk with Father Rafael and Father José. We heard that during that meeting Eurico Guterres said he was going to make a request of the district administrator, Leoneto Martins. Eurico said that if Leoneto met the militia's demands the militia would let the people go home safely. But Eurico's meeting with Leoneto did not produce that guarantee.

Initially, Mobile Brigade police came to the church as if to rescue the people. In fact, Brimob were the ones who started the shooting. Around 1.00pm, the Besi Merah militia along with the police and the military attacked the church. They fired shots into the air to give the signal to the militia to enter the church, and then they started shooting the people. Wearing masks that covered their faces the militia and the military then attacked with axes, swords, knives, bombs and guns. The police shot my older brother, Felix, and the militia slashed up my cousins, Domingos, Emilio, and an eight-month old baby.

Because Brimob and the military were slaughtering people who had been hiding in the priest's office, everyone started running out of the church trying to find places to hide and to save themselves. I left with Emilio's wife and we went to the Convent. As we left I saw Miguel was still alive, but Loidahar and someone else from Maubara were lying dead near the church bell.

The militia, police and military had prepared a truck to carry people to the district administrator's house. When we arrived the militia continued their actions and continued beating and stabbing civilians. Several people died at the district administrator's house. Luckily there was a nurse there who attended to the wounded. After about three hours Agustinho, a civil servant in Maubara, made an announcement to the people, saying, "Go home and raise the Indonesian flag. And tie it to your right hand to show that we are all people who are prepared to die for this flag."

One week after the massacre a TNI soldier from the eastern sector, called Pedro, told me that the military from Kodim were also involved. I heard that the bodies of those who died were taken in a truck, but I don't know where they were taken.

779. The second major event in April 1999 took place in the sub-district of Cailaco (Bobonaro). On 12 April, TNI soldiers and Halilintar militia executed at least seven people.* This was in retaliation for the murder of at least one TNI soldier and a local pro-autonomy figure, Manuel Gama, in an ambush near Porogoa Village earlier the same day.† After the death of Manuel Gama, soldiers and militia searched for suspects. The Commission received at least one report of attempted murder during these initial sweeps.[889] A group of about 30 people were taken from the *aldeia* of Marco,[890] and some were severely beaten at the sub-district military command post.[891]

780. Residents and civil servants had been ordered to gather at the home of Manuel Gama, where the body was being prepared for burial. Several senior civilian and military officials arrived at the house, including the District Administrator, M70 [East Timorese], Head of the District People's Representative Assembly, Jorgé Tavares, the district military commander, Lieutenant-Colonel Burhanuddin Siagian and his intelligence chief, Lieutenant Sutrisno, and militia commander João da Silva Tavares. On the orders of Lieutenant Sutrisno, four pro-independence supporters - Paulino Soares, José Pou Lelo, Antonio Soares, and Manuel Mau Lelo Araújo - were taken from the house to the Joint Intelligence Unit compund next to the sub-district military headquarters. The district commander, Lieutenant-Colonel Burhanuddin Siagian, and the Halilintar militia leader, João Tavares, accompanied Lieutenant Sutrisno to the sub-district command post. There the detainees were shot dead by TNI soldiers and Halilintar militiamen. After the executions, the leaders returned to the home of Manuel Gama where they threatened to kill other pro-independence supporters.[892] One witness recounts:

> *Not long afterwards, several soldiers came from the sub-district command headquarters and dragged [my] friends - Antonio Soares, José Pou-Lelo, Paulino [Soares] and Manuel Mau Lelo de Araujo – by their hands. Then several high-ranking civil and military leaders from Maliana arrived, namely: Bobonaro District Administrator M70 [East Timorese], Head of the District People's Representative Assembly, Jorgé Tavares, João da Silva Tavares (K11), Commander of Maliana District 1636, Burhanuddin Siagian and Chief of Intelligence, Sutrisno. The District Administrator and Head of the District People's Representative Assembly entered the house of mourning and the TNI District Commander, Chief of Intelligence and João Tavares headed directly to the sub-district command post. We were busy hanging awnings [for the funeral] when suddenly we heard*

* The dead have been identified as: Paulino Soares (34), José Pou-Lelo (37), Antonio Soares (45), Manuel Mau Lelo Araújo, Carlito Mau Leto (32), Domingos Resi Mau (29) and João Evangelista Lima Vidal (40) [Robinson, OHCHR Submission to CAVR, p. 197]. According to Adriano João there was an eighth victim, João Matos, a farmer from Meligo, the same village as Carlito Mau Leto ["Kasus Eksekusi 12-04-1999 di Cailaco", unpublished manuscript, June 2004].

† It is generally believed that Manuel Gama was killed during a Falintil attack [see, for example, HRVD Statements 1116-04; 5535; SCU Indictment 02/2003, paragraph 41], but according to one source, TNI was also a possible suspect in the murder: "Until now information about who the actual perpetrator of that murder was is still not consistent (with) accusations back and forth between TNI and Falintil in the forest." [CAVR Interview with Adriano João, Dili, 21 September 2004].

gunfire. Everyone was startled because those four people were shot in front of and beside the sub-district command post at a distance more or less 100 meters from the house of mourning. Then João Tavares and the TNI District Commander came to the house of mourning and screamed, "All you here, you are all part of the Security Disturbance Gang; we should kill you all."[893] [*]

781. On the same day, three other victims – Carlito Mau Leto, Domingos Resi Mau[†] and João Evangelista Lima Vidal – were taken into custody at the site of Manuel Gama's murder near the village of Porogoa by TNI soldiers.[894] Lieutenant Sutrisno was reportedly present when soldiers and militiamen beat the detainees. Carlito Mau Leto and Domingos Resi Mau were reportedly brought back to the sub-district command post in Marco, Cailaco and executed.[‡] The wife of João Evangelista witnessed her husband's murder:

At that time we heard the sound of gunfire, but we didn't know what the shooting was about. A little while later we heard the news that someone had killed Manuel Gama. We immediately went outside. TNI from the Cailaco military post came to get Manuel Gama's body They began inspecting every house in the vicinity of the killing. They apprehended my husband, João Evangelista Lima Vidal…They caught him, beat in the mouth with their weapons, kicked him, and tied him up. He was taken to the site of the killing at Porogoa, in the village of Meligo…They chased me away, yelling, "Get out of here!"… At that point they dragged my husband away and shot him. My relative Pedro took me by the hand and said, "Come on, let's leave for Marco, rather than stay here and be shot as well."[895]

782. These murders were the first in a series over the following two weeks targetting pro-independence supporters in the sub-district of Cailaco.[896] During this period soldiers and militia looted houses, detained and ill-treated hundreds, raped women and girls and killed about 20 people. Those killed included Aprigio Mali-Tae and Carlos Sama-Lelo, both killed on 17 April; Antonio Basilio and Armando Berlaku, both killed in the village of Manapa on 19 April by Dadurus Merah Putih militia; and José Barros, and Cornelio Rodrigues da Silva, both killed on 20 April.[897]

* According to Serious Crimes Unit (SCU) Indictment 02/2003, Bobonaro military officials visited the house of Manuel Gama where Lieutenant Sutrisno gave the order to arrest the four victims. The officials then went to the Sub-command post where Sutrisno ordered the detainees to be shot. Several CAVR interviews suggest that only civilian leaders went directly to the Gama house, while the militia and military leaders went straight to the military command post and shot the detainees who were already detained there.

† According to HRVD Statement 1116-04, this victim's name was Domingos Leki Mau.

‡ According to HRVD Statement 1865 and Adriano João ["Case of 12-04-99 execution in Cailaco", unpublished document], all victims were executed in front of the TNI Sub-district command office in Marco, Cailaco, but SCU indictment 02/2003 [paragraphs 76-83] states that these three victims were executed on a hill in the village of Porogoa not far from the site of Manuel Gama's death.

783. The killings on 17 April were allegedly committed by the Cailaco militia, Guntur Batu-Laka, Halilintar and the Joint Intelligence Unit. Dadurus Merah Putih, which was set up not long after the 12 April killings, allegedly killed Antonio Maia and Armando Berlaku on 19 April while members of militia groups Guntur Batu-Laka and Halilintar, BTT (Batalyon Tempur Teritorial, Local Territorial Battalion) and the Joint Intelligence Unit, allegedly committed the killings on 20 April.[898]

784. Calistro da Cunha was abducted on 24 April by the Kaer Metin Merah Putih militia and TNI members, including M66 and M67 (both East Timorese). He was taken to the village of Molop (Bobonaro) where he was handed over to a group of Halilintar militia and Koramil soldiers. He was killed by Halilintar militia from Maliana in Omelai, Molop. His body was buried the following day at the Guda cemetery by his family.[899]

785. Less than two weeks after the massacre at the Liquiçá Church, BMP and Aitarak militia members, together with TNI, killed at least 19 people* in Dili on 17 April 1999 during an attack on the home of Manuel Carrascalão.[900] Once again, the attack showed clear signs of military and militia cooperation.

786. The attack took place after a large gathering of some 5,000 members of the Integration Fighters' Force (Pasukan Pejuang Integrasi, PPI) in front of the Governor's Office in the centre of Dili. During the rally the Aitarak leader, M76, incited the crowd to capture and kill those who did not support integration with Indonesia. The rally was attended by senior government officials, including the provincial Governor, Abilio Soares, the District Administrator of Dili, Domingos Soares, the East Timor military commander, Colonel Tono Suratman, the assistant for operations to the army chief of staff, Major General Kiki Syahnakri, and four other senior military officers. When the rally was finished, M76 led a large group of militia on a parade through Dili. They attacked various targets along the way before reaching the home of Manuel Carrascalão. Approximately 150 refugees were sheltering there, having fled other attacks such as that in Liquiçá. In the attack on the house, Aitarak and BMP militia killed Manuel Carrascalão's teenage son, Manuelito. Others were killed or severely injured by militia who wielded machetes and knives. Among those killed were Eduardo de Jesus, Alberto dos Santos, Antonio da Silva Soares, Januario Pereira, Raul dos Santos Cancela, João dos Santos, Crisanto dos Santos, Rafael da Silva, Afonso Ribeiro and César dos Santos. Augustinho Benito X. Lay, who was severely wounded during the attack, survived.† Some of the refugees tried to climb over the fence to escape but could not because the house was surrounded by armed men. Multiple witnesses have confirmed that TNI officers in plain clothes from the Koramil in Maubara participated in the attack.

* According to the CAVR Gravestone Survey Research Team, "…[the] interview was followed by counting all the gravestones found in the Public Graveyard [by the beach] in Lebocoe-Maubara-Liquiçá, 19 new graves were those of victims from Maubara who were massacred at the home of Manuel Carrascalão on 17 April 1999." [CAVR Field Report, 21 October 2003].

† HRVD Statements 0354; 4629; 4661; 6940; Deputy General Prosecutor for Serious Crimes, Indictment against Eurico Guterres, et al., Case No. 02/2002, paragraphs 27-53. HRVD Statement 6940 alleges that a militia member M80 from the village of Leorema (Bazartete, Liquiçá) was actively involved in the killings at the house of Manuel Carrascalão. HRVD Statement 4661 alleges that militia member M80 took part in the killing of Raul dos Santos.

Furthermore, the commanding TNI officer for Timor-Leste, Colonel Tono Suratman, refused to intervene when Manuel Carrascalão requested that he stop the attack.[901]

787. The massacre at the house of Manuel Carrascalão was not the only fatal incident in Dili that day. Manuel Pinto, a clandestine member who had just arrived at the Becora bus terminal from Baucau, was killed in an attack by TNI and militia members, including M75. He was taken wounded to the Motael Clinic where he died.[902]

788. After the 17 April massacre, the village of Hera (Dili) became a focus of intensive violence. On 20 April Luis Dias, a Fretilin member, was killed in Hera by militia and TNI members.[903] On or about 1 May, Longuinhos da Silva de Jesus, a well-known independence supporter in Metinaro, was arrested and taken away by Aitarak commander M77. His body was found a few days later on the beach near Hera.[904] On or about 8 May, Tomas Ximenes and Sebastião Gusmão were killed by members of the Aitarak militia group in Hera.[905]

Killings in Covalima, Ermera, Manufahi Districts in April 1999

789. A dramatic increase in violence during the month of April was also documented in three other districts – Covalima, Ermera, and Manufahi.

790. In Covalima District violence escalated in mid-April after the Laksaur militia was established. While killings by the Mahidi militia group in the eastern area of the district decreased in this period, the Laksaur militia group stepped up its activities in the central and western areas such as Suai Town, Tilomar, and Maucatar. In Suai Town on 12 April a group of Laksaur militia members led by M78, killed clandestine member, Sabino Gusmão, at the local fuel station in Suai. M78 allegedly ordered his men to kill Sabino who was stabbed by a militia member named M79 and died of his injuries.[906]

791. On 13 April a group of Mahidi militia members led by M81 went to a house in the village of Dais (Maucatar, Covalima) where some students from the University of East Timor (Unitim) were staying as part of a work experience programme (*Kuliah Kerja Nyata*, KKN). They severely beat João da Silva Ximenes, one of the students, and he died shortly after. They also took Bernardinho Simão to the house of the Mahidi commander in Zumalai, M82, where several other people were already detained. Soon after Bernardinho Simão and Inacio Barreto, who was also detained at M82's house, were taken by Mahidi militia. Neither has been seen since.[907] In the village of Zulo, Mape/Zumalai, on 18 April the commander of Mahidi in Zulo, M82, ordered his men to kill Alvaro Tilman who tried to escape from detention at the house of M82.[908]

792. Disappearances also suddenly increased in April and many of them reportedly involved TNI members. The victims included Mateus Gusmão[909], Alvaro Barreto[910], Marçal Amaral[911], Felix Amaral, Abilio Mau Lear,[912] Justino Amaral, Amaro de Araújo[913] and Benedito do Nascimento.[914] Mateus Gusmão and Alvaro Barreto are reported to have disappeard at the Suai Kodim, and Benedito do Nascimento at the Koramil in Salele (Tilomar). Marçal Amaral and Felix Amaral were reportedly taken away by TNI members, and Amaro de Araújo was taken away by TNI and police members.

793. On 23 April a group of Laksaur militia members led by Olivio Moruk and TNI soldiers attacked the *aldeia* of Nikir, Raihun (Tilomar), killing Tomás Cardoso, Paulo Ximenes and Aleixo Ximenes.[915] They took Rodificus Rabo to the forest. He was not seen again and it is believed that he was killed.[916] Two days later the same group went in search of people who had fled to the hills and killed Yosef Leki, Tito Mali and Januario Maia.[917]

794. In Ermera District in April the arming of the local militia groups by the TNI led to an upsurge in violence. The Commission received information that a former Darah Merah commander, M83, received seven automatic rifles and four vehicles from the district military commander of Ermera in April. M83 had about 200 militia members under his command in Hatolia.[918] During April in Hatolia, Armando Gomes and Calistro were reportedly killed in the village of Leimea Kraik,[919] Marito Tavares and Antonio de Deus in Kukara, Manusea Village, and a man known as Venancio in the village of Ailelo (Hatolia).The Commission also received information that in April, M83's militia group attacked pro-independence supporters and burned houses in Kukara in retaliation for the killing of one of his men by the CNRT. The Commission was told that M83 shot dead two CNRT members known as Mau Laho and Domingos.[920] In early April in Lasaun (Atsabe), Adelino Magalhães and Velsior Pelo were reportedly killed by one or more TNI members of the Atsabe Koramil.[921] According to witness testimony, Adelino was blind-folded, thrown into a ravine and shot.[922]

795. On 11 April, Filipe dos Santos and one other student were reportedly shot to death by the TNI, and on 14 April Helder Martins was reportedly shot to death by the TNI and the police.[923] Towards the end of April Florindo de Deus was arrested, held in custody for two weeks in Atsabe, and on the way to Gleno was reportedly killed. A witness alleges that Team Pancasila was responsible for the death of Florindo de Deus.[924] On or around 20 April a group of TNI and militia members launched an operaiton in Lebu Rema, Samalete (Railaco, Ermera) and in the operation a young villager, Manuel Piedade, was reportedly killed by an East Timorese TNI auxiliary.[925]

796. In Manufahi District on 17 April, after the inauguration of the PPI and subsequent attack on pro-independence supporters in Dili, ABLAI militia began a campaign of violence.* In Same, on 17 April, ABLAI militia led by Bernadino da Costa attacked the community of Tirilolo, Hola Rua. In the attack they killed Luis Boco-Siri, whose house had been a hiding place for supporters of independence, and Agapito de Araújo.[926] On the same day, ABLAI militia members, including Bernadino da Costa, attacked Gratu Village in the sub-district of Same. As the men had fled to the mountains, the women were forced to call their husbands to return to the village. A few men came out of hiding into the village, including Carlito de Araújo. He was interrogated and was killed, allegedly by M85 and M86.[927] On 17 April Duarte Lopes (Duarte Bere Siri) was allegedly killed by M87 in Orema, Hola Rua Village.[928] On 24 April, Afonso da Costa, an 18-year old student at the University of Timor-Leste, was arrested at Anilumu, Holarua Village, taken to the top of the mountain above Orema and allegedly killed by M85 and M88.

* The Commission also has evidence of at least four rapes by ABLAI militia that took place during these attacks [see Vol. III, Part 7.7: Sexual Violence].

Targeting of pro-independence activists, CNRT members and students

797. Another pattern which emerges from the data gathered by the Commission is that Indonesian military and militia groups specifically targeted pro-independence activists during this period. This is particularly the case for those who were open about their pro-independence activities and who actively engaged in campaigning – whether as members of the CNRT or in other organisations of civic education such as the Student Solidarity Council of Timor-Leste (ETSSC or Dewan Solidaritas Mahasiswa dan Pelajar Timor Timur, DSMPTT). The district of Dili was especially hard-hit in this regard. For instance, Benedito de Jesus was killed on 14 February, Joaquim de Jesus on 24 February, and João Teixeira on 11 March. In the case of João Teixeira, he was tortured and beheaded. In all three cases the killers included members of the TNI or the Indonesian police force.[929] Similar killings continued during April and May in Dili and Hera.[930]

798. For instance in April, students from the University of Timor-Leste (Untim) were participating in a social work programme in Suai, Covalima District. Their post was attacked by Mahidi militia led by M81 on 11 and 13 April. The second attack resulted in the deaths of two students, Bernardino and João, who were beaten and stabbed.* In Maucatar in April, Laksaur militia and TNI members captured and beat Mateus Gusmão when they failed to capture someone else they were seeking. The next day, Mateus Gusmão was taken by motorcycle to the district military command post and has never been seen again.[931]

799. The Polytechnic in Hera (Dili) was regarded as a centre of pro-independence student activity, and was occupied by the TNI and militia members on 10 May. At the beginning of May, two pro-independence students from the Polytechnic, Augustino de Carvalho and Estevão Xavier Pereira, were allegedly tortured and killed while in TNI/militia custody at the Polytechnic. The bodies of the two students were later recovered in Akanunu near Hera.[932]

800. During this period sporadic killings took place throughout Timor-Leste, targeting suspected pro-independence supporters. In March 1999 a series of abductions and killings by BMP took place in the district of Liquiçá. A man known as Mau Kuru was killed in Palistela, Guguleus (Maubara, Liquiçá), allegedly by members of the BMP militia group, including M88 and M89, because he was accused of burning an Indonesian flag.[933] In the same month Domingos Carion was shot to death by a group of TNI members in Mato, Lisadilia (Maubara, Liquiçá). Domingos Carion was a member of a pro-independence group which was travelling to Galai, Lisadilia Village, to help evacuate the villagers to the mountains.[934]

801. In March several men disappeared in Baucau while in the custody of TNI. In one incident, TNI members chased five men as they were travelling from Caicido to Buburaga in the sub-district of Baucau. Two of the men – Carlito and Abreu – escaped,

* HRVD Statement 0085. According to a report by the Timor-Leste human rights group, Yayasan HAK, these two students were kidnapped by Mahidi militia members and disappeared on 12 April when they were on their way from Suai to the village of Beco.

but Apeu, João, and Marçal were taken to the Baucau airport and were not seen alive again.* According to another testimony, three men – Marcal, Abrio, and Angelino† – were caught in Baucau by members of Battalion 745 because they were suspected of being members of Falintil. They were taken to army headquarters and disappeared.[935]

802. The Commission also received information suggesting that at least three people were killed or disappeared in April in Manatuto District.‡ On 16 April, Aquelino da Costa Guterres, who was planning to meet a Falintil Commander in Manatuto, was caught by TNI soldiers and was never seen again.[936] On 24 or 25 April, Marcelino Soares and a 16-year-old student at a junior high school in Dili named Mateus Soares were reportedly arrested by East Timorese militia in the village of Pualaka. They were taken to Mount Hatuharik in Manelima Village (Laclubar, Manatuto) where they were reportedly executed.[937]

803. As the CNRT opened headquarters in various districts, they came under threat by both militia and military. In at least one case, attacks on CNRT offices during this period resulted in a death. On 9 April 1999, the district commander of the Ermera Dandim, Lieutenant-Colonel Muhamad Nur, met leaders of Darah Integrasi, the FPDK and the BRTT in the district capital, Gleno. The following day, TNI from Kodim 1637 and militiamen burned down the CNRT headquarters in Gleno and killed a well-known CNRT supporter and local parliamentarian, Antonio Salsinha Lima.[938]

804. On 9 May a clandestine member, Eugenio Antonio Castro, was reportedly shot by members of the police and the Aitarak militia in Bemori (Dili), when he joined a crowd burning tyres on the street.[939] The following day a group of militia members reportedly came to Bemori and attacked another clandestine member, Flavio Urbano Saldanha Ribeiro, at his home. A relative alleged that the attackers were Besi Merah Putih militia who shot the victim, slashed his head, cut his throat, and cut off his genitals.[940]

805. On 16 May a group comprising members of the TNI, the SGI and Tim Pancasila launched a major attack on the village of Atara (Atsabe, Ermera) at about 5.00am. The group included the SGI commander in Atsabe, M91 [East Timorese], two Babinsa, M92 and M93 [both East Timorese] and an East Timorese TNI member, M94. In the attack the group killed six villagers. The victims were suspected of clandestine activities and included João Sarmento, Urbano Pereira, Justiliano Pereira, Rogério Talo Ati, Abel de Jesus, and Paulo Gonçalves.[941]

* HRVD Statement 7675-02. According to the Robinson, *East Timor 1999,* OHCHR submission to CAVR, five unnamed young men were detained on 17 March 1999 in retaliation for the killing of a TNI soldier that month. Three were reportedly later discovered in a shallow grave at Triloka, near Baucau airport [p. 140].

† In the first incident, Abreu and Marcal are named; in the second Marcal and Abrio (also spelt Abriu) are named. Further investigation is required to determine if these statements are different versions of what happened to the same individuals.

‡ According to the Robinson, *East Timor 1999,* OHCHR submission to CAVR, TNI troops mounted a major operation in Laclubar in apparant retaliation for the alleged murder by Falintil of the Team Morok militia commander and TNI soldier, Filomeno Lopes da Cruz [p. 178].

Deaths in custody

806. In addition to reports of large-scale arrests and torture in detention, the Commission received numerous reports of deaths in detention during this period. For example, Fernando da Costa, a CNRT supporter, was detained on 5 April in the town of Liquiçá by a group of TNI, BMP militiamen and police. After being badly beaten outside his house, he was taken to Liquiçá District police station (Polres), where he was detained for two days. On 7 April he was reportedly taken from his cell and transported to the Maubara Sub-district Military Command, accompanied by Sergeant M62 and a BMP commander, M65, where he reportedly died after being repeatedly stabbed.[942]

807. The Commission received reports that on 15 April Evaristo Lopes was tortured and murdered by TNI and Tim Alfa militia while in custody and under the supervision of a member of Kopassus, Sergeant M96 (Indonesian) in Lautém.[943] The Commission has also received reports of the deaths of at least three people as a result of torture during interrogation by militia and members of the Koramil in Lacluta, Viqueque on 30 April.[944]

808. On 8 May in Bobonaro District, TNI members, including East Timorese Sergeant M97 from the intelligence section of the Maliana Kodim and Dadurus Merah Putih members, arrested Manuel Pinto Tilman and Abilio Cardoso in Lalebol (Bobonaro, Bobonaro) accusing them of being Falintil members. After being detained in the town of Bobonaro, on 15 May the two were reportedly taken to the Nunura bridge in Maliana and executed. The indictment of the Deputy General Prosecutor for Serious Crimes alleges that Mau Buti shot Manuel Pinto Tilman in the lower hip, while Inacio Conceição stabbed him. The indictment also alleges that Mau Buti shot Abilio Cardoso in the head.[945]

809. During this period the BMP militia in Liquiçá are also reported to have killed a number of people after taking them into custody. On 5 May two men named Antonio and Rosario were reportedly tortured to death by a group of BMP members at or near the BMP post in the *aldeia* of Ediri, Vatuvou Village (Maubara, Liquiçá).[946] On 10 May Albertino Martins was allegedly shot to death by a BMP member at the Gicu River in Maubara.[947] On 15 May a group of BMP and TNI members launched an operation in Asumanu Village, sub-district Liquiçá. On that day three villagers in Asumanu, known only as Moises, Martinho and Natalino, were seen tied and blindfolded, and some time later they were found dead at the village cemetery.[948]

Other killings, January–May 1999

810. The following table provides a summary of unlawful killings and disappearances reported to the Commission which took place in the districts where the level of fatal violence was relatively lower.

Table 53: Unlawful killings reported to the CAVR, January–May 1999

District	Summary
Ainaro	On 3 January in Manutasi (Ainaro) members of the Mahidi militia group erected a checkpoint at Fatuk Maria. When pro-independence supporters went to the checkpoint to demonstrate against it, members of the militia, including M99, M100 and M101, shot at them. Julio de Araújo and Reinaldo Martins were shot dead and another five were wounded in the attack.[949] On 26 February a group of Mahidi members, including M102, M103, and M104 killed a suspected supporter of independence, Joanico Bianco, in Cassa.[950]
Baucau	On 5 February, TNI members of the Rajawali unit captured Duarte Guterres in Loikiku, Uai Laha (Venilale). The TNI members shot him in the leg, put him into a cave and closed it with a big rock. Guterres later died.[951] On 26 March, TNI soldiers, including First Sergeant M105 [Indonesian] of the Kodim intelligence section, shot dead two men fleeing from them and a woman who happened to be working in a nearby field in Gariuai (Baucau). The victims were Ildefonso Pereira (Eldefonso Faria), Nazarito Xavier and Estefania Freitas. All of them were supporters of independence, although it is not clear whether the perpetrators knew it at the time of the killings.[952]
Dili	On or about 25 January, Lucio Ribeiro from Comoro, Dili, who had been missing for three days, was reportedly found dead in an old transmigration area in Loes (Maubara, Liquiçá).[953] On 24 February, Joaquim de Jesus and one other were reportedly shot dead in Becora by members of the Aitarak militia group accompanied by TNI members.[954]
Ermera	In May, Albino da Costa[955] was killed by the BTT (Territorial Combat Battalion) and TNI Partisans, and Constancio Carvalho was killed by members of Darah Merah Putih (DMP) militia [956] they were both reportedly killed in Mauabu Village (Hatolia). In Kaiturloa, Uruhau Village, Albino de Carvalho was killed by a BTT/TNI unit[957] and Abrão Salsinha Soares was killed by DMP militia[958] Bernabel Araújo[959] was killed in Asulau Village by DMP militia. In June Luis Alves was reportedly killed in Raitumura, Urahou Village by DMP militia[960] and Francisco Alves Caralhera in Lilimau, Manusea Village[961] also by DMP militia. On or around 30 May in Hatugau Village (Letefoho) the CNRT Nurep secretary, Luis Martins, was reportedly beaten to death by members of SGI[962]
Lautém	In January, a clandestine member, Rosa Maria, was reportedly killed by a Team Alfa member while hiding in the forest.[963] On or about 21 April a clandestine member, Evaristo Lopes, was tortured and stabbed to death by militia members and a TNI member at the headquarters of Team Alfa located in the Kopassus post in Lauara (Lospalos). The Team Alfa member, João da Costa, and a Kopassus Sergeant M96 [Indonesian], stabbed Evaristo Lopes.[964] In Somoco, Lospalos, Virgilio de Sousa was killed at his home by Team Alfa members.[965] On 23 April on a hill called Panili Cacaven, Lospalos, Lamberto da Silva, a former Falintil member, was killed by members of the Territorial Combat Battalion (BTT), an East Timorese TNI Corporal M165 and another Timorese M166[966]
Manatuto	Another supporter of independence, Humberto Casamiro Barros, was shot to death by Filomeno Brito in an attack by members of the Mahadomi militia on the house of a known pro-independence activist, Gregório Sebastião Gusmão, in the village of Haturalan (Laleia).[967] During this pre-ballot period the district administrator, M107, gathered five village chiefs and the sub-district administrator of Soibada and interrogated them about their clandestine activities. After the inquiry the village chiefs were allowed to return but the sub-district administrator, Zoalino, remained. He and a teacher named Vicente were later killed.[968]

District	Summary
Manufahi	Moises Soares was taken prisoner by Mahidi in Beikala Village (Hato Udo, Ainaro). On 28 April a group of ABLAI militia and Kopassus members under the command of Captain M108 [Indonesian] travelled from Same to Beikala to take custody of Moises Soares, who was suspected of killing a member of Kopassus in Alas. The ABLAI and Kopassus members took Moises Soares in a vehicle towards the sub-district of Same. The following day he was found dead in Betano (Same). [969] In the sub-district of Alas in May, José Antonio was arrested by a Koramil member M104 [East Timorese], at the Kelan River. He was taken to Dotik (Alas) and was never seen again.[970] In Feriksare, Taitudal (Alas), Domingos Sanches de Jesus was captured and taken to the Koramil. He was severely beaten and he reportedly died from the beating..[971] In the sub-district of Turiscai, a man named Angelito was killed in May when a group of militia members together with members of Battalion 743 launched an operation in the village of Liurai (Turiscai) under orders from Koramil commander M105 [Indonesian].[972]
Oecussi	In April 1999, after the Sakunar militia was formally established, a clandestine member named Bobo Noni in the sub-district of Passabe was killed by the Sakunar commanders M111 and M11. The circumstances of the killing are not clear but at the same time livestock of villagers were also reportedly stolen.[973]
Viqueque	On 30 April in the sub-district of Lacluta, leaders of the village of Ahic were beaten and kicked by Babinsa and Milsas. Pedro da Costa Araújo died from his wounds. Eyewitnesses testify that TNI members were present at the scene, including the Koramil commander M113.[974] The Commission received information that Vicente Alves and Caetano Duarte Gusmão were killed by an unknown individual or individuals on 28 May in an uninhabited location known as Weasin-Wehasan Mota Laran near the village of Ahic (Lacluta).[975]

June–30 August: unlawful killings from the arrival of UNAMET until the Popular Consultation

811. In the period after the arrival of UNAMET and international observers in June, but before the announcement of the results of the Popular Consultation on 4 September, there were significantly fewer reported cases of executions and disappearances. However, even during this period there were times, such as during the campaign period and in the days after the ballot itself, when violence increased. Overall, the Commission received reports of executions and disappearances in eight of the 13 districts during this period: Bobonaro, Dili, Oecussi, Liquiçá, Ermera, Viqueque, Lautém, and Covalima.

812. The districts reporting the highest number of unlawful killings and disappearances to the Commission were Bobonaro (nine deaths), Dili (five deaths and one disappearance), and Oecussi (ten killed and one disappearance).

Table 54: Unlawful killings and disappearances reported to the CAVR, June to 30 August 1999

Bobonaro	Halilintar militia reportedly killed two men in Atabae sub-district during this period. Agustinho Ximenes was reportedly captured on 6 July in the village of Aidabaleten (Atabae, Bobonaro), taken to the house of João Tavares where he was tortured, and then taken to the mountains where he was killed.[976] Feliz Tabesi Maria was reportedly captured in the village of Hataz on 28 August, when he was trying to flee to the mountains, and was killed.[977] In August members of the Dadurus Merah Putih militia group, possibly with TNI members, reportedly killed a group of four supporters of independence in Anapal, Molop Village, Bobonaro. The four victims were Cipriano Espirito Santo, José Efi, Armindo Barreto Moniz, and Natalino Moniz.[978] In Maliana Sub-district on 18 August, Dadurus Merah Putih militia, under the command of TNI Sergeant M114 (Timorese), took Augusto Martins, a university student and pro-independence campaigner, from a minibus at a checkpoint in the village of Lahomea. He was taken to the house of Sergeant M114 where he was beaten and stabbed. He died that evening. The UNAMET Civpol accompanied Indonesian police to the location where his body was recovered, but the police failed to conduct an investigation.[979] The next day members of Dadurus Merah Putih reportedly killed Agusto Marques, a university student, in the village of Lahomea.[980]
Dili	On 19 June, three young men from Lospalos, whose identities are not known, were reportedly killed in Becora.[981] On 25 July, José Soares was reportedly killed by shots fired from a passing vehicle near Fatu-Ahi.[982] On 1 August Angelino Amaral (Sabino) was shot dead outside the UNAMET district headquarters in Lahane.[983] On 27 August, Francisco Nascimento disappeared after he went to his office. His wife, who tesified to the Commission, believes that her husband was tortured at the Hotel Tropical, the headquarters of the Aitarak militia group, and that his body was buried behind the Dili heliport with the bodies of two other people.[984]
Oecussi	In June, a known pro-independence activist in the village of Lalisuk (Pante Makasar) was abducted and subsequently disappeared. José Talua'e, the local leader of the clandestine youth group Fitun, was reportedly visited by a Kodim intelligence member named Bertolomeu and was asked to go to Kefamenanu, West Timor, to buy a muffler for a motorbike. When his wife came back home, she found her husband had not returned. He has not been seen since.[985] Inácio Haumetan, a CNRT supporter in Oecussi, was killed on 20 August by Sakunar militia.[986] At least six pro-independence supporters were killed, numerous others were detained and beaten, and large-scale destruction of property was perpetrated by Sakunar militia and the Indonesian military between 28 and 30 August. At least two CNRT members were killed on 28 August when Sakunar militia, with TNI, mobile police, and Aitarak militia from Dili, and BMP militia from Liquiçá, attacked pro-independence campaigners.[987] On 29 August, two men known to be CNRT members disappeared after being detained in Malelat (Passabe) by Sakunar militia led by M115.[988]

813. Other killings reported to the Commission include the execution of suspected clandestine members in Hatolia (Ermera) by Darah Merah Putih militia on 8 June[989] and 16 June.[990] On 8 August Mariano da Costa, a UNAMET employee, was allegedly arrested by a group of BMP and TNI members in Dato (Liquiçá, Liquiçá) and on the orders of Sergeant M62 and a BMP commander, M65. He was allegedly executed by BMP militia members. His body has not been found.[991]

814. Although there were few reports of killings during the voter registration period, harassment and intimidation of the population continued. The Commission received information about a man named Filipe who was reportedly abducted by a group of about 10 BMP members after they registered at the UNAMET Kailema registration centre in Lebuhei, Dato Village (Liquiçá). In her testimony Filipe's wife stated:

> *On 24 July, my husband and I went to register to vote in the Popular Consultation. After registering, we were just relaxing for a while when suddenly we were approached by 10 people…They detained my husband and took him off in the direction of Fatukesi [Liquiçá]. From that time until now my husband has never come home, and I don't know whether he is alive or dead.*[992]

815. During the campaign period, which extended from 14–27 August, numerous instances of violence occurred, including targeted killings of pro-independence activists, students and others openly campaigning for independence. For instance, on 11 August, one day after opening their office in Viqueque, Student Solidarity Council (ETSSC) members were attacked by militia.* In three separate attacks, three students were killed: Rogério Soares (Rogério Amaral), Mariano Soares Pinto (Mariano Gusmão) and Carlos Sarmento.[993]

816. The final day of campaigning for pro-autonomy supporters was 26 August. They carried out large rallies across Dili. They attacked and burned buildings, injured two journalists, and killed eight people. A shooting incident that took place in the afternoon in Kulu Hun was preceded by a clash between pro-autonomy campaigners and pro-independence youths in the area. When a group of pro-autonomy campaigners passed by the Kulu Hun bridge, pro-independence youths began throwing stones at them. In a highly charged situation a man named Marcus wearing a pro-autonomy shirt was chased and stabbed from behind. He was immediately taken to the hospital in Bidau. At 3pm, the Indonesian police mobile brigade (Brimob) started shooting. The crowd began to flee in panic. In the shooting incident, four young men were killed. One was Bernardinho Joaquim Afonso Guterres, a student from Satya Wacana University in Salatiga, Indonesia, who had returned to Timor-Leste for the Popular Consultation. His killing was filmed and a photograph of his dead body appeared on the cover of *Time Magazine* in December 1999. An eyewitness told the Commission:

> *Suddenly I saw Bernadinho running from the bridge and passing in front of us. Spontaneously I shouted: "Bedinho [Bernadinho], watch out!" Many policemen were running after him. Two policemen were already preparing to shoot. One policeman on the left side near the Virgo shop shot in the air, and the other on the right side near the Holy Caritas Convent shot*

* The Robinson, *East Timor 1999,* OHCHR submission to the CAVR also describes the attack on the CNRT office in Viqueque on 11 August. Also in Viqueque District, Domingos Aparicio and another man named Idelfonso were reportedly killed by members of the Naga Merah militia in Beasu Village (Viqueque) in the pre-ballot period, although precise dates are unavailable [HRVD Statement 4127; Amnesty International ASA 21/49/99].

directly at Bernadinho. It was about eight metres from the spot where I was standing.

The policeman shot Bernadinho from behind. I don't know which part of his body he hit, but Bernadinho instantly fell on the ground. A lot of blood spilt on the street. His arms and legs were moving for about five minutes, and then the movements stopped. [994]

817. The other three victims were Adelino de Jesus da Silva (23), Virgilio da Costa Rodrigues (Azildo) (26), and Atanazio Moniz de Jesus (Ameta) (23). The families and friends of the victims told the Commission that the three were all young clandestine members in the area, and that they were hit by bullets in the face, the chest and the neck respectively.[995]

818. The situation was also deteriorating in other districts. In Covalima, on or about 27 August, Damianus da Costa Nunes and José Pereira, members of the Laksaur militia group in Fatumean, under the command of Henrikus Mali, allegedly killed Jaime da Costa Nunes, a known pro-independence activist. The following day José Pereira and another member of the Laksaur militia group went to the house of Jaime da Costa Nunes and showed his wife a pair of human ears and human genitals and told her that they belonged to her husband.[996]

819. In Lautém on the evening of 27 August, the last campaign day for pro-independence supporters, a group of TNI and Team Alfa members attacked the CNRT office in Lospalos. They fired at the house of Verissimo Dias Quintas and set the house and the CNRT office on fire. Some 30 CNRT supporters were inside the compound. In the attack Verissimo Dias Quintas was assaulted with machetes and died.[997]

820. In the district of Liquiçá on 26 August, a person named Henrique was reportedly killed by a group of four Kodim members at Filita, Lauhata Village (Bazartete). The same day two more young men were reportedly killed at Filita by BMP members but their identities are not known.[998]

821. The Commission also received reports that on 27 August, Dadurus Merah Putih and Halilintar militia, in the presence of Indonesian military and police officers, attacked campaigners in the village of Tapo Memo (Maliana, Bobonaro), killing four people: Raul dos Santos, Paulino, Felis Laku, and Jaime.[999] A witness to one of the murders recounted:

At that time we were approached by Dadurus Merah Putih militia members M118 and M119. They were conducting a military operation in Memo. My husband was hiding in the house, but M118 found him. They shot him dead immediately, because they thought my husband was Deker, one of the Falintil Commanders of the Southern Company. The first time they shot him he didn't die, but he ran until he collapsed in the Uluhati River, and they shot him again. I took him to the Maliana hospital, where he died on arrival…They burned down our house with everything in it.[1000]

30 August–October: unlawful killings and disappearances after the Popular Consultation

822. The day of the ballot, 30 August, was largely peaceful. There were several notable exceptions, however, such as the killing of UNAMET staff in Ermera (see par. 828), and continued violence in several districts, including Oecussi, Ermera, and Manufahi.

823. From Oecussi, the Commission received reports of attacks on 30 August, including the attempted killing of a man active in the clandestine movement in the sub-district of Pante Makassar.[1001] The Commission received multiple statements describing an attack by the Sakunar militia group, led by M120, M121 and M112, on the village of Bobometo on 31 August. They burned more than 100 houses. Horacio Tabes, a local leader, was said to have been killed in the attack. He was reported to have been decapitated.[1002]

824. The Commission also received reports of the killing by ABLAI militia of two men as they returned from a polling station near Same (Manufahi). Team Sasurut and ABLAI militia led by Bernadinho da Costa stopped a group of people returning from the vote in Holarua and took them to the militia post in Datina, Holarua (Same, Manufahi). They separated Armindo da Costa and Carlito da Costa, took them to a nearby coffee plantation, tortured them and cut off their heads.[1003]

825. From Ermera District, the Commission received evidence regarding the disappearance of a teacher called Carlos from Baboe Kraik (Atsabe). He was reportedly held at the village office of Malabe and taken away, never to be seen again.[1004] Manuel Oliveira was killed by Tim Pancasila militia and TNI members in Atara.[1005] FO from Lauala Village (Ermera) was another pro-independence activist. On 6 September she was arrested, taken to a Darah Integrasi post and then to a house where she was allegedly raped by a Naga Merah militia commander, M123, and three of his subordinates. She was again taken back to the militia post where she was threatened by M123 wielding an automatic rifle, tied up with a rope and then executed in Manten Nunutali, an uninhabited area of Lauala.[1006]

826. The pattern of targeting individuals suspected of having pro-independence sympathies, CNRT leaders, students and UNAMET staff by the TNI and militia continued on a much larger scale after the announcement of the result of the ballot on 4 September. With most of the international community evacuated and the remaining UN staff isolated in their compound in Dili, the TNI and militia began to operate together openly, as they had in the pre-UNAMET period. Further, during this period, executions became increasingly less discriminate. Violence was targeted not only at individual pro-independence activists, but extended to their families and friends. Religious leaders and church workers also became the targets of attacks. TNI and militia attacked and killed internally displaced people seeking shelter in church and government buildings. In some cases, the male youth of entire communities were targeted.

827. Testimonies received by the Commission indicate at least 501 people were reported killed or disappeared in the period across the 13 districts after the ballot, and 27 were killed or disappeared in West Timor (see Table 52 above). A number of

cases highlighted below illustrate the various patterns of violence in this period, but they do not give a comprehensive account of the many victims of TNI and militia violence during this period. At the end of this section summaries of cases known to the Commission are provided.

The targeting of East Timorese UNAMET staff

828. On the day of the ballot and the days immediately afterwards, East Timorese UNAMET staff became particularly vulnerable to TNI and militia violence, as the UN quickly withdrew its international staff from the districts. During the week between the end of the campaign and the announcement of the ballot results, four UNAMET employees were executed by militia and TNI.

829. On 30 August, the day of the ballot, TNI soldiers and Tim Pancasila militia attacked the polling station in Baboe Leten (Atsabe, Ermera). The group, including a TNI member, M106, assaulted three UNAMET staff, Orlando Gomes, João Lopes, and Alvaro Lopes. The first two died while the third survived, though he was severely wounded. Orlando Gomes was the CNRT representative in the village. João Lopes was assaulted when he was carrying a ballot box to a waiting UNAMET vehicle. Present at the scene were a TNI member, Pedro dos Santos, the Malabe village chief, M125, and a militia member, M126. M106 is alleged to have been involved in both killings. Orlando Gomes was reportedly stabbed by M126, M125 and M106.[1007]

830. Three days later, on 2 September, TNI soldiers including Lieutenant M68 [Indonesian], Sergeant M128 and Darah Merah Putih members went to the house of a UNAMET staff member, Ruben Soares. The Darah Merah Putih members broke into the house, dragged him outside, and stabbed him. Ruben Soares was smashed on the head with a rock. Another UNAMET staff member, Domingos Pereira, came out of the next house and was reportedly shot by Sergeant M128 and also stabbed. Both died from the injuries they sustained.[1008]

831. The killing of EO from Gleno illustrates the type of violence inflicted on outspoken pro-independence women activists. EO was a school teacher and secretary of the CNRT-affiliated women's group, the OMT (Organização da Mulher Timor, Organisation of Timorese Women) in Ermera. Her family were well-known supporters of independence and her brother was a Falintil commander. She also worked as a UNAMET staff member in Ermera. A former member of the Darah Merah militia group told the Commission that on 13 September the Darah Merah commander, M129, ordered him and some other militia members to kill EO. The militia group took her to the border area of Tokoluli (Railaco, Ermera) and there a militia member stabbed her to death.[1009] Before being killed, EO was detained at the headquarters of Darah Merah and also at a house where she was treated as a slave. A TNI member, M130, was seen together with EO in a truck.[1010] EO reportedly told her close friend that she was raped by a member of the military.[1011] Two TNI members, M131 and M132, are also believed to have been involved in the ill-treatment and death of EO.[1012]

832. According to the OHCHR submission to the Commission, at least 14 local UNAMET staff members were killed in 1999: João Lopes, Ruben Barros Soares,

Domingos Pereira, José Ernesto Jesus Maia, Orlando Gomes, Leonel Silva de Oliveira, Manuel de Oliveira, Mariano da Costa, EO, Carlos Maia, Abrui da Costa, Hilario Boavida da Silva, Francisco Taek and Paulos Kelo. The submission concluded: "It is not clear that all of those killed were targeted because they were UNAMET employees, but most were."[1013]

Attack on the Bishop's residence and other places of refuge in Dili

833. In addition to targeting individuals associated with the Resistance, the TNI and militia targeted those in places of refuge. In the aftermath of the announcement of the results of the ballot, as violence increased throughout the territory, thousands of people sought refuge in churches, in church grounds, and sometimes in police and government buildings in the hope of finding some protection. But in reality, the TNI and the militia specifically targeted these places. The most notorious example was the massacre at the Suai Church on 6 September 1999.

834. In Dili, on 5-6 September, as many as 15 people were killed or disappeared during and after combined TNI and militia attacks on the Dili Diocese (Cámara de Ecclesiastica) compound, the house of Bishop Belo, the Canossian Convent, and the office of the International Committee of the Red Cross.* At about noon on 5 September, as many as 50 armed Aitarak militiamen, led by M298, assaulted the approximately 300 people who sought refuge in the Dili Diocese compound. They destroyed and set fire to the buildings. A large number of TNI and police personnel were present at the scene but took no action to prevent the attack, and some TNI and police joined in the attack. All of the refugees were forced from the compound and across the road to the Dili port area where those believed to be students, UNAMET staff or CNRT members were singled out for especially harsh treatment. They separated the men from the women and children, and drove the women and children to the Polda (provincial police) headquarters in Comoro, leaving the men behind. They allegedly assaulted eight men who were perceived to be pro-independence supporters, and tried to drive them away in a pick-up truck. But members of the police ordered the militia members to take them to the Wirahusada Military hospital. A number of men who had come out of the Dili Diocese compound were taken away and disappeared. Among the victims were Cassiano Morais, Hilario Boavida, Lourenço Boavida, Jorgé Mesquita da Costa Rego, Mário Belo, Thomas Belo, Tiago Kofi, Alexandre Mesquita da Costa Rego, Virgilio Fernandes, Augusto da Costa, Marito Mesquita, José Martins de Sousa, Francisco Boavida, Eugenio da Costa and Leonel da Silva de Oliveira. José Fernando (Nilton) da Costa was another who was driven away from outside the Dili Diocese in a Kijang pick-up. He escaped, but due to the stab wounds he had sustained he died at the Motael Clinic on 5 September.[1014]

* According to Serious Crimes Unit Indictment 13/2003, Eurico Guterres and Matteus de Carvalho are responsible for the killing of nine people and the forced disappearance of six others on or about 5 September 1999 during the attack on the Dili Diocese [Deputy General Prosecutor for Serious Crimes, Indictment against Eurico Guterres et al., Case No. 13/2003, VII. The Charges, A., Counts 3-5].

835. On the following day, 6 September, further attacks took place on three other places of refuge in Dili – the Canossian Convent, the compound of the International Committee of the Red Cross (ICRC) and the residence of Bishop Belo. Approximately 100 people and nine nuns were sheltering in the Canossian Convent. In the compound of the International Committee of the Red Cross (ICRC) an estimated 2,000 people had gathered in the days after the vote. Firing their weapons and shouting, the militiamen forced the refugees from the ICRC compound. Once again, suspected pro-independence activists were separated from the others before being marched away. The most widely reported and thoroughly documented of the three attacks targeted an estimated 5,000 people who had sought refuge in Bishop Belo's residence. At least 15 people were seriously wounded, and one person is known to have been killed in the attack. The Commission also received information that Vicente da Costa Carlos Tilman, who is believed to have sought refuge at the Bishop's residence, disappeared after the 6 September attack.[1015] Mário Correia Fernandes was taken away from Bidau Santana by four men wearing masks after he had escaped the attack at the Bishop's residence on 6 September. He also disappeared.[1016]

The Suai Church Massacre

836. One of the worst massacres of this period occurred at Our Lady of the Rosary Church (*Nossa Senhora do Rosario*) on 6 September in Suai. The massacre was a premeditated act of mass killing against an unarmed civilian population. It was also a coordinated operation of TNI and Laksaur militia members involving TNI premises such as the sub-district military command post in Salele (Tilomar, Covalima) and the district military command post in Suai.

837. Our Lady of the Rosary Church was a place where the civilian population from all sub-districts in Covalima sought refuge from January to September 1999, as members of the Laksaur and Mahidi militias and the TNI terrorised those perceived to be independence supporters.[1017] During the Popular Consultation the church became the focus of expressions of hostility by pro-autonomy supporters in the area. After the announcement of the result of the ballot, TNI and militia members intensified their threats by firing their guns into the air in the vicinity of the church. On 5 September, Father Dewanto asked the district police commander, Lieutenant-Colonel Gatot Subiaktoro, to provide security for the people sheltering in the church compound, as the militia began a campaign of violence in Suai Town. The Commission received reports suggesting that on 4 and 5 September, at least five people were killed and subsequently the flow of refugees to the church grounds swelled.[1018] The commander assured the priest he would arrange security for them. On the same day Father Hilario Madeira advised the people in the church compound to seek refuge elsewhere, on the grounds that the church was no longer safe for them. About 500 people left the church compound and went into hiding in the nearby forests.

838. On the morning of 6 September, the Laksaur militia group under the command of M78 and M59 gathered at the Koramil in Salele, which was also the militia headquarters. Following the arrival of a truck full of TNI soldiers, M78 told his men that they would attack the Our Lady of the Rosary church that day. The militia group under M78 and

M59 went to the Kodim in Suai and then to the house of the district administrator, Colonel M133 [Indonesian]. In the afternoon, at about 2.30pm, the militia group left the house for the church. M133 followed them from behind, dressed in a TNI uniform and armed with a rifle.

839. On arrival, the militia and TNI members surrounded the church. The attack began with the throwing of two grenades into the church compound and was followed by shooting. They entered the church compound and attacked the people sheltering there. They killed many civilians including three priests, Father Hilario Madeira, Father Tarsisius Dewanto and Father Francisco Soares.[1019] Between 27 and 200 people were killed during the attack and another 30 in targeted killings that followed.* The Commission received numerous accounts of executions during the attack, including several accounts of rape and the execution of women and children.† A witness told the Commission that militia members decapitated two persons, Benyamin and Carlito from Zumalai.[1020] Another witness told the Commission that Jacinta Gusmão's neck was slashed with a sword.[1021] Father Francisco Soares was also reportedly slashed in the neck and the stomach.[1022]

840. Colonel M133, Lieutenant M134 [Indonesian], M78, M59, M135 and M136 [all East Timorese] were present and participated in the attack. A woman who had sought refuge at the church testified about the close coordination between the civilian authorities and militia in the attack:

> *In March 1999 my whole family left our house. We hired a minibus to take us to the Suai Church because a district military command soldier, Private Second Class Alfonso Mau, often spied on our house.*
>
> *[W]e stayed at the church until August.*
>
> *After the ballot, we came back to the church. On 6 September, the church was attacked by militia. My husband had run away to the forest the day before that. I was in Father Hilario's dining room, with my mother-in-law and sister-in-law. There was shooting from 2.00 to 3.00pm. Then the district administrator, M133, and village head [of Foholulik, Tilomar], M78, came and said, "Just kill all the men, spare the women," in front of us all.*[1023]

* The exact death toll in the attack is not known. The OHCHR Study puts it at at least 40. The Indonesian Commission on Human Rights Violations in East Timor (KPP-HAM) estimates that 50 were killed, while Yayasan HAK places the figure between 50 and 200. Approximately 27 bodies were recovered from mass graves in West Timor on or about 22 November 1999 under the direction of KPP-HAM [see Deputy General Prosecutor for Serious Crimes, Indictment against Herman Sediyono, et al., paragraph 311].

† M167 and M168 shot dead ten civilians, including a woman named Matilde who was seven months pregnant, which resulted also in the loss of her baby [HRVD Statement 3624]. Others shot dead included Eufrazia Gusmão Amaral, the daughter of Mário Gusmão [HRVD Statement 7390], Paulus Seran (HRVD Statement 3638), and Patricio Mau and Carlos Yosep [HRVD Statement 8577]. Miguel da Cruz de Conceição gave testimony that Benyamin and Alito from Zumalai, two of eight friends killed during the attack, were beheaded [HRVD Statement 6351]. A woman who was raped at the church subsequently died as a result [HRVD Statement 8459]; another woman who was shot survived [HRVD Statement 3637].

Feliciana Cardoso, witness to the Suai Church Massacre[1024]

After my family participated in the referendum on 30 August 1999, we immediately sought refuge in the church. At that time, Suai was controlled by a joint group, namely the Laksaur and Mahidi militia [Live or Die for Integration with Indonesia], TNI and the Lorosae Police Contingent. Late on the afternoon of 6 September, the joint militia began shooting. Their attack on people gathered in the senior high school killed many people. They then headed for the church. All the windows were smashed and the door broken down. They invaded and ordered all the people inside to go out and surrender. Some of us, including myself and my three children, remained in the church. Others went outside, including my husband. The militia began to shoot those who went outside the church. I don't know how, but my husband managed to get away and run back into Father Hilario's room, which was located at the back of the church. Others were wiped out by the Laksaur/Mahidi team…

When the militia began to burn the church, we ran to the priests' house that was beside the church. That was when I could no longer see my husband. I saw Father Francisco holding up both hands and saying to the militia, "Enough. Don't shoot anymore. All of us are Timorese. Stop." The Father screamed when he saw how many victims had fallen. However the militia paid no attention to his screams. Then a militia, M137, who came from Raimea Village in Covalima, approached Father Francisco. He pretended to hug the priest, then escorted him down to the grotto of the Virgin Mary. When they came back, M137 shot the priest. But Father Francisco was not yet dead, so M137 took a sword and stabbed Father Francisco in the chest. That is when he died.

I saw my husband run from the priests' room when he heard the shooting. He was very emotional seeing that the priest had been shot. There was a group of militia outside the church, [including] M138 and M139 who were carrying weapons – AR-16, SKS and swords. They began to shoot in the direction of my husband, but their weapons didn't fire. One of the militia asked my husband, "Why don't you run?" My husband answered, "I am a man. Let me be shot on my own land! Viva Xanana Gusmão! Viva Timor-Leste!" Then M139 took his sword and stabbed my husband in the left hip, and the sword came out on the right. He also slashed his left shoulder, his left foot and his right hand twice each. At about 4.00pm, my husband drew his last breath.

[T]hose of us who survived were ordered out [of the church]. We were shoved, kicked with boots, trodden upon and beaten. They pointed guns and machetes at us all the way from the church to the Kodim 1635 building… There were many people at the Kodim, among them Domingas, the wife of the [CNRT] zone leader of the sub-district of Zumalai [Covalima], with her daughters, Zulmira, Fatima, Agustinha, Cinta and Monica… While at the Kodim we were verbally abused, ridiculed and given leftover food. The other women and I did not eat because we were afraid of being poisoned. On 13 September 1999… the Kasdim [Kodim chief of staff] ordered our move to Betun [West Timor] on four trucks… but at the Camenasa [Suai, Covalima] crossroads we were left by the side of the road.

On 14 September 1999, at approximately 7.00pm, an East Timorese Laksaur member, M169, took away a girl who was with me at the time. She was forced into a hardtop jeep and taken away. On the same evening at 7.30pm, a friend and I also continued with the help of a Mahidi member we knew... He took us by foot to Betun. We were escorted by two police officers on motorcycles. Walking from the Camenasa crossroads to Betun, West Timor, took eight hours. We arrived on 15 September 1999 at 10.00am. [Just as we arrived] the girl was brought back by Laksaur member M169 on a motorcycle. When she got off the motorcycle she could not walk because she had been raped. She arrived with injuries and blood on her genitals, I treated her…she drank [a concoction of] water and betel leaf [sirih], I washed her with sirih water and leaves that I had boiled.

We were ordered to report at the Betun Military Command. We lived for two months at the Betun police station. While there we never felt safe because of the terrorising by the militia all day long. Our desire to return home became stronger when we heard that some refugees had returned to Suai. Quietly we ran off and returned to Suai on 11 November 1999.

Seeking refuge with the police: executions at the Maliana police station

841. In some cases, individuals or entire communities sought assistance from the police who, under the terms of the 5 May Agreements, were responsible for security – a fact that had been a central part of the UNAMET public information campaign in the preparations for the ballot. Sometimes police officers did attempt to protect individual East Timorese. For instance, a sympathetic Brimob officer in Gleno (Ermera) made several attempts to hide UNAMET staff member EO from the militia, though she was ultimately detained, raped and murdered.[1025] In most cases the Indonesian police completely failed to

intervene to prevent violence. There were instances when they became the targets of violence themselves when they did attempt to intervene. For example, on 6 September, a police officer, Bernabe de Jesus, in Hatupal (Maubisse, Ainaro) was shot dead by militia and TNI from the Maubisse Koramil after he intervened to prevent militia from looting and burning the village.[1026]

842. TNI and militia cooperation, and the complicity of the Indonesian police, are graphically illustrated by events at the district police station (*polres*) in Maliana, Bobonaro, where a large number of residents of Maliana sought refuge from the post-ballot violence.

843. On 8 September, the TNI and militia groups carried out systematic killings against perceived supporters of independence who had gathered at the Maliana police compound. They killed at least 13 people, including a 12-year-old boy. The following day TNI and militia groups hunted down those who had managed to escape from the Maliana police compound and killed at least another 13 people. The killings on 8-9 September can be seen as the culmination of the systematic and well-coordinated operations by the TNI and militia over the previous months to eliminate supporters of independence in Maliana. Without an international presence in the area, the military authorities could be openly involved in planning and carrying out the executions of those they had long perceived as their enemies. Following are excerpts from the indictment filed by the Deputy General Prosecutor for Serious Crimes on 10 July 2003.[1027]

844. Lists of people sheltering in the police compound were prepared. At a meeting on 6 September in the compound, attended by, among others, the district police commander, Major Budi Susilo; the district military commander, Lieutenant-Colonel Burhanuddin Siagian; the district administrator, Guilherme dos Santos; the district command's head of intelligence, Lieutenant Sutrisno; the commander of Halilintar, João Tavares; the chairman of the district assembly (DPRD) and of the district branch of the United Forum for Democracy and Justice (FPDK), Jorgé Tavares; and Natalino Monteiro Gonçalves and Marcos Tato Mali, commander and deputy commander of DMP militia in Maliana. After this meeting the displaced, who up to that point had been camping in tents in areas thoughout the compound, were ordered to concentrate at the back of the compound.

845. In the afternoon of 8 September, TNI soldiers from units briefed the Dadurus Merah Putih militia units under their command at places in and around Maliana Town including the villages of Holsa, Lahomea, and Ritabou. At a meeting in Ritabou, a joint intelligence unit (SGI) member, M140 [Indonesian], provided the militia gathered there with a list of names and told them to go to the police station, locate the people on the list and kill them. All the militia who were to take part in the operation then met at the Maliana Koramil where several TNI members, including Lieutenant M68 [Indonesian], were also present. Sergeant M141 [East Timorese] ordered Dadurus Merah Putih members to divide into several groups and shortly after 5.00pm gave each group specific tasks such as locating and killing identified supporters of independence and forming a cordon around the compound to prevent escape.

846. The attack began and lasted for about three and a half hours. The 13 killed during the attack were Manuel Barros, Julio Barros, Domingos Gonçalves Pereira, José da Costa Guterres, José Abel, Francisco Paixão Fatima Martins, Martinho Marques, José Barros Soares, Lorenço dos Santos Gomes, Joaquim Monteiro Gonçalves, José Moniz da Cunha, Damião da Cruz and Daniel Barreto. Manuel Barros was a member of DPRD II and a CNRT leader. Julio Barros was a former Sub-district administrator of Maliana. Domingos Gonçalves Pereira was the village head of Ritabou. José Barros Soares was only 12-years-old and was probably killed because he was the son of CNRT leader Augustinho Soares. During the attack Lieutenant M68 [Indonesian] and East Timorese TNI sergeants M75, M142, M141, M143, M97 and M144 were commanding the militia.

847. The disposal of the bodies of those killed was carried out in coordination with the militia group in Batugade, Saka Loromonu, under the direction of M145, the Saka Loromonu commander, and his deputy, M148. The bodies were carried to the beach located near the Old Portuguese fort in Batugade.[1028] Then under the command of Sergeant M141 [East Timorese], the SGI member, M140 [Indonesian], and the two Saka Loromonu commanders, the bodies were tied to sand-filled sacks, loaded onto fishing boats and taken out to sea and dumped.

848. Further, according to the Deputy General Prosecutor for Serious Crimes, on 9 September, Sergeant M147 (East Timorese) who was at the house of Natalino Monteiro Gonçalves in Ritabou Village (Maliana, Bobonaro) received information from a villager that a group of people who had escaped from the police compound had been discovered on the river bank near a place called Mulau,* about 2 km from Ritabou. Sergeant M147 then ordered a group of Dadurus Merah Putih militia to accompany him to Mulau. In this operation, 13 pro-independence supporters were killed. The victims were: Lamberto de Sá Benevides, Abilio Marques Vicente, Augusto dos Santos Marques, José Barreto, Pedro Luis, Lucas dos Santos, Luis Soares (Luis dos Santos), Jeroni Lopes,† Domingos Titi Mau, Manuel Magalhães, Carlos Maia, Ernesto da Coli and Paul da Silva. The first nine of them, from Lamberto de Sa Benevides to Domingos Titi Mau, were ordered by Sergeant M147 to kneel down and raise their hands. Sergeant M147 shot them one by one with an automatic rifle. The other four were separately captured and killed. Manuel Magalhães and Ernesto da Coli were each shot and then stabbed. Carlos Maia was stabbed to death and Paul da Silva was shot several times while trying to surrender. Manuel Magalhães was a CNRT leader and Carlos Maia a prominent pro-independence activist. All the bodies, except that of Paul da Silva, were carried to the beach in Batugade. Under the orders of the two commanders of Saka Loromonu the bodies were dumped at sea. The body of Paul da Silva was discovered in the Mulau area in September 1999 and buried. The remains of Carlos Maia and Lamberto de Sá Benevides were discovered on the beach in Batugade and buried.[1029] The day after the killings in Mulau, on 10 September, two East Timorese policemen, Filomeno Guterres and Martinho Lopes Amaral, were killed 150 metres from the river bank in a similar fashion for their suspected CNRT sympathies.[1030]

* In the Deputy General Prosecutor's Indictment, Mulau is referred to as a village, but it is neither a hamlet (*aldeia*) nor a village (*suco*).

† According to HRVD Statement 2587, Jeroni's full name was Jeronimo Lopes.

Executions at Maliana police station

The following are excerpts from two eyewitness accounts of the killings at the Maliana police station, both of which illustrate the failure of the Indonesian police to intervene. The first comes from a woman who lost six family members in 24 hours, including three younger siblings and her husband, killed either at the police station or subsequently hunted down and killed at Mulau near the village of Ritabou:

We went to the police station on 3 September 1999. When we left our house we didn't take anything with us. Once we got there, the situation at the police station was like normal, except that several of the police who were under suspicion had been relieved of their weapons by their superiors. On 4 September 1999 we gathered to hear the results of the referendum announced by UNAMET. That evening several militia members came to where we were staying, because there were a lot of young people there. They asked us, "Why did you run to the police?" We remained silent. One of my younger brothers wanted to reply, but he stayed quiet too. Moments later, he asked us, "Are you afraid to die?" But we all remained silent….

On the evening of 8 September 1999, just after 5.00pm… the militia began their action at several locations in the police complex. [They said], "The police are doing nothing, so we have a right to take action." Then they began to attack from every direction. Many militia members came into the area where we were staying. Soon I heard the voice of a man crying out, "Ai, I am dying." After that I saw four militia carrying a corpse past me, just two or three metres away, very close. Even though there was a hedge of flowers between us, it was still very close, right by my side. In front of me were five bodies, until it got dark and I couldn't tell any more, but one was wearing shorts and a black jacket, and was rather fat. When they dragged that body, I leaned closer to the hedge to see more clearly. [When they neared] the walls of a house, he came to life and cried out. They stomped on him. Every time they dragged a corpse away, it took four militia, not just one. That's how they handled the bodies at the Maliana police station.

No action was taken by the Loro Sa'e Contingent at that time. After seeing the scenes of murder they went inside their office and just sat on their hands. They were right beside us, but they did nothing. They closed the doors to the office when they saw the people running there to ask for protection. They wouldn't let them in. That is why I saw so many people gathered in front of the doors of the Loro Sa'e Contingent. Their doors were closed.[1031]

Among those targeted was the prominent Maliana pro-independence figure Manuel Barros, former chairman of the PDI-P group in the district assembly (DPRD II), who on 2 September had taken refuge at the police station with his family including his brother Julio Barros, former administrator of Maliana Sub-district. At least four people witnessed his killing, including one man who was just a metre or two away when it happened. Shortly before Manuel Barros was killed, the two of them pleaded with the Indonesian police officers from the Loro Sa'e Contingent to intervene but they did nothing:

My friend and I were in a state of panic and a few moments later we met Manuel Barros. He [Barros] and I ran to the Loro Sa'e Contingent to ask for help. When we entered the office of the Loro Sa'e Contingent a group of people followed the two of us. I succeeded in getting into the office, but they threw me out and yelled, "Get out of here! Get out! This is not your hiding place. If you don't want to leave, we'll shoot." The people in the police station compound had placed their hope in the Loro Sa'e Contingent, because they were the ones who had been given the mandate from the United Nations to provide security in Timor-Leste at that time.

Anyone who was able to get into their office was immediately chased out again. Manuel Barros went outside first and I followed him. While we were still standing outside, leaning on the wall of the building, we saw militia dragging the corpse of Domingus Pereira, who had the rank of first corporal and was the village head of Ritabou, in Maliana Sub-district. Manuel Barros was shocked to see that, and ran immediately. We both ran to our tents. Manuel Barros, when he arrived at his tent, was immediately stabbed with a samurai sword by a Dadurus Merah Putih militia, and died on the spot. These were his last words: "Oh God, I am really going to die." In that situation, I couldn't do anything. My relative, Natalia Verdial, pulled me in and put me under her mattress, and they lay down on the mattress. I stayed there until late at night.[1032]

Institutions: Church and clergy targeted

849. While some members of the clergy had been the object of intimidation by the Indonesian military and militia before the Popular Consultation, in the aftermath of the ballot they became the victims of some of the most brutal killings. In addition to the murder of Father Hilario Madeira, Father Francisco Soares, and Father Tarsisius Dewanto at Suai church, clergy in other parts of the country also came under attack. In Dili on 11 September, German/Indonesian Father Carolus Albrecht, the director of the Jesuit Refugee Service in Timor-Leste, was shot in his home.[1033] In one of the most gruesome incidents of the post-ballot period, a group of five religious members and four lay people were ambushed and killed by a gang of Team Alfa militiamen near Lospalos.

850. The murder of nine people by a group of Team Alfa members led by Joni Marques on 25 September, on the road from Lautém to Baucau near the Verokoco River,* took the largest number of lives of any single incident that occurred in Lautém District after the ballot in 1999. The victims included five religious members, namely Sister Erminia Cazzagina, Sister Celeste de Carvalho, Brother Jacinto Xavier, Brother Fernando dos Santos, and Brother Valerio da Conceição. The victims also included an Indonesian journalist, Agus Mulyawan, and Cristovão Rudy Barreto and Titi Sandra Lopes who were riding in the same vehicle with the nuns and brothers. Izinho Freitas Amaral was caught separately at the same location by the militia group and killed with the other eight. Sister Erminia is said to have been killed as she knelt in prayer. The leader of the group, Joni Marques, said that he had been told that members of Catholic religious orders were also supporters of independence and therefore should be eliminated.†

Killings and disappearances during the withdrawal of Battalion 745

851. While Indonesian military forces stationed throughout the country were responsible for extra-judicial executions and disappearances in specific locations, in some cases an individual military unit or group of units committed killings in multiple locations. The Commission was informed that in addition to being responsible for several killings near Lospalos after the ballot,‡ members of Battalion 745, under the command of Major M148 [Indonesian], were also responsible for the murder of at least 18 people in Baucau, Manatuto, and Dili Districts, during the battalion's withdrawal to West Timor in late September.

852. On 20 September, approximately 120 members of Battalion 745, along with soldiers from the Lautém District military command, formed a convoy to escort military vehicles along the coast to West Timor. Witnesses have testified before the Special Panel for Serious Crimes in Dili that before the convoy left the town of Lautém, soldiers from Battalion 745, in the presence of Major M148 (Indonesian) and Platoon Commander Lieutenant M149 (East Timorese), detained, shot and burned the bodies of three men, Amilicar Barros, João Gomes and Agusto Venacio Soares, near a rice warehouse.[1034]

* The indictment by the General Prosecutor of the UNTAET reads: "At around 1600 hours, the mini bus passed Lautém junction and approached the vicinity of the village of Verokoco. The road passes along the River Malailana." [Case No. 09/2000, paragraph 36]. There is no village by the name of Verokoco, but there is a river by that name.

† HRVD Statement 2285. General Prosecutor of the UNTAET, Indictment against Joni Marques, et al., Case No. 09/2000, paragraphs 33-40. Special Panel for Serious Crimes, Judgment, 11 December 2001. Seven militia members, including Joni Marques, were found guilty by the Special Panel for Serious Crimes.

‡ According to OHCHR Submission to CAVR, April 2004, p. 240, Battalion 745 was responsible for killing 10 people between September 8 and 13 in Lautém District. The CAVR database contains only two HRVD statements which directly attribute responsibility to Battalion 745 during this period of time: HRVD Statement 8747 (on 10 September Jaime and Marito are detained and brought to 745 headquarters in the village of Fuiloro, and never seen again) and HRVD Statement 8742 (four people were executed by members of Battalion 745 on 12 September after they had first burned houses in the *aldeia* of Kanto in Fuiloro Village). Other HRVD statements reporting executions and disappearances in Lautém District between 4 and 20 September are: 3941; 7626; 2261; 7620; 8734; 8747; 7622; 8738; 8742; 8743; 8752 and 2255.

853. As the convoy passed through Laga in Baucau, several houses were destroyed. Two young men were killed on 21 September near Buile Village (Baucau, Baucau) on the road from Laga to Baucau* by soldiers in Battalion 745 and another four, including two women, were killed as the convoy moved through Buruma and Caibada in Baucau Town.[1035] In addition it is believed that soldiers from the same Battalion also killed four men in Laleia in Manatuto District and detained three more people nearby, who have not been seen since.[1036]

854. On 21 September, Battalion 745 arrived in Becora on the outskirts of Dili. A car which contained a British journalist and an American cameraman (whose names are not known), an East Timorese interpreter and an East Timorese driver, was forced to stop. Sancho Ramos de Ressurição, the driver, was hit in the head with a rifle butt with the blow forcing his right eye out of its socket. Anacleto da Silva, the interpreter, was taken away and was never seen again. As the convoy proceeded down Becora Road, members of the battalion shot at a group of three men as they walked down the street, wounding one of them and killing another, Manuel Andreas. A Dutch journalist who had arrived in Dili that afternoon to cover the arrival of the Interfet for the *Financial Times*, Sander Thoenes, was also killed by soldiers from Battalion 745. The East Timorese driver of the motorbike on which Sander Thones was riding tried to make a U-turn to escape but was told by the soldiers to stop. The driver managed to escape but Sander Thoenes was shot by one of two soldiers, one of whom was identified as Lt. Camilo dos Santos.[1037] His ears were cut off and part of his face was sliced off.[1038]

855. The convoy proceeded to the Sub-regional military headquarters (Korem) in the centre of Dili, then to the town of Balibó, arriving in Kupang on 22 September. Although Major M148 and two other officers were subsequently interviewed by military police, no TNI officers have been disciplined or prosecuted in connection with the killings, as of August 2005.[1039]

Targeted communities: killings at Mau-Nunu, Passabe and Maquelab

856. As already noted, TNI and militia executions became increasingly less selective and began to target whole communities or sections of communities. Violence was directed at clergy, the families of CNRT members and even members of the Indonesian police force who attempted to intercede on behalf of victims. During September and October, entire communities were also targeted because of their perceived pro-independence sympathies, because certain known clandestine figures had lived there, or because Falintil had been known to be active in the area.

857. For instance, after the announcement of the result of the ballot in Ainaro, TNI and Mahidi militia, led by M81 and his brother, M151, killed or disappeared more than 20

* The Indictment of the General Prosecutor of Timor-Leste (Case No. 10/2002) mentions a village of Buile in Laga Sub-district, Baucau District.

people,* which culminated in a brutal attack on civilians in the village of Mau-Nuno. The attack took place on 23 September, after Interfet had arrived in Dili. The militia involved in the attack had fled to Atambua, and then returned to attack Mau-Nuno, round up residents and forcibly deport them to West Timor.[1040] On the morning of 23 September approximately 60 East Timorese, mostly Mahidi militia members, and at least two Indonesian soldiers, attacked the village of Mau-Nuno. The militia group reportedly included M152, M153, and M154. After entering Mau-Nuno from several directions, the militia began to fire weapons into the air and to order the residents out of their houses to be deported to West Timor. Some militia carried cans of gasoline and began to set fire to houses and to kill livestock.

858. According to interviews with witnesses, statements submitted to the Commission and allegations in an indictment issued by the Deputy General Prosecutor for Serious Crimes in Dili, Mahidi militia killed at least 13 people, including women and children, during the attack. One family fled the initial attack by hiding in a shallow riverbed leading up to a ridge behind Mau-Nuno. A young woman, Francisca Maria Almeida and her two-year-old son, Isadoro hid there with her parents, Ernestina and Francisco Bianco, and her sister-in-law, Isabel Maria Almeida. They hid in a hole in the ground next to a stream just below the ridge. When several Mahidi militias from Cassa (Ainaro, Ainaro) found them, they shot and killed Ernestina and Francisco Bianco and Isabel Maria Almeida. When Francisca Maria Almeida was shot, the bullet went through her body, seriously wounding her and into the body of her two-year-old son, Isadoro, who was also shot in the head and was killed. Another woman and her little daughter hiding nearby were also shot and wounded. The other victims killed in Mau-Nuno were Armando, Jacob Bianco, Lobotina, Jorgé Correia Barros Xavier, João Nunes, Lucinda da Silva Bianco, Afonso Ramos, Miguel Monis and Alcino Araújo. As many as 75 villagers were forcibly relocated first to Cassa, and then deported to Atambua, West Timor[1041]

859. In a case from a submission given to the Commission in July 2004, Regina Bianco narrated the killing of her mother, Belinha da Silva Bianco Lopes.

> *Beginning 23 September 1999, my mother and I were at home when suddenly the following Mahidi militia entered our house in Mau-Nuno: M138, M155, M158, M159, M161 and M164, wearing t-shirts with Mahidi written on them and fully armed with SKS [automatic rifles], grenades and samurai [swords]. They entered the house and destroyed all our possessions, then took them outside and burnt everything.*

* All bracketed numbers are to HRVD statements: Jonino Gomes killed in Ainaro by Mahidi [3321]; several days after Moises was captured by Mahidi militia members and taken to the Mahidi post in Beikala, on 4 September he was taken away by ABLAI militia and was not seen again [1312]; Felix de Araújo killed in Mulo 4/9 by TNI [7408]; Fernando Gomes killed in Cassa on 4/9 by Mahidi [7414]; Domingos Guro killed by TNI Kodim Ainaro and Mahidi in Beikala on 6/9 [1375; 1308; 1329; 1373; 1374]; Bernabe de Jesus killed in Maubisse by TNI on 6/9 [5965; 5955]; Avelino Magno killed by Mahidi in Ainaro on 9 September [3336]; Moises and Octavio killed by Mahidi on 12 September in Hato Udo [2002]; Carlito, Lucio da Costa, Henrique killed in Aituto on 9 September [7416]; Constancio Araújo killed in Leolima on 12 September [2017]; Paulino Maria Bianco by Mahidi in Cassa on 12 September [2676; 2731; 2008]; Americo Soares by TNI in Ainaro [3362]; Sancho by Mahidi and TNI in Ainaro on 16 September [9118]; Ramiro and José Guterres in Ainaro by Mahidi on 17 September [3359]; and three youths in Beikala by TNI Battalion 301 on 19 September [1399].

After that [they] forced the people in the village to go with them to Betung [sic], Atambua. The villagers were forced to go with them without taking anything because they were afraid they would be killed. We walked across the river with no time to rest or eat. Then four militias took grenades from their pockets and were going to throw them in the direction of the villagers, so that the villagers were startled and kneeled [begging] not to be killed. But the militia didn't care and said, "If necessary, just shoot [them]."

Most the militia members were related to each other because they all came from the same village as us, they also knew my mother and so they mentioned my father's name. My mother answered them, "Where are my husband's papers? Show them to me so I can read them." The militia answered, "We will never hand over those papers to you." After that the militia ordered the villagers to walk ahead of them to wait for a vehicle going to Atambua. [My] mother was walking at the back of the villagers and was shot dead by militiaman M138 near the Bui-Liku river. [M]y mother died on the spot and I was forced by M322 to get in the car alone that was headed to Betung [sic]. Militiaman M322 is related to my father's family.[1042]

Mass executions at Passabe and Maquelab, Oecussi

860. The executions which occurred at Passabe and Maquelab near the Indonesian border in the enclave of Oecussi also illustrate the extremes to which the TNI and militia went in order to punish entire communities for choosing to separate from Indonesia. In both cases TNI and militia chose the villages in which a number of pro-independence leaders lived and conducted a massive purge of young men.

861. Those killed in the Passabe massacre on 10 September were people who had fled from the three villages in the sub-district of Oesilo.[1043] On 9 September members of the Sakunar militia group were ordered to go to Imbate, West Timor (Miomafo Timur Sub-district, Timor Tengah Utara District, Indonesia) on the orders of M115. On the way to Imbate, at a place named Puput, West Timor, militia members reportedly hacked to death a civilian, Neti Lafu, from Usitakeno Village (Oesilo, Oecussi).[1044] Meanwhile the people from the three villages who had fled to the mountains in Imbate were told to come down to the Imbate village office to register their names. When they arrived, about 55 young men considered to be pro-independence supporters were separated from the rest. The young men included Francisco Sufa, Lambertu Punef, Paulinus Neno, José Ulan, Zacarias Mauno, Adriano Neno, Zacarias Tolo, Kolo Lopo, None Sufa, Kobus Henas, Dominikus Obe, Yohanes Suni, Baptista Elo, Poto Ulan,[1045] Poto Mauno, Martinho Bobo, Ili Afoan and Poto Sufa.* A witness told the Commission that Ernesto Bobi attempted to escape on the way but was hacked to death.[1046] They were forced to leave Imbate on foot. At around 3.00am on 10 September they reached the border between Timor-Leste

* HRVD Statement 6909. Martinho Bobo seems to have successfully escaped [see HRVD Statement 2828].

and West Timor at Teon Lasi. After the group crossed the Noel Passabe River, at a place called Nifu Panef, the militia started killing the young men. In total, more than 47 men were killed, while seven or eight managed to escape. Gabriel Kolo, André Ulan, Anton Sabraka, Florenço Tacaqui, Tomás Bubun Antonio Sila, Mateus Ceus, Agustinho Ero, and Bonifacio Bobo, all members of the Sakunar Militia, are alleged to have taken part in the killing of the young men. The same militia went to Passabe and ordered villagers to go to the site of the killings and bury the bodies. The villagers were also threatened that if they did not keep secret what they had done, they would be killed.[1047]

862. The Commission received numerous statements from survivors, witnesses and family members of the victims of the massacre.[1048] A Sakunar militia member who accompanied the prisoners, gave the following testimony to the Commission:

> *In September 1999, I was called by M182 and his son M183 to join the Sakunar militia in Meocora, Usitasae Village [Oesilo, Oecuss]…. After I joined, I was given matches by M165 in order to burn the homes of the people of the sub-district of Passabe…. On the ninth, I saw M299, M187, M190, M191, M194, and M115 from Passabe and three TNI soldiers, also from Passabe, M165, M196, and M198, carrying their weapons along with more militias than I could count…. They were headed towards Imbate, West Timor, to capture CNRT members who were hiding there. They caught the CNRT members and brought them to the village office of Imbate. At that time I went with the militia to Imbate. After they brought the CNRT victims to the Imbate village office, their hands were tied in a chain. There were about 70 people tied up and they all came from Bobometo Village [Oesilo, Oecussi]. Then we took them at night to the area of Teon Lasi in Abani Village. At about 3.00am the victims were shot dead by the TNI soldiers; and some were hacked to death by M115, the Sakunar militia leader. I also hacked one person in the neck, but he didn't die. About 69 people were killed by the Sakunar militia at Teon Lasi, Abani Village, in the sub-district of Passabe.*[1049]

863. A survivor of the killings also made a statement to the Commission:

> *Those of us who were tied up at that time numbered about 70 people. After we were tied, we were ordered out of the village office to Nefopana [Passabe, Oecussi]. But the Sakunar militia members beat us from behind with clubs until we were black and blue. At 3.00am we arrived at Nefopana, where M201 and M204 began by cutting the throat of Marcos Kono. He died immediately. Then M206 told his friends to get rid of the body. Hearing him speak that way, Lafu Seco and I immediately threw ourselves to the ground. Then two victims fell on top of us, and their blood covered us, so it appeared that we too were dead.* [1050]

864. At approximately 6.00am, about 100 men from Passabe Village were instructed by militiamen to gather tools suitable for road repair work. They were then taken to the site of the killings and ordered to bury the bodies where they had fallen.

865. A second mass execution took place in the vicinity of Maquelab (Pante Makassar, Oecussi) on 20 October. In the early afternoon of that day armed militiamen in eight trucks came to the area looking for people who had fled Maquelab for the safety of the mountains. They found a large group of about 300 people from the village and told them they had to return with the militia to Maquelab so that they could travel safely to West Timor. The militia then marched them five kilometres back to the village. On arrival at Maquelab the militia commander, Bonifacio Bobo, pulled from the group Atili da Costa and Paulus Cussi, two CNRT leaders, took them behind the Maquelab market and shot them dead.*

866. About 30 minutes later the deputy commander of Sakunar, M120, arrived at the scene, selected four men, ordered them to stand and shot them. The victims were the CNRT chief of security and UNAMET local staff member, Francisco Taek; another UNAMET local staff member, Paulos Kelo; a pro-independence student, Mateus Ton;† and a CNRT leader, João Talias.[1051] Immediately after these executions, and on command, the Sakunar militiamen set about burning all the houses and buildings in Maquelab, without exception. In the course of the afternoon they also killed another six, possibly seven, people in the village, before moving to West Timor, Indonesia.[1052]

867. A witness told the Commission:

> *On 20 October 1999, about 20 people composed of members of TNI, the police, Sakunar and Aitarak militias staged a major attack on the people of Taiboco [Pante Makassar, Oecussi]. At that time my family and I had taken refuge at Neten Abas. Nonetheless, the Sakunar militia commander, M213, succeeded in finding us. After they caught us, they forced us to give them money. We were able to collect about Rp300,000 which we gave to them so they wouldn't kill us. After we had given them the money, we were closely guarded by the Sakunar militia. We were forced to walk about five kilometres from our hiding place in Neten Abas to the market at Maquelab. After we arrived at the market in Maquelab, there was a Sakunar militia named M212 who tried to kill me by swinging his machete in its sheath; it hit me directly on the mouth and teeth. As a result I lost three teeth and bled heavily, and I became dizzy. But I stayed quiet, I didn't yell out or cry. After that we sat down, and about 30 minutes later Sakunar commander M213 came and pulled out Atili da Costa and Paulus Cussi. The two of them were taken to the back of the market, near the toilet, and they were both shot dead and their bodies thrown in the rubbish hole.*
>
> *About 30 minutes later (3 pm WIT) a vice commander of Sakunar, M120, arrived on a motorcycle. There was no discussion. He immediately called*

* HRVD Statements 377; 865; Deputy General Prosecutor for Serious Crimes, Amended Indictment Against Laurentino Soares aka Moko and Bonifacio Bobo aka Bone, Case No. 13/2002 (OE-4-99-SC), paragraphs 14-29. There is slight variation in the spelling of the victims' names. According to HRVD Statement 377, the victims' names are Atili da Costa and Paulus Cussi. This compares with Atilio Costa and Paulo Cusi [HRVD Statement 865] and Justilio da Costa and Paulus Kusi [Deputy General Prosecutor Indictment, paragraph 22].

† The Deputy General Prosecutor's Indictment names this victim as Mateus Tone [Case No. 13/2002, paragraph 18].

four people, João Talias, Paulus Kelu, Mateus Ton and Francisco Taek. After the four had been called forward, M120 pointed with his finger and said, "You, get up!" to the first person, João Talias. He had just stood and walked about two paces forward when he was shot through the chest. After that, the same thing was done to the next two people, and then to the last one, Francisco Taek…Then all their families and the other people gathered there were ordered to bow their heads, and not to cry out or weep. The four victims were put into a Kijang car owned by Moko Soares and taken somewhere, I don't know where. Then we were all told to get on a truck to evacuate to Kefa [Kefamenanu, West Timor].[1053]

Other mass executions

868. The Commission also received testimonies about other mass executions which took place during the post-ballot violence. On 12 September, there was a mass killing of villagers in Covalima District, in the village of Lactos (Fohoren, Covalima) after the people refused to be taken to West Timor. After the announcement of the ballot result, the villagers of Lactos went into hiding in the hills. The Laksaur militia group in Lactos, led by its commander, M111, and his deputy, M220, received an order from the overall commander of Laksaur, M78 in Salele (Tilomar, Covalima) that the whole civilian population had to go to West Timor.

869. On or about 12 September, after talking privately with Lieutenant M222, the commander of the TNI unit in Lactos (Fohorem, Covalima), Cosmos Amaral, ordered his men to go and fix a broken water pipe. After fixing the pipe, one group comprised of Lieutenant M222, and some 20 TNI soldiers, M220 and a number of militia members and East Timorese military-trained auxiliaries (Milsas) led by M224, went to Rai Ulun. They found the villagers and ordered them to go to West Timor.*

870. The villagers, armed with machetes, answered that they would not go. When the villagers moved forward, suddenly the TNI members, the East Timorese auxiliaries (Milsas) and militia members started shooting, killing 14 villagers. Another man was stabbed to death. The victims of the killings were: Antonio Amaral Bau, Alberto Fereira, Ernesto Carvalho Letto, Anito Coli, Anito Mali, Anito Bau, Daniel Monis Aci, Domingos Amaral, Eurico Bau, Daniel Taek, Abel Soares Gomes, José do Rego, Geraldo Amaral and Boaventura de Araújo. The man stabbed to death was Boaventura.[1054]

871. Another mass killing took place in Becora (Dili), a pro-independence stronghold, on 4 September. Members of the Aitarak and Besi Merah Putih militia groups, together with members of TNI and police, reportedly killed eight men. The victims included André de Araújo, Cristovão da Silva, Domingos Martins da Silva, Joaquim da Costa, Filipe dos Santos and Carlos Martins Oliveira. The other two victims are known only as Marcelo and Aceng or Asam.[1055]

* Further investigation is needed to determine the location of this mass execution. HRVD Statement 6270 places it in Lactos Village whereas the Deputy General Prosecutor's Indictment [Case No. 9/2003] describes TNI and Milsas members going to Rai Ulun in Lactos. However, Rai Ulun is an *aldeia* in Leohitu Village (Balibó, Bobonaro).

Testimony of a child survivor

In the village of Lourba (Bobonaro, Bobonaro), Dadurus Merah Putih militia conducted a vicious attack days after the result of the ballot was announced. One family experienced an horrific attack at their house, resulting in the mother and father, and their 17-year-old daughter, being shot and hacked to death. Their daughter, aged nine, whose words are reproduced below, was hacked with a machete across her nose. The scar is still clearly visible today. Her cousin, who was seven years old at the time, was also hacked with a machete in the mouth, smashing her teeth. The daughter who survived told the Commission:

My name is A, I am the youngest of four children. I do not really know anything about politics. My parents often did clandestine work and liked to help Falintil, but I do not know if that is political work. At the time we actively discussed autonomy or Ukun Rasik-An but I only knew that Ukun Rasik-An meant our freedom. As a matter of fact all our family were pro-independence so I knew a little bit. As the Popular Consultation approached the situation in Bobonaro became very bad and my parents got anxious but we children felt things were much the same because we did not know about politics. On 30 August 1999 when the Popular Consultation was held all over Timor Loro Sa'e, we were told to stay home because there would be shooting by the militia and TNI, so we just stayed put. When the referendum results were announced my parents were really happy because we had won and the situation was not as bad as before the referendum. So we all just relaxed at home.

On 6 September 1999, the Dadurus Merah Putih (DMP) militia and TNI arrived in Lourba Village and started shooting brutally into the air and abusing the local people. Early in the morning on 7 September the village was surrounded by DMP and TNI, but my parents and I didn't know. My mother saw that TNI had surrounded our house and she yelled out to my auntie who lives close by to run outside because both houses were surrounded. My auntie ran out and was shot straight away by TNI. She was hit in the left hip but still managed to escape.

My mother and father and us four stayed inside the house because the TNI were ready for us. The other neighbours had run all over the place, some were hiding in their gardens, and others in the thick bush. But my mother still said we could not go outside, we should just stay put, why should we run? In the end we all tried to go out through the back door. My father tried to run, and the TNI and the militia chased him and shot him. Then they hacked him to death on the spot.

I was following my mother who had me by the hand, but they stabbed her right through the chest and out the other side. Then they cut her thigh and she lost hold of my hand. When she let go of my hand I started to cry and hug her because she was badly wounded. But then they cut me on the nose. Before she died, she said, "Stay child, we may all die, but we will have independence." Then she took her last breath as she squeezed my father's hand. There was a lot of blood from all the knife wounds so I passed out next to my mother. The militia thought I was dead so they left.

Suddenly mother's spirit lifted me up and placed me next to the house, and I came to consciousness. Then I looked over at my auntie's house and saw the militia and TNI throwing my cousin about three metres but her body was covered in blood from a stomach wound. My relative Lucia was dead and my aunt was hiding in a ditch. Because my family were all dead or badly wounded, the militia and the TNI left.

An hour later our neighbours came back to rescue those of us who were badly wounded and to recover the bodies of mother, father and Lucia. That night we were able to "hader mate" [stay awake with the deceased until the following morning], but towards morning the militia and TNI suddenly attacked again. We locked all the corpses in a room and ran outside.

Then we left for Mount Lour. When we got there, Falintil treated our wounds with traditional medicine. And thanks be to God all our wounds healed completely. After Interfet took control of Dili we came down from the mountain and found that the militia and TNI had destroyed the house and the three corpses had been dragged away and eaten by dogs and other animals. For four months we tried to collect what remained of their bones.

As a daughter I feel that I must help my older brothers to recover our parents' bones, which are not yet complete. I do not know about our future, as we are still young. Who will look after us? Even though my parents are dead, I believe that their spirits are still with us. One day the people who killed them will be punished. That is what I want, there must be punishment and justice.[1056]

Killing refugees in the camps in West Timor

872. Thousands of people were forced into trucks and boats by Indonesian security forces and militia groups to be evacuated to West Timor (see also Vol. II, Part 7.3: Forced Displacement and Famine). Some went voluntarily, seeking safety. However, security conditions in the refugee camps in West Timor were appalling. Most refugee camps

were organised by the Indonesian authorities and military or militia leaders controlled the camps as "camp coordinators."[1057] More than 200 refugee camps were established in the four districts of Belu, Timor Tengah Utara (TTU), and Timor Tengah Selatan (TTS), and Kupang. According to the NTT Refugee Coordination Unit (Satkorlak PBP NTT), on 4 September there were 336,043 refugees (56,334 households) in West Timor. By mid-October the figure had dropped to 264,454 refugees.[1058] The UNHCR gave a figure of 250-280,000 people.[1059] Besides those transported to refugee camps, there were East Timorese who had fled there or been taken by force individually or in small groups. All the refugees were in danger, especially those identified as pro-independence.

873. Information about human rights violations committed by TNI and militia members in refugee camps in various parts of West Timor in September and October is not complete. Almost none of these human rights violations have been investigated properly by responsible authorities. For that reason, of those known to have been killed or disappeared in West Timor including the senior CNRT leader, Mau Hodu Ran Kadalak (José da Costa), the Commission cannot confirm the disappearance or death, or if dead, where the remains are buried. The general picture remains limited but accounts strongly suggest that many serious human rights violations were perpetrated against real or suspected supporters of independence there. The Commission received information on 27 killings and disappearances that occurred in two districts, Belu and Timor Tengah Utara.

Belu

874. Belu District, and its capital Atambua, were the location of the highest number of refugees during this period. In Belu at least 20 people were killed or disappeared. Agustinho Martins Trindade had been forcibly recruited to Aitarak. While in Atambua he was reportedly killed.[1060] Armando da Silva was reportedly arrested by three policemen. His wife went to the police station and asked about her husband, but she was threatened and asked if she also wanted to die like her husband. Armando da Silva was not seen again.[1061] Venancio do Régo, the village head of Fatumean, Covalima District and a clandestine member, was arrested by Laksaur militia members in Nenuk, and he was not seen again.[1062] Vong Neong Song and his family sought protection at the regional police station in Dili and on 9 September they boarded an Indonesian military boat. Vong Neong Song disappeared on his way to Atambua.[1063]

875. Celestino Correia was allegedly killed at a refugee camp in Kolam Susu (Atapupu, Belu) West Timor on 14 September. A son of M295, the Halilintar and Armui militia commander, attempted to force Celestino Correia to join the miltia, but he refused. M295's son was slightly injured during the incident and he was brought to the clinic. Apparently in retaliation, Anastacio Martins, and two others sought out Celestino Correia and beat him to death in the presence of other refugees.[1064]

876. Georgina Tilman was among the refugees from Ermera staying in Siskoe, Atambua. Domingos Maia, formerly a driver for the government in Ermera, was forced to become a driver for the Darah Merah militia. On 18 September he asked to meet refugees from Ermera who were staying in Siskoe. There Domingos saw Georgina Tilman washing

her face while being guarded by an armed man.* Two days later Domingos Maia was told that Georgina had been taken away and released at the intersection at Mandoki (Atabae, Bobonaro). He went there and found the dead bodies of Georgina and her five children. The bodies were buried at the site.[1065]

877. On 19 September Manuel Soares and Mário de Araújo were playing volleyball at the Atambua sports ground (West Timor) when they were reportedly forced into a car and taken to Buas by a group of AHI militia members from Aileu under the command of M160. There they were tied up and taken into a bamboo forest where they were reportedly killed.[1066]

878. A former Falintil member, Pascoal da Costa Calau, was reportedly abducted from the Tanah Merah elementary school by a group of about 20 Aitarak militia members on 30 September. He was not seen again.[1067]

879. Apolinario Maujoni was among the refugees from Bobonaro staying in Lakmaras (Atambua, West Timor). On 12 October he was arrested with one other man and was reportedly killed. He was not seen again.[1068]

880. On 15 October, Edmundus Bere, who had worked with the Student Solidarity Council of East Timor (ETSSC or Dewan Solidaritas Mahasiswa dan Pelajar Timor Timur, DSMPTT), was arrested and taken to the Laksaur militia post in Lakmaras (Atambua, West Timor). There he was beaten and had salt placed in an open wound. On 17 October he was reportedly killed at a place called Bora (West Timor).[1069]

881. Those who tried to contact their families at Mota'ain (Belu, West Timor) near the border, were also targeted. Agusto Soares met with his sister on 20 October at Mota'ain. After the meeting, Agusto Soares was reportedly killed by Darah Merah Putih militia from Ermera.[1070] Clandestine member Celestino Soares, who was staying with his family stayed at Tenu Bo'ot (West Timor), was taken by members of the Aitarak miliita group. On 30 October his body was found in Saloreh (West Timor).[1071]

Timor Tengah Utara (TTU)

882. Timor Tengah Utara (North Central Timor) District shares a border with the enclave of Oecussi. Most of the killings in TTU reported to the Commission involved Sakunar militia targeting refugees from Oecussi who had known affiliations with CNRT. The Commission received testimonies about at least seven refugees who were killed or disappeared.

883. Firmino No'o was a pro-independence student. One day in September, when he was returning to Oecussi from Hali he was stopped at the militia post in Oel Faub, Kefamenanu because he was wearing a t-shirt with the letters CNRT on it. He was tied up and beaten by Sakunar militia including their commander, M120. He was reportedly taken to Oelfaub, Iri, and there he was killed. His body is believed to have been buried in West Timor and has not been recovered.[1072]

* Georgina Tilman was an *alin sarani* or younger "baptism" sibling of Domingos Maia. This means that Domingos Maia's biological parents were the godparents of Georgina and present as witnesses when Georgina was baptised.

884. In late September a CNRT member, Horacio Auni, was reportedly taken away by Sakunar militia commander, M120, at the refugee camp in Bu'uk and was not seen again.[1073]

885. Constancio Seni, an inhabitant of Oesilo Sub-district, Oecussi District, fled to Oeneno, Kefamenanu (West Timor), when his village was attacked by Sakunar on 8 September. He was reportedly taken away by a large group of about 70 militia members. He was not seen again.[1074]

886. Batista Bobo, an inhabitant of Tumin, Bobometo Village, fled to Bu'uk, Kefamenanu, to escape an attack of Sakunar on his village on 8 September, but was reportedly killed in Bu'uk on 9 September.[1075]

Other post-ballot killings and disappearences reported to the Commission

887. In the following table, the Commission has summarised other incidences of unlawful killings and forced disappearences from 1999 that have been reported.

Table 55: Summaries of unlawful killings and forced disappearances since the 1999 Popular Consultation, as reported to the CAVR

Sub-district, District	Summary of cases
Aileu, Aileu	On 4 September, a group of AHI militia members reportedly killed Antonio Ribeiro in Malere, Seloi Village.[1076] On the same day another group of AHI members led by the *Liurai* M163 reportedly killed a man known as Marçal from Viqueque in a location called Mantane, Lausi Village.[1077] On 5 September, a group of AHI members shot two young brothers, Guilherme and Gabriel de Deus Lobato. Both died after reaching Rihui, Madabeno Village (Laulara). On 6 September, the Babinsa of Aissirimou, Sergeant Domingos Alberto Carlos, shot CNRT member Elias de Araújo dead. Sergeant Carlos also allegely ordered two AHI leaders with him, Carlos José and Almeida Martins, to kill Evaristo Lere Barreto. The two men hacked Evaristo Barreto to death with machetes.[1078] A man known as Maulere was found dead at the Manutane River. It is believed that he was killed by a pro-integration group.[1079] On 9 September, a TNI member, Gaspar Leite, allegedly shot Domingos Maukinta* to death in an attack on the village of Hohulu.[1080] On 11 September, an AHI member reportedly killed Tome Araújo in Malere, Seloi Village.[1081] On 13 September, Marcelino Timosila was reportedly killed at the base camp of the Aileu Kodim by a TNI member.[1082] On 16 September, a member of the Darah Integrasi militia group reportedly killed a man known as Domingos.[1083] On 17 September, João da Conceição Tilman was reportedly shot to death by members of TNI at Kodtalirei River on his way to Maurusa.[1084]

* According to HRVD Statement 4861, the victim's name is Domingos de Jesus Mesquita.

Sub-district, District	Summary of cases
Laulara and Liquidoe, Aileu	On 6 September, a TNI member, Adolfo Amaral, shot Francisco Aleixo (aka Carvalho) at the Dili-Aileu road junction near Koto Lau Village (Laulara). He died on the spot and his body was found about a month later.[1085] On 17 September, a combined group of AHI and TNI members shot Marçal Alves dead in the *aldeia* of Urbada, Fucuculau Village (Laulara).[1086] In Liquidoe Sub-district, after the announcement of the result of the ballot, a group of Rajawali allegedly led by M175 [East Timorese], killed Miguel F Soares.[1087]
Ainaro, Ainaro	On 5 September, a group of Mahidi members, including Fernando Lopes and Anigio de Oliveira, attacked Fernando Gomes at his house in Cassa. Fernando Lopes allegedly shot him dead.[1088] On 13 September, Mahidi members reportedly killed Paulino Maria Bianco. Paulino Bianco had been detained the previous day and on 13 September he was handed over to the Mahidi leader, M81. His head was covered with a plastic bag, and on M81's orders he was taken to a place called Sildena Hare Kain and killed.[1089]
Hato Builico, Ainaro	On 4 September, Diogo de Araújo and Felix de Araújo, both suspected as CNRT sympathisers, were reportedly killed at the TNI and Mahidi post in Calihata, Mulo Village.[1090]
Hato Udo, Ainaro	On 4 September, a man known as Moises was caught by Mahidi members and held at the Mahidi militia post in the village of Beikala for about a week. He was then taken away by ABLAI militia to Same. He was not seen again.[1091] On 6 or 7 September, a man known as Domingos Guru was shot and hacked to death by a combined group of TNI and Mahidi members in the village of Beikala. Accounts suggest that a TNI soldier, Syamsudin, was involved in the killing of Domingos Guru.[1092] On 30 September, a group of 10 ABLAI members led by M186 reportedly killed Maria Imaculada near a cave in Lesso, Beikala Village.[1093]
Maubisse, Ainaro	Joana Soares and her son, Eusebio Nurega, were killed, reportedly when houses in Aihou, Aituto village, were burned. The exact date of the incident is not known.[*]
Quelicai, Baucau	On 10 September, TNI and Team Saka allegedly killed Sebastião dos Reis in Guruça Village. On 11 September, a group of Team Saka members led by commander Manuel Ariate, his deputies, Cosme Moreira and Virgilio Soares, and Rajawali commander Cristiano Ximenes, approached Pedro da Cruz Soares, a supporter of independence living in the *aldeia* of Abo Lir. Cosme Moreira shot him to death.[1094] Team Saka led by Manuel Ariate also reportedly shot to death a young man from Guruça called Celestino on 9 September.[1095]

* HRVD Statement 5957. The statement appears to report that the burning of the houses occurred in August but such an incident is more likely to have occurred in September.

Sub-district, District	Summary of cases
Laga, Baucau	A group of TNI soldiers killed at least two persons in separate incidents. 1st Sergeant Faustino dos Santos, 1st Corporal Agustinho Soares and 2nd Sergeant Tomás Cardoso (aka Tomás Maurade), all from the Kodim's intelligence section, allegedly killed Armindo Belo Pires at Laga beach on 11 September. Armindo Belo Pires, a resident of Soba Village, was walking down to the beach to visit some relatives who had gathered there to wait for a ship to West Timor. The soldiers accused Pires of being a Fretilin member and reportedly killed him in open view of the many waiting for the ship.[1096] Faustino dos Santos and Agustinho Soares led a patrol team the next day to the village of Tekinomata. When they arrived near the village Agustinho Soares ordered his men to kill any man or woman they saw. Faustino dos Santos approached a house where Marcela Buti Fatima was holding a baby and standing behind the back door which was half open. Faustino reportedly fired his weapon at the back door and shot Fatima in the leg. She died of her injuries in the evening.[1097] On 21 September, six villagers were killed in Laga by members of Battalion 745 under the command of Major Jacob Djoko Sarosa when the troops passed along the main road from Laga to Baucau. Battalion 745 had committed killings in Lautém before it entered the district of Baucau. Two brothers, Egas da Silva and Abreu da Costa, went to Buruma Village near Baucau Town and warned the villagers not to come out onto the main road because TNI soldiers were killing people. On their way back to their village, Buile, travelling by motorbike, they encountered the Battalion 745 convoy. They jumped off the motorbike and attempted to run into a rice field but were shot by members of Battalion 745.
	In Buruma Village, Lucinda da Silva and Elisita da Silva were shot to death, and in Caibada Village, Victor Belo and Carlos da Costa Ribeiro were arbitrarily shot to death.[†]
Venilale, Baucau	On 11 September, a combined group of TNI soldiers and Team Sera militia members, including Agustinho, captured Faustino dos Santos, a pro-independence clandestine member. He is believed to have been taken to Baucau and killed there.[1098] The next day a combined group of TNI and Team Sera members reportedly shot Francisco Guterres to death in Uato Haco Village, while he was working in the fields with his wife. His wife heard the perpetrators accuse Guterres and herself of feeding Falintil soldiers.[1099]
Atabae, Bobonaro	A group of Halilintar militia under M203 reportedly killed Rui-Mau on 15 September.[1100] Halilintar militia also killed a clandestine member, Estévão, in Hataz Village (Atabae).[1101]

* Deputy General Prosecutor of Timor-Leste, Indictment against Maj. Jacob Djoko Sarosa and Lt. Camilo dos Santos, Case No. 10/2002, paragraphs 62-86. The dead bodies of Egas da Silva, Abreu da Costa, Elisita da Silva and Victor Belo, lying at their respective houses, were filmed by Indonesian journalist Agus Muliawan who was killed by Team Alfa militia members four days later in Lautém. The film footage of the victims was later recovered and used in a Japanese documentary program on the death of Agus Muliawan broadcast on 25 November 2000, *NHK Special – East Timor: Records of the Dark September*.

Sub-district, District	Summary of cases
Balibó, Bobonaro	Some time in September, Halilintar reportedly killed a clandestine member, Francisco Nafan, at the Badut Mean River in Batugade Village.[1102] At midnight on 6 September, the Firmi militia group, led by commander M205, took out eight prisoners from the residence inside Balibó's old fortress, which was the militia's headquarters and detention centre. The eight were not seen again. The victims were Aleixo Paicheco, Francisco Maya, Patricio dos Santos, Cornelis Calouz, Gabriel dos Santos, Carlos de Carvalho, Benjamin Lucas and Francisco Paicheco.[1103] On 7 September, a TNI member, Francisco dos Santos Laku, reportedly ordered Armindo dos Santos, Mário de Carvalho and other TNI members to kill Celestino Fernando at a checkpoint on the road outside the *aldeia* of Berame, Balibó Village. Celestino Fernando was then reportedly taken to a nearby dry riverbed and stabbed to death by Armindo dos Santos and Mário de Carvalho.[1104] Firmi militia allegedly abducted three pro-independence activists, including Jorgé Mau Loe and Elias Pires, from their homes in Leo Lima Village on or about 10 September. The three were held at the house of the Firmi commander, João Oliveira, for one night and at the house of Marcos Leo Soro for four nights. On 15 September they were transferred to Batugade by Firmi members, including the Firmi deputy commander, Joaquim Maia. At a clearing beside the road to Atambua Jorgé Mau Loe and Elias Pires were allegedly stabbed to death by Firmi members including Francisco Pedro (Geger), while the third man escaped.[1105]
Bobonaro, Bobonaro	On 5 September, Halilintar reportedly killed João Morais in Oe-Leu Village.[1106] On 10 September, militia and TNI members abducted Lucinda Saldanha in Lourba Village and TNI member Paulino de Jesus allegedly stabbed her in the back, killing her.[1107] A group of TNI members including Paulino de Jesus, also allegedly killed two supporters of independence, Egas Cardoso and his wife Aliança de Jesus, in Lourba Leten, Lourba Village on 16 September.[1108] Halilintar and Dadurus Merah Putih also allegedly killed Samuel Guterres, Marcelina de Jesus and Antonio Barreto in Lourba Leten on 22 September for their connection with Falintil.[1109]
	In the village of Ai-Assa, Afonso Pereira and Armindo Guterres were reportedly killed on 14 September by a group of militia under the command of a man known as M217.[1110] On 14 September, a group of Hametin Merah Putih members, including M219, M221 and M223, reportedly killed Martina Maia.[1111] On 20 September, a group of Hametin Merah Putih members, including M225 and M221, reportedly abducted Luis Maia in Tebabui Village, took him to Carabau and killed him there.[1112] In the village of Maliubu a group of TNI members and Halilintar militia reportedly killed Henrique de Araújo in front of his home in Raimatete on 16 September.[1113] In the village of Cota Bo'ot, Florindo Cardoso Gomes from Dili was reportedly shot dead on 16 September in a location known as Hauba in Cota Bo'ot, by TNI or members believed to be attached to the SGI.[1114] Manuel Xavier was reportedly killed by a militia group referred to as Koboi 55, possibly another name for Harimau 55, on 22 September.[1115] José Godinho was detained by members of the Bobonaro Sub-district military command and Hametin Merah Putih and was reportedly shot to death by a member of the Bobonaro Sub-district military command on 22 September.[1116]

Sub-district, District	Summary of cases
Cailaco, Bobonaro	In September, two brothers, Armando and Quintilião, went to Meligo Village to look for food and were reportedly detained by the village head. They were not seen alive again.[1117] On 21 September, Halilintar members reportedly killed Daniel Leal in Airae, Meligo Village, because his son gave support to Falintil.[1118]
Lolotoe, Bobonaro	On 8 September, members of Kaer Metin Merah Putih led by their commander, José Cardoso Ferreira (Mouzinho), killed Mariana da Costa and Carlito Freitas in Sibi, Opa Village.[1119] On 16 September, members of Kaer Metin Merah Putih led by José Cardoso Ferreira killed Augusto Noronha and Antonio Franca in Raimea, Opa Village.[1120]
Maliana, Bobonaro	On 2 September, TNI soldiers and Dadurus Merah Putih members surrounded the office of youth group Juventude Lorico Assuwain (JLA). Dadurus Merah Putih members started throwing stones at the building. When JLA members threw stones back onto the road, the TNI soldiers opened fire into the group of JLA members. Mateus de Conceição was shot by Sergeant M227 [East Timorese] twice, and Silvano Mali Talo was also shot. Mateus was taken to the house of a friend and Silvano was taken into the office. Darah Merah Putih members then set fire to the office in which Silvano was located. Mateus died later the same day and the burnt remains of Silvano were found in October in the destroyed JLA office.[1121] On 7 September, a group of Halilintar members, including M228, M229 and M230, reportedly killed Ermino Xavier Viana, Venancio César Mouzinho, Leoneto Gusmão Pereira and Martino de Fatima at the Mesak River in Odamau Village.[1122] On or about the same day, Halilintar members including João Maia* and Augusto Asameta Tavares went to Tapo Memo and there João Maia, assisted by Augusto, found Paulino hiding in the ceiling and stabbed him to death with a spear.[1123] Halilintar was also reportedly responsible for the murder of Mário dos Santos in Nunura some time in September.[1124] On 7 September, Dadurus Merah Putih killed at least two, possibly three, people in Mugis, Odamau Village. In one incident Dadurus Merah Putih reportedly killed Abilio Soares and one other man who refused to go to West Timor.[1125] In another case Dadurus Merah Putih reportedly killed Faustino Martins Mota.[1126] On or about 9 September, a group of about 20 men including Sergeant Frederico Pires, Corporal Romeu da Silva of Kodim 1636 and Dadurus Merah Putih member Batista de Sousa went to Genuhaan, Odamau Village. There they injured a CNRT member Avelino Tilman, and an independence supporter, Vitor dos Santos. Avelino Tilman died of his injuries around 10 September. Around 14 September, Baptista de Sousa of Dadurus Merah Putih came to a house where Vitor dos Santos was located and after ordering the people out of the house, he allegedly entered it and cut the throat of Vitor dos Santos with a machete.[1127] On or about 8 September, Dadurus Merah Putih also reportedly killed Tito Franca Barros from Lesu, Memo village, at Tunubibi.[1128]

* Perhaps João Maia. Halilintar militia João Maia is also implicated in the murder case of Santara Tavares [see HRVD Statement 1164].

Sub-district, District	Summary of cases
	On 13 September, Dadurus Merah Putih militia killed two people who had escaped from the police station compound. They had returned with their families to Rokon, the *aldeia* in Holsa where they lived. At a meeting on 13 September in Holsa attended by TNI Sergeant Frederico Pires, the Dadurus Merah Putih militia members, João Coli, Baptista de Sousa and others agreed to kill Francisco Terezão and Lemos Guterres. The militia members stabbed them to death.[1129] On 21 or 22 September, a group of Halilintar members under the command of M295 reportedly killed two Falintil supporters, Manuel Moniz and Casimiro Viana, in Beremau.[1130] On an undetermined date at the end of September Manuel Gonsales Bere (sic), a member of Dadurus Merah Putih, stabbed to death João Gonçalves from Lahomea Village at the Nunura bridge in Maliana Sub-district. The victim was accused of being pro-independence and a Falintil supporter and had been caught in Haikesak, West Timor.[1131]
Fatumean, Covalima	On 30 August, the Laksaur militia group in Fatumean began looking for three known supporters of independence, Raimundo de Oliveira, Martinho do Rego and Abel Pereira. The three – two of them with their wives – fled to Fohoren Sub-district, but were all captured and taken back to the militia headquarters at the Koramil in Beluluik Leten (Fatumean). On 4 September, the three were allegedly killed by Henrikus Mali and two other Laksaur members at the militia headquarters.[1132] After the announcement of the result of the ballot, the Fatumean Laksaur militia group under the command of Henrikus Mali started registering villagers to be taken to West Timor. About 5 September, an independence supporter from the *aldeia* of Manekiik in Beluluik Leten Village, Agapito Amaral, went to see a Laksaur platoon commander in Fatumean, Yakobus Bere, with a machete in his hand because he did not want his family to be taken to West Timor. He was allegedly shot in the stomach by Yakobus Bere and later his throat was allegedly cut by a militia member on Yakobus Bere's orders. Agapito Amaral's mother, Rosalina Cardoso Belak, was also allegedly killed because she went to the militia post and shouted insults at the militia for killing her son.[1133] On 8 September, a TNI soldier, Simão Nahak, allegedly ordered other TNI soldiers and militia to kill clandestine member Suri Atok and his adopted son José Ramos in Dato Rua Village (Fohoren).[1134]
Zumalai, Covalima	Mahidi militia reportedly attacked a group of some 10 people seeking contact with Falintil and killed Daniel Cardoso, Albru Amaral and Francisco Ribeiro.[1135] On 10 September Luis da Conceição was reportedly killed in Zulo Village by a member of the paramilitary group, Gadapaksi.* In Fatuletu two Mahidi militia members took away a clandestine member, Mateus Mota, from his home. He was not seen again.[1136]
Suai, Covalima	About 6 September, Albino Nahak was allegedly taken away by two members of the Laksaur militia group, Baltazar Moruk and Damião da Costa Nunes. His body was later found in a place called Legore.†

* HRVD Statement 5207. Gadapaksi here perhaps means any militia member.

† Deputy General Prosecutor for Serious Crimes, Indictment against Damião da Costa Nunes, Case No. 1/2003, paragraphs 21-25. The indictment identifies Legore as a village.

Sub-district, District	Summary of cases
	About 7 September, Domingos Bau Koli (Domingos Andrade) from Kamenasa Village was allegedly killed by Laksaur militia members led by Olivio Tatoo Bau.[1137] On 8 September, Olivio Tatoo Bau allegedly killed Simplicio Doutel Sarmento who was heading to West Timor by stabbing him at a checkpoint in Salele.[1138] On 9 September, TNI member Lieutenant Sugito, commander of the Suai Sub-district military command post, and some Laksaur militia members arrested a group of five supporters of independence in Suai. Lieutenant Sugito and Laksaur militia operations commander, Alipio Gusmão, allegedly decided that the five were to be killed. Three of the five were allegedly shot by Laksaur militia member Americo Mali, and their throats were allegedly cut by militia member Saulus. Paulus Ximenes and Johanes Talu died as a result of this attack, but the third man survived. The remaining two were let go because they were related to Eurico Guterres, the Aitarak commander.[1139] On or about 7 September, Alfredo Nahak, a clandestine member, was arrested at a militia checkpoint in Suai under the control of Olivio Tatoo Bau and taken to the Kodim. His family found his remains in Fatukuan in November.[1140] On 8 September, Olivio Tatoo Bau and Americo Mali, while overseeing a checkpoint, discovered Manuel Noronha and dragged him out of the truck in which he was travelling. Some time after his killing Manuel Noronha's family recovered his remains.[1141] Elizario Martins and Mateus Amaral from Kiar Village (Maucatar) went to the Suai district military command post after being ordered to assemble there before being taken to West Timor. Because they did not want to be taken to West Timor, they escaped from the district command post. They were soon captured. Allegedly on the orders of Lieutenant Sugito and Olivio Moruk, the Lakusar commander, they were taken into the forest and killed.[1142] On 26 September, members of the Laksaur militia under the command of Egidio Manek, including Silvestre Atai, allegedly attacked a place in the Wesei Forest where villagers were hiding and killed Domingos Barros. Silvestre Atai allegedly beheaded Domingos Barros.[1143] Two youths, known as Mário and Domingos, were reportedly killed at the Mahidi headquarters in Beco, Suai Town on 5 September.[1144] Two persons known as José and Quintinho were killed at the Telkom, Suai Town, on 5 September.[1145] Felix Mali, a leader of the clandestine group Korenti Mate Fatin, in Debos (Suai Town) was killed by Joanico Gusmão on 5 September.[1146] A woman known as Veronica was killed in Matai on 9 September.[1147] A man known as Paul was killed at the Suai Koromil (1635-01) on 9 September[1148] Manuel Mali was killed in Kamanasa on 10 September.[1149] Manuel Amaral Tilman was killed in Debos on 11 September.[1150] Luis Amaral was killed in Debos on 13 September.[1151] Terezinha Bete was killed in Kamanasa on 24 September.[1152] A man known as Lorenço was killed in Debos on 4 October[1153] A man known as Alcino was killed in Feras on an undetermined date.[1154] The Commission also received information on the disappearances of Ilizardo Martins of Debos,[1155] Carlito Barros of Lakorak,[1156] Moises Barros of Kamanasa,[1157] Paulus Berbesin,[1158] Felix Amaral and Marçal Amaral Corte Real of Debos,11[59] and José Soares of Wedare.[1160] Most of them disappeared in September.

Sub-district, District	Summary of cases
Tilomar, Covalima	On 15 September at the Sub-district military command post in Salele, Egidio Manek allegedly ordered about 150 Laksaur militia members, who had returned from West Timor, to attack the neighborhoods of Kulit and Aidere in Suai Town. They were to arrest all the villagers and to kill those who tried to escape. In the attack on Aidere, Carlos Yosep and Patricio de Jesus Ximenes were killed.[1161] On 25 September, members of the Laksaur militia group including Simão Nahak (TNI), Illidio Gusmão, Marcel Mendonça and Yosep Leki attacked the Wea Forest where villagers from Nikir were hiding, and in the attack Titus Mali, Damião Ximenes and Januario Maia were killed.[1162] In a quite similar pattern, on or about 26 September, members of the Laksaur militia group including Illidio Gusmão, Noberto Ximenes and Yosep Leki, attacked a group of villagers from Wetabe who were hiding in Mudasikun Forest, and in the attack Paulino Cardoso was killed.[1163]
Maucatar, Covalima	On or about 7 September, José dos Reis, who refused to be taken to West Timor, was allegedly killed by Damião da Costa Nunes and the TNI member, Simão Nahak, on the road not far from Matai Village in Maucatar.* On or about 9 September, in two separate incidents, Paulus Amaral and Mário Martins, both villagers from Loho Rai, Matai, were taken away by TNI and Laksaur militia members, including Americo Sefan, Olivio Tatoo Bau, Henrikus Nahak and Paulus Berbosi. The bodies of the two were later found floating in the river in Loho Rai.[1164] The same militia group continued to be active in October. Three persons from Lookeu village, Frederico Barros, Lorenzo Gusmão and Nazario Guterres were allegedly killed by members of the group.[1165]
Fatululik, Covalima	About 19 September, the TNI member, Simão Nahak, took away an independence supporter, José Pereira Coli, from the Alastehen militia post. Some time in January 2000 the villagers found his remains and buried them.[1166] During October, two persons known only as Joni and Anis were taken away from Wemer, Fatuloro Village, Fatululik Sub-district. They were reportedly taken to Atambua, West Timor by members of the Army Stategic Command (Kostrad) and then were killed.[1167]
West Dili, Dili	On 1 September, Guido Alves Correia, a CNRT member from Mascarenhas, Dili, was allegedly killed by members of the Aitarak militia group led by Aitarak's Company C commander Beny Ludji.[1168] On 7 September, Rui Abel was killed in Dare.[1169] On 13 September, about 20 members of the Naga Merah militia group and TNI arrested Afonso Gonçalves and shot and killed him in Bairro Pite because they could not find his brother whom they were looking for. Around 14 September, Francisco Besi Cano was beheaded at the Aitarak post in Kampung Alor, Dili. The Fatuhada village head, Mário Aitade, was allegedly present at the scene.[1170] Armando Barros, an *estafeta* with Falintil, fled from Aileu to Colmera in Dili where he is said to have been killed.[1171]

* Deputy General Prosecutor for Serious Crimes, Indictment against Damião da Costa Nunes, Case No. 1/2003, paragraphs 26-31; HRVD Statement 7385. The indictment says that José dos Reis was taken from a house in Mota Air [sic] village and killed enroute to Maucatar Village. Matai is a village in Maucatar Sub-district.

Sub-district, District	Summary of cases
	Thomás Americo from Vila Verde, well known as a boxer who had competed internationally for Indonesia, was taken in a Kijang jeep owned by the former village chief of Hera to the ACAIT building on 7 September and was driven away by members of the Aitarak militia group led by a man named M259. Américo has not been seen again.[1172] Carlos Manuel da Silva was taken away from the Polda headquarters around 10 September and was not seen again.[1173] On 12 September, Abilio Paicheco was arrested, taken first to the Aitarak headquarters at Hotel Tropical, and then to the Aitarak post in Surik Mas. From there he was taken toward West Timor. On the way to West Timor, near the Loes River at the village of Guico, Maubara sub-district, he was reportedly taken out of the vehicle and handed over to the Besih Merah Putih militia. He is believed to have been killed after that.[1174]
East Dili, Dili	On 31 August in Hera, a CNRT member, Mantus de Araújo and Martinho Vidal, a member of the human rights group, Kontras, were arrested and taken to the house of Mateus de Carvalho, the commander of Company D of the Aitarak militia. Mateus de Carvalho allegedly told his men to "go and do your job". The two were then taken to the militia post across the road and there they were allegedly stabbed and died of their injuries.[1175] On 1 September, Marcelino Fausto de Oliveira was reportedly assaulted and burned with petrol by members of the Aitarak militia group in the presence of Brimob and TNI members. His family found his body at the hospital in Toko Baru and buried him in Matadouro.[1176] On the same day João Xavier Fernandes, was reportedly shot to death by TNI members and his body was buried at the front of his house.[1177] José Barbosa died after he was hit by a bullet fired from a Kijang jeep driven by the Aitarak militia members near the Chinese cemetery in Taibessi.[1178] José Pinheiro was reportedly killed by a member of the Aitarak militia group and a policeman near the Gedung Negara which had been the Governor's residence in Portuguese times.[1179] On 4 September, Marcelo Agosto was shot to death by members of the Besi Merah Putih and the Aitarak militia groups in Masaur Debu, Becora.[1180] Around 4 September, Luciano Sequira was shot to death by members of the Aitarak militia group in Camea.[1181] On 6 September, in Hera, Domingos Nunu Alves, accused of assisting Falintil, was allegedly shot dead by a TNI soldier, Antonio Pinto.[1182]
Metinaro, Dili	Antonio Fernandes was arrested around 5 September in Metinaro, taken to the police station, and was later reportedly killed.[1183] On 7 September, Antonio Saldanha Fernandes, the principal of the primary school in Metinaro and also an active CNRT member, was shot dead by a TNI soldier, José Soares, at the Koramil. The Koramil commander, Lieutenant Untung, was present at the Koramil at the time.[1184]
Atsabe, Ermera	On 31 August, in Lasaun Village, members of Team Pancasila acting on the orders of TNI soldiers arrested Manuel de Oliveira, a UNAMET staff member at the Lasaun polling station. The group of militia members, including Agustino da Costa, severely beat Manuel de Oliveira. Agustino da Costa is reported to have shot him dead.[1185] Also in Lasaun in mid-September, a supporter of independence, Domingos Remkulit, was reportedly shot dead by a militia member.[1186]

Sub-district, District	Summary of cases
Hatolia, Ermera	In Hatolia, violence erupted immediately after the ballot. On 31 August in Manusea Village, the commander of the Naga Merah militia group, M265, allegedly stabbed Marcelo Soares to death.[1187] M265 also allegedly arrested José Martins in September. José Martins was taken to Santa Cruz, Hatolia, where he was reportedly killed.[1188]
Railaco, Ermera	The Darah Merah commander, M266, and the Naga Merah commander, M265, were also responsible for the death of a civil servant of the Ermera District government, Agustinho Soares dos Reis, on 9 September in Bugasa Atas, Gleno.[1189] Members of the Darah Merah militia group, including Jakel and Abrão Martins, killed a youth, Moises Soares, at Riamori, (Letefoho) in September.[1190] The Darah Merah commander, M266, and militia member, M269, are alleged to have been responsible for the death of a man named Ameu in September in Railaco Kraik Village.[1191]
Lospalos, Lautém	In the village of Cacaven, in the west of Lautém, Mateus Nunes was reportedly killed at the TNI post about 9 September. His throat was reportedly cut and his body was thrown into a well.[1192] In village of Raça to the north, Joaquim Ovimarais,[1193] Antonio Oliveira,[1194] Marito Bernandino, Paul and Serafim[1195] were reportedly killed between 10 and 13 September. Statements allege that TNI members stationed at Mauloho, Raça village, were involved in these killings. In the village of Fuiloro, where Battalion 745 was stationed, Martinho Branco, Marcelio Jeronimo, Julião de Azis and Helder de Azis were captured while in hiding and were taken to Poihoro, Fuiloro and allegedly killed about 13 September.[1196] Aleixo Oliveira was allegedly killed by a soldier of Battalion 745 behind the 745 Battalion's base on 11 September.* In addition to this list, from 8–10 September, soldiers of Battalion 745 allegedly killed Antonio da Costa, Ambrosio Bernadino Alves, Julio de Jesus, Florencio Monteiro and Florentino Monteiro.[1197] A number of supporters of independence from Fuiloro were taken to the Kodim headquarters where they were executed or disappeared. The victims included Afonso dos Santos,[1198] Noberto da Luz Nato, João, Sikito, Olantino,[1199] Serpa Pinto, Jaime, Marito[1200] and Francisco dos Santos[1201]. It is alleged that some were thrown into a well in Sawarika, Fuiloro.[1202]
Moro, Lautém	In Moro Sub-district, killings were reported in the villages of Parlamento, Lautém and Com along the north coast. On 20 September, TNI soldiers, allegedly of Battalion 745, arrested Agusto Soares and João Gomes and tortured them to death at the beach in Parlamento. The victims had come down to the beach to see if they could go to West Timor.[1203] The bodies of the two men and a third victim, Amilcar Barros, were allegedly burned behind the Dolog, a rice warehouse, in the town of Lautém.[1204]

* General Prosecutor of Timor-Leste, Indictment against Major. Jacob Djoko Sarosa and Lieutenant Camilo dos Santos, Case No. 2002/10, paragraphs 35-40; General Prosecutor of the UNTAET, Indictment against Joni Marques, et. al., Case No. 2000/9, paragraphs 26-28. The decision of the Special Panel for Serious Crimes, however, states that the cause of the death of Aleixo Oliveira cannot be determined with existing evidence and that therefore the accused for the killing of the victim was not guilty [see Special Panel for Serious Crimes, Judgement, 11 December 2001].

Sub-district, District	Summary of cases
	On 21 September, a group of men were looking for food in a coconut grove in the *aldeia* of Ira-Ara, Parlamento Village, encountered Tim Alfa militia members, including Joni Marques, Team Alfa* Commander and a member of TNI special forces command (Kopassus), and Paulo da Costa. Members of the militia group fired at them, and then Joni Marques allegedly shot Afredo Araújo dead. Paulo da Costa allegedly shot Calisto Rodrigues to death.[1205] In Com, João Viela left a cave at Luaira, where he and his family were hiding, to look for water but did not return. He was later found dead. His wife heard that he was shot, although it is not known who shot him.[1206] Benedito Marques Cabral from Moro was allegedly killed by a group of Team Alfa members, including José Valente, when he came down from the mountains to look for food.[1207]
Bazartete, Liquiçá	In the village of Metagou on 3 September, a group of TNI soldiers and BMP members arrested a number of residents including Jacinto dos Santos, Pedro Alves and Francisco da Silva because they were suspected of being CNRT supporters. The following day the three were taken behind the school where other villagers had been ordered to dig a grave. The three were executed one by one by militia members, including Anastacio Martins and Domingos Gonçalves (Domingos Liman Sanak). The villagers were ordered to bury them immediately after the executions.[1208] On 5 September, a group of BMP militia members, again including Anastacio Martins and Domingos Gonçalves, went to a location known as Muka Bera and burned houses there. They returned to the village on 7 September and allegedly killed three supporters of independence: Paulo Gonçalves, Guilhermo Gonçalves and Clementino Gonçalves.†
Maubara, Liquiçá	Bruno Cardoso was reportedly taken to the BMP post at Aliatu, Lubulogor, Guguleur Village on 6 September and killed.[1209]
Manatuto, Manatuto	Armando da Cunha from Maabat Village was reportedly abducted on 5 September and after some days he was reportedly shot to death by a TNI soldier.[1210] On 8 September, Filipe Soares was taken away from the old police station (Polres lama) where he had taken refuge with many others, and he was reportedly shot dead by Mahadomi militia leader M274.[1211] On 11 September, Francisco Gusmão was shot to death by a TNI soldier in Manatuto when he was looking for food with some 20 others.[1212] On an undetermined date, Atai da Costa was reportedly taken to the beach in Sau Village and was killed there by Mahadomi militia leaders, M275 and M276[1213] On 11 September, TNI and Mahadomi members attacked more than 100 civilians from Maabat Village who were hiding in the mountains around Kakurut Liden. In the attack Antonio Pinto was shot to death. On 13 September, the CNRT coordinator in Sau Village, Nazario Lino Pereira Belo, was captured at the Manatuto bridge by Mahadomi militia members and taken to the militia post in Manatuto where he was allegedly stabbed to death by them. On 16 September, clandestine activist Sebastião da Costa was killed at the beach in Manatuto after being detained at the TNI compound.[1214]

* Team Alfa militia was also sometimes referred to as Jati Merah Putih militia.

† HRVD Statements 0919; 0957 refer to a location called Buku Merah, while General Prosecutor of the UNTAET, Indictment against Anastacio Martins and Domingos Gonçalves, Case No. 11/2001, refers to a location called Muka Bera in paragraphs 34-45.

Sub-district, District	Summary of cases
Laclo, Manatuto	On 7 September, Mahadomi members, while apparently with TNI soldiers patrolling in Laclo, reportedly killed Jacinto Correia, Gilberto Madai, Domingos Carceres and André Carceres.[1215] In Wehau, Aniceto Santos was reportedly arrested and shot to death by a police officer[1216] and Aleixo da Cunha was stabbed to death.[1217]
Soibada, Manatuto	Mauleki was reportedly shot in the leg and then was stabbed to death with a knife by TNI soldiers when he was working in the fields.[1218]
Same, Manufahi	About 3 September, on the orders of ABLAI militia leader Guilhermino Marçal, militia members arrested Bendito Moniz at his home in Letefoho Village,* took him to the ABLAI headquarters in Same and killed him.[1219] On 9 September, Lorenço Tilman was killed allegedly by João Sarmento and Benjamin Sarmento because he refused to board a truck to be transported to West Timor.[1220] On 9 September, João da Silva, together with some other villagers from Fahiluhan, Hola Rua, came down from the mountains to gather food and encountered a truck carrying by Kopassus members and ABLAI members at Fatu Maromak, Hola Rua. They were shot at and João da Silva was hit but did not immediately die. On the orders of one of Kopassus members in the truck, a militia member, Clementino Alves, stabbed João da Silva to death.[1221] On 12 September, when members of the ABLAI militia group burned down houses in Ailule, Letefoho, a bedridden villager, Lorenço da Costa, was not able to leave his house and died in the fire.[1222] Lorenço da Costa reportedly shouted to take him out but to no avail.[1223] On 16 September, a group of ABLAI militia members allegedly killed a supporter of independence, Marcelino Verdial, in front of his eight-year-old daughter.[1224] On 24 September four persons were killed by a group of TNI and ABLAI members, led by TNI Lieutenant Sumino, in Betano Village.[1225] The group was returning to Betano from Atambua to deport more people to West Timor and all these killings occured on their way back to Betano. The four were apparently targeted by the group but were not necessarily known pro-independence activists. Florindo Pereira Soares, a mentally ill man, was spotted, arrested and stabbed to death.[1226] Marten Gaspar Soares was spotted, chased and shot in the chest by Lieutenant Sumino himself. Remezio da Costa was stopped and shot from behind while he was still being questioned.[1227] Finally Egas Monis Tilman was spotted, chased, stabbed and shot.
Betano, Manufahi	Some time in September a group of ABLAI members led by the Babinsa of Betano, Mohammad Ruri, and Kopassus member, Gualter Vidigal, burned down houses in Betano Village. Guilhermino Tilman was able to crawl outside although he suffered from paralysis in both legs. He was badly burned, however, and three days later he died.[1228]

* According to Deputy General Prosecutor for Serious Crimes, Indictment against Nazario Vital dos Santos Corte Real, et al.: "Bendito Moniz went to his house in Letefo [sic] *aldeia*, Hola Rua village to take his personal belongings" [Case No. 13/2004, paragraph 52]. Letefoho and Hola Rua are two different villages in Same Sub-district.

Sub-district, District	Summary of cases
Oesilo, Oecussi	After the annoucement of the result of the ballot, TNI and the militia group in Passabe planned a large-scale attack on perceived pro-independence strongholds in Oesilo Sub-district.[1229] On 7 September, at a meeting held at the district military command headquarters, orders were given to the militia group to attack the villages around Passabe and Oesilo. Simão Lopes, the overall commander of the Sakunar militia group, was to lead one group to attack the villages around Passabe. Laurentino Soares (Moko) was to lead another attack on the villages around Oesilo. The group led by Simão Lopes walked to Nibin in the village of Usitakeno, and there they allegedly killed the pro-independence village chief, Armando Sani.[1230] A sub-group of militia members, led by Quelo Mauno, allegedly killed Domingos Kolo in the *aldeia* of Nitas, Usitakeno Village.* The militia group also set fire to houses and killed livestock belonging to the villagers. The group then attacked Quibiselo, Bobo Manat, and in the attack Victor Punef, Yacobus Siki, Yosep Noni Maknaun, Augustino Ulan, Zacharias Ena, Mikhael Sasi, Yacobus Oki and José Siki were killed. According to one statement, Quibiselo was attacked from four directions, Pure, Noel Ekat, Imbate (West Timor) and Passabe.[1231] After destroying the *aldeia* of Quibiselo, the group led by Simão Lopes proceeded to Tumin, Bobo Manat. Meanwhile the group led by Laurentino Soares also attacked Tumin, burning houses and killing livestock. According to a statement, Tumin was attacked from three directions.[1232] In the attack on Tumin, Marcos Sufa Afoan, Filippus Tualaka, Laurentino Ulan Cono, Augustino Neno, Naub Lape, Alberto Afoan, Nenu Catu, Ciprianus Anin and Francisco Elu were killed. In these attacks on the three villages around 18 villagers were killed. A massacre of about 47 young men from these villages occurred on 10 September at a place in the sub-district of Passabe. Many other killings in Oesilo were reported. The victims included four brothers – Bonat Afoan, Paul Ase, Kusi One and Punef Bonat[1233] – Francisco Kefi,[1234] Firmino Nahak,[1235] Sufa Tabun[1236], Neno Katu[1237], Fancisco Sani, Francisco Sanan and Cipriano Kono.[1238] Paulo Sequeira, the *aldeia* head of Pune, Usi Tasai Village, and a CNRT member and another CNRT supporter in the village, Stanislau Bala, were allegedly killed by a group of TNI soldiers including Jorgé Ulan, João Gomes and Blasus Manek on 11 September.[1239]
Passabe, Oecussi	The Sakunar militia group in Naetuna, Abani Village, including Umbertus Ena (aka Mala Cloe), burned houses in Nakome on or about 9 September. One or two days later the same militia group came back to Nakome and ordered the villagers to gather in front of a house that was not burnt. The militia members surrounded the villagers so that no one could escape and then began stoning them. The militia members targeted three suspected supporters of independence: Ernesto Lafu, Serafim Tolo and Vicente Quelo (Mala Quelo). They repeatedly struck the three with machetes. Ernesto Lafu and Vicente Quelo died from their injuries.[1240]

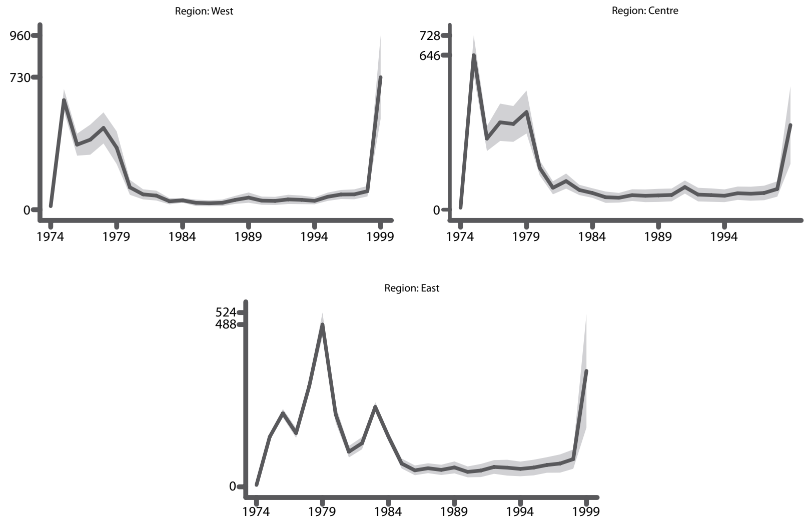
* Deputy General Prosecutor for Serious Crimes, Indictment against Quelo Mauno, Case No. 3/2003, paragraphs 10-22. According to paragraph 14: "Domingos Kolo and his family lived in the *aldeia* of Nitas, village of Nibin."

Sub-district, District	Summary of cases
Nitibe, Oecussi	On or about 16 September, a group of Sakunar militia members led by Laurentino Soares (Moko) attacked Usi Taco Village, burned many houses and reportedly killed Lazaro Bano, Celestino Cab and Seni Tui Anin.[1241] The same day in the village of Lela Ufe, Leonardo Anin and Antonio Beto were reportedly killed. Anin was a Hansip and was a CNRT activist with responsibility for intelligence. Beto was also a CNRT member.[1242] César Guterres was reportedly killed by members of the Kefamenanu Kodim (West Timor) in Bene Ufe Village in September.[1243] Sylvester Saco was reportedly killed in September in the village of Suni Ufe. Much later, on 20 October in Suni Ufe, Umberto Taek and Berta Bala were reportedly killed as they were suspected of being CNRT members.[1244]
Pante Makassar, Oecussi	Between 22–28 September, the following persons were reported killed in attacks by militia members or TNI soldiers: Maria Au,[1245] En Labi,[1246] Antonio Hunu,[1247] Oscar Francisco da Costa,[1248] João Eko, Fagundo Bano, Leovigildo Bano,[1249] Ambrosio Bobo,[1250] Angelo Caet,[1251] Tuin Cab,[1252] Ernesto Cab[1253] and Tolo Cusi.[1254] Luis Cofitalan and Domingos Vaz were reported killed in Lifau Village in October, [1255] and Neon Colo, Puin Tanessi and Neon Sufa in the rice fields of Letefoho, Lifau Village.[1256] Besides the mass executions in and around the *aldeia* of Maquelab, Taiboco Village, on 20 October, as referred to above, another incident occurred on 22 October, the same day that Interfet troops reached Oecussi. A small group of about 12 Sakunar militia members led by M292 came to the *aldeia* of Nus Lao, Bobocasae Village and captured Francisco Anton, Frimino Anton and Marcelino Cono. The militia group reportedly took the three to Naimeco Village and killed them there.[1257]
Lacluta, Viqueque	On 10 or 11 September, Jeronimo de Carvalho was reportedly killed by a man called Antonio or Amtuno in Dilor Village (Lacluta). The perpetrator, disguised as a madman, approached the victim and hit his head with a wooden stick. He then ran into the forest.[1258] He reportedly confessed in a later investigation by the pro-independence group that he had received money from militia and TNI members to carry out the killing.[1259] On 26 September, Sirilio Bosco, a CNRT member, was reportedly beaten to death. He and other four persons were going to meet a Falintil commander in Kadoras and were ambushed by a group of five men.[1260] The Commission heard of killings of independence supporters in Dilor Village (Lacluta) on 10 or 11 September and again on 26 September.[1261]
Ossu, Viqueque	On 11 September, independence supporter Manuel Carvalho was reportedly shot to death by members of the Naga Merah militia group in Builale Village.[1262]

Findings

888. Based on the quantitative analysis of data gathered through its statement-taking process and its graveyard census, the Commission has found that approximately 18,600 East Timorese non-combatants (with a margin of error of +/- 1,000) were killed or disappeared during the period of the conflict.

Total documented killings in Timor-Leste



Source: Calculations from HRVD, RMS, and approximate GCD murder (by the Commission) calculation date: 21 April 2005

889. The Commission finds that the highest number of killings and disappearances of non-combatants occurred between 1975 and 1983, and in 1999. The overwhelming majority of all unlawful killings and enforced disappearances documented through the Commission's statement-taking process were committed by the Indonesian security forces, including its East Timorese auxiliaries: 57% were committed by the Indonesian military and police; nearly one third, 32%, were committed by East Timorese auxiliaries under the control of the Indonesian security forces.*

890. The Commission finds that the Resistance also committed unlawful killings and disappearances during the period of the conflict. Out of all killings and disappearances reported to the Commission through its statement-taking process, 29.6% were attributed to the members of the Resistance.

891. Large-scale disappearances took place in 1979–1980 in the Eastern and Central Regions, and 1983–1984 in the Eastern Region. Of the disappearances reported to the Commission, 70% were attributed to the Indonesian security forces and 27% to the East Timorese auxiliaries of the Indonesian military.

892. Although the Indonesian security forces were responsible for the overwhelming majority of fatal violations under its control, the Commission notes that East Timorese,

* Auxiliaries comprise "civil defence" groups (including Hansip, Ratih, Wanra, and Kamra), members of the local administration, paramilitary groups (such as Tonsus and the various "Teams" that were forerunners of the militia groups formed in 1998-99), and the militia groups themselves.

either acting alone or as members of the Indonesian security forces, were involved in committing more than one quarter of these crimes.

Internal conflict, 1974–1976

893. The Commission finds that a multitude of unfavourable factors conspired to generate uncontrolled violence during the period of internal conflict. They included:

- Portugal's tardiness in producing a broadly acceptable timetable for decolonisation.
- Indonesia's increasingly overt interference in the territory's affairs.
- The failure of all the international actors who might have restrained Indonesia to affirm unequivocally that a forcible Indonesian takeover of Portuguese Timor would be an unacceptable violation of the principle of the right to self-determination.
- The lack of political experience of the newly formed political parties, including their tolerance of violence.
- The formation and arming of militia affiliated with political parties.
- The abandonment by East Timorese and Portuguese members of the colonial army and police of political neutrality.
- The failure of the organs of law enforcement of the Portuguese Government to redress outbreaks of violence during the build-up of tension before 11 August 1975 and after this date.

894. The Commission notes that the few institutions in the territory that might have played a mediating role and promoted dialogue, including the Catholic Church, failed to do so. Instead they took sides and fanned the flames of conflict.

895. The Commission finds that deep-seated communal differences, often based on personalities and economic interests, heavily influenced the shape of politics in the months leading up to the internal armed conflict. As political parties fought each other for local dominance, through intimidation, violent rhetoric and actual violence, the climate was created for the killings and revenge killings that were a feature of the armed internal conflict of August–September 1975. While political life throughout the territory was disfigured in this way, the districts of Liquiçá, Ermera, Manatuto, Aileu and Manufahi were the most affected.

896. The Commission finds that Indonesia's actions from 1974 were a major contributor to the deterioration of an already volatile situation. These actions culminated in the incursions of September–November 1975 and the full-scale invasion of 7 December 1975 during which Indonesia exploited and exacerbated East Timorese divisions by mobilising anti-Fretilin forces to join its aggression against the territory. Executions of detainees, which had already become a feature of the conflict between August and October 1975, occurred on an unprecedented scale in December 1975-January 1976, as Fretilin executed detainees in response to the advance of Indonesian forces.

UDT

897. The Commission finds that:

1. UDT members and supporters carried out unlawful killings and enforced disappearances of civilians in Dili, Ainaro, Liquiçá, Ermera and other districts after it launched its armed movement on 11 August 1975. Most of the victims were Fretilin members and supporters. Some victims were innocent bystanders killed in place of a Fretilin member who managed to escape and people who had the misfortune to encounter a group of armed UDT supporters.
2. UDT members and supporters committed unlawful killings between August and October 1975, targeting suspected members of Fretilin in Liquiçá, Dili, Ermera, Manatuto, Manufahi, Bobonaro, Oecussi and other districts. This sharp increase in the number of fatal violations by UDT took place under the pressure of advances made by Fretilin.
3. UDT leaders, members and supporters killed persons identified as being affiliated with Fretilin in a variety of circumstances. In the immediate aftermath of the launching of the armed movement, Fretilin supporters were captured, killed, and often beheaded in Manufahi, Liquiçá and Ermera, sometimes by UDT mobs acting on the orders of their leaders. Prison guards killed individual detainees in UDT detention centres, sometimes, as in Palapaço (Dili), on their own initiative, and sometimes as in Aifu, Ermera, on the orders of party leaders. In late August and early September 1975, persons who had been detained in the days after UDT launched its armed movement were executed in Manufahi and Ermera as Fretilin forces advanced on these areas.
4. The victims of these unlawful killings by UDT were predominantly military-aged men with real or suspected association with Fretilin. However, the Commission also received reports of children among groups of executed detainees.
5. Methods of unlawful killing included:
    - Armed groups of UDT members shooting unarmed civilians in groups.
    - The execution of civilians using traditional weapons, such as machetes, spears, and knives.
    - The holding of ritual ceremonies before and after killing.
    - Beheadings, and display of the decapitated heads as trophies.
    - The severing of body parts, such as hands, and disembowelment.
    - The display of corpses in front of homes of Fretilin members.
    - The disposal of dead or fatally wounded bodies in gorges and rivers.
    - The execution of detainees in detention centres, and in isolated places in the countryside, including coffee plantations. Some detainees had their hands tied with wire at the time of execution. Others were brought out of detention centres in small groups and then executed.
    - Beating before execution.
    - Disappearance.

6. The Commission does not believe that the UDT Central Committee ordered the killing of civilians, including the execution of detainees. However, it contributed to a climate in which such killings were likely to occur by inciting its followers over the radio to arrest political opponents as part of a purge of "communists". However, the Commission learned that individual members of the UDT Central Committee played a direct role in inciting violence at district level. Other members of the UDT Central Committee would have been aware that UDT commanders, members and UDT forces were conducting unlawful killings, as is evident by the sporadic efforts of some of them to stop them occurring.

Fretilin

898. The Commission finds that:

7. Before UDT's armed action of 11 August, both Fretilin and UDT members and supporters conducted sporadic attacks on rival villages, in which civilians were killed. These attacks occurred with greatest regularity in the area of Laclubar (Manatuto), Turiscai (Manufahi), and Maubisse (Ainaro). The most serious of these attacks was a Fretilin assault on the village of Maulau (Maubisse, Ainaro) in which around 40 people, mainly UDT supporters, were killed.
8. Fretilin's response to UDT's armed action of 11 August was an armed "general insurrection", in which its members unlawfully killed leaders, members and supporters of UDT and other opposition parties. Between August and October 1975, Fretilin members and supporters carried out reprisal unlawful killings in numbers which surpassed the victims of the killings by UDT.
9. The victims of these unlawful killings by Fretilin were predominantly military-aged men with real or suspected association with UDT. To a lesser extent, in some parts of the country, leaders, members and supporters of Apodeti were also targeted.
10. Fretilin members and supporters conducted sporadic execution of detainees, both individuals and in groups, in Aileu and Liquiçá Districts, within a week of the armed action by UDT. Among those executed were surrendered combatants and civilians. There were instances, including in the districts of Liquiçá and Manufahi, where local Fretilin leaders halted the execution of detainees.
11. Fretilin leaders ordered the evacuation of detainees from Dili and other areas to Aileu in September, October, and December 1975. As Indonesian troops advanced, the security situation deteriorated further, leading to an atmosphere of uncontrolled fear and vicious resentment towards those regarded as actual or potential collaborators with the invaders. Hundreds of detainees were executed by Fretilin forces in Aileu, Maubisse (Ainaro) and Same (Manufahi) in December 1975-January 1976. The Commission believes that these executions, several of which were mass executions, resulted in a number of fatalities that was far higher than in the earlier period of the internal conflict.

12. Method of unlawful killings included:
    - Deadly assault as part of attacks against a community perceived to support the opposing party.
    - Beating prior to execution.
    - Shooting using Mauser, G-3, and other firearms.
    - Discarding of bodies by throwing them into burning house.
    - Lack of treatment for wounded detainees.
    - Beheading.
    - Tying to a flag-pole, lining-up, or being tied-up for execution.
    - Deadly assault using traditional weapons, such as machetes, spears, and knives.
    - Throwing grenades into enclosed spaces where detainees were being held.
13. Although the unlawful killings committed by Fretilin members and supporters were in retaliation for acts of violence perpetrated earlier by UDT, Fretilin leaders failed to control its forces in order to prevent excess fatal violations throughout the country.

ABRI/TNI

899. The Commission finds that:

14. Covert Indonesian intelligence operations, high-level contacts with leaders of the East Timorese political parties, and the military training of East Timorese in West Timor exacerbated the rising tensions between the political parties, and were probably decisive in UDT's decision to launch its armed action.
15. Indonesian covert military operations were directly responsible for unlawful killings of dozens of civilians in the districts of Bobonaro, Covalima, and Ermera in August–November 1975. The training given by Indonesian military personnel in West Timor to Apodeti and UDT members and the deployment of these "Partisans" with Indonesian troops in the incursions of August–November 1975 and during and after the full-scale invasion of 7 December 1975 aggravated the hostility between Fretilin and those parties, and thereby played a part in Fretilin killings of persons associated with UDT and Apodeti before and after the invasion.

ABRI, UDT and Apodeti

900. The Commission finds that:

16. ABRI used members of UDT, Apodeti, and other parties in a variety of roles during and after the invasion, including as auxiliaries, translators, informants and administrators. Members and supporters of UDT and Apodeti recruited and trained by the Indonesian military aided and abetted ABRI in the commission of unlawful killings and enforced disappearances during and after the invasion.

Indonesian Occupation 1975–1999

The Resistance

901. The Commission finds that:

17. The Resistance also committed unlawful killings and disappearances over the whole period between the Indonesian invasion and during the whole period of the conflict. During this period less than one-third, 29%, of all unlawful killings and disappearances reported to the Commission through its statement-taking process were committed by forces affiliated with the Resistance movement. Moreover, these violations were heavily concentrated in the early years of the conflict. While 49% (561/1,145) of documented killings and disappearances in 1975 were attributed to Fretilin/Falintil, its share of the total fell to 16.6% (563/3,398) in the period 1976-84 and kept on falling during the remaining years of the conflict, to 3.7% (18/488) of killings and disappearances in 1985-98 and to 0.6% (5/898) in 1999.

902. The Commission heard extensive testimony about the killing of non-combatants[1999] perpetrated by Fretilin and Falintil during the period February 1976-79. During this period leaders and members of both organisations were implicated in fatal violations in most districts across the territory. Senior Fretilin leaders and Falintil commanders ordered many of the killings reported to the Commission, and in some instances themselves perpetrated them. Although some of those killed were civilians previously associated with UDT and Apodeti, who were collaborating with the Indonesians, most of those who were killed, disappeared or died of deprivation or other kinds of ill-treatment during this period were themselves members of Fretilin or Falintil or members of the civilian population living in Fretilin bases.

903. Between 1980 and 1999 not only was the scale of reported killings by Falintil far lower than in 1976-79; the pattern was also very different from in the earlier period. The victims tended not to be persons who were associated with the Resistance, but individuals who were working with the Indonesians (sometimes against their will) and the random casualties of Falintil attacks.

904. The Commission heard of a number of killings committed by Fretilin after February 1976 through to 1979 against persons who were associated with other parties, most of the victims known to the Commission being associated with UDT. The killings tended to occur in areas such as the districts of Ermera, Baucau, and Manatuto, where support for both UDT and Fretilin had been strong and the level of violence during the "civil war" had been particularly intense.

905. In some instances UDT members were killed by ordinary Fretilin members motivated by feelings of revenge. In other cases, such as the killing of at least nine people in Venilale (Baucau) between 1 and 12 February 1976, there is evidence of higher-level involvement. The Commission also received reports of the killing of former UDT members who were suspected of spying for the Indonesians and of persons who were executed because they had allegedly been in contact with UDT-affiliated relatives in the Indonesian-controlled areas.

906. The Commission finds that:

18. In 1976-77 around 60 people were executed or died in detention, as a result of conflicts within the Resistance. They included:
    - Aquiles Freitas, commander of the Bero-Quero Command in Quelicai (Baucau), and several of his chief associates, including Ponciano dos Santos, Antonio Freitas and João Teodoso de Lima, were executed at Lobito (Vemasse, Baucau) and in Baguia (Baguia, Baucau) in December 1976-January 1977.
    - Francisco Ruas Hornay and at least 14 of his followers, who were executed in Iliomar (Lautém) in November 1976.
    - The former Falintil Deputy Chief of Staff, José da Silva, and possibly 40 of his followers, who were executed or died in detention between October 1976 and August 1977 after being arrested in Ermera District in October 1976.
19. In the Fretilin internal conflict that erupted in 1977 several hundred followers and suspected followers of the Fretilin President, Francisco Xavier do Amaral, were executed or died as a result of torture and ill-treatment in detention. The purge was concentrated in Aileu and Manufahi in the North Central and South Central Sectors, and to a lesser extent in Quelicai in Baucau District and Uato Carbau and Uatolari in Viqueque District in the Central Eastern Sector and Covalima and Ermera in the South Frontier and North Frontier Sectors. Those targeted included members of the Fretilin Central Committee, senior military commanders and middle-level cadres of Fretilin and its affiliate organisations as well ordinary Fretilin members, Falintil troops and members of the civilian population living in the Fretilin bases.
20. Many of the victims of these purges died in horrific circumstances, including:
    - In public mass executions conducted with the utmost brutality.
    - As a result of severe deprivation in extremely primitive detention centres, including Renals (National Rehabilitation Centres), where the food, shelter, sanitation and medical treatment provided to prisoners were grossly inadequate.
    - As a result of severe torture in detention, involving such methods as burning with hot irons, repeated heavy beatings, hanging the victim from a tree and the cutting of the victim's body.

907. The Commission finds that:

21. Senior Fretilin leaders not only knew of and approved these practices, which generally occurred at or near places where the Fretilin Central Committee and the Sectoral and Zone administrations had their bases, but in many instances were themselves direct perpetrators.
22. In addition to the killings and deaths related to political conflict within Fretilin there were other circumstances in which Fretilin/Falintil committed these violations. Among the categories of victims reported to the Commission to have been executed or to have died of deprivation or other kinds of ill-treatment while in detention, were the following:

- Civilians who were suspected of planning to surrender, were in the process of surrendering, or who had actually surrendered.
- Local Fretilin or Falintil leaders or members who had encouraged the civilian population to surrender.
- People who broke away from the main population concentrations and were captured.
- Detainees killed as Indonesian forces closed in on the areas where they were detained.
- Villagers suspected of or actually belonging to "pro-integration" parties killed as Indonesian forces advanced on an area.
- Persons holding dissenting ideological views.
- People who after surrender were ordered by ABRI, Hansip or members of the civil administration to return to the mountains or forest to try to persuade people still holding out to surrender.
- Persons who rejoined the Resistance after previously surrendering or being captured by the Indonesians.
- The relatives of collaborators, as well as collaborators themselves.
- Persons blamed for failed Falintil attacks on Indonesian bases and successful Indonesian attacks on Fretilin and Falintil bases.
- People living in Fretilin bases who had been in contact with relatives or others in Indonesian-controlled areas.
- People living in the Resistance bases, under Indonesian control or in areas not fully under the control of either side who were found looking for food or going about their daily activities.

908. While acknowledging the intense pressure created by indiscriminate Indonesian offensives against their bases, particularly in the later years of the 1976-79 period, the Commission holds the Fretilin/Falintil leadership of the time responsible for creating an atmosphere of violence and ideologically-based intolerance which provided the preconditions in which this wide range of killings could occur. In addition the Commission finds that Fretilin/Falintil leaders and commanders were responsible for ordering or directly perpetrating many of these killings.

1980–1999

909. Between 1980 and 1999 there was a sharp drop in the number of killings attributed to Fretilin/Falintil. Because East Timorese society became so heavily militarised during this period, the status of many of the civilians who were killed by Fretilin/Falintil was often ambiguous. They included people who were forcibly put in harm's way, whether as Hansip, as persons forcibly recruited as TBOs (Tenaga Bantuan Operasi, operations assistants) or to take part in the various Operasi Kikis, persons required to perform night-guard duties or as unwilling recruits to the militia groups. The Commission believes that responsibility for deaths in these circumstances should rest primarily with those who put the victim in harm's way, namely the Indonesian security forces. In addition many of the victims of Falintil killings were Hansip, village chiefs and other members of the civil administration, holding positions that, unlike in most of

Indonesia, had become highly militarised in occupied Timor-Leste.

910. Because the dividing line between combatants and non-combatants was often blurred and because it is not always clear from the available information that a particular victim was a specific target, it has not always been possible for the Commission on the basis of the information available to it to judge whether a violation has in fact occurred, and if it has, where responsibility for it lies.

911. The downward trend in unlawful killings by the Resistance, which was particularly marked during the final decade of the Indonesian occupation, is explained by several related developments. A new policy was adopted shifting the focus of the struggle to urban protest. Although Falintil remained alive and militarily capable, this policy shift gave greater prominence to public protests in the towns than to Falintil's previously favoured tactic of demonstrating that it was a force still be reckoned with through shows of force in the countryside. This trend was accelerated by the Indonesian decision in late 1988 to "open" the territory partially to outsiders. At the same time the decision to pursue the National Unity strategy and to build as broad as possible a base of support for the Resistance, including by winning over East Timorese who were collaborating with the Indonesians, probably also contributed to the decline in violence in these years. As a part of this strategy, in 1987 the armed Resistance, Falintil, was formally separated from Fretilin.

912. During the period 1980-98, Falintil killed civilians in the following circumstances:

- During attacks on military-controlled settlements in early 1980s, which were apparently intended to demonstrate to the population now under Indonesian control that Falintil had survived.
- During Indonesian military operations for which East Timorese had been recruited, usually forcibly.
- During attacks on villages in the mid-1980s, which were apparently in response to major Indonesian operations and intended to show that Falintil still retained a military capacity to launch such attacks; village guards and Hansip were particularly vulnerable to be killed during such incidents.
- During attacks launched at particular times, including anniversaries (such as Indonesian Independence Day and the anniversary of the founding of Falintil) and during national elections (in 1987 and 1997), when they could be expected to attract attention internationally and in Indonesia and Timor-Leste.

913. These killings occurred in the context of military operations and as noted above, the Commission often found it difficult to establish whether civilians killed in these circumstances were specifically targeted.

914. There were instances of targeted killings reported during this period, where, for example, Falintil killed civilians who had been ordered by ABRI/TNI to search for relatives in the forest on their own, when it assassinated members of Hansip and other collaborators and before and after the Popular Consultation in 1999. In several of these cases the Commission received credible information that the Falintil High Command did not institutionally condone these violations.

Indonesian security forces and its auxiliaries

915. The Commission finds that:

23. Members of the Indonesian security forces and their auxiliaries committed and condoned widespread and systematic extra-judicial executions and enforced disappearances during the period of the Indonesian occupation of Timor-Leste.
24. Of all unlawful killings and disappearances reported to the Commission through its statement-taking process, just over 70% (4,174/5,944) were attributed to the Indonesian military and police and East Timorese auxiliaries, acting alone or jointly.

Table 56: Estimated number of unlawful killings by Indonesian security forces and auxiliaries

Violations by:	Indonesian military, police & Timorese auxiliaries acting alone or jointly	Timorese auxiliaries acting alone	Indonesian military & police acting alone	Indonesian military and police acting together with Timorese auxiliaries
All violations	71,917	14,704	43,323	13,550
	84.40%	17.30%	50.90%	15.90%
Illegal killings	3,455	835	1,972	630
	67.60%	16.30%	38.60%	12.30%
Disappearances	719	105	494	120
	86.30%	12.60%	59.30%	14.40%

25. Indonesian security forces, acting without their East Timorese auxiliaries, were responsible for the majority of civilian killings during the period of the occupation, during the years of 1975, 1979 and 1983. These peaks coincide with periods of large-scale military operations, where thousands of people experienced detention, displacement and food shortages.
26. East Timorese auxiliaries acting without members of the Indonesian security forces were responsible for lesser number of civilian killings during the period of occupation, during the years of 1975, 1979, 1983. However, East Timorese auxiliaries acting without members of the Indonesian security forces were responsible a majority of civilian killings in 1999, during the time of the Popular Consultation. This shows a shift in the strategy of the Indonesian security forces who armed, trained and directed local militias to carry out unlawful killings and enforced disappearances on their behalf.
27. Unlawful killings and enforced disappearances by Indonesian security forces and their auxiliaries took place in all 13 districts, with the highest number being recorded in the eastern districts.
28. Victims of unlawful killings and enforced disappearances were predominantly men of military age with a real or suspected association to groups resisting

the occupation, including Fretilin/Falintil, clandestine networks, or other pro-independence groups. Women and children who were thought to be family members of those mentioned above were also victims of these fatal violations to a lesser degree. Typically, women and children were killed during massacres, when indiscriminate shooting and attacks led to large number of fatal casualties.

29. Indonesian security forces and their auxiliaries used enforced disappearances as a strategy to control counter-insurgency activities, particularly in the eastern and central regions. The strategy was particularly effective in instilling fear in the general community, disrupting the lives of the families of the victim.

1975–1984

30. Indonesian forces were responsible for unlawful killings and enforced disappearances of civilians during the invasion of Timor-Leste. In Dili hundreds of civilians were executed, apparently in revenge for deaths of Indonesian soldiers. Most of these killings took place on 7-9 December 1975 in areas such as Colmera, Vila Verde, Matadouro, and along the Maloa River to Ailok Laran, where Fretilin forces actively resisted the invading forces. Dozens of ethnic Chinese, who lived around Colmera, were executed near the harbour, as were captured leaders and members of Fretilin and their relatives, including Isabel Barreto, the wife of Nicolau Lobato, the Fretilin Vice-President and RDTL Prime Minister.
31. The Commission received many reports of Indonesian forces killing civilians as they advanced into other parts of the territory. Sometimes those killed had been denounced as members of Fretilin, but many of the victims of these killings were randomly targeted members of the civilian population. Ordinary civilians were targeted in a variety of other circumstances: while looking for food or going about their daily activities, after encountering Indonesian security forces on operations, in retaliation for Falintil attacks, and on suspicion of working with or having knowledge about Fretilin/Falintil.
32. Throughout the early years of the occupation, but in particular between 1978 and 1979, ABRI/TNI commanders, troops and auxiliaries committed systematic and widespread unlawful killings and enforced disappearances of surrendered civilians and combatants.

916. In addition to the executions of individuals and small groups, the Indonesian security forces and their auxiliaries carried out a widespread and systematic campaign of killings and disappearances directed at surrendered and captured members of Fretilin and Falintil. The Commission finds that these killings and disappearances were carried out as part of a systematic plan, devised at the highest levels of the military command structure and coordinated by newly-created Korem under the command of then Colonel Adolf Sahala Radjagukguk, whose purpose was to eliminate surviving leaders of the Resistance movement. It reaches this conclusion on the basis of the following considerations:

- The campaign occurred in a number of different places at around the same time, and resulted in the execution or disappearance of at least 600 people between March and September 1979.

- Its targets were mainly people who before their surrender or capture had been Fretilin activists, often though not exclusively ones holding senior positions in the organisation, or members of Falintil, again often though not exclusively commanders.
- The particular time during which these killings and disappearances occurred was a period of transition when Operasi Seroja Joint Task Command was being dismantled and replaced by the East Timor Sub-Regional Command (Korem), a change that was intended to mark the normalisation of the situation in Timor-Leste.
- Many of those who fell victim to the campaign had been captured or had surrendered well before they were executed or disappeared, and had in some cases been integrated into Indonesian auxiliary units, such as Tonsus and Hansip, or the civil administration.
- In several of the districts where the executions and disappearances took place the Commission learned that lists of targeted individuals had been drawn up.
- The treatment of the victims was uniform: most of the victims were held in specific detention centres from which they were taken to specific places of execution where they were killed by specific military or auxiliary units.
- The Commission also found that a detainee who was eventually executed might be transferred from one place of detention to another, often in a different district, before being executed, one indication of overall coordination.
- Another indication of coordination was the wide range of institutions which were involved in the execution and disappearance of detainees, including the units of the territorial structure from the Korem down to the Koramil, combat battalions and the regional combat regiments (Resimen Tim Pertempuran) which commanded them, Hansip, paramilitary teams such as Team Nuklir and Tonsus, and the civil administration.
- The killings were widely known about at the time both by detainees and by the wider population and were perceived by both to constitute a coordinated campaign.
- The language used by perpetrators in different districts to account for the disappearance of the victims was frequently uniform, with detainees who had been taken away for execution being described as "having gone for a bath" or "gone to school".
- Throughout the occupation ABRI commanders, troops and members of the civil administration forcibly recruited tens of thousands of civilians to participate in military operations, known as Operasi Kikis, to search for and destroy remaining armed Resistance in the mountains. The largest of these operations took place in June–September 1981, when as many as 60,000 East Timorese were recruited to converge on Falintil positions.

917. The Commission has found that in September 1981, at the conclusion of the Operasi Kikis of June–September 1981, Battalions 321, 744 and/or 745, Marine Units, and Hansip Falintil forces, gathered in the area of Mount Aitana on the Manatuto-

Viqueque border and subsequently executed more than one hundred and, possibly several hundred, Falintil troops and civilians, including women and children, who were accompanying them. At the time that they were killed these victims were either at the mercy of Indonesian forces or in their custody after surrender or capture.

918. Throughout the occupation, but in particular in the early 1980s, ABRI/TNI commanders, troops and auxiliaries committed systematic and widespread unlawful killings and enforced disappearances of civilians to punish communities collectively that were suspected of supporting Falintil forces. The indiscriminate punishment of persons known to have previously been involved with the Resistance movement and the collective punishment of communities were particularly severe in the aftermath of Falintil attacks on military targets. For example:

- After the Resistance mounted attacks on military targets in Marabia and Becora in Dili on 10 June 1980, hundreds were detained. The Commission compiled the names of 121 people who disappeared, were executed (sometimes in public) or died in detention as a result of severe torture and deprivation of food and medical treatment in the weeks after the attack. This figure does not include people who were selected for transportation to the island of Ataúro between July 1980 and August 1981 for their alleged involvement in the attacks. For these people, who constituted the first groups of people to be sent to Ataúro since the invasion, conditions were particularly harsh and it is known that many of them died on the island.
- After Falintil attacks on Mau Chiga (Hato Builico, Ainaro) and Rotuto (Same, Manufahi), in the area of Mount Kablaki on 20 August 1982, troops and commanders from the Ainaro Kodim, the Dare Koramil and the 5th Combat Engineering Battalion (Zipur 5), and Hansip, detained hundreds of men and women from Mau Chiga and the surrounding communities. A special project undertaken by the Commission recorded that more than 50 people from the village of Mau Chiga alone were executed or disappeared in the following months. Many of them were killed in the most brutal fashion, both publicly and at an execution site, called Jakarta 2, at Builo, near the town of Ainaro, where victims were hurled into a deep ravine. Others were raped, and some 600 people from the area were forcibly displaced to Ataúro Island and other locations where many of them died of deprivation.
- After the joint attack by Falintil and East Timorese Ratih (civil defence) in Kraras (Viqueque) on 8 August 1983, troops and commanders of Kopassandha, Kodim Viqueque, Battalions 328, 501, 745 and Hansip, carried out a series of executions, in which more than 200 civilians, mostly men, who had fled from the village were hiding in various locations around Kraras, in the months of September–October 1983.
- After the defection of more than 30 armed members of Hansip, with their families and members of a clandestine youth group, in Mehara (Lautém) on 9 August 1983, smaller-scale defections in Lore in Lospalos Sub-district (Lautém) and Serelau in Moro Sub-district (Lautém), and the discovery of a plan for a similar action in Iliomar, Indonesian military forces detained

hundreds of men and women throughout the district. Between August 1983 and March 1984 around 100 civilians, mostly men, were executed in various locations throughout the district.

- The "uprisings" in Viqueque and Lautém marked the end of a ceasefire that had been agreed between Indonesian forces and the Resistance in March 1983 and the start of an operation, Operasi Persatuan (Operation Unity), which the recently-appointed commander-in-chief of the Indonesian armed forces, General Benny Moerdani, said was aimed at the total eradication of the Resistance. One of the chief targets of this operation were civilians involved in clandestine activity. The Commission received testimonies about the execution and disappearance of more than 250 civilians in the districts of Lautém, Viqueque, Baucau, Dili, Aileu, Manufahi, Ainaro, Bobonaro, and Covalima between August 1983 and mid-1984 (excluding those killed in Viqueque in the immediate of the attack on Kraras), as well as the arrest, detention and torture and ill-treatment of many others, including their long-term detention either without trial on Ataúro and elsewhere or after blatantly unfair trials. The systematic nature of these executions is evident to the Commission from the remarks of the commander-in-chief of the Indonesian armed forces, from their scale and also from documentary evidence received by the Commission that village chiefs and members of the civil defence forces were ordered to draw up lists of people who had been active in the Resistance in the past, which formed the basis for the violations that followed. In addition, as with the executions and disappearances of 1978-79, the operation of 1983-84 involved the mobilisation of a wide range of institutions within the security apparatus and the civil administration, including the Special Forces (Kopassus), all levels of the territorial structure, combat battalions, the civil defence forces, paramilitary teams, the civilian and military police, and local government officials.

1985–1998

33. In the period 1985–1998, the number of killings and disappearances committed by ABRI and its auxiliaries declined relative to the earlier years of the occupation. However, the Indonesian security forces continued to kill and cause the disappearance of civilians with real and suspected association to groups resisting the occupation, including members of Fretilin/Falintil, the clandestine networks and other pro-independence groups.

919. Although the number of fatal violations decreased, those that occurred could not be regarded as the exceptional acts of "rogue elements". Impunity created a climate in which the following institutional practices were tolerated and condoned:

- The execution of civilians who were forcibly recruited to partake in military operations or exercises during military action.
- The execution of civilians in place of escaped combatants.
- Opening fire on a group of unsuspecting people or individuals carrying out daily activities, for no apparent reason.
- Opening fire into a crowd of unarmed demonstrators.

920. These practices are illustrated by the following cases:

- On 12 November 1991, Indonesian security forces opened fire on a group of demonstrators who were carrying pro-independence banners and flags at the Santa Cruz Cemetery in Dili. The demonstrators had proceeded to the cemetery to commemorate the death of Sebastião Gomes Rangel, a clandestine activist killed during a raid of the Motael Church on 28 October 1991. At least 75 civilians, and almost certainly many more, were killed at the cemetery and afterwards.
- On 12 January 1995, in Gariana (Maubara, Liquiçá), in response to a failed attempt to capture a suspected Falintil combatant, Indonesian security forces dragged six civilians into a ditch and executed them.
- In retaliation for the execution of suspected informants and an attack on military targets by Falintil in Alas (Manufahi), in October and November 1998, Indonesian security forces and auxiliaries detained hundreds of civilians, and 20 people were executed or disappeared in the following weeks.

34. Responding to international and domestic pressure, the Indonesian military conducted internal investigations and brought judicial proceedings against relatively junior personnel in at least two instances, following the Santa Cruz Massacre in Dili in 1991 and the killing of six civilians in Gariana (Maubara, Liquiçá) in 1995. In both cases court martial proceedings resulted in the low-ranking soldiers receiving light sentences, of between eight months and four years. The proceedings were not conducted in such a way as to establish the truth of what happened during these incidents or command responsibility for the atrocities.

35. The institutional practice of the Indonesian security forces shifted in the 1990s, resulting in a further decline in the number of unlawful killings and enforced disappearances, particularly after the Santa Cruz Massacre of November 1991. The shift was influenced by a number of factors, including an increasingly bold and sophisticated clandestine movement which made use of international media and human rights mechanisms and diplomacy, heightened international scrutiny after the Santa Cruz Massacre, the establishment of the Indonesian Human Rights Commission, the emergence of a human-rights focused Indonesian and East Timorese civil society, and finally, Reformasi (Reformation) in Indonesia. At the end of the 1990s, in response to the growing outspokenness of the pro-independence movement, the number of unlawful killings and enforced disappearances rose again. However the majority of these acts were no longer directly committed by members of the Indonesian security forces, but by their auxiliaries.

1999

36. In 1999, Indonesian security forces and their auxiliaries conducted a coordinated and sustained campaign of violence, designed to intimidate the pro-independence movement and then to ensure a pro-Indonesian result in the Popular Consultation organised by the United Nations. Thousands of civilians were detained, hundreds of thousands were forcibly displaced, and

between 1,400 and 1,500 were killed or disappeared during the course of the year. The majority of fatal violations took place in April, before the signing of the May 5 Agreement, and in September–October, after the announcement of the result of the ballot.

921. Impunity created a context where the unlawful killing or enforced disappearance of civilians was tolerated, supported, and condoned. As in earlier years when ABRI/TNI launched operations against the civilian population, it mobilised all branches of the security apparatus, including auxiliaries, and much of the civil administration, in pursuit of its goals. Throughout this period ABRI/TNI, the police and militia groups acted in a coordinated manner. Military bases were openly used as militia headquarters, and military equipment, including firearms, was distributed to militia groups. Some ABRI/TNI personnel were also militia commanders or members. ABRI/TNI intelligence officers provided lists of the names of people to be targeted and coordinated attacks. Civilian authorities openly provided state funding for militia groups and participated in militia rallies and other activities.

922. The extent of this collusion is illustrated by the following cases:

- On 6 April 1999, approximately 2,000 civilians who had sought refuge in the Liquiçá Church were attacked by Besi Merah Putih militia, together with soldiers from the Liquiçá Kodim, Brimob (police mobile brigade). At least 30-60 civilians were killed, their bodies transported in military trucks and discarded in secret locations.
- On 12 April 1999, in retaliation for an alleged Falintil killing of an ABRI/TNI soldier and a pro-autonomy leader, hundreds of civilians in the villages in Cailaco Sub-district (Bobonaro) were rounded up and required to attend the funeral of the pro-autonomy leader. At least seven suspected pro-independence supporters were executed by TNI soldiers and Halilintar militia at the Koramil, 100 metres away from the mourners. Another 13 were executed in the following weeks.
- On 17 April 1999, at the end of a pro-autonomy rally in front of the Governor's Office in Dili attended by Governor of Timor-Leste, the District Administrator of Dili, the Mayor of Dili, the provincial military commander, Colonel Tono Suratman, the Assistant for Operations to the Army Chief of Staff, Major General Kiki Syahnakri, the Regional Military Commander (Udayana), Adam Damiri, and two other senior military officers, Aitarak militia conducted a violent rampage, culminating in an attack on the house of Manuel Carrascalão where hundreds of displaced persons had sought refuge.
- On 6 September 1999, Laksaur militia, together with members of the Indonesian security forces, attacked thousands of refugees who had sought safety in the Suai Church (Covalima). At least 27 people were killed, including three priests, possibly more. The bodies were burned, and some were transported across the border to be buried in a secret location in West Timor (Indonesia).
- On 5-6 September 1999, Aitarak militia, together with members of Indonesian security forces, attacked hundreds of refugees who had sought safety in

church-related places, such as the diocesan office complex, the Bishop of Dili's house, convents, and the ICRC office. At least 19 civilians were killed or disappeared. The previous day, on 4 September, the militia attacked the pro-independence stronghold of Becora in Dili, killing at least seven men.

- On 8 September 1999, Dadurus Merah Putih and other militias, under the command of Indonesian security forces, attacked thousands of refugees who had sought safety in the Maliana police station, hunting down and killing those who escaped the following day. Before the attack CNRT leaders urged members of the Indonesian police to give them protection, but their pleas were ignored. At least 26 civilians were killed or disappeared, mostly local CNRT leaders and suspected pro-independence supporters, including one 12-year-old boy. The bodies were disposed of at a secret location.
- On 12 September 1999, Laksaur militia and Indonesian security forces, during an attempt to forcibly deport villagers from the village of Laktos, Fohorem (Covalima), killed 14 men who resisted being moved to West Timor.
- On 21 September 1999, ABRI/TNI soldiers from Battalion 745 randomly shot civilians during their retreat from Lospalos (Lautém) to Dili, and eventually to Kupang (West Timor, Indonesia). At least eight people, including a foreign journalist, were killed or disappeared during their journey from Lospalos to Dili.
- On 20 October 1999, Sakunar and Aitarak militia and Indonesian security forces, while rounding up villagers from Maquelab (Pante Makassar, Oecussi) for deportation to West Timor, executed six men in the Maquelab market. Another six were killed later during an attack on the village.

37. In 1999, victims of unlawful killings and enforced disappearances were predominantly men of military age with a real or suspected association to pro-independence groups, including CNRT, the clandestine movement and student and youth organisations. However, since the objective of the military and its allies was to intimidate the general population into voting for integration with Indonesia, their target was broad and their methods indiscriminate. Thus, women and children seeking refuge with their families were also killed during massacres. Other groups perceived to support pro-independence groups, such as the clergy, students, and local UNAMET staff, were also targeted, particularly after the announcement of the ballot results.
38. Throughout the period of occupation (1975–1999), methods and circumstances in which unlawful killings were carried out included:
    - Indiscriminate shooting of unarmed groups of civilians
    - Dividing groups of unarmed civilians by gender, then indiscriminate shooting of the men
    - Ordering victims to dig their own grave before execution
    - Ordering victims to line up in formation before line by line execution
    - Execution of unarmed individuals by close-range shooting
    - Discarding of bodies by burning, by speedy secret burials without any attempt to identify the victim and next of kin, by dumping into a well, lake, or ocean

- Throwing of grenades at an unarmed group of civilians
- Death in custody by beating and torture
- Immediate execution after capture during military operations
- Public beheading
- Public, staged or real acts of cannibalism
- Public cutting of body parts
- Public display of decapitated head, or severed limbs or body parts
- Forcing of civilian to kill another civilian under duress
- Tying to a moving vehicle to be dragged to death
- Immolation
- Tying up on a cross before execution
- Throwing down a cliff, sometimes after being wounded
- Burying of wounded victim alive
- Public execution where a married couple was stripped naked and struck on the back of the neck until they fell into a grave
- Public fatal beating
- Parading of corpse
- Deadly assault using traditional weapons, such as machetes, spears and knives
- Death by acts of torture
- Abduction followed by disappearance, in some cases blind-folded and tied-up
- Targeted killing by militia from lists drawn up by military personnel
- Execution of detainees in detention centres, and in isolated places in the countryside, including in lakes and from rural bridges
- Displaying of human ears and genitals to family members of the disappeared
- Rape before the killing of female victims.

39. Among this litany of atrocities, there were a small number of brave individuals who baulked at the command to execute unarmed civilians and sought to prevent these crimes.
    - A member of Battalion 745 from Bobonaro refused to execute a group of civilians, which included women and children, preventing a massacre in Rotuto (Manufahi), in 1982.
    - An Indonesian member of Brimob smuggled a female CNRT leader to safety the day after the ballot in Gleno, Ermera, in 1999. Although she was initially safe, she was eventually raped and killed by militia when she attempted to return home a week later.
    - An East Timorese police officer was shot and killed by militia and ABRI/TNI when he attempted to prevent militia members from looting and burning a village in Maubisse (Ainaro).

923. Throughout the occupation, Indonesian military commanders ordered, supported, and condoned systematic and widespread unlawful killings and enforced disappearances of thousands of civilians in Timor-Leste. The sheer number of these

fatalities, the evidence that many of them occurred during coordinated operations conducted across the territory, and the efforts of domestic and international non-government organisations to inform the military and civilian authorities in Jakarta that these atrocities were happening, rules out the possibility that the highest reaches of the Indonesian military, police and civil administration were ignorant of what was going on. The systematic failure of the Indonesian military and civilian leadership to prevent and stop these acts which they must have known about, and to punish the direct perpetrators of these crimes, is itself evidence of complicity.

40. Without full disclosure, the Indonesian military continue to perpetuate and support acts of enforced disappearances. Acts constituting enforced disappearances should be considered as a continuing offence as long as the perpetrators continue to conceal the fate and whereabouts of persons who have disappeared.

Endnotes

1. Xanana Gusmão, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
2. Domingos Oliveira, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
3. João Carrascalão, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
4. Mari Alkatiri, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
5. Mario Carrascalão, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
6. Francisco Xavier do Amaral, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
7. Domingos Oliveira, testimony to the CAVR National Public Hearing on The Internal Political Conflict, December 15–18 2003.
8. Mari Alkatiri, testimony to the CAVR National Public Hearing on The Internal Conflict, December 15–18 2003.
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10. Mari Alkatiri, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, December 15–18 2003.
11. Rogério Lobato, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
12. CAVR Community Profile in Mulo, Hato Builico Sub-district, Ainaro District, 2 February 2004; CAVR Community Profile of Kasabauk [then Maudemo], Tilomar Sub-district, Covalima District; CAVR Community Profile of Uaitame, Quelicai Sub-district, Baucau District, 12 December 2003; CAVR Community Profile of Orlalan/ Batara, Laclubar Sub-district, Manatuto District, 24 January 2003; CAVR Community Profile of Bibileo, Lacluta Sub-district, Viqueque District, 5 June 2003; CAVR Community Profile of Saburai, Maliana Sub-district, Bobonaro District, 13 January 2003.
13. HRVD Statements 1003; 1670; 3576; 8427; 8130; 4990 and 4993.
14. CAVR, Community Profile of Maulau, Maubisse Sub-district, Ainaro District, 26 May 2003; see also HRVD Statements 4993; 4990 and 8130.
15. HRVD Statement 6443.
16. HRVD Statement 2507.
17. CAVR, Community Profile, Vila Verde, Mascarenhas and Rumbia, Dili District, 10 June 2003.
18. CAVR, Community Profile, Asucai Lorosae, Dili District (undated).
19. CAVR, Community Profile of Bemori, Dili District, (undated).

20. CAVR Interviews with Carlos Vicente de Sousa, Guilherme Martins and Manuel Henrique Ena, Darulete, Liquiçá, March 8 2004; see also CAVR Community Profile of Darulete, Liquiçá, 13 February 2003.
21. CAVR Interview with Guilherme Martins, Darulete, Liquiçá, 8 March 2004; see also HRVD Statement 3570.
22. CAVR Interviews with Adelina Freitas, Vicente de Sousa, Guilherme Martins and Henrique Ena, Darulete, Liquiçá, 8 March 2004.
23. HRVD Statement 3003
24. HRVD Statement 5428.
25. HRVD Statement 3570
26. HRVD Statement 2054.
27. CAVR Interview with Brigida Martins, Liquiçá, 10 March 2004. Corroborated by HRVD Statement 3003.
28. CAVR, Community Profile, Manelobas Village, Maubisse Sub-district, Ainaro District, 23 May 2003.
29. CAVR, Community Profile, Manetu Village, Maubisse Sub-district, Ainaro District, 8 July 2003.
30. CAVR, Community Profile, Edi Village, Maubisse Sub-district, Ainaro District, 9 June 2003.
31. CAVR, Community Profile of Maulau, Maubisse Sub-district, Ainaro District, 26 May 2003; see also HRVD Statement 4993.
32. CAVR, Community Profile, Asumano, Liquiçá Sub-district, Liquiçá District, 6 February 2003.
33. CAVR Interview with Manuel Luis, Lisbon, Portugal, 10 March 2004; see also HRVD Statement 0280.
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38. HRVD Statement 6199.
39. CAVR Interview with Francisco Barbosa, Turiscai, Manufahi, 8 September 2003.
40. CAVR Interview with Francisco Xavier do Amaral, Dili, 18 June 2004.
41. Mateus Soares, testimony to the CAVR National Public Hearing on Massacres, 19–21 November 2003.
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44. HRVD Statement 1468.
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46. CAVR Interviews with Manuel Henrique Ena and Carlos Vicente, Darulete, Liquiçá, 8 March 2004.
47. CAVR Interview with Carlos Vicente, Darulete, Liquiçá, 8 March 2004
48. CAVR Community Profile, Darulete, Liquiçá Sub-district, Liquiçá District, 13 February 2003.
49. HRVD Statement 1088.
50. CAVR Interview with Mário (Marito) Nicolau dos Reis, Dili, 17 January 2002 and 27 July 2003; CAVR Interview with Maria José Fatima Ximenes, Dili, [undated]; CAVR Interview with Manuel Agustino Freitas, Bobonaro, 12 June 2003; see also HRVD Statements 3742; 5698 and 03715.
51. CAVR Interview with Mário (Marito) Nicolau dos Reis, Dili, 17 January 2002 and 27 July 2003; corroborated by HRVD Statement 5698.
52. CAVR Interview with Mário (Marito) Nicolau dos Reis, Dili, 17 November 2002 and 27 July 2004.
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55. CAVR Community Profile, Laclo, Atsabe Sub-district, Ermera District, 16, June 2003.
56. HRVD Statement 2223.
57. HRVD Statement 8345; see also HRVD Statement 8384.
58. CAVR Interview with Elidio Maria de Jesus, Dili, 24 June 2003.
59. Monis da Maia, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974–1976, 15–18 December 2003.
60. Monis da Maia, ibid.
61. Monis da Maia, ibid.
62. CAVR Interview with Rosa Pina Meneses [victim's wife] Dili, 22 August 2003; see also CAVR Interview with Laura Pina Meneses Belo, Dili, 22 August 2003.

63. CAVR Interview with Lucas da Costa, Dili, 21 June 2004.
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65. HRVD Statement 9182.
66. Manuel Duarte, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974–1976, 15–18 December 2003.
67. Manuel Duarte, ibid.
68. CAVR Interview with Florentino de Jesus Martins, Talimoro, Ermera, 25 August 2003.
69. CAVR Interview with Lorenço dos Santos, Poetete, Ermera, 25 August 2003; see also CAVR Interview with Manuel Duarte, Urahou, Hatolia, Ermera, 23 September 2003; see also CAVR Interview with Florentino de Jesus Martins, Poetete, Ermera, 25 August 2003.
70. CAVR Interview with Eufrazia de Jesus Soares, Gleno, Ermera, 25 September 2003.
71. HRVD Statement 9016.
72. HRVD Statement 7946.
73. CAVR Interview with Adelino Maia, [undated]; see also HRVD Statement 1688; see also CAVR Interview with Carolino Madeira, Lauana, Letefoho, 24 September 2003.
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85. CAVR Interviews with Tomás Gonçalves, 8 June 2004 and 13 September 2004.
86. Sydney Morning Herald, 29 May 1999. AAP, 20 October 1999.
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88. It appeared in The Canberra Times on 29 October 1975.
89. Tom Sherman, 1996 Report, p. 89.
90. CAVR video-recorded Interview with Guido dos Santos, Balibó, Bobonaro, 21 July 2004.
91. See CAVR researcher's affidavit on conversation with Guido dos Santos.
92. CAVR Interview with Olandino Luis Maia Guterres, Dili 7 June 2004.
93. See the Sherman Report 1996, pp. 62-63.
94. On this issue, see Tom Sherman Report, 1996, p.110; Ball and McDonald, p. 115; and "The Balibó killings 1975 and intelligence handling - a report of an inquiry by the Inspector-General of Intelligence and Security" ("The Blick Report"), June 2002.
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98. CAVR Interview with Afonso Luis Silveira, Dili, 14 December 2003.
99. CAVR Interview with Erminio da Silva da Costa, Jakarta, Indonesia, 9 August 2004.
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101. CAVR Interview with anonymous informant [W2], 24 August 2004, Dili; see also submission to CAVR, "East Timorese killed as a direct result of the Indonesian Invasion of East Timor in 1975 and the subsequent occupation of East Timor by Indonesian Military Forces," Anthony Goldstone.
102. Testimony of Chong Kui Yan, quoted in Amnesty International, East Timor Violations, p. 26.
103. CAVR Interview with Alberto de Oliveira Camra, Dili, 17 August 2004. This account is supported by CAVR Interview with Francisco da Cunha, Dili, 3 February 2004.
104. CAVR Interview with Francisco da Cunha, Dili, 3 February 2004; see also CAVR Interview with anonymous informant [A3], Dili, 16 August 2004.

105. CAVR Interview with Felismina dos Santos da Conceição, Dili, 19 November 2003.
106. CAVR Interview with Francisco Soriano, Dili, 4 July 2004
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108. HRVD Statement 2566.
109. CAVR Interview with Felismina dos Santos da Conceição, Dili, [undated] November 2003.
110. CAVR Interview with Domingos Freitas, Dili, 29 June 2004.
111. CAVR Interview with Filomeno Gomes, Dili, 25 June 2004
112. CAVR Interview with Alexandrino do Rego, Dili, 22 August 2004
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120. CAVR Interview with anonymous informant [A3], Dili, 16 August 2004, Dili; see also HRVD Statements 5072, 5069, and 5070.
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123. CAVR Interview with Daniel João Batista, Kupang, West Timor, Indonesia, 21 July 2004.
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127. CAVR Interview with anonymous informant [W2], Dili, 24 August 2004. See also CAVR Interview with anonymous informant [A3], Dili, 13 August 2004; CAVR Interview with Erminio da Silva da Costa, Jakarta, Indonesia, 9 August 2004; CAVR Interview with Daniel João Batista, Kupang, West Timor Indonesia, 21 July 2004 and "Isobel dos Santos Barreto Lobato: Putri Bangsa yang Dilupakan," (Isobel dos Santos Barreto Lobato: A nation's forgotten daughter) *Vox Populi*, No. 14, June, 2004, p. 14.
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135. CAVR Interview with Alexandrino do Rego, Dili, 4 February 2004
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140. CAVR Interview with anonymous informant, Melbourne, Australia, [undated].
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148. Alexandre da Costa Araújo, testimony to the CAVR Public Hearing on Massacres, 19–21 November 2003.
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158. See also HRVD Statements 09016 and 09026.
159. CAVR Interviews with Manuel Gaspar (Torado), Uaitame, Uatolari, Viqueque, 19 September 2003; Agostinho Boavida Ximenes (Sera Malik), Soe, West Timor, 28 August 2004.
160. CAVR Interview with Agostinho Boavida Ximenes (Sera Malik), Soe, West Timor, 28 August 2004. See also Gusmão, Sarah Niner (ed), *To Resist is to Win: The Autobiography of Xanana Gusmão*, p.39.
161. CAVR Interview with Jacinto Alves, Dili, 11 May 2004.
162. Francisco Xavier do Amaral, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
163. CAVR Interview with Francisco Gonçalves, Dili, 14 June 2003.
164. CAVR Interview with Humberto Martins da Cruz, Dili, [undated].
165. CAVR Interview with Francisco Gonçalves, Dili, 14 June 2003.
166. CAVR Interview with Lucas da Costa, Dili, 21 June 2004.
167. CAVR Interviews with José Catarino Gregório Magno Trindade de Melo (Labut Melo), Kupang, 23 July 2004; and with Herminio da Silva da Costa, Jakarta, 9 August 2004.
168. CAVR Interview with José Catarino Gregório Magno Trindade de Melo (Labut Melo), Kupang, 23 July 2004.
169. CAVR Interview with Francisco Gonçalves, Dili, 14 June 2003.
170. CAVR Interviews with Francisco Gonçalves, Dili, 14 June 2003; Luis Antonio de Aquino Caldas, Dili, [undated]; and Agostinho Boavida Ximenes (Sera Malik), 28 August 2004, Soe, West Timor, Indonesia.
171. Xanana Gusmão, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
172. Mari Alkatiri, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
173. Francisco Xavier do Amaral, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
174. Rogério Lobato, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
175. HRVD Statement 00166.
176. HRVD Statement 05040.
177. HRVD Statements 02208 and 03564.
178. HRVD Statement 03554.
179. HRVD Statements 05027 and 05018.
180. HRVD Statement 04191
181. HRVD Statement 04068.
182. HRVD Statement 02079.
183. HRVD Statement 00464.
184. HRVD Statement 04517.
185. See, for example, HRVD Statements 05058 and 03254.
186. Father José Tavares, Tuba Rai Metin, Bases of Resistance, 27 March 2002.
187. HRVD Statement 03829.

188. HRVD Statement 00537.
189. HRVD Statement 05363.
190. HRVD Statement 03897.
191. HRVD Statement 03067.
192. HRVD Statement 05235.
193. HRVD Statement 03551.
194. HRVD Statement 01669.
195. HRVD Statement 00447.
196. HRVD Statement 00487.
197. HRVD Statement 04495.
198. HRVD Statements 01347 and 03152.
199. HRVD Statement 05052.
200. HRVD Statement 08909.
201. HRVD Statement 06409.
202. HRVD Statements 01311, 03372, 01043, 01687, 01311, 03372 and 03252; see also Lucio Meneses Lopes, testimony to the CAVR, National Public Hearing on Massacres, 19–23 November 2003.
203. HRVD Statement 04531.
204. HRVD Statement 05493.
205. See, for example, HRVD Statements 02238, 00503, 07411, 04984, and 04995.
206. HRVD Statement 03372.
207. HRVD Statement 08536.
208. HRVD Statement 03091.
209. HRVD Statement 07210.
210. HRVD Statement 04474.
211. HRVD Statement 04200.
212. HRVD Statements 05264, 05279.
213. HRVD Statement 06547. For other killings by Tonsus in this area, see HRVD Statements 05296, 08014, 06480, 01938 and 06553.
214. See, for example, HRVD Statements 08538, 08538, 00543, 06179, 06179, 07696, 07676, 07076, 03165, 03252, 05336, 05263, 08345, 06179, 07988, 00446, 02510, 07803, 03091, 08950 and 04185-05.
215. HRVD Statement 00543.
216. HRVD Statement 07431.
217. HRVD Statement 04216.
218. See HRVD Statements 02323, 05288, 05365, 03429, 05408, 00079, 03401, 03224, 04073, 02257, 02264, 05324, 06961, 05408, 04073, 03429 and 04085; and CAVR, Community Profile Debu-Waen, Mahaquidan Alas Sub-district, Manufahi District, CAVR, Community Profile, Hera, Cristo Rei Sub-district, Dili District, and CAVR, Community Profile, Liurai, Aileu Town Sub-district, Aileu District.
219. HRVD Statement 08911.
220. For 1980, see HRVD Statement 06961; CAVR, Community Profile, Liurai, Aileu Town, Aileu Sub-district, Aileu District; and CAVR, Community Profile, Hera, Cristo Rei Dili District; for 1983-84, see HRVD Statements 04772 (Manufahi), 01447 (Aileu), 02323 (Baucau), 02359 (Baucau) and 03834 (Baucau).
221. HRVD Statements 04073, 04085 and 03219; and CAVR Interview with Florindo Sarmento, Aileu, [undated].
222. HRVD Statements 03224, 03218, 03219, 92979 and 02082.
223. HRVD Statements 02257, 02252, 02264 and 02259; CAVR, Community Profile, Iparira/Laiara, Parlamento Village, Moro Sub-district, Lautém District.
224. Amnesty International Annual Report 1985.
225. See, for example, HRVD Statements 05395, 06802, 07781, 09188, 07076, 07930 and 07117.
226. HRVD Statement 01810.
227. HRVD Statement 01659.
228. HRVD Statement 08529.
229. HRVD Statement 02224.
230. HRVD Statement 03828.
231. HRVD Statement 03019.
232. HRVD Statement 08089.
233. HRVD Statement 07699.
234. HRVD Statement 07696.

235. HRVD Statement 07497.
236. See CAVR, Community Profiles for Liurai Village and Manumera Village, Turiscai Sub-district, Manufahi District.
237. CAVR Case Summary: Massacre in Foholau, Turiscai, Manufahi; and HRVD Statements 06640 and 07532.
238. See, for example, HRVD Statements 01810, 03551, 01669, 01659, 08529, 05434, 02214, 07532 and 07485.
239. HRVD Statement 01379.
240. HRVD Statement 02214.
241. HRVD Statement 05985.
242. See, for example, HRVD statements 01484 and 04765.
243. CAVR Interview with Luis Pereira, Laclubar, 12 April 2003.
244. HRVD Statement 01757.
245. HRVD Statement 02294.
246. HRVD Statement 08897.
247. HRVD Statement 04765.
248. HRVD Statement 07906.
249. HRVD Statement 04146.
250. CAVR Interview with José Francisco Pires I Silva, Dili, 12 January 2004.
251. HRVD Statement 02127.
252. HRVD Statement 04448.
253. HRVD Statement 05324.
254. CAVR Interviews with Pedro Pinto, Uato Carbau, Viqueque, 14 December 2003 and Tomás da Cruz; and HRVD Statement 07367, which also names Carlos, Manuel Kaimuadee, Delin and Francisco Borulau as victims.
255. On Pasmar 9, see HRVD Statement 07699; on Pasmar 10, see HRVD Statement 02385; on Battalion 315, see HRVD Statements 02798and 06059; on Battalion 328, see HRVD Statements 03898 and 07329; on Battalion 721, see HRVD Statements 00490, 00494, 00481 and 03829; on Battalion 312, see HRVD Statement 02294; on Battalion 202, see HRVD Statements 04200, 07431. 04456, 00487, 06032, 07455.
256. HRVD Statement 03083. Other disappearances from Battalion 202 headquarters in Uaida are reported in HRVD Statements 03085, 03154, 03122 and 03138.
257. Testimony of Onu Bu, CRRN Communiqué, 1983, p. 34.
258. CAVR Interview with Carmen da Cruz, Dili, undated.
259. CAVR Interview with Meria Montalvão, Dili, undated.
260. Father José Tavares, Tuba Rai Metin, Base de Apoio session, 27 March 2002.
261. CAVR Interview with Izidora da Costa Boavida, Joana M. Dulce Viktor, Dili, 25 May 2004; Aleixo Ximenes, Dili, 2 February 2004.
262. CAVR Interview with Aleixo Ximenes, Dili, 2 February 2004.
263. See HRVD statements 08041, 05671, 03759, 08037, 03742, 08115, 05775, 03529.
264. Interview with Justino Mota, Lisbon, 4 July 1984 (Document submitted to CAVR by Anthony Goldstone).
265. CAVR Interview with Maria de Fatima Vaz de Jesus, Bebora, Dili, 23 September 2004.
266. CAVR Interview with Merita Alves, ex-detainee and member of the Fretilin Central Committee, Dili, 19 September 2003.
267. HRVD Statements 05671 and 03759; and Interview with Justino Mota, Lisbon, 4 July 1984 (Document submitted to CAVR by Anthony Goldstone).
268. CAVR Interviews with Constantino dos Santos, Quelicai (Baucau), 28 November 2002 and Zeferino Armando Ximenes, Baucau, 13 June 2003; CRRN Communiqué, Testimony of Onu Bu, July 1963; Gatimor No 6; and Interview with Justino Mota, Lisbon, 4 July 1984.
269. CAVR Interview with Maria de Fatima Vaz de Jesus, Bebora, Dili, 23 September 2004.
270. Ibid.
271. CAVR Interview with Constantino dos Santos, former Hansip member, Quelicai, 23 March 2004.
272. Amnesty International, *East Timor: Violations of Human Rights*, London, 1985.
273. CAVR Interviews with João da Costa, Baucau, 10 December 2003 and Merita Alves, Dili, 19 September 2003.
274. CAVR Interviews with Rui Lopes, Camenassa, Covalima, 31 October, 2003; and with Merita Alves, Dili, 19 September 2003.
275. Interview with Virginia da Cruz Dias Quintas, Lisbon, 6 April 1985 (Document submitted to CAVR by Anthony Goldstone).

276. CAVR Ringkasan Kasus: Penghilangan Maria Gorete Joaquim.
277. CAVR Interview with Merita Alves, Dili, 19 September 2003.
278. CAVR Interviews with Constantino dos Santos, Letemumu, Quelicai, Baucau, 28 November 2002; Cipriano Ximenes, Quelicai, Baucau, 28 November 2002; and Leonel Guterres, Quelicai, Baucau, 28 November 2002.
279. Xanana Gusmão, Timor-Leste – Um Povo, Uma Pátria, p. 42; Sarah Niner (ed), *To Resist is to Win: The Autobiography of Xanana Gusmão*, p. 59.
280. CAVR Interviews with Fernando José Freitas Soares and Venancio dos Santos Alves, Quelicai, 2 May 2004, and Zeferino Armando Ximenes, Baucau, 13 June 2003; Gatimor No 6 (Document submitted to CAVR by Anthony Goldstone) and CRRN Communique, July 1983.
281. CAVR Interviews with Constantino dos Santos, Letemumu (Quelicai, Baucau), 13 June 2003; and José Correia (Calala), Tirilolo (Baucau, Baucau), 24 March 2004.
282. HRVD Statements 00595 and 00597; and Gatimor No 6.
283. HRVD Statements 00572 and 07800.
284. HRVD Statements 07092 and 07800.
285. CAVR Interview with Zeferino Armando Ximenes, Baucau, 13 June 2003; and CRRN Communiqué, Testimony of Onu Bu, July 1963.
286. CAVR Interview with Constantino dos Santos, Letemumu, Quelicai, Baucau, 28 November 2002
287. CAVR Interview with Zeferino Armando Ximenes, Baucau, 13 June 2003.
288. Ibid.
289. CAVR Interviews with Constantino dos Santos, Letemumu, Quelicai, Baucau, 13 June 2003; and José Correia (Calala), Tirilolo, Baucau, Baucau, 24 March 2004.
290. See, for example, HRVD Statements 00597 [Celestino Peloy and Agapito Gama]
291. HRVD Statement 00528.
292. HRVD Statement 06113.
293. HRVD Statement 05324.
294. HRVD Statements 07715 and 02363.
295. HRVD Statement 00538.
296. HRVD Statement 00556.
297. HRVD Statement 04448.
298. HRVD Statement 02364.
299. CAVR, Community Profile, Uaitame Village, Quelicai Sub-district, Baucau District, 12 December 2003
300. HRVD Statement 02361.
301. HRVD Statement 06099.
302. HRVD Statement 06104.
303. HRVD Statement 07787.
304. CAVR Interview with Maria Teresa Corvelo Avila Marçal Sarmento, Dili, 4 October 2005
305. Ibid.
306. CAVR, Community Profile, Bauro Village, Lospalos Sub-district, Lautém District, and CRRN Communique, 23 July 1983.
307. HRVD Statements 05332, 05660 and 04422; and CAVR, Community Profile, Fuiloro Village, Lospalos Sub-district, Lautém District.
308. CRRN Communique, 23 July 1983.
309. Xanana Gusmão, *Timor-Leste – Um Povo, Uma Pátria*, p. 45; Sarah Niner (ed), *To Resist is to Win: The Autobiography of Xanana Gusmão*, pp. 62-63.
310. HRVD Statements 00737, 00740, 00741, 00713, 00702, 00706, 07586 and 00788; Xanana Gusmão, *Timor-Leste – Um Povo, Uma Pátria*, p. 45 and Sarah Niner (ed), *To Resist is to Win: The Autobiography of Xanana Gusmão*, p. 63; and CRRN Communiqué, 25 July 1983.
311. HRVD Statements 02257, 02252, 02264 and 02259; and CAVR, Community Profile, Aldeias of Iparira and Laiara, Parlamento, Moro Sub-district, Lautém District, 6 March 2003
312. HRVD Statement 01623 and CAVR, Community Profile, Loro Village, Tutuala Sub-district, Lautém District, 22 November 2002
313. HRVD Statement 01623; see also CAVR, Community Profile, Loro, Tutuala Sub-district, Lautém District, 22 November 2002
314. HRVD Statements 01618, 00615, 01622, 01636, 00740, 01649 and 02286.
315. HRVD Statement 02254.
316. CAVR, Community Profile, Aldeias of Pitileti, Etepiti and Ira-Onu, Com Town, Moro Sub-district, Lautém District, 6 March 2003
317. HRVD Statements 01604 and 01638.

318. HRVD Statement 02300.
319. HRVD Statements 02115 and 03979.
320. HRVD Statement 03968.
321. HRVD Statement 01650.
322. HRVD Statement 02130.
323. HRVD Statement 07586.
324. HRVD Statements 05364, 05365, 05369 and 05376.
325. Ibid.
326. HRVD Statement 00703; CAVR, Community Profile, Raça Village, Lospalos sub-district, Lautém District, and CRRN Report, 23 July 1983.
327. CAVR, Community Profile, Lore I Village Lospalos Sub-district, Lautém District; and HRVD Statement 05345.
328. CAVR Interviews with Saturnino Tilman and Mateus Conceição.
329. HRVD Statements 01506, 01576 and 01587; and CAVR, Community Profile, Manus, Taitudak Village, Alas Sub-district, Manufahi District, 4 October 2002.
330. HRVD Statements 04750 and 05410; CAVR, Community Profile, Letefoho, Same Sub-district, Manufahi District; and CRRN Communiqué, 25 July 1983.
331. HRVD Statements 05153, 03429, 04071 and 03427; and CAVR, Community Profile, Debu-Waen, Mahaquidan Village, Alas Sub-district, Manufahi District. [3 December 2003]
332. HRVD Statements 03401, 03403, 03429, 04071 and 04088; CAVR, Community Profile, Uma Metan, Mahaquidan Village, Alas Sub-district, Manufahi District; and Ringkasan Kasus: Pembantaian di Uma Metan. (Case Summary: Slaughter at Uma Metan)
333. HRVD Statements 04073, 04081 and 04085; and CAVR Interview with Saturnino Tilman. Dili.
334. HRVD Statements 04088, 04071, 04069 and 04100; and Ringkasan Kasus: Pembantaian di Uma Metan. (Case Summary: Slaughter at Uma Metan)
335. HRVD Statements 06621, 06525, 06610; and CAVR, Community Profile, Manumera Village Turiscai Sub-district, Manufahi District, 12 August 2003.
336. HRVD Statements 03491 and 03790; and CAVR, Community Profile, Manumera Village, Turiscai Sub-district, Manufahi District, 12 August 2003.
337. HRVD Statement 03464; and CAVR, Community Profile, Caicasa Village, Fatuberliu Sub-district, Manufahi District.
338. CAVR, Community Profile, Fatucahi Village, Fatuberliu Sub-district, Manufahi District.
339. HRVD Statement 03424.
340. HRVD 03482 and 03278; CAVR, Community Profile, Clacuc Village, Fatuberliu Sub-district, Manufahi District.
341. HRVD Statements 03474 and 03492.
342. HRVD Statement 03471.
343. HRVD Statement 05759; and CAVR Interviews with Bernardo da Costa and Elizio Teofilo; and Maria José da Costa, testimony to CAVR National Public Hearing on Famine and Forced Displacement, 28–29 July 2003.
344. See, for example, HRVD Statements 04185, 04200, 07450 and 07458.
345. HRVD Statements 04815
346. HRVD Statement 06093; see also CAVR Interview with Brigadier General Taur Matan Ruak, Dili, 9 June 2004.
347. See: Informação Sobre A Situação De Algunas Zonas de Timor Leste, Dili, 13 May 1982 (document submitted to CAVR by Anthony Goldstone); and *Informações*, Submission of Napoleão de Almeida to CAVR, 25 May 2004.
348. Informações, op.cit.
349. CAVR, Community Profile, Macadique Village, Uatolari Sub-district, Viqueque District, (undated).
350. Lucio Meneses Lopes, testimony to CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003.
351. HRVD Statements 03894, 00552, 03888, 03514 and 05112.
352. HRVD Statement 03514.
353. See HRVD Statements 02166 and 03759.
354. HRVD Statement 06490.
355. HRVD Statements 06068, 03894 and 03888; and CAVR Interview with Aleixo Ximenes, Dili, 2 February 2004.
356. CAVR Interview with Aleixo Ximenes, Dili, 2 February 2004; and HRVD Statement 03733.
357. HRVD Statement 03033.
358. HRVD Statement 09004.

359. See Shepard Forman, Statement to US Congress Sub-committee on International Organisations, Hearings on Human Rights in East Timor, 28 June 1977, p. 1719.
360. Laporan Kegiatan di Uaibitae (Report on Activities in Uaibitae), Anonymous Submission to CAVR.
361. Laporan Kegiatan di Uaibitae (Report on Activities in Uaibitae); and CAVR Interviews with Abilio Quintão Pinto, Dili, 7 October 2003 and Augusto Pires, Dili [undated].
362. CAVR Interview with Marito Reis, Baucau, 23 September 2003.
363. CAVR Interviews with Jacinto A. Junior, Baucau, 28 May 2004; Helena Freitas da Silva and J. Francisco, Dili, 2004; Luis da Costa, Lisbon [undated].and Augusto Pires, Dili [undated].
364. CAVR Interview with Marito Reis, Baucau, 23 September 2003.
365. CAVR Interview with Luis da Costa, Lisbon [undated].
366. CAVR Interviews with Marito Reis, Baucau, 23 September 2003; Aleixo Ximenes, 28 May 2004; Luis da Costa, Lisbon [undated].
367. CAVR Interview with Luis da Costa, Lisbon; John G. Taylor, *East Timor: The Price of Freedom*, Zed Books, London, 1991, p.96
368. HRVD Statement 00570; and CAVR Interview with Agostinho Boavida Ximenes (Sera Malik), Soe West Timor, Indonesia, 28 August 2004.
369. HRVD Statement 04444.
370. CAVR, Community Profile, Iliomar II, Iliomar Sub-district, Lautém District; and HRVD Statements 03962 and 03969.
371. CAVR, Community Profile, Iliomar II, Iliomar Sub-district, Lautém District; and HRVD Statement 03982.
372. HRVD Statements 06386 and 09471.
373. HRVD Statements 09471, 06354, 06395 and 06407.
374. CAVR Interviews with Eduardo de Jesus Barreto, Ermera, 12 August 2003, and Celestino Alves, Fatubessi, Ermera, 6 October 2003.
375. CAVR Interview with Jeronimo Albino, Ermera, 10 September 2003; see also HRVD Statement 08385.
376. HRVD Statement 06395.
377. CAVR Interviews with Celestino de Carvalho Alves, Fatubessi, Ermera [undated], and Fatubessi, Ermera, 27 June, 2004.
378. A Nossa Vitoria É Apenas Questão de Tempo, Comunicado do Comité Central da Fretilin de 14/9/77, Edições Comité de 28 de Novembro, Lisbon, March 1978, pp. 8-9 and 15. [Original: "o mais vil traidor que a nossa Historia conhece."]
379. "A Nossa Vitoria", p. 14, and Domingos Maria Alves (Ambulan), testimony to CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003
380. "A Nossa Vitoria", p. 15.
381. CAVR Interviews with Jeronimo Albino, Ermera, 10 September 2003; and Eduardo de Jesus.
382. CAVR Interview with João Soares, Atara, Atsabe, Ermera, 24 September 2003.
383. CAVR Interview with Maria Fatima Vaz de Jesus, Bebora, Dili, 23 September 2004.
384. CAVR Interviews with Maria Fatima Vaz de Jesus, Bebora, Dili, 23 September 2004; and Xanana Gusmão, Dili, 7 July 2004.
385. CAVR Interviews with Bernardo da Costa, 5 September 2003; and Maria Fatima Vaz de Jesus, Bebora, Dili, 23 September 2004.
386. HRVD Statement 05758.
387. Thomás Araújo, Case Summary 908, Kotomori, (Remexio Aileu) [undate].
388. CAVR Interview with Francisco Xavier Amaral, Dili 18 June 2004.
389. HRVD Statements 08100 and 05812.
390. HRVD Statement 07902.
391. HRVD Statements 00166, 09120, 04882, 04875, 04878 and 05745.
392. HRVD Statement 04878.
393. Domingos Maria Alves (Ambulan), testimony to CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003; CAVR Interview with Antonio de Amado Jesus Ramos Guterres, Laclo, Manatuto, 11 December 2003; Antonio Amado de Jesus Ramos Guterres, testimony to CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003; and HRVD Statements 05758, 09120 and 05063.
394. Antonio Amado JR Guterres, testimony to CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003.
395. Domingos Maria Alves (Ambulan), testimony to CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003.
396. HRVD Statement 08100.

397. HRVD Statement 05807.
398. CAVR Interview with Antonio Amado de Jesus Ramos Guterres, Laclo, Manatuto, 6 November, 2003; Antonio Amado de Jesus Ramos Guterres, testimony to CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003.
399. HRVD Statement 08100.
400. HRVD Statement 05812.
401. HRVD Statement 05810; and CAVR Community Profile, Faturasa Village, Remexio Sub-district, Aileu District,.20 June 2003.
402. HRVD Statement 05760.
403. CAVR Interview with Antonio Amado de Jesus Ramos Guterres, Laclo, Manatuto, 6 November 2003.
404. See 7.4.4.2 and CAVR Community Profiles, Hoholau, Aileu Town Sub-district, Aileu District; and Lausi/Bandudato, Aileu Town Sub-district, Aileu District 16 February 2004.
405. HRVD Statements 06995, 04830 and 05063.
406. HRVD Statements 06504, 07902, 08002 and 08010.
407. HRVD Statement 05712.
408. HRVD Statement 03203.
409. On Laclubar and Natarbora, see HRVD Statements 05771, 05056 and 05279; on Metinaro see HRVD Statement 05056 and CAVR Interview with Antonio Amado de Jesus Ramos Guterres, Laclo, Manatuto, 6 November 2003.
410. Domingos Maria Alves (Ambulan), testimony to CAVR National Public Hearing, Dili, 19–21 November 2003; and HRVD Statement 00802.
411. HRVD Statement 04815.
412. Among the survivors were Tobias Mendonça, Jorgé and Thomás Araújo [HRVD Statements 04882 and 0481]5; and CAVR Interview with Thomás Araújo CAVR Interview 14 October 2003.
413. Domingos Maria Alves (Ambulan), testimony to CAVR National Public Hearing, Dili, 19–21 November 2003; and Thomás Araújo, CAVR Interview 2003.
414. HRVD Statement 08002.
415. HRVD Statement 04815; CAVR, Community Profile, Ahic Village, Lacluta Sub-district, Viqueque District, 22 November 2002.
416. HRVD Statements 05807, 05810, 05811.
417. CAVR Interview with Jacinto A Junior, Baucau, 28 May 2004; Quelicai Uaibitae Document, submitted to CAVR by Anthony Goldstone; and HRVD Statements 07442, 07443 and 07588.
418. CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
419. CAVR Interview with Jacinto A. Junior, Baucau, 28 May 2004.
420. HRVD Statement 07512.
421. CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
422. HRVD Statements 04158, 07442 and 07443; CAVR Interviews with Jacinto A Junior, Baucau, 28 May 2004; and Quelicai Uaibitae Document, submitted to CAVR by Anthony Goldstone.
423. HRVD Statements 07442 and 07443.
424. Sarah Niner (ed), *To Resist is to Win!: The Autobiography of Xanana Gusmão*, pp. 49-50.
425. HRVD Statement 00095.
426. CAVR, Community Profile, Uaitame, Quelicai Sub-district, Baucau District; CAVR Interview with Agostinho Boavida Ximenes (Sera Malik), Soe (West Timor), 28 August 2004.
427. HRVD Statements 03804 and 03818.
428. HRVD Statement 06033. See also HRVD Statement 07443.
429. Quelicai Uaibitae Document, Submitted to CAVR by Anthony Goldstone.
430. HRVD Statement 07588.
431. See, for example, HRVD Statements 02992, 08225, 05771, 07837, 07990 and 08022.
432. For some of these cases, see HRVD Statements 04899, 06995, 02231, 08022, 05712, 06938, 00128 and 03900.
433. See, for example, CAVR Interviews with Antonio Amado de Jesus Ramos Guterres, Laclo, Manatuto, 11 December 2003; José Manuel do Santos, Remexio, Aileu, 6 October 2004; and José Manuel Monteiro, Remexio, 6 October 2004; and HRVD Statements 06033, 00114, 05056, 07902, 01502, 06995, 02086, 03818, 02056, 07902 and 04878, 02195, 03160, 03179, 02056, 06498, and 00200.
434. Antonio Amado de Jesus Ramos Guterres, testimony to the CAVR National Public Hearing on Massacres, Dili, 19–21 November 2003.
435. CAVR Interview with Egas da Costa, Dili, 19 May 2004.
436. HRVD Statement 06641.
437. HRVD Statements 03157 and 03160.

438. HRVD Statements 07704, 06033, 05056, 02195 and 05056.
439. HRVD Statements 00114, 02086, 03818 and 00200.
440. HRVD Statement 00200 and CAVR Interview with Maria Fatima Pinto, Dili, 31 May 2004.
441. HRVD Statement 06938 (Metinaro).
442. See also CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
443. CAVR Interview with Antonio Amado de Jesus Ramos Guterres, Laclo, Manatuto, 11 December 2003; and HRVD Statements 03804, 03818, 05842 and 08024.
444. HRVD Statements 03804 and 03818.
445. HRVD Statements 05842, 08024, 03804 and 03818.
446. HRVD Statement 08024.
447. HRVD Statement 00128.
448. HRVD Statements 03179, 09093, 03562 and 03597.
449. HRVD Statement 03179.
450. HRVD Statements 02123 and 03858.
451. HRVD Statement 02203.
452. HRVD Statement 04675.
453. HRVD Statement 02043.
454. HRVD Statement 03159.
455. HRVD Statement 03045.
456. CAVR, Community Profile, Raça Village, Lospalos Sub-district, Lautém District.
457. HRVD Statement 02137.
458. HRVD Statement 03824.
459. HRVD Statement 00418.
460. HRVD Statement 04384.
461. HRVD 04479 and CAVR, Community Profile, Laclo, Atsabe Sub-district, Ermera District, 26 June 2003.
462. Angelo Araújo Fernandes, testimony to the CAVR, National Public Hearing on Massacres, CAVR, Dili, 19–21 November 2003.
463. HRVD Statements 00633 and 03033.
464. HRVD Statement 03906.
465. HRVD Statement 05028.
466. HRVD Statement 08013.
467. HRVD Statement 03808.
468. HRVD Statement 08607.
469. HRVD Statement 04384.
470. HRVD Statement 04610
471. HRVD Statements 00403, 02719, 04187, 04992, 03974, 05771, 02056, 01902, 04095, 01711, 03027, 06950, 04604, 05567, 02148, 06950, 06490, 04384, 07612, 09093 and 03114.
472. CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
473. See, for example, HRVD Statements 06950, 04604, 09093 and 04148.
474. A Nossa Vitoria, op. cit., p.20.
475. HRVD Statement 04148.
476. CAVR, Community Profile, Puno, Pairara Village Moro Sub-district, Lautém District, undated.
477. HRVD Statement 02056.
478. HRVD Statement 04095. For other examples, see HRVD Statements 02179, 04498, 03114 and 01902.
479. HRVD Statement 02778.
480. HRVD Statement 07149.
481. HRVD Statement 02148.
482. HRVD Statement 07612.
483. HRVD Statement 02098.
484. HRVD Statements 05783 and 04188.
485. HRVD Statement 04188.
486. HRVD Statement 00615 and 00616.
487. Community Profile, Suhu-Rama, Inur Fuik, Sub-District Nain Feto, Dili District.
488. HRVD Statement 04087.
489. Xanana Gusmao, *To Resist is to Win!*, Aurora Books, Melbourne, 2000, p. 68.
490. Moerdani, article in *Sinar Harapan* Newpaper, 17 August 1983, cited in Taylor, *Indonesia's Forgotten War*, p. 143.
491. CAVR Interview with Bernadino Villanova, Ataúro, Dili, 7 March 2002.

492. CAVR Community Profile, Dare, Vera Cruz, West Dili.
493. CAVR Community Profile, Benamauk Village, Camea and Fatuahi, Cristo Rei Sub-district, Dili District.
494. CAVR Community Profile, Becora/Culuhun, Cristo Rei Sub-district, East Dili.
495. HRVD Statement 00177; see also Interview with Justino Mota, Lisbon, 3 July 1984 (Submission to CAVR by Anthony Goldstone).
496. HRVD Statements 09471, 08311, 08063, 08275; Neil Barrett Interview with David Ximenes; and "En Nome de Presos de 10/6/80", CRRN Communiqué, 13 July 1983; Interview with Antonio Barbosa, Lisbon, 5 April 1985 (Submission to CAVR by Anthony Goldstone).
497. HRVD Statements 00072; and interview with Antonio Barbosa, Lisbon, 5 April 1985 (Submission to CAVR by Anthony Goldstone).
498. CAVR Interview with Maria de Fatima Martins, Seloi Malere, Aileu, undated; and HRVD Statement 03217.
499. CAVR Community Profiles, Hera, Cristo Rei Sub-district, East Dili; and Becora/Culuhun, Cristo Rei Sub-district, East Dili.
500. HRVD Statement 01626; and "En Nome de Presos de 10/6/80", CRRN Communiqué, 13 July 1983.
501. Neil Barrett Interview with Maria Imaculada Araújo; Amnesty International Report, 1985; and "En Nome de Presos de 10/6/80", CRRN Communiqué, 13 July 1983.
502. Neil Barrett interview with David Ximenes, Dili 2003.
503. HRVD Statement 05655; Neil Barrett Interviews with Maria Fatima Pinto and Maria Imaculada Araújo.
504. HRVD Statement 00072.
505. HRVD 00076.
506. Neil Barrett Interview with David Ximenes, Dili 2003.
507. Neil Barrett Interviews with David Ximenes and Maria Fatima Pinto, Dili 2003; HRVD Statements 00076, 04864 and 08063.
508. HRVD Statements 03490 and 06983; and "En Nome de Presos de 10/6/80", CRRN Communique, 13 July 1983.
509. HRVD Statement 03490; and Neil Barrett Interview with David Ximenes.
510. HRVD Statement 08735.
511. Neil Barrett Interview with Maria Imaculada Araújo, Dili 2003.
512. HRVD Statement 08275.
513. HRVD 08031; and CAVR, Community Profile, Suhu-Rama, Inur Fuik, Nain Feto Sub-district, East Dili District.
514. CAVR Interview with José Simões, Dili, 9 March 2004.
515. Letter from Monsignor Martinho da Costa Lopes to Leo Soekoto, Archbishop of Jakarta, 12 July 1980 (Submission to CAVR by Anthony Goldstone).
516. HRVD Statements 09011 and 05010.
517. "En Nome de Presos de 10/6/80", CRRN Communique, 13 July 1983.
518. HRVD Statements 03121 and 00072; and "En Nome de Presos de 10/6/80", CRRN Communiqué, 13 July 1983.
519. HRVD Statement 06961.
520. HRVD Statement 06941.
521. HRVD Statements 05735, 06959 and 06995.
522. CAVR Community Profile, Suhu-Rama, Inur Fuik, Nain Feto Sub-district, Dili District; HRVD Statements 05078 and 08031.
523. HRVD Statement 06956.
524. CAVR Interview with Anselmo Fernandes Xavier, Com, Lautém, 10 October 2003.
525. CAVR Interview with Abilio Quintão Pinto, Iliomar, Lautém, 7 October 2003.
526. Written statement provided to CAVR by Fernando Ximenes, Ossu, Viqueque, 2 October 2003.
527. HRVD Statement 01459.
528. HRVD Statement 04877.
529. CAVR Interviews with João Bosco and Valdemar Sarmento, 14 July 2003; Raimundo Hornay Ximenes, Fatuberliu, Manufahi, 20 October 2003; HRVD Statement 00427.
530. Written statement provided to CAVR by Fernando Ximenes, Ossu, Viqueque, 2 October 2003.
531. Xanana Gusmao, Sarah Niner (ed), *To Resist is to Win!*, pp. 67-68.
532. CAVR Interviews with José de Jesus dos Santos, Dili, 28 June, 2004; and Cancio da Costa Viegas, September 25, 1981.
533. CAVR Interview s with Anacleto Ximenes, Cairui, Manatuto, 12 March 2004; and Sebastião da Cunha, Manatuto, 12 May 2004.

534. CAVR Interviews with Sebastião da Cunha, Manatuto, 12 May 2004; and José de Jesus dos Santos, Dili, 28 June 2004.
535. CAVR Interview with Sebastião da Cunha, Manatuto, 12 May 2004.
536. CAVR Interview with Anacleto Ximenes, Cairui, Manatuto, 12 March 2004.
537. HRVD Statement 07101.
538. HRVD Statements 04424, 01628, 00801, 05346 and 05331.
539. HRVD Statement 07599.
540. HRVD Statement 05340.
541. HRVD Statement 05358.
542. HRVD Statement 06780
543. CAVR Interview with Dinis Amaral, Dare, Ainaro, 1 June 2003.
544. CAVR Interview with Adelino de Araujo, Mau Chiga, Ainaro, 29 May 2003.
545. CAVR Interview with Ana Britos, Mau Chiga, Ainaro, 31 May 2003.
546. Statement 6 from CAVR, Research Team, Ainaro Field Report, Dili, 16 January 2003; see also CAVR, Community Profile of Mulo Village, Dare Sub-district, Ainaro District, 2 February 2004.
547. CAVR, Community Profile of Mulo Village, Dare Sub-district, Ainaro District, 2 February 2004.
548. CRRN Communíque, July 1983.
549. HRVD Statement 07181.
550. HRVD Statement 07241.
551. HRVD Statement 07242.
552. HRVD Statement 07253.
553. HRVD Statement 07256.
554. HRVD Statements 07177; 07186 and CAVR list compiled from gravestones in Ainaro.
555. Statement 6 from CAVR, Research Team, Ainaro Field Report, Dili, 16 January 2003.
556. Statement 6 from CAVR, Research Team, Ainaro Field Report, Dili, 16 January 2003.
557. CAVR, Community Profile of Mau Chiga Village, Hato Builico Sub-district, Ainaro District, 17 September 2004.
558. CAVR Interview with XH, Mau Chiga, Ainaro, 17 March 2003.
559. CAVR, Community Profile of Nunumogue Village, Hato Builico Sub-district, Ainaro District, 4 February 2004.
560. "List of victims at Mau Chiga", 1982, Submission to CAVR from Abilio dos Santos Belo, 3 June 2003.
561. See CAVR Research Team, Ainaro Field Report, Dili, 16 January 2003.
562. HRVD Statements 02803; 03343; 09152.
563. CAVR Interview with Duarte Gaspar Corte Real, Ainaro, 22 October 2003.
564. CAVR, Community Profile, Bibileo Village, Viqueque Sub-district, Viqueque District.
565. Ibid.
566. CAVR Interviews with Silvino das Dores Soares, Viqueque, 10 March 2004; Geronimo da Costa Amaral, Viqueque, 10 March 2004; and "Interview with Mario Carrascalão", Indonesia 76, October 2003.
567. HRVD Statements 03072; 06062.
568. HRVD Statements 09035; 06039; 07340; CAVR Interview with Honorio Soares de Gonzaga, Lalerek Mutin, Viqueque, 10 March 2004.
569. CAVR Interview with Silvino das Dores Soares, Viqueque, 10 March 2004.
570. Ibid.
571. CAVR Interview with Geronimo da Costa Amaral, Viqueque, 10 March 2004.
572. Serious Crimes Unit interview with José da Costa Carvalho, CAVR Interview with José da Costa Carvalho.
573. CAVR Interview with Olinda Pinto Martins, Lalerek Mutin, Viqueque, 8 November 2003; see also Serious Crimes Unit interviews with Jacinto Gomes (Leki Rubi), Viqueque 11 April 2001, and Antonio Soares (Toni Rubik), Viqueque, 11 April 2001.
574. See CAVR Interview with José Gomes, Lalerek Mutin, Viqueque, 8 December 2003.
575. CAVR Interview with Domingos Amaral, Luca, Viqueque, 18 July 2003. See also HRVD Statement 06025.
576. HRVD Statement 04203.
577. HRVD Statement 04205.
578. HRVD Statements 06050, 06001, 06809, 06798, 07332, 07522, 07523, and 07373.
579. HRVD Statement 07333.
580. HRVD Statement 04142.
581. HRVD Statement 03134.

582. HRVD Statement 04140.
583. HRVD Statement 03051.
584. CAVR Interview with Aleixo Rogério José, Lugasa, Viqueque, 14 December 2003.
585. CAVR Interview with Isabel da Silva, Beaço, Viqueque, 14 December 2003.
586. HRVD Statements 06036, 07432, 07436, 07459, 07482, 07517 and 07518; see also CAVR Interview with Mateus da Silva, Uatolari, Viqueque, 4 October 2003.
587. HRVD Statement 07465.
588. HRVD Statement 07354.
589. HRVD Statement 04143.
590. HRVD Statements 04123; 04144
591. CAVR Interview with Julio dos Santos, Dili, 15 October 2004.
592. CAVR Interview with Antonio dos Santos, Mehara, Tutuala, Lautém, 10 October 2003; HRVD Statement 00791.
593. See CAVR Interviews with Gaspar Seixas and Fernando Amaral; and Document No. 4/Ag/84, Submission to CAVR of Anthony Goldstone, CAVR Archive.
594. CAVR, Field Report of the Displacement and Famine Research Team on the sub-district of Iliomar, 27 May–4 June 2003.
595. CAVR, Community Profile, Iliomar II, Iliomar Sub-district, Lautém District.
596. CAVR, Community Profiles, Iliomar I, Ailebere and Fuat, all Iliomar Sub-district, Lautém District.
597. CAVR, Community Profiles, Tirilolo and Ailebere, both Iliomar Sub-district, Lautém District.
598. Trial Documents of Zé Roberto Seixas Miranda Jeronimo (No: 57/PID/B/1984/PN.DIL).
599. HRVD Statement 04371; see also Ernest Chamberlain, *The Struggle in Iliomar*, 2003, p. 25.
600. CAVR, Community Profile, Iliomar I Sub-district, Lautém District; HRVD Statements 03918, 04446, 03973, 04371, and 03985; and Trial Documents of Zé Roberto Seixas Miranda Jeronimo (No: 57/PID/B/1984/PN.DIL).
601. HRVD Statement 03925; see also HRVD Statements 02113; 03924; 03912; 03949; 03986; 03997; 04371; see also Ernest Chamberlain, *The Struggle in Iliomar*, p. 25.
602. HRVD Statement 03928; see also HRVD Statement 09198.
603. HRVD Statements 03911; 04406; see also Ernest Chamberlain, *The Struggle in Iliomar*, 2003, p. 25.
604. HRVD Statement 03960; see also HRVD Statements 03946; 04008; 03920; see also Ernest Chamberlain, *The Struggle in Iliomar*, 2003, p. 25.
605. CAVR, Community Profile, Cainliu Village, Iliomar Sub-district, Lautém District.
606. HRVD Statements 03946; 04401; 04008; 04406.
607. HRVD Statements 03997; 03973; 09171; 04440.
608. HRVD Statement 00791.
609. CAVR, Community Profile, Mehara Village, Tutuala Sub-district, Lautém District.
610. HRVD Statements 00737; 00761.
611. HRVD Statement 09151.
612. HRVD Statements 00761; 00726; 00727.
613. HRVD Statement 00707. The killings on 25 November are described in HRVD Statements 00746; 00761; 07092; 00763 and 00755.
614. See Document No. 4/Ag/84, Submission to CAVR, Anthony Goldstone, CAVR Archive.
615. See HRVD Statement 07582.
616. HRVD Statement 01646.
617. Gracilda Guimarães, testimony to the CAVR National Public Hearing on Political Imprisonment, 17–18 February 2003; see also HRVD Statements 00777; 00784; 00787; 09151.
618. See Doc No. 4/Ag/84, Submission to CAVR of Anthony Goldstone, CAVR Archive.
619. Ibid; see also HRVD Statement 05330.
620. HRVD Statement 02794; CAVR Interview with Raul da Costa Pite, Lore, Lospalos, Lautém, 9 October 2003.
621. HRVD Statements 05320, 05330 and 02794; CAVR Interview with Raul da Costa Pite, Lore, Lospalos, Lautém, 9 October 2003; and Document No. 4/Ag/84, Submission to CAVR of Anthony Goldstone, CAVR Archive.
622. HRVD Statement 05399.
623. HRVD Statement 05400.
624. HRVD Statement 07592.
625. HRVD Statements 01674; 05350; 07591 although the names differ slightly.
626. HRVD Statement 07595.
627. HRVD Statement 00768.

628. HRVD Statement 02295.
629. HRVD Statements 07606; 07613; HRVD Statement 07604 reports that Antonio and Pedro were killed in 1984.
630. HRVD Statement 07613.
631. HRVD Statement 07801.
632. HRVD Statement 08748.
633. HRVD Statement 08726.
634. HRVD Statement 07618; see Document No. 4/Ag/84, Submission to CAVR, Anthony Goldstone, CAVR Archive; see also CAVR Interview with Julio dos Santos, Dili, 15 October 2004.
635. See CAVR Interview with Gonzalo da Silva, 8 October 2003.
636. Mariana Marques, testimony to the CAVR National Public Hearing on Massacres, 19–21 November 2003.
637. HRVD Statement 02789.
638. HRVD Statement 05355.
639. HRVD Statements 02344, 02310, 02369, 00567 and 06098.
640. HRVD Statements 02310; 0609.
641. HRVD Statement 06114.
642. HRVD Statement 00584.
643. HRVD Statement 08117.
644. HRVD Statement 00553.
645. HRVD Statement 07050.
646. HRVD Statement 08601.
647. HRVD Statements 02401; 03808.
648. "Letter from a priest in East-Timor of July 14th, 1984", Submission to CAVR, by Anthony Goldstone; and HRVD Statements 07679; 08610.
649. HRVD Statement 03834.
650. HRVD Statement 07060.
651. HRVD Statements 02374, 02373 and 02388.
652. HRVD Statement 05234.
653. HRVD Statement 08762.
654. HRVD Statement 08039.
655. HRVD Statement 00182.
656. HRVD Statement 06767.
657. HRVD Statement 05776.
658. HRVD Statement 05024.
659. HRVD Statements 03602 and 07064; CAVR Interview with Henrique Belmiro, 25 May 2004, Comoro, Dili; Assepol Submission to the CAVR: Political Prisoners in East Timor, 25 April 1974-September 1999; Interview with Antonio Tomás Amaral da Costa (Antonio Aitahan Matak), Dili, 16 October 1984
660. HRVD Statement 01437.
661. HRVD Statements 01410; 04154; 01407; 01408; 01454; 01471.
662. HRVD Statement 04772.
663. HRVD Statement 03430.
664. HRVD Statements 04807; 04783.
665. HRVD Statement 04787.
666. HRVD Statement 04772.
667. HRVD Statement 09044.
668. HRVD Statements 03437; 03452; 03476; 03430; 04024.
669. HRVD Statement 03782.
670. "Report of events in Ainaro District, especially May 1984," photocopy held by CAVR, dated June 1984.
671. HRVD Statements 02803; 02051.
672. HRVD Statements 03341; 03343; 09152.
673. CAVR Interview with Duarte Gaspar Corte Real, Ainaro, 22 October 2003.
674. CAVR Interview with Olandino Guterres, Dili, 7 June 2004.
675. HRVD Statements 05156; 05157; 05169; 06681; 07168; 07172; 08143; 08182; 08187 report cases of individuals detained in Bobonaro and Zumalai during 1984 and taken to the Koramil in Bobonaro.
676. CAVR Interview with Lucio Dinis Marques, Raifun, Maliana, Bobonaro, 13 June 2003.
677. CAVR Interview with Armando dos Santos, Maliana, 13 June 2003.

678. HRVD Statement 05156.
679. HRVD Statement 05203.
680. HRVD Statement 08553.
681. HRVD Statement 03695.
682. HRVD Statements 07172; 08143.
683. HRVD Statement 07172; CAVR Interview with Olandino Guterres, Dili, 7 June 2004.
684. "Relação de acusados e mortos pelas forcas da Indonesia em Koramil de Bobonaro no Ano de 1984," ("Report of accused killings by the Indonesian military at the Bobonaro Koramil in the year 1984), Submission to CAVR by Armando dos Santos, Maliana, Bobonaro, 13 June 2003.
685. HRVD Statement 00924.
686. HRVD Statement 02108.
687. HRVD Statement 00965.
688. HRVD Statement 00970.
689. HRVD Statement 00992.
690. HRVD Statement 00946.
691. HRVD Statement 01000.
692. HRVD Statements 00205; 03547.
693. HRVD Statement 05323.
694. HRVD Statement 07661.
695. HRVD Statement 03902.
696. HRVD Statement 07444.
697. HRVD Statement 07602.
698. Amnesty International, 21 December 1987.
699. HRVD Statement 04161.
700. HRVD Statement 06022; CAVR Interview with Roque Soares Pinto, Beaço, Viqueque, Viqueque, 3 October 2003.
701. HRVD Statement 03916.
702. HRVD Statement 01612; CAVR Interview with Julio dos Santos, Dili, 15 October 2004. According to Julio dos Santos, Josefina was killed in 1985.
703. HRVD Statement 06029.
704. HRVD Statement 00427.
705. HRVD Statement 06052.
706. HRVD Statement 01605.
707. HRVD Statement 01640; CAVR Interview with Julio dos Santos, Dili, 15 October 2004.
708. HRVD Statement 04437; CAVR, Community Profile, Ailebere Village, Iliomar Sub-district, Lautém District, 24 July 2003; and Ernest Chamberlain, *The Struggle in Iliomar: Resistance in Rural East Timor*, pp. 27–28.
709. HRVD Statement 05320.
710. HRVD Statement 06073.
711. HRVD Statement 02136.
712. HRVD Statement 05349.
713. HRVD Statement 03138.
714. HRVD Statement 09163.
715. HRVD Statement 00436.
716. HRVD Statements 03899 and 02337.
717. HRVD Statement 06122.
718. HRVD Statement 00585.
719. HRVD Statement 03873.
720. HRVD Statement 04102.
721. HRVD Statement 04716.
722. HRVD Statement 03388.
723. HRVD Statement 01357.
724. HRVD Statement 02164.
725. HRVD Statement 01674.
726. HRVD Statement 09189.
727. HRVD Statement 03771.
728. UNPOL [United Nations Police] Historical Crime Unit interview with Jacinto Alves, 11 June 2001.
729. See the matrix of interviews attached to Special Report on the Result of the Investigation of Riot-Control Officers at the 12 November 1991 Demonstration, No. Lapsus/03/XII/1991, January 1992

730. CAVR Interview with Marcio da Graça Ximenes Cipriano Gonçalves, 28 November 2004. See also United Nations Transitional Authority in East Timor [UNTAET] National Investigations Unit [NIU, Civilian Police], interview with José João Lemos Aniceto, 21 March 2001.
731. For instance, see Russell Anderson, Statement on the Massacre in East Timor on 12 November 1991, first submitted to the Joint Parliamentary Committee for Trade and Defence (Australia), 2 December 1991.
732. Simplicio Celestino de Deus, testimony to the CAVR National Public Hearing on Massacres, 19–21 November 2003.
733. State Court in Dili, Case Dossier (Bundle A), No. 13/Pid/B/1992/PN DIL.
734. CAVR Interview with Aviano Antonio Faria, 16 October 2003.
735. CAVR Interview with Antonio Dias.
736. CAVR Interview with Inocêncio da Costa Maria Freitas, Dili, 27 November 2004.
737. CAVR Interview with Aviano Antonio Faria, Portugal, 16 October 2003.
738. State Court in Dili, op. cit. Case Dossier (Bundle A), No. 13/Pid/B/1992/PN DIL. p. 93.
739. CAVR Interview with Fernando Tilman, Dili, 28 November 2004.
740. *Asia Watch*, East Timor: The November 12 Massacre and its Aftermath, *Asia Watch Report*, Vol. 3, No. 26, 12 December 1991.
741. Advance Report of the National Commission of Inquiry into 12 November 1991 Incident in Dili, 26 December 1991. In Heike Krieger (ed.), *East Timor and the International Community: Basic Documents*, 1997, pp. 256-259.
742. Komisi Penyelidikan Nasional, Indonesian National Commission of Enquiry.
743. Asociação Oikoumenis and A Paz e Possivel em Timor Leste [Peace is Possible in East Timor] (Editor), East Timor after Santa Cruz: Indonesia and the International Order. Editor, Lisbon, Portugal, January 1993. Commission on Human Rights, Report of the Secretary-General on the Situation in East Timor, 31 January 1995, Annexe I: Information provided by the Government of Indonesia. E/CN.4/1995/72. The estimate of those killed varies from 50 to 100 to 200 to 271. See CDPM and Peace is Possible in East Timor after Santa Cruz, 1993.
744. See suspect No. 9 in Result of the Investigation of Riot-Control Officers at the 12 November 1991 Demonstration, No. Lapsus/03/XII/1991, January 1992
745. See, for example, CAVR Community Profile Iliomar II, Iliomar Sub-district, Lautém District, which says that 12 people from Iliomar, who attended the Santa Cruz demonstration, were killed or "disappeared".
746. HRVD Statement 02049.
747. HRVD Statements 02049 and 04964.
748. For graves at Tibar, see United Nations Transitional Authority in East Timor [UNTAET] National Investigations Unit [NIU, Civilian Police], interviews with Paul da Silva de Jesus, 7 April 2001; Matias Guterres, 30 March 2001; and Manuel Soares alias Amanu, 11 August 2001.
749. United Nations, "Report by the Special Rapporteur Bacre Waly Ndiaye, on his mission to Indonesia and East Timor from 3 to 13 July 1994", E/CN.4/1995/61/Add.1, 1 November 1994, Paragraph 69.
750. UN Document E/CN4/1995/61/Add.1. Referred to as the Ndiaye Report.
751. Ibid.
752. Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, recommended by Economic and Social Council Resolution 1989/65 of 24 May 1989. Annexe, 1989 UN ESCOR Supp. (No. 1) at 52, UN Doc. E/1989/89 (1989).
753. Surat Perintah Penyidikan Order of Investigation No.POL: SPRIN/1090/XI/1991/SERSE.
754. Police Report No.POL:LP/611/XI/1991/PAMAPTA.
755. Daftar Barang Bukti (List of Evidence), prepared by M. Tutuhatunewa.
756. Second Military Police Report, infra.
757. Ndiaye Report, para. 52.
758. Ibid. para.56.
759. Ibid. para.57.
760. Statement of Joana Dias, 4 August 2001, provided to UNTAET Civpol; Statement of Simão Pedro Ribeiro, 12 August 2001, provided to UNTAET Civpol.
761. First Military Police Report: *Special Report: Brief Summary of the Results of the Investigation of the managing Officials of the Anti-integration Group and its Supporters' Demonstration on 12 November 1991*, dated 26 November 1991, by the Military Police for Military Region IX, Udayana. (Laporan Khusus Nomor Lapsus/487/XI/1991, Resume Singkat Hasil Pemeriksaan Para Petugas Pengendali Unjuk Rasa Kelompok Anti Integrasi dan Pendukungnya pada tanggal 12 Nopember 1991, dated 26 November 1991, by Polisi Militer Daerah Militer IX, Udayana, Detasemen IX/4).

Second Military Police Report: *Report of the Investigation into the events of 12 November 1991,* by the Military Police dated December 1991, dated December 1991 (no day entered). [*Laporan Pengusutan Ke Dalam Peristiwa 12 Nopember 1991 Nomor: R/488/XII/1991*, *Polisi Militer Daerah Militer IX, Udayana Detasemen-IX/4]*; and

Third Military Police Report*: Special Report about the Results of the Investigation into the PHH officials at the Demonstration of 12 November 1991,* dated January 1992, by the Military Police for Udayana region. [*Laporan Khusus Tentang Hasil Penyelidikan Terhadap Petugas PHH pada Demonstrasi tanggal 12 Nopember 1991*, January 1992, Polisi Militer Daerah Militer IX, Udayana, Detasemen IX/4]. This report contained a five-page signed and sealed report from deputy commander Major Hawas Mu'in.

762. Police Report no: LP-28/A-22/Military Police Detachment Unit IX/4/1991, 12 November 1991.
763. Third Military Police Report: *Special Report about the Results of the Investigation into the PHH officials at the Demonstration of 12 November 1991,* dated January 1992, by the Military Police for Udayana region.
764. Ibid, p. 4.
765. Ibid, p. 4-5.
766. Record at Site of Incident, 14 November 1991, Case Dossier in the case against Aloysius Rani.
767. Ndiaye Report, par. 47.
768. Berita Acara Persidangan (Transcript of the hearing) No. 15/Pid/B/1992/PN.DIL, 7 May 1992, p.100.
769. First record of interview of Second Lieutenant Mursanib**
770. Third Record of Interview of Second Lieutenant Mursanib, 21 March 1992, answer to question q.6 b5.
771. According to Asia Watch in East Timor: The Massacre Courts-Martial, p. 4, Mursanib was the head of the social and political section of the Kodim (Kasi Sospol).
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Part 7.3.

Forced Displacement and Famine

Part 7.3 Forced Displacement and Famine

Tables:

Graphics:

7.3 Forced Displacement and Famine

Introduction

1. As part of its mandate to establish the truth regarding past human rights violations, the Commission conducted an inquiry into displacement and famine in Timor-Leste during 1974–1999. This inquiry was critical to understanding the story of human suffering and human rights violations associated with the conflict because displacement was a defining feature of the years of conflict in Timor-Leste. Almost every East Timorese person who lived through these years suffered some form of displacement, and many were displaced more than once.

2. Displacement and its consequences occurred repeatedly during the period of the Commission's mandate.

- As early as 1974 the Commission learned there were cases of villagers fleeing the violent consequences of growing inter-party tensions.
- The civil war of August–September 1975 caused tens of thousands of people to be displaced, most for short periods within Timor-Leste, but some forcibly to Indonesian West Timor.
- The Indonesian invasion of 7 December 1975 triggered the evacuation of a majority of the population into mountain and forest areas under Fretilin control, in numbers that were so large that they put an unbearable strain on Fretilin's resources and organisational capabilities. Even after Indonesian forces stepped up their attacks and ended the relatively settled lives of those living in these areas, the Fretilin leadership went to great lengths to prevent people from coming out of the forest and mountains, including by the use of harshly punitive measures against those suspected of wanting to do so.
- The massive campaigns waged by Indonesian forces between mid-1977 and late 1978 made the already difficult conditions in which hundreds of thousands of East Timorese people in the forest and mountains were living intolerable, finally forcing the leadership to permit them to surrender to Indonesian forces.

- Once in Indonesians hands they faced an even worse fate in "resettlement camps": there the Indonesian military made utterly inadequate provision for their everyday needs and placed restrictions on their freedom of movement which made it impossible for camp inmates to provide for themselves. The result was a famine which took thousands of lives, largely because the Indonesian military permitted international relief agencies to operate in Timor-Leste only once it decided that it had achieved its military objectives.
- In the 1980s some of those living in the camps were allowed to return to their home villages but they continued to live under restriction. Others were moved to "new villages" and other locations explicitly selected for their strategic value to the Indonesian military.
- In the same period displacement continued to be used as an integral part of the Indonesian counter-insurgency strategy. As the Resistance began to recover from its near destruction in the late 1970s, the military responded by displacing people suspected of having links with it, whether as members of a clandestine network or simply because they had family members in the bush. Beginning in 1980 thousands of people, the majority of whom were women and children, were transported to the barren island of Ataúro. They faced the consequences of inadequate provision of food and other essentials, at least until the ICRC was permitted to operate there in 1982. Fretilin attacks brought dire retribution from the Indonesian forces. Typically, as after the attacks on Mau Chiga (Hato Builico, Ainaro) in 1982 and Kraras (Viqueque, Viqueque) in 1983, this involved the displacement of entire villages, including to previously unsettled areas where again provision of essentials was minimal and the opportunities to achieve self-sufficiency slight.
- The whole period surrounding the Popular Consultation of 30 August 1999 was marked by displacements of different kinds.These ranged from flight from militia and TNI violence before and after the ballot to the organised evacuation of the population to West Timor, Indonesia that occurred after the result was announced. The violence of the militia groups, often working openly with their TNI sponsors, resulted in human rights violations on a scale not seen since the late 1970s. Detentions, torture and ill-treatment, killings, sexual violence and forced recruitment all reached new peaks in 1999, as did displacement. During 1999, displacement occurred both as spontaneous flight from militia violence and intimidation, and as the organised movement of people from their homes and other places where they had sought refuge. As in earlier years, displacement in all the variety of circumstances in which it occurred in 1999 had a severe impact on people's ability to feed themselves, especially as the Indonesian authorities made a concerted effort to deny them humanitarian assistance.

3. As is evident from this short summary, the consequences of displacement in Timor-Leste were far-reaching. One of the most frequent ways in which armed conflicts around the world have disrupted the everyday lives of civilians is by causing them to be displaced. Even where it is voluntary, by uprooting civilians from the

settings in which they have supported themselves, displacement commonly results in deprivation of various kinds, including hunger, disease and the loss of adequate shelter. Often displacement is in effect a form of arbitrary collective punishment, and as such is associated with violations of a range of human rights, civil and political as well as economic, social and cultural. All of these features of displacement were present in Timor-Leste, in a very pronounced way.

4. Thus the reason why mortality was far higher between 1975 and 1999 than would have been expected in normal peacetime conditions was the large number of deaths from hunger and illness that were directly related to displacement. The Commission has concluded that a minimum of 84,200 people died from displacement-related hunger and illness during the whole period (see Vol. I, Part 6: The Profile of Human Rights Violations).

5. In Timor-Leste displacement was also closely correlated with the whole range of human rights vioIations. It is noteworthy that during the years when deaths from hunger and illness were at their highest, namely 1975-79, displacement, killings and disappearances, and many non-fatal violations, including detention, torture and ill-treatment, also reached peaks. Indeed, over the whole period 1975-99 fluctuations in all of these phenomena tend to be closely correlated, strongly suggesting that they had a common underlying cause, most plausibly the intensity of Indonesian military operations. The events of 1999 provide a partial exception to this finding: although displacements and both fatal and non-fatal violations rose to very high levels in that year and deaths by deprivation did increase, the number of deaths from hunger and illness did not increase as sharply as the level of displacements and violations of all kinds did, perhaps due to the relatively brief timeframe of displacements in that year (see Vol. I, Part 6: The Profile of Human Rights Violations).

Definitions and methodology

6. Both "displacement" and "famine" are neutral terms in the sense that they may occur without human rights being violated. The Commission has concluded, however, that in the context of the conflicts in Timor-Leste, the nature of displacement and famine was almost always such that both were human rights violations in themselves and at the same time entailed a whole cluster of other violations.

Displacement

7. The Commission defines displacement as a situation where people leave the place where they live either under some form of compulsion or because they themselves have decided that circumstances are such that it would be dangerous not to move. Displacement can occur within a particular country ("internal displacement") or to the territory of another country ("external displacement"). In Timor-Leste both "'internal" and "external" displacement took place at different periods of the conflict. In this report, the Commission uses the term "internally displaced" for displaced people who

remained within the borders of Timor-Leste,* and "refugees" for those who crossed the border to West Timor.†

8. By definition displacement always takes place unwillingly. It may occur because of the direct use of force or the threat of force against the people being displaced. It may also be spontaneous, or non-forcible, such as in a situation in which civilians flee from an approaching invading army.

9. Legally, displacement is forced when it occurs in a manner that is unlawful. Without reasonable evidence that a party to an armed conflict has acted unlawfully when displacing people, displacement cannot be described as forced. In accordance with international law, the Commission defines a "forced displacement" as displacement that is effected through the use of physical force or by the "threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against…person or persons or another person or by taking advantage of a coercive environment".[1] Forced displacement within a country is referred to as "forcible transfer"; forced displacement to the territory of another country is "deportation".[2]

10. Forced displacement does not necessarily involve the actual use of force against the person or persons who are being displaced. Forced displacement would be considered to have occurred in a situation where, for example, civilians are ostensibly given a choice as to whether to board a truck that is going to move them from their homes, but in fact had reasonable grounds to fear death or violence if they refused.‡ It does not encompass all situations where civilians flee to escape combat between an invading force and a defending army.

11. The use of force or the threat of force does not necessarily make displacement illegal. Force may be used to displace a population if those using force can justify their actions in terms of the safety of the people being displaced or military necessity. However, in the absence of these justifying conditions forced displacement may, if committed as part of a widespread or systematic attack on a civilian population, be a crime against humanity or may, if directed against people, such as civilians, who are protected under the Geneva Conventions, be a war crime.[3]

* According to *UN Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, 11 February 1998: "internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border."

† Article 1 of the *Convention Relating to the Status of Refugees 1951*, defines a refugee as a person who based on "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, unwilling to avail himself of the protection of that country." In this section the term "refugee" is used to apply to those who were displaced to West Timor during the Indonesian occupation, whether or not they met that definition.

‡ Thus forced displacement has been held to have occurred in circumstances where civilians "were not exercising a genuine choice to go, but reacted reflexively to a certainty that their survival depended on their flight". [*Prosecutor v Radislav Krstic*, ICTY Case No IT-98-33-T, Trial Chamber Judgment, 2 August 2001, Paragraph 530].

12. According to universal human rights standards, everyone has the right to liberty of movement and freedom to choose his or her residence.[4] Restrictions on these rights are permitted only when it is necessary to protect national security, public order, public health or morals, or the rights of others. Any restrictions must be provided by law, proportionate to the protective function served, and must not be inconsistent with other human rights.[5]

13. The UN Guiding Principles on Internal Displacement provide that every person has the right to be protected against arbitrary displacement from his or her home, including in situations of armed conflict, except where the security of civilians or imperative military reasons so demand.[6] Where people do suffer displacement, authorities must ensure their well-being, including access to food, water, shelter and medical services.[7]

14. Under international humanitarian law forced transfers of the civilian population are permitted by an occupying power only in cases where the evacuation of an area is necessary for the security of the population or for imperative military reasons. Even then civilians must not be moved outside the occupied territory except when it is impossible to avoid that happening. Where transfers are necessary the occupying power must ensure that proper accommodation is provided, that transfers occur in healthy and safe conditions, that members of the same family are not separated, and that evacuees are returned to their homes as soon as hostilities in their area have ceased.[8]

15. As already noted, in all other cases – that is where transfers are not strictly necessary – forced displacement of civilians within an occupied territory or to a place outside the occupied territory is prohibited by humanitarian law during an occupation.[9] Violation of this rule constitutes a grave breach of Geneva Convention IV.[10] In addition, where a forced displacement is carried out as part of a widespread or systematic attack on a civilian population it will constitute a crime against humanity.*

16. In addition, other actions which may indirectly cause mass displacement of populations are also prohibited. Attacks on civilian homes,[11] attacks that do not distinguish between civilians and combatants,[12] and attacks that are designed to terrorise the civilian population[13] are all prohibited. Violations of these rules by individuals may constitute war crimes.

Famine

17. Famine has been defined as widespread lack of access to sufficient food for survival, leading to excess death due to starvation and associated diseases.[14] Like displacement, famine in itself does not constitute a violation of human rights. Famine may result from natural causes, such as drought, or from sheer poverty. By disrupting everyday life, armed conflict routinely causes food shortages. During an armed conflict civilians cannot get on with the everyday activities that allow them to make a living, such as

* Article 5(d) Statute of the ICTY (referring to "deportation" but which has been interpreted so as to include both internal and external displacement: *Prosecutor v Milomir Stakić*, ICTY Case No IT-97-24-T, Trial Chamber Judgement, 31 July 2003, at para 679); Article 7(1)(d) Rome Statute for the ICC.

producing food, earning an income or going to the market to provide for their own subsistence. In extreme cases, during wartime food shortages turn into famine.

18. However, it has been increasingly acknowledged that famines are in fact rarely simply the result of natural disasters and that human actors play a large part in creating them. Climatic extremes, an inhospitable environment and poverty have made hunger a persistent feature, and extreme hunger a frequent feature, of life in Timor-Leste. Famine, however, has been quite rare in Timor-Leste, and almost always associated with armed conflict.*

19. The noted economist Amartya Sen has sought to distinguish the "phenomenon of 'regular' starvation" (known to many East Timorese people) from the "violent outbursts" that are famines. He suggests that "starvation is the characteristic of some people not having enough food to eat. It is not the characteristic of there not being enough food to eat." He defines famine as a "particularly virulent manifestation of starvation causing widespread death".[15]

20. In Timor-Leste, famine occurred between 1978 and 1980 during and after the intensive Indonesian military operation to finally gain control over the territory. Serious food shortages that caused deaths also occurred during the 1980s and in 1999. At all these times, and the Commission believes this is demonstrated in this part, it was not the case that food could not have been made available to the people who needed it. Instead those people were positively denied access to food and to its sources.

21. It is in such contexts that famine is associated with violations of international human rights and humanitarian law. These violations go well beyond the denial of people's rights to food and other essentials, although states have obligations to guarantee those rights. Under human rights law everyone has the right to adequate food[16] and freedom from hunger.[17] Food of sufficient quality and quantity to satisfy people's needs should be available.[18] In respecting these rights states must, for example, take measures to reduce malnutrition.[19] A State must always ensure that everyone under its control has access to the minimum essential food.[20] All persons also have a right to water[21] and adequate housing.[22]

22. These obligations can also be violated indirectly by, for example, pursuing policies that entail other kinds of violations that are manifestly incompatible with the right of people to food.[23] They include the denial of freedom of movement, the violation of the right of individuals to live where they want, the denial of access to relief, the destruction of food sources, and ultimately the violation of the right to life.[24]

23. Such violations may amount to crimes in international law. Thus in an international armed conflict mass starvation is a war crime if it is used as a weapon of war. Among the methods seen as examples of using mass starvation as a weapon of war are the deliberate obstruction of relief supplies and the destruction of food sources.[25] Starvation may also constitute a crime against humanity if the deprivation of food is being used in a widespread and systematic fashion to exterminate a civilian population.[26] During an occupation the occupying power has additional responsibilities to meet the needs of

* Famine was the main reason for the estimated 40,000 deaths that occurred during the Japanese occupation of Timor-Leste [see VolII, I, Part 3: The History of the Conflict].

the local population. It must ensure that the population receives adequate food, water and medical treatment. This means importing resources or accepting aid when local supplies are inadequate.[27]

Gathering information

24. The conflicts in Timor-Leste caused thousands of people to be displaced from their homes, in many cases more than once. Displacement, by its very nature, decreases victims' ability to protect themselves or to meet basic needs. In Timor-Leste periods of displacement coincided with increased numbers of deaths by deprivation. This presented a challenge to the Commission. Many people who saw or experienced what happened during the years of displacement and famine have died. This meant that the Commission had to develop special initiatives to look into displacement, famine and death by deprivation.

1. The Commission collected 7,669 narrative statements from all 13 districts of Timor-Leste and in refugee camps in West Timor. 43.6 % (3,344 out of 7,669) of deponents reported incidents where famine-related deaths or displacement occurred. Deponents in the Commission's statement-taking process reported a total of 4,869 unique deaths by deprivation and 16,977 unique displacement events.
2. Thousands of people spoke about displacements and famine during Community Profile workshops. These workshops were facilitated by Commission staff to allow people collectively to document human rights violations and their impact on the community.
3. Eleven victims and expert witnesses gave testimony at the Commission's National Public Hearing on Forced Displacement and Famine held in Dili on 28–29 July 2003.
4. Commission staff conducted close to one hundred individual interviews with witnesses and survivors of displacement and famine in every district except Oecussi.
5. The Commission conducted a special investigation (the Death Toll Project) which included two major data-gathering exercises. Staff and volunteers conducted a census of marked and unmarked gravestones found in 1057 public cemeteries across the country.* Staff also conducted a survey of 1,396 randomly selected households, asking them questions about displacements and deaths in their family during the conflict. Data gathered by the Commission were used to make statistical estimations on the death toll and patterns of displacement during the period of the conflict. The Human Rights Data Analysis Group (HRDAG) helped the Commission to collect and analyse these data (see Vol. I, Part 6: The Profile of Human Rights Violations).†

* In total, 1057 of 1631 public cemeteries were surveyed

† The HRDAG (Human Rights Data Analysis Group) assists human rights projects around the world in the use of information management systems and scientific and statistical tools to gather and report large-scale human rights abuses. HRDAG is a project of the Benetech Initiative, a non-profit venture that provides technical and management assistance allowing HRDAG to fulfill its mission.

6. People and organisations inside and outside Timor-Leste with knowledge or direct experience of the phenomenon submitted documentation, materials and submissions on displacement and famine to the Commission.
7. Commission researchers and staff consulted published and unpublished materials, books, radio programmes, film footage and photographs produced since 1974.

Displacement and hunger caused by internal conflict (1974–1975)

Displacement due to political rivalries (1974–1975)

25. The Commission has received some reports of internal and external displacement between 1974 and 1975. These incidents are distinct from events immediately before and during the August 1975 internal armed conflict. While the exact timing of the events are often unclear, they do suggest that rivalry between the political groups was serious enough to cause people to flee their homes well before the outbreak of the internal armed conflict.

26. Before the outbreak of the internal armed conflict tensions had been rising throughout the territory. There were several elements to these growing tensions: competition between the parties for followers, often focused on the distribution of party cards and the setting up of branch offices; conflicts between traditional leaders and the leaders of the new parties; and more broadly the transformation of historically-rooted conflicts into inter-party conflicts. The civil war was then not just a sudden explosion of violence, but simply raised to new heights a spiral of violence that was already underway, one side-effect of which was flight and displacement.

Table 1: Example of testimony about refugee movement resulting from political rivalries 1974–1975, collected by the CAVR

Source	Name and Location	Summary
HRVD 00922	Samalete, Taraso (Railaco Ermera)	In 1974, fearing intimidation from members of UDT, more than 70 persons ran into the forest. At the same time, Fretilin supporters killed seven members of UDT suspected of involvement in the previous killing of Fretilin supporters. Consequently, another revenge killing of one person took place by UDT supporters.
CAVR Community Profile	Edi (Maubisse, Ainaro)	In 1974 and 1975, most people joined Fretilin, leaving UDT ashamed and angry. The two UDT leaders in Edi summoned forces from Ermera, Atsabe and Maubisse. They burned 1,872 houses, coffee holdings and food in storage, and killed animals, taking those still alive to Maubisse. After a four-day operation they set up a branch in Mauosahi Uslakatei and a small one in Kamlai. Then they killed two Fretilin supporters. Fretilin supporters fled to Turiscai again. After four days Fretilin forces brought their supporters back from Turiscai. The two sides fought in Manelobas and the UDT forces fled to Maubisse.

Source	Name and Location	Summary
CAVR Community Profile	Aldeia Beco, Beidasi Village, (Fatululik, Covalima)	In October 1974, Fretilin leaders distributed party cards, as did Apodeti in November 1974. The two parties began to struggle to attract members. About 500 people from the *aldeia* of Beco ran off to Lakmanen in West Timor.

27. The Commission heard evidence that an atmosphere of fear arose in other districts during this early period of political party formation, causing displacement.[28]

Displacement caused by the internal conflict

28. The displacements that occurred as a result of the armed conflict between the two main political parties, UDT and Fretilin, in August to September 1975, was more widespread and lasted longer. Other parties, especially Apodeti, were embroiled in this armed conflict. Opposing party supporters, their families and ordinary people sought safety from the violence which erupted throughout the country. Party supporters, sometimes entire villages, fled in fear for their lives. In Dili the political violence led to some displacement and food shortages as the population fled the fighting, as recorded in one CAVR Community Profile:

> *In 1975 the situation became heated. People began to throw stones at each other, to fight each other using spears and machetes. Some people dug cellars as a place to hide…Everyone left their homes and hid in neighbouring areas. Some fled to hide in caves for three months. The food situation was difficult, and many grew hungry, but nobody died of starvation.*[29]

29. The following table shows some examples of testimony collected by the Commission about civil war-related displacement.

Table 2: Example of testimony about civil war-related displacement, collected by the CAVR

Source	Name and Location	Summary
CAVR Community Profile	Maulau (Maubisse, Ainaro)	On 7 and 14 August 1975, Fretilin forces from Lequidoe, Turiscai and Manumera launched a three-pronged attack through Maleria, Lumluli and Usululi, killing many people and burning 675 houses in the three *aldeias*. They also killed many animals and took others to Lequidoe. The UDT people fled to Maubisse leaving the old and the children in Maulau. In another attack one week later, on 14 August, Fretilin forces from Turiscai burned eight houses in Lakamalikau.

Source	Name and Location	Summary
HRVD 09078	Daniel Pereira Pires, Leubuti, Foholau (Turiscai, Manufahi)	In September 1975, because of an attack by Fretilin supporters, villagers from the *aldeia* of Leobuti, Foholau (Turiscai), mostly Apodeti supporters, fled to safety in the surrounding forest area. At least three people were captured and killed by Fretilin supporters. Some survivors were forced to relocate to Turiscai where they worked in the fields.
HRVD 00163	Celestina da Costa Oliveira Wedauberek, Same, Manufahi	Soon after the conflict between UDT and Fretilin broke out on 11 August 1975, most of the people of Letefoho (Same, Manufahi) fled into the mountains, fearing further violence. They were afraid of being captured by UDT supporters, after the killing of a group of Fretilin activists by UDT in Wedauberek.
CAVR Community Profile	Asumanu, Liquiçá	On 13 August 1975, UDT raised its flag in Bilamar, in the *aldeia* of Caicasico and then burned houses and killed six people in the *aldeia* of Siskoolema and of Hatumatilu. Some of the population ran off to Base 1 in Leorema and others fled to Base 2 in the Loes area (Maubara, Liquiçá), while a small number fled to the forest.

30. According to ICRC estimates, as many as 50% of the population may have been displaced as a result of the internal armed conflict.[30] With the cessation of hostilities across most of the territory by mid-September 1975, most internally displaced people were able to begin returning to their homes. However a large number of the defeated UDT leaders and fighters fled to the border area, eventually crossing over into West Timor (Indonesia). Some members of the parties allied with UDT and Apodeti supporters also sought refuge in West Timor. Particularly in the border districts of Covalima and Bobonaro, UDT and Apodeti leaders forced the uncommitted and Fretilin supporters to join the flight.

The flight to West Timor

31. Of the UDT and Apodeti supporters who fled into West Timor after the Fretilin armed insurrection in August 1975, some were civilians who went to West Timor out of genuine fear for their safety. They believed that they were likely to be targets of Fretilin violence.

32. Some UDT supporters crossed the border for military training and to join forces with the Indonesian military to continue to fight against Fretilin. The Commission does not consider these cases to be displacement, as they involve willing combatants and not civilians. Often, however, the two groups were intermingled and difficult to distinguish.

33. In collective testimonies of communities in the district of Covalima, through the Commission's Community Profile discussions in Holpilat, Lela (Maukatar, Covalima), Belulik Kraik (Fatumean, Covalima), and Aitoun, Beidasi (Fatululik, Covalima), a clear

picture emerged of supporters of Apodeti and UDT fleeing across the border in late 1975 out of fear for their lives.*

34. Paulo de Fatima Martins, in an interview by UN police, stated that he and a group of 900 people - including women and children - fled first from Hatolia (Ermera) to Tatae Uhu (Lisapat, Hatolia) and then on to Cailaco, Purugua in Maliana (Bobonaro) in mid-September, before reaching Haekesak near Atambua in West Timor on 16 September.[31]

35. The Commission heard testimony from a former UDT leader in Covalima, Emiliano Teixeira (Rui) Lopes, and others who recounted that they fled to West Timor with some 400 civilians. They stayed at make-shift refugee camps in Alas (Betun, West Timor, Indonesia) for a few days, and were moved to Atambua to join other refugees from Timor-Leste. Emiliano (Rui) Lopes told the Commission:

> *In Suai we didn't force people to go to Indonesia. We knew it was also hard in Indonesia. Only those of us who were involved went. But a number of people who fled also followed us. Not many. But in Dili and Ermera, they took everybody. Those who supported UDT all fled.*[32]

36. The following table lists some of the communities living near the border who, fearing the inter-party violence, fled to West Timor.

Table 3: Some communities who fled to West Timor during the inter-party conflict

CAVR Community Profiles	Summary
Odomau (Maliana, Bobonaro) [33]	On 2 September 1975, the people of the village ran in all directions, up into the mountains and into Builalo (West Timor). The people of Odomau were refugees in West Timor for about nine months.
Aldeia Aitoun, Beidasi Village (Fatululik, Covalima)[34]	Fretilin arrived in the *aldeia* of Aitoun, with supporters from Fatululik. About ten families fled to Lamaknan in West Timor because of intimidation and threats from Fretilin supporters.
Lela Village (Maukatar, Covalima)[35]	On 20 November 1975, about 650 people crossed the border with UDT leader Emiliano Teixeira Rui Lopes.
Hopilat Village (Maukatar, Covalima)	After Fretilin launched the armed insurrection on 20 August 20 1975, four families who supported Apodeti ran to Lamaknan in West Timor.

* CAVR Community Profile Holpilat, Lela (Maucatar, Covalima) recounts that Apodeti supporters sought refuge in Lambemanas (Belu, West Timor), 18 February 2003; CAVR Community Profile Belulik Kraik (Fatumean, Covalima) describes how the placement of Falintil troops on the border after the armed insurrection led opposition party leaders and their supporters to flee to West Timor, 28 July 2003; CAVR Community Profile Aitoun, Beidasi, Fatululik Sub-district, Covalima District records that ten families moved to Lamaknen (Belu, West Timor) as early as 1974. Later, in October 1975, UDT and Apodeti supporters evacuated to West Timor, 17 October 2002.

CAVR Community Profiles	Summary
Ritabou Village (Maliana, Bobonaro)[36]	Fretilin supporters were detained by UDT members on 11 August 1975. On 2 September 1975, villagers heard the sound of gunfire and ran to Haekesak, Wedomo and Atambua in West Timor. After nine days some moved back to Batugade then, fearing attacks from the sea, moved to Mota Ain and Atambua, West Timor. Conditions were difficult in the camps, with disease and little access to clean water. The ICRC eventually began providing emergency assistance to the camps.
Holsa Village (Maliana, Bobonaro)[37]	The men were recruited to attack Fretilin in Dili, but then UDT lost. When the men returned to Maliana, people ran in all directions, many without taking provisions. Some ran to the mountains, others to Builalo in West Timor. Some Fretilin supporters who joined the exodus to West Timor were threatened and then killed.
Memo Village (Maliana, Bobonaro)[38]	On 5 September 1975, hearing the sound of gunfire, the people of Halimesak fled across the river to Bauilalu in West Timor. They made make-shift houses and lived on food gathered from the forest. Initially some families remained in Memo, but by the end of the month all had joined the 5,000 to 10,000 refugees already gathered in Bauilalu. Many died from diarrhoea and malaria and there were serious food shortages during this time.
Raifun Village (Maliana, Bobonaro)[39]	About 500 people ran to the mountains and others to Haekesak in West Timor. In Haekesak, they lived in tents and received food, clothes and money, but disease was rife and many died. They stayed in Haekesak for one year.
Vaviquinia Village (Maubara, Liquiçá)[40]	When Fretilin retaliated, UDT leaders like João Carrascalão and Raja Gaspar Nunes fled to Batugade in fishing boats.
Leimea Sorin Balu Village (Hatolia, Ermera) [41]	Some people surrendered, others ran with UDT leaders to Atambua. About 120 people became refugees in Haekesak in West Timor for one year.

Forcible transfer to West Timor

37. Not everyone in refugee camps in West Timor or being trained by ABRI for operations in Timor-Leste had fled willingly. Some people reported being forced across the border by UDT leaders.

38. The Commission heard statements from persons who were forcibly brought across the border and, in some instances, recruited as TBOs, Hansips or Partisan forces. For example, Francisco da Silva Araújo from Ermera gave evidence to the Commission about the forced deportation to Atambua through Hakesak by members of UDT of approximately 1,000 people. The group crossed the border on 2 September, and did not return to Ermera until June 1976.[42]

39. Benvinda dos Santos from Memo (Maliana, Bobonaro) was one of several people who told the Commission of being forced by F36, the East Timorese *liurai* of Memo and a local UDT leader, to flee to Atambua in 1975, because he said there was going to be a huge upheaval between the UDT and Fretilin parties. When they arrived in Atambua her husband, Malibere, was captured by a Hansip member F39 who took

him to Sumur where he, with Clementino and Americo, were subsequently stabbed to death.[43]

40. Francisca Argentina, also from Memo, claimed that she was a member of Fretilin but was nevertheless forced to flee to West Timor by UDT party leaders, including F36. She told the Commission she and her family were refugees in West Timor for about one year, during which her brother died from lack of adequate food.[44]

41. The people of the village of Saburai (Maliana, Bobonaro) told the Commission that it was not just Fretilin supporters who were forced over the border:

> *On 30 August 1975, fighting between UDT and Fretilin supporters began. Soldiers from the 5th Cavalry Squadron in Bobonaro came to Maliana. Supporters of UDT and Apodeti, were forced by F40, an East Timorese member of Apodeti and the* liurai*, F36, to run to West Timor. About 500 people from the* aldeia *of Mesage were refugees in Tahon (West Timor) for one year.*[*]

Refugee numbers in West Timor

42. The Commission was unable to determine the exact number of refugees in West Timor in 1975. However, a variety of East Timorese sources who had been in the camps in West Timor agree that the figure of 40,000 given by the Indonesian authorities was a gross overestimate. João Carrascalão told the Commission:

> *[There were] never more than 10,000 (refugees). At the time I complained very strongly to the Indonesians because they were using the figure of 40,000 people and they were receiving aid for 40,000 people. (But) the Timorese did not get anything. They [the Indonesian authorities] took advantage of the situation.*[45]

43. Two priests, Father Francisco Fernandes[†] and Father Apolinario Guterres, both of whom had joined the exodus to West Timor in August to September 1975 and were involved in the work of the East Timor Refugee Committee in Atambua during this period, put the number of refugees at "roughly 20,000".[46]

44. One of the leaders of the KOTA party, José Martins, "defected" from the pro-integration cause while in Rome in 1976. From Rome he wrote a letter to the UN Secretary-General, Kurt Waldheim, dated 29 April 1976, in which he also said that

* CAVR Community Profile Saburai Village (Maliana, Bobonaro). Other statements received by the Commission in which F36 was alleged to have forced people to cross into West Timor at this time include HRVD Statements 02487, 02449, 02491, 02462 and 02446. F36 became district administrator of Bobonaro (*bupati*) from 1992 to 1999. In 1999 he played a pivotal role in the creation and support of the militia groups, of which there were at least nine in his district [see OHCHR Submission, pp.114 and 142-3].

† Father Francisco Fernandes passed away in Maucau, China on 30 August 2005. He was buried in Laclo, Manatuto District on 11 September 2005.

the refugees numbered no more than 20,000. Like João Carrascalão, he claimed that the figure of 40,000 cited by the Indonesians was being used "as a political weapon against Fretilin" and "a trick to get funds and aid from the International Red Cross and foreign governments". Tomás Gonçalves of Apodeti, who was also in West Timor at the time, told the Commission that the refugees numbered no more than 25,000-30,000.[47] Even Francisco Lopes da Cruz, then the vice chairman of the Indonesian-installed Provisional Government of Timor-Leste, said in March 1976 that no more than 30,000 refugees had fled Timor-Leste as a result of the civil war.[48]

45. The international agencies operating in West Timor, however, accepted the official Indonesian figures. On 16 September 1975, an ICRC report estimated the number of refugees at between 25,000 and 50,000.[49] The ICRC delegate, Michel Testuz, reported visiting 10,000 refugees in the camp in Haekesak and 6,000 in Bauilalu on 29 September 1975. He further reported that Indonesian border immigration claimed to have counted 33,000 crossing the border by 16 September 1975 and 2,000 to 3,000 coming across during fighting in Batugade on 24 September 1975. Using these data Testuz concluded that the "total number is now 40,000 and could increase to 50,000".[50] A figure of 40,000 refugees was also used in a US Catholic Relief Services (CRS) report describing humanitarian assistance to West Timor in November 1975.[51]

Conditions and humanitarian assistance in West Timor

46. Once international relief programmes were established for the refugees, reports suggest that their basic needs were for a time adequately met. However, several sources suggest that conditions in the camps later deteriorated.

47. Describing the situation in October 1975, the ICRC delegate, Michel Testuz, said that the camps were temporary but well-provisioned. Most refugees were sheltered in schools that had been closed by the Indonesian authorities to accommodate them. Although local pressure to re-open the schools and relocate the refugees was mounting, he noted that the "government makes no move or plan for relocation and gives the impression that it could all be over tomorrow and refugees safely home the next day". The ICRC delegate further commented that the Indonesian Red Cross was caring adequately for the refugees there, providing rice rations and 25 US cents per day for other necessities.[52] The refugees looked "well fed and healthy".[53] This assessment was confirmed by former refugees in the camp who were interviewed by the Commission.[54] They said that the services provided by the local provincial government and the Indonesian Red Cross included the provision of semi-permanent housing with adequate sanitation. Other than meeting basic daily needs, the Indonesian government also conducted social activities such as Indonesian language lessons.

48. However, former inmates of the camps said that after an initial period in which they were well-treated, the Indonesian attitude to them changed.[55] Emiliano (Rui) Lopes told the Commission:

> *Many people fled abroad, because they didn't like the military ethos. For example a Hansip could also order us around, hit us. Everyone saw this*

and many left…There were people who died from illness, but no one died of starvation. I'm speaking honestly. But the mental pressure was very intense…We felt completely oppressed. There was not much we could do. If someone started hitting we'd just watch and stay silent. Where was our pride? Things like this made the Carrascalão family and other families flee the country.[56]

49. In his letter to UN Secretary-General Kurt Waldheim, José Martins complained that the refugees had "found only maltreatment and misery":

> The refugees were either forced to take military training and fight against Fretilin or to work without pay for the Indonesians. Their belongings were confiscated, such as money, jewellery and so on.[57]

50. In their testimony to the Decolonisation Committee in October 1979, Fr Francisco Fernandes and Fr Apolinario Guterres gave a detailed account of the change in the Indonesian attitude to the refugees. They said that it happened in March 1976 when the Indonesian authorities asked the two priests to ensure that all the refugees attend a rally at which the Foreign Minister, Adam Malik, would be present. The refugees were to carry Indonesian flags and call for integration. After only 2,000 of the 20,000 refugees attended the rally their food supplies were reduced and then completely cut off. Their only options were to sell their belongings at very low prices, to "do hard labour for criminally low wages" or to join the military.[58]

51. Some former refugees confirmed that it was the lack of adequate food that forced them to join the military in West Timor. In his statement to the Commission, Emiliano (Rui) Lopes said that initially the refugees in the camps in West Timor did not experience any shortages. However, the amount of aid received by the refugees began to diminish once all international aid was distributed by Indonesian government officials. According to him, some young men joined the Partisans in order to receive rations:

> *One of the reasons I took up arms on the border was that there was no more food to eat, and I had to do this to receive food supplies. Because every donation from the international NGOs was given through the Indonesian government. In the beginning they [Indonesia] provided enough aid, but as time passed it began to decrease. I had to take up arms to get more food to eat, otherwise we would have faced a difficult situation.*[59]

52. Odete dos Santos from Memo (Maliana, Bobonaro) told the Commission about the recruitment as TBOs (*tenaga bantuan operasi*, military porter) of two forcibly displaced members of her family, and its consequences. In 1975 her family was forcibly displaced to Atambua by F36. In Atambua two of her family members, Lesu Bere and Alfredo Lopes, were forced to become TBOs. They were made to go on military operations in Timor-Leste. According to Odete, Lesu Bere was killed by Indonesian soldiers in Atsabe, and Alfredo Lopes in Maliana.[60]

Food shortages and humanitarian assistance in Timor-Leste

53. The conditions of those who fled the violence but stayed within the borders of Timor-Leste are difficult to assess. Many people fled to remote locations and were isolated from any outsiders who could have delivered aid or acted as impartial observers.

54. ICRC correspondence confirms that, in addition to the loss of access to their own crops, isolation was a major reason why those who were displaced internally faced food insecurity. The ICRC delegate noted that the much of the population had already been living a marginal existence.[61] As previously noted, he estimated that 50% of the population was displaced due to the conflict.[62] He insisted, however, that there was no "starvation" following the civil war, but rather "food stress". The ICRC was given free access by Fretilin, which was aware that the food situation was likely to become critical if shipments were not allowed to land and replenish supplies.

55. The ICRC confined its food distribution activities to Dili and the Ermera-Maubara-Dili triangle. The ICRC delegate admitted that this meant that its distribution was not determined as much by need - although the areas where it did distribute food were ones that had suffered violence and displacement - as by its desire to avoid the appearance of political partiality. The ICRC declined to deliver food to the Fretilin-controlled areas on the grounds that such aid would be "political".[63] Fretilin handled distribution to the central part of the island, using supplies from the Australian Council for Overseas Aid (ACFOA).[64] However, the ICRC food deliveries did not start until late November and had thus barely begun when it was forced to pull out of Timor-Leste in early December, just before the full-scale Indonesian invasion.

Hunger and deaths

56. Despite this humanitarian assistance, the Commission did receive reports of hunger and deaths due to lack of food and medicine. Displaced people in the interior highlands, in particular, had poor access to outside assistance. Below are some examples of testimonies received by the Commission.

57. Veronica dos Santos of Laclo (Manatuto) told the Commission how in 1975 her family fled from Apodeti supporters, and hid in the Zona Modok Forest. She listed six members of her family who died from lack of food and medical care:

> *In our hiding place I lost several members of my family - João da Costa, José Luis dos Santos, Domingas dos Santos, Carlos do Rosario Cabral, Maria de Fatima Canossa and Filomeno Cabral - due to lack of food and medicine.*[65]

58. The Commission heard of a case in Soibada (Manatuto) when conflict between political parties drove people to the forest. Under orders from Fretilin, people moved to a place called Wetirak Modod (Natarbora, Manatuto).[66]

59. José Nunes de Andrade recalled that he was attacked by UDT members in his village of Mahakidan (Alas, Manufahi) in 1975, while he and four of his friends were attempting to raise the Fretilin flag. The five fled to Wederok, and he was later joined by other members of his family. Two members of his family died from lack of food and illness while they were in Wederok.[67]

60. Some killings took place when people went searching for food. The Commission heard of cases where inter-party conflict resulted in people being internally displaced, and in some cases killed by Fretilin forces[68]

61. The reports of starvation during this period are few. The ICRC's overall assessment was that starvation and famine-related deaths were not a widespread phenomenon before the Indonesian invasion. As the violence quickly subsided (Fretilin gained control of the entire country in a matter of weeks), most of those who were internally displaced were in hiding for a month at most. By mid-September 1975, most of them had returned home and were planting food crops again.[69]

Displacement and famine during the Indonesian occupation (1975–1979)

Invasion, displacement and evacuation 1975–1977

62. The full-scale Indonesian invasion of Timor-Leste on 7 December 1975 marked the beginning of the displacement of the population of Timor-Leste on a massive scale. The invasion of Dili itself on that day caused many to flee to the countryside, following those who had left earlier in anticipation of an attack. Such movements were repeated outside Dili, both in response to the actual presence of Indonesian forces and in the expectation that their arrival was imminent.

63. Some evacuations were spontaneous, others were organised by the Fretilin-led resistance. In a complex mixture of circumstances, many East Timorese who left their homes then found themselves caught between a fear of life under harsh Indonesian military rule and a resistance determined to keep them out of Indonesian control. The motivation of the Resistance here appears to have been a combination of a commitment to support and protect the people, to meet the Resistance's own security needs in a time of war, a desire to retain control of the bulk of the population in order to launch its revolutionary social programme, and as evidence of the extent of its political support.

64. The numbers of displaced people are impossible to calculate for any point in the first two years of the occupation, but they certainly increased over that time. The eventual movement of something like 300,000 people into Indonesian-controlled centres between 1978 and 1979 is the best indicator of the massive scale of the displacement which began in late 1975.

Evacuation and flight after the full-scale invasion

65. The Indonesian invasion of Dili on 7 December 1975 found many people unprepared, even though it was expected. The situation was chaotic as people fled in all directions. Many became separated from their immediate family members. Belinda Lopes told the Commission:

> *On 7 December 1975 I was in Quintal Boot. When the Indonesian troops invaded they came straight to our house and shot my brothers Raul and Kaimauk in front of me…The residents of Quintal Boot had all fled to the hills. My cousin and I chose to stay in the house. But as the situation became more chaotic both of us fled to Tereiro, and then [we] moved again to the Lahane Hospital. We stayed in Lahane for two days. We were very hungry because we did not have anything to eat. Finally the two of us returned to our house to get some rice and other food. The rest of my family was scattered…I don't know where they ran to.*[70]

66. As news of the invasion reached other parts of the territory and Indonesian forces began to advance beyond Dili, many more people fled in fear. In Baucau the arrival of Indonesian soldiers came only days after the invasion of Dili. Members of the community of Uailili (Baucau, Baucau) recounted to the Commission:

> *On 9 December 1975 Indonesia troops entered Baucau. [T]hey distributed posters written in Tetum which said among others: "Ami sei ba passa Natal iha Baucau to'o Tutuala" (We will celebrate Christmas from Baucau to Tutuala"). A day later, the people of Uailili [about 10 km from the centre of Baucau] scattered. Some ran into the forest, while others hid [in] the coconut grove near our house until the Indonesian troops came.*[71]

67. For some communities, the news of the Indonesian invasion in Dili was enough for them to evacuate their homes to seek safety in the mountains. Manuel Carceres da Costa told the Commission of the community response in Laclo (Manatuto):

> *After the Indonesian military invaded Dili on 7 December 1975, but before Christmas, there were people from Dili who fled returning to Laclo. They told us: "The Indonesian military have entered Dili and killed many people. They have shot people dead and used tanks to take everything the people owned." We heard this and thought: "Rather than…stay here and let the enemy destroy us, it is better … to flee to the forests." We also hoped that assistance from the outside world would come quickly.*[72]

68. In other places Fretilin had made preparations for the evacuation of the population in the months leading up to the invasion and had evacuated villages well before the arrival of Indonesian forces in the area. This level of organisation seems to have been most common in the eastern districts of Baucau and Lautém, for example in the areas of Tutuala, Iliomar, Uaitame, Alawa Kraik and Ossuhuna.

69. Some people from the town of Ermera ran to the mountains in early 1976, when they heard that Indonesian troops had entered Letefoho from Bobonaro. Francisco Bernadino Soares told the Commission:

> *We heard the sound of planes bombing the Letefoho area for one whole day. The situation in Ermera was no longer under control. The Resistance army tried to stop Indonesian soldiers in Dauhati, to prevent them from entering Ermera. We evacuated to Mau-Ubu, which is our traditional land where we have our gardens and* uma lulik *[ancestral home]. We fled because we heard that the Indonesians had entered Letefoho and were killing people randomly. We never imagined that we would face the disaster of people starving to death. For two years we lived quite well. When we left Ermera, there were 11 of us, plus another 20 family members who lived in Mau-Ubu. In total we were more than 30 people. When we returned to Ermera there were only three of us left. My wife and my family all died in the forest from sickness and hunger.*[73]

70. In other areas people spoke of being able to remain in their villages in the interior until the Indonesian military approached in late 1976 or 1977.[74]

Capture or surrender

71. Some communities were captured before they had a chance to flee. Others chose to stay behind and take their chances with the invading Indonesian soldiers.

72. In Suai (Covalima) some people did not evacuate to the hills when the Indonesian army attacked. They hid in their gardens and then surrendered.[75]

73. Similarly, some people in Same (Manufahi) who did not follow the Fretilin leadership surrendered immediately to the Indonesian armed forces when they entered the town in June 1976.[76]

74. When the Indonesian forces attacked the village of Coliate Leotelo (Hatolia, Ermera) in May 1976, about 200 people were unable to escape because the army blockaded the area. At first these people were detained in Coliate Leotelo Village itself, then they were forced to move to Letefoho (Ermera).[77]

Fretilin internal divisions on policy towards civilians

75. Not long after the invasion the Fretilin leadership faced serious disagreement over the implications of its policy towards civilians that was confirmed at the Central Committee's meeting at Soibada in May 1976. For a variety of reasons, including political, military, humanitarian and religious reasons, the dissidents challenged the strategy of creating *zonas libertadas* where the civilian population could simultaneously support the armed struggle and undergo the political transformation needed to achieve Fretilin's revolutionary goals. They preferred to pursue a more purely military strategy, which would not rely on a civilian support base and thus would allow civilians to

come down from the mountains and surrender. This challenge came from a number of sources, including professional soldiers, who had served in the Portuguese colonial army, traditional leaders and some within the Fretilin leadership itself. The most notable early advocate of these dissenting views was Aquiles Freitas, a former sergeant in the Portuguese army and a traditional leader from Quelicai (Baucau), who had been appointed deputy commander of the Centro Leste Sector. Aquiles Freitas was ultimately arrested on the orders of the Fretilin leadership with several of his followers and executed (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances), However, support for such views was widespread and persistent.

76. Community leaders told the commission about the impact of this violent conflict on the villages of the sub-district of Iliomar in Lautém in 1976. They remembered that when the political commissar for the Ponta Leste Sector, Juvenal Inácio (Sera Key) and Adjunto Fernando Txay had advocated the party line that civilians should evacuate to the mountains with Fretilin, Francisco Hornay had resisted them. Like his friend, Aquiles Freitas, Francisco Hornay was a former sergeant in the Portuguese colonial army who had joined Falintil. The conflict unleashed violence on both sides which resulted in the execution of Francisco Hornay and 14 of his followers, and the imprisonment and torture of many others.

Responsibilities of parties to the conflict

77. The Geneva Conventions clearly state that parties to a conflict must guarantee basic needs for the survival of civilians caught up in the conflict.*

78. The Commission received overwhelming evidence that the Indonesian armed forces gave absolute priority to security considerations, while paying scant attention to the protection and well-being of civilians. In so doing, Indonesia failed to fulfill its obligations to protect civilian life.

79. Iliomar is one example. In 1975 Fernando Amaral was the head of the village of Faut, on the edge of the town of Iliomar (Iliomar, Lautém). He told the Commission:

> *The Indonesian invaders first entered Lospalos in [February] 1976. In Iliomar we did not experience anything [of the war] until 9 February 1977, when we started to hear mortar fire and the sound of cannons from ships. We became frightened and worried and…we evacuated to the forest around Fuat and to other places near our houses. We hid for several months in Fuat then moved to Luro. We moved into the forest because we were afraid of the Indonesian military. No one forced us.*[78]

80. Often the local Fretilin leadership organised the evacuation in order to take people away from danger. These evacuations were part of Fretilin's policy to prepare the population for an organised national resistance. In Baucau, for example, Fretilin

* See Geneva Convention (IV) relative to the Protection of Civilian Persons in a time of war, Geneva, 12 August 1949, for a full outline of the parties' obligations.

moved many people to the slopes of Mount Matebian early in February 1976. This was nearly two months after the Indonesian armed forces had entered Baucau. Mário (Marito) Nicolau dos Reis was a Fretilin leader in Baucau at the time of the invasion. He recounted to the Commission the internal Fretilin debate on whether to evacuate civilians:

> *[In 1975] there was a discussion among members of the Fretilin Central Committee (CCF). Some said, "if possible, we should follow the example of other countries: children and the elderly shouldn't have to go to the forest, we must pay attention to [their] economic and health needs. We don't have the means to support everyone". But others said: "If we don't prepare the people politically, morally and mentally, then we will not be able to maintain our legitimacy and fulfil our duty as the main party in Timor." Fretilin decided that everyone [must] evacuate. After everything was prepared, then they could come down [to surrender]. That was why Fretilin had to force, excuse me for using the word "force", everyone to flee to the mountains.*[79]

81. When the people of Defawasi (Baguia, Baucau) began to evacuate in the direction of Mount Matebian in September 1976, it was on the orders of Fretilin. In October 2003 they recalled to the Commission:

> *It was not too repressive. It was still required for our safety and also to demonstrate our loyalty to the armed front and the Fretilin Central Committee.*[80]

82. The Commission was also told of instances where the evacuation was repressive. The people of Caisido (Baucau, Baucau) recalled their experience:

> *Between February and March 1976, Fretilin started to force the people to evacuate, first to Uai-Ae and Bundura, then to Hae-Osso, Vemasse. While the evacuees were in Hae-Osso, Fretilin forces killed two people, Francisco Belo and Eduardo Belo, because they suspected them or out of revenge. Then they killed five Apodeti sympathisers. Then Fretilin forced the people to evacuate to Lobito.*[81]

83. Often people did not have an opportunity to flee, or they chose not to. This was most common in towns.

84. The communities of Bidau Santana and Meti-Aut in Cristo Rei, Dili, recalled to the Commission:

> *On 7 December the Indonesian paratroops landed in Bidau Santana and Meti-Aut, and all over Dili. We scattered in fear. Some stayed in their houses, some fled to the mountains and never returned. Chiquito Mau-Lohi [of Apodeti] persuaded people not to go to the forest, saying that if they all died there "Who will take responsibility in the future?"*[82]

85. In Buruma, on the eastern edge of the town of Baucau, some people, and especially those who had been active in Fretilin, tried to flee after Indonesian tanks entered Baucau on 10 December. Several of them were captured. One of those who was captured, a Fretilin activist called Manuel Fernandes, was killed on 18 December. For those who stayed in Buruma life was difficult. In January 1976, Battalion 330 was posted in the village and two people suspected of having contact with Fretilin were killed by the Indonesian military. The people of Buruma were concentrated in the centre of the village and restrictions were placed on their movement outside that area.[83]

86. Indonesian troops attacked the village of Samara (Hatolia, Ermera) on 24 April 1976. Fretilin troops attempted to defend the village but the Indonesians overpowered them and took 500 civilian villagers to the district capital Ermera. In Ermera, the Samara villagers were not allowed to move outside the town and suffered from severe hunger.[84]

87. The community of the sub-district of Hato Udo (Ainaro) told the Commission of their difficult experience upon surrender in early 1976. In 1975 Hato Udo had about 3,000 inhabitants, but the people had only about 40 guns to defend themselves. The leaders of Hato Udo held a meeting on 28 February 1976, and decided to surrender without resistance to the Indonesian armed forces that day. But the decision to surrender also resulted in hardship. At first, they had sufficient food, but after some time the people began to suffer from hunger. The Indonesian battalion that took the town, Battalion 312, together with Hansip and Apodeti party members had killed the local livestock and burned some of the crops. People were not permitted to leave the village to farm. The Indonesian armed forces also brought many more people to Hato Udo who had surrendered from other places. These people also needed food, placing further strain on the already overstretched supplies.[85]

Displacement, hunger and death in Bobonaro

88. In an interview with Commission staff, Sister Consuela Martinez of the Carmelite Order told of her experience of early surrender in Bobonaro to Indonesian forces.[86] Restricted in their movements, food shortages became a constant problem for all the population there over the following three years. Sister Consuela's account is especially striking as it recalls the terrible conditions that the surrendering civilian population were held in by the Indonesian authorities. These conditions led to hunger and illness and a significant number of deaths, especially among children. Such testimony demonstrates the pattern of neglect toward surrendering civilians, which cost an immense number of lives in the later 1970s, and which was already established in the early period after the invasion.

Bobonaro surrenders early[87]

Sister Consuela Martinez of the Carmelite Order gave a detailed interview to the Commission about the Indonesian military attacks of 1975 in the border district of Bobonaro, which led to mass displacement.

She spoke of the difficulties of living in the mountains and of the terrible conditions upon surrender to the Indonesian military which led to large-scale loss of life among the civilian population. This brief study is based on the interview with Sr Consuela.

Sister Consuela was living in the town of Bobonaro with three other nuns in August 1975 when she witnessed Indonesian military airplanes bomb the town. This was around the time of the UDT "attempted coup" in Dili. She heard that planes were also bombing the towns of Maliana and Suai. Every day the planes dropped bombs. Many people died. She said that when the people heard the planes coming to drop the bombs, they ran to hide.

Sister Consuela said that a child of a catechist she knew was killed by a bomb, which exploded near to her. She remembers that in the Bobonaro market people were hit by flying debris as a result of one attack. She recalled thinking at the time that the bombs were not being directed at houses in the town but rather at the fields. Houses close to these areas were completely destroyed. The nuns and all the people were terrified. She tried to make a safe place in the kitchen with mattresses.

In December 1975, when the Indonesian soldiers landed in Dili, the people fled to the hills at Ai Metan. The four nuns went with them together with the local East Timorese priest, Fr António Maia. People were able to bring some food and, with what they could find, all survived. "We ate only bananas or peanuts every day. If there was some corn then they ate that. God blessed us, so no one was sick," she said.

Sister Consuela said that there was no community decision to flee, it was just spontaneous. There were about 8,000 people in Ai Metan – not just from the immediate vicinity of the town of Bobonaro, but from places such as Hauba (Maliana, Bobonaro) and Cailaco (Atabae, Bobonaro) in other sub-districts of Bobonaro District and from Marobo in Railaco (Ermera.) In the hills they lived out in the open, exposed to the cold. They built simple shelters out of grass and other materials they could find. There was no organisation or community decision-making process. People were generally grouped in families. About 300 people attached themselves to the four nuns and the priest, thinking perhaps they would be safer in their company.

About 15 members of Falintil were hiding with the people, including Manuel Barros, the son of the *liurai* of Hauba (who was later killed in Maliana). His father, the *liurai*, forbade them from carrying weapons.

On the morning of 2 February 1976, an unarmed Indonesian soldier, with an East Timorese Partisan from Atabae, came to meet them

in the hills. He told them that if they surrendered they would not be bombed and they would be treated well. A group of people, including three of the nuns and the priest, were invited to walk to the foothills to discuss surrender. However all the people who were with the nuns went with them to the meeting. The priest spoke with the soldiers, as he was the only one who could speak some English. The meeting concluded at 5.00pm but they were not permitted to return that evening. They spent that night sheltering under the trees without food and returned the following morning. The next day, 3 February 1976, all 8,000 people collected their belongings and walked to Bobonaro, a journey of about three hours.

At the time they surrendered, one East Timorese Partisan recognised that there were members of Falintil among them. Another Partisan assaulted the son of the *liurai*. However, the Indonesian commander took action against this Partisan because he thought that people would be too afraid to surrender to the Indonesian military if they thought this could happen to them.

Life in Indonesian-occupied Bobonaro

When the group surrendered the soldiers did not given them any food. Most people were able to carry some food with them from the mountains. Later groups that surrendered were given a bowl of white rice with salt by the Indonesian soldiers at the time of surrender.

The people had to live in the town of Bobonaro and could not go beyond a distance of one kilometre from its centre. Some people lived in houses in the town, which were often not their own. They also stayed at the school, the church, the large house of the former Portuguese administrator, where the nuns had their clinic, and in other buildings where they could find shelter. Within the town perimeter itself there was an Indonesian police post, a military command post (Koramil) and a house where the commanders and Kopassandha (Special Forces) troops lived. On the roads out of town there were six or seven military posts. In the open field in front of the church the Indonesian soldiers set up seven portable mortar launchers, and in another area there was a large mounted artillery piece which could launch 36 missiles at one time.

Sister Consuela said the firing of the mortars from the churchyard was so loud that it would break the windows and lamps in the church. The Indonesian soldiers fired their artillery shells in all directions, and Falintil fired back.

If they wanted to go to find food, civilians had to be escorted by a soldier. However many people were killed, it was unclear whether they were killed by ABRI who thought they were Falintil, or by Falintil themselves. According to Sister Consuela, Falintil was angry that the people had surrendered to the Indonesians and they shot some people. In Aiasa seven people were killed by landmines and bombs when they went there to find food. Despite the risks of being killed by either side, the people tried to sneak out of the town in search of food.

The soldiers gave the nuns and the people who lived with them in the clinic some rice, flour, milk and sugar, but it was insufficent for the 27 people who lived in their house. For months Sister Consuela ate only watery porridge made from rice, once a day. She felt very depressed and was too weak to walk up and down the stairs. She felt powerless to help the dying children who came begging for food. The soldiers often asked the nuns what they needed, what was missing from their house. All she asked for was food. Eventually the soldiers gave the nuns rice, sugar, milk and cooking oil regularly, which they shared with the people staying with them, especially the children.

There was an Indonesian doctor and nurse from the Indonesian Red Cross in Bobonaro when the people surrendered in February 1976. They helped the nuns care for the most vulnerable children, but they left in April or May and the Carmelite nuns took over the care of the children. They fed between 120 and 180 destitute children at the clinic. They decided to give priority to the youngest children, feeding them themselves. Sr Consuela was afraid that if the food were given to their parents, it could be sold and the children would receive nothing.

The Sub-district administrator kept a record of the number of people who died. Every month, from February 1976 until the end of that year, 200 to 300 people died. The numbers decreased slightly from the beginning of 1977, and decreased again towards the end of 1979. The majority of those who died were children. Sister Consuela recalled:

In the morning there would be dead people here, dead people there, 6 to 8 dead people, just where they were sleeping. Every day many died because they were so frail, their legs swollen, their bodies also swollen with fluid. Their hair was falling out, their stomachs were swollen. We used small needles to help remove the fluid from their bodies. The people would arrive in the evening. The following morning this one would be dead, another one would be dead. I was there and I saw it. I saw many pregnant women who gave birth and were so weak from loss of blood.

Towards the end of 1976 the Indonesian military began to issue *surat jalan* (travel passes) that allowed people to move outside town into the surrounding fields. The most difficult years were 1976–1978, after which the people were given more freedom to go to their fields. However it was not until 1983 that the situation really returned to normal, and the people were allowed to go back to their own villages.

After the first group left the forest to live in Bobonaro on 3 February 1976, groups of people continued to surrender almost every week until 1979. Among the last to surrender were the Bunak people, who held out in the forest for three years. Often people surrendered in groups of up to 700. Those who surrendered were always frail. Many were so weak they could not walk back into town.

Life and death in the mountains (1976–1978)

89. In the first phase of the invasion the Indonesian forces concentrated on taking control of strategic towns and villages and the roads connecting them. Many people lived in their villages away from Indonesian control. At this stage of the invasion, civilians who fled the advancing Indonesian forces were dispersed throughout the interior. As the military offensives were generally not directed at these areas, the people living there were able to farm and live in reasonable safety. Gilman dos Santos described to the Commission the conditions during the early years of the conflict:

> *Between 1975 and 1977 the food situation in the forest wasn't so bad. People could move around and plant according to the season. The Indonesian military controlled only district and sub-district towns, even though there was some fighting in the hills.*[88]

90. From mid-1977, however, the Indonesian military began to move into the areas it had not conquered. For those who fled their homes for safety in the interior, the advance of the Indonesian forces into these areas forced them to be constantly on the move.

Fretilin's *bases de apoio* strategy

91. At its conference in Soibada (Manatuto) in May 1976, the Central Committee of Fretilin established structures for organising the civilian population under its control and for increasing the effectiveness of its armed wing, Falintil (see Vol. I, Part 5: Resistance: Structures and Strategies). The thinking underlying these changes was that the people of Timor-Leste were engaged simultaneously in waging a war and making a revolution. To further these two objectives military and civilian support bases, or

bases de apoio, were established in each administrative zone. The Fretilin leadership concentrated displaced people at these *bases de apoio,* which became the logistical support centres for civilians and the Resistance for nearly three years. The last base was destroyed in November 1978. Xanana Gusmão described the rationale for the bases:

> *The concept of* base de apoio *came about when the population ran to the hills after the Indonesians invaded on 7 December…Suddenly we were at war, but with the people among us. The concept was to build a foundation to provide political and logistical support, but mostly political support, which we could say was revolutionary.*[89]

Vemasse (Vemasse, Baucau)

92. The people of Vemasse (Vemasse, Baucau) moved three times before they finally joined other displaced communities in an area controlled and organised by Fretilin in Uaimori (Viqueque). Cosme Freitas told the Commission that the people of Vemasse first left their town because they heard that the Indonesian military had killed ten civilians in the nearby *aldeia* of Cairabela on 11 December 1975. A teacher named Francisco Feliciano Ximenes led the people out of the town to Mount Lame, on the southern edge of town. They were joined by people from Cairabela and Bucoli (Baucau, Baucau). They built temporary barracks on Mount Lame. Because Indonesian forces had not yet established a permanent presence in Vemasse, the people from Vemasse were able to return home to harvest their gardens, giving them enough to eat. In mid-March 1976, the Indonesian army attacked their temporary settlement with bazookas and mortars, destroying their barracks and food stores.[90]

93. The people moved about 8 km further south, along the Vemasse River to Uai-Gae. They were able to plant gardens to meet their basic needs. But the fighting kept getting closer, and they had to move again. Each time the people of Vemasse moved, it was to a place where conditions were increasingly difficult. From Uai-Gae they walked 8 km east to Mount Uai Knassa. Finally they walked to Uaimori (now in Bibileo, Viqueque) in the mountains 20 km south of Vemasse. Fretilin had established Uaimori as a *base de apoio.* People from Viqueque, Dili and other parts of Timor-Leste were also there. They lived there for two years. Life became more difficult as time passed. As more and more people came, and there was not enough food.[91] In 1978, Uaimori came under attack, and the population fled again. Eventually, some were captured and brought to an Indonesian-controlled camp in Bucoli.[92]

Covalima

94. Indonesian troops entered Covalima District in force in early February 1976. They attacked by land and air, and shelled the district from the sea. Their aim was to take control of the towns of Covalima rather than the countryside. Falintil suffered during these attacks, but so did ordinary townspeople and villagers. Fretilin leaders urged the people to move to the safety of the hills outside the towns. Most people from the sub-districts of Fohorem, Fatululik, Fatumean and Tilomar fled about 10 km northeast to

Mount Taroman. They also went to the villages of Dato Tolu (Fohorem), Fato Loro (Fatululik), Taroman (Fatululik) and Lactos (Fohorem). Many people from the town of Suai fled north and northwest about 10 km to the sub-district of Maucatar. Not all residents of the town of Suai fled. Some hid in their gardens or near the beach for a few days, then surrendered to the Indonesian troops.[93]

95. The people of the sub-district of Zumalai also fled. They went in different directions. Some went west towards Lolotoe. They scattered throughout the area that stretches from the *aldeia* of Gala (Beco Village, Suai) to the *aldeia* of Zoilpo (Guda Village, Lolotoe, Bobonaro), and down to Zova Mount (Opa Village, Lolotoe, Bobonaro) and Labarai (Suai, Covalima). Others from Zumalai fled northwest towards Zulo (Mape/Zumalai). These were all hilly or lowland areas, 10 km or less from Zumalai. A few people who lived close to the border fled to the Betun District of West Timor, Indonesia. Many people who already lived in the mountains did not leave their homes at this time, as the Indonesian military was still a long way off.[94]

96. Initially, according to witness testimonies, the displaced people in Covalima District had only had the food they took with them from their homes.[95] They thought the war might last only two or three months. When these supplies had been eaten, they became hungry and starvation and illness struck. However, after about two months, Fretilin's youth and women's organisations, Organização Popular de Juventude Timorense (OPJT) and Organização Popular da Mulher Timor (OPMT), began to organise food supplies. This improved conditions and allowed people to survive in the hills for about one and a half years.[96] When the Indonesian army launched a large-scale attack on the Resistance based in the hills near Lolotoe in late 1977, the *base de apoio* was destroyed. The people were scattered, and most were captured at this time.

Table 4: Some key Resistance bases

Location	District	People from
Zumalai	Ainaro/Covalima	Zumalai, Ainaro, Hato Udo
Remexio	Aileu	Remexio, Laclo, Aileu, Dili
Mount Matebian	Baucau	Quelicai, Laivai (Ililai), Laga, Baucau, Baguia, Venilale, Lospalos, Manatuto, Viqueque, Same, Dili
Baguia	Baucau	Lospalos, Baguia, Ilomar, Uato Carbau
Cailaco	Bobonaro	Cailaco, Hatolia, Letefoho, Maubara, Atabae
Mount Taroman	Covalima	Covalima District
Zoilpo and Maucatar	Covalima	Covalima District, Lolotoe, Ermera, Ainaro
Halik, Labarai, Zova, Beco	Covalima	Covalima District, Lolotoe, Ermera, Ainaro
Catrailete (Mount Ramelau)	Ermera	Letefoho, Ermera, Ainaro, Aileu, Cailaco
Fatubessi	Ermera	Ermera, Cailaco, Maubara, Dili, Aileu, Ainaro, Suai
Iliomar	Lautém	Iliomar, Uato Carbau, Lospalos

Location	District	People from
Mehara	Lautém	Lautém District
Malehui (Maubara)	Liquiçá	Maubara, Leimea Kraik, Railaco, Atsabe, Ainaro, Zumalai
Manufahi South and North Sectors	Manufahi	Manufahi, Dili, Aileu, Maubisse, Manatuto, Soibada and other places
Alas	Manufahi	Manatuto, Same, Dili, Liquiçá, Ermera, Aileu, Ainaro
Fatuberliu	Manufahi	Turiscai, Maubisse, Aileu, Liquiçá, Dili
Mount Kablaki	Manufahi	Mau Chiga, Same, Letefoho, Aileu, Atsabe
Laclo	Manatuto	Manatuto District, Dili, Aileu
Natarbora	Manatuto	Manatuto, Same, Dili, Liquiçá, Ermera
Laclubar	Manatuto	Laclubar, Soibada, Manatuto
Barique	Manatuto	Natarbora, Lacluta, Barique, Same
Laleia	Manatuto	Baucau, Manatuto, Viqueque
Ossu	Viqueque	Ossu, Viqueque
Uaimori	Viqueque	Vemasse, Baucau, Venilale, Ossu, Lacluta
Uatolari	Viqueque	Ossu, Viqueque, Uatolari, Uato Carbau
Mount Bibileo	Viqueque	Lacluta, Aitana, Ossu, Laleia, Natarbora, Barique, Maubisse, Same. Later moved to Mount Matebian.
Lacluta	Viqueque	Lacluta, Ossu, Baucau, Viqueque
Lobito	Viqueque	Vemasse, Baucau, Venilale, Ossu, Lacluta
Mount Builo	Viqueque	Viqueque Town, Uato Carbau, Ossu, Baucau, Lospalos

Source: CAVR Research Notes

97. As the Indonesian attacks grew more intense, more rigorous security was put in place in the *bases de apoio*. The camps were organised in concentric rings of Falintil troops (*Companhias de Intervenção*) on the outer perimeter, with civilian defence forces called Forças de Auto-Defesa (Fade, also known as Armas Brancas) forming the next ring, and civilians concentrated at the centre. People were forbidden to move outside the perimeter.[97]

Life in the *bases de apoio*

98. Life in the *bases de apoio* was highly organised. Everyone was required to work in communal gardens as well as in their own personal gardens. The youth and women's organisations, OPJT and OPMT, had the task of organising people to plant rice, corn, tubers and other crops which were distributed to those in need and to feed the Falintil soldiers. The women also were required to weave cloth and produce traditional medicines. Rudimentary schools were set up to teach literacy and political ideology. At night they sang songs to encourage the people to believe they could be free. Some remember this time fondly, as a time of sharing and common purpose.

A young woman's perspective on life in a *base de apoio*[98]

Maria José da Costa was born in 1962. She was 13 years old when the Indonesian military invaded Dili in 1975. When Indonesian forces advanced to Soibada (Manatuto) in 1977, she ran with everyone from her village of Manlala to hide in the nearby forest of Lehutala. They built small huts near their gardens, so that they could collect food. As the Indonesian soldiers advanced, the community moved again to Fatuberliu in Manufahi. They built huts and a school. Maria and two girls began teaching the children, using charcoal and their fingers in the sand to practice writing. They taught their pupils to face hardships using methods that had been developed in Mozambique. They started communal gardens with the children, to help their families survive. But some people still died of hunger and disease during this time.

The school had been operating for only two months before they were, again, under attack from the Indonesian military. The community moved for the third time to Lakudadur, still in Fatuberliu. Again they rebuilt their huts, but the situation did not allow them to go back to harvest their fields in Manlala.

By early 1978 a large number of people had concentrated around Fatuberliu, driven there by Indonesian military assaults. The local population helped the new arrivals, but there were families who experienced serious shortages. About 10 km from where Maria lived, she counted 400 to 500 displaced persons. About 200 of them were malnourished. Maria and her friends joined an organisation called the Comissão de Apoio e Solidaridade (Solidarity and Support Committee, CAS) which provided food for those in need.

Other Fretilin organisations, including the women's and youth organisations, OPMT and OPJT, collected food. Eleven young women took turns carrying the food on horseback to places in need, including Sarin and Fukiran (both in Alas, Manufahi), and Fatuberliu. Working in two groups, the young women would spend one week in each location. Every morning they would make a mix of pounded cassava and corn, and when it was available, deer meat. They distributed the food to those in need twice a day. The CAS also educated the villagers about the importance of boiling drinking water, how to make toilets and other aspects of hygiene. With the help of a nurse named Felisberto Gouveia Leite, they learned to make traditional medicine from roots and vegetation. They also organised

the burial of the dead. During a two-month period, about four people died every day. Maria still remembers how she took care of a very sick child, who eventually died. They asked community leaders to give moral support to the people through talks and presentations about the objectives of Fretilin. At night they would have free time to play, sing, dance and tell stories. Many songs of struggle were created during this period. Times were hard but at night they would come together in this way so they did not just passively accept their situation.

Two months later Maria and her friends had to cease all their activities because they were, again, under attack. They moved again, for the fourth time. The attack began in August 1978 and continued for three months. Eleven young women, all under 18 years old, were members of the CAS under the coordination of Soi Mali (Maria José Brites Boavida) and Aurora Assunção Sarmento. Most members of the CAS were relatives of Nicolau Lobato. Only five survived the war. Many died in 1978 or 1979. Some were shot, others were kidnapped and disappeared.* Maria survived because she surrendered in an area where she was not known. The few who knew about her activities did not say anything. She told the Commission "I am sure if the soldiers knew I was active in Fretilin, they would have killed me in 1979 when I surrendered. I was 16 years old."

99. Although they supported Fretilin and recognised the need to provide for the troops, others referred to the agricultural labour required of them as "*kerja paksa secara halus*" –a subtle form of forced labour. This was especially true for the women, who bore the main burden of feeding and clothing the troops.[99] Some describe it as more extreme, as a time of forced labour, increasing distrust, intolerance of dissent and harsh justice. Discipline was enforced by the *linha da luta* (the line of the struggle) and was very strict. Public as well as private problems were settled by political cadres.[100] The community of Defawasi (Baguia, Baucau) described the strict regime:

> *Punishment and torture were part of the emergency situtation of war. Violators were put in traditional prisons such as pig-pens. [For] less serious violators, the punishment was to clear land to be cultivated over an area which was determined by the* assembleia popular *(a type of open people's court).*[101]

* The Commission learned that Felisberto Gouveia Leite, his wife Alexandrina, four children and a foster-child were all executed in Fahenehan, Fatuberliu in July 1979 [see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances].

100. Food production generally met the needs of the population in the bases for more than one year. As attacks by Indonesian forces intensified, food supplies were disrupted. Civilian deaths from hunger, disease and constant shelling began to rise dramatically. People became increasingly concentrated in a few isolated locations such as Mount Matebian, Alas and the Natarbora Plain. The Commission received testimonies describing the hardship and loss of life during this period. The people of Ahic (Lacluta, Viqueque) recalled the losses they suffered:

> *After the bombing began, Fretilin told people to flee to the forest and we constantly moved as Falintil ordered us. They began to open two places for processing sago, one in Kohok (now Wekfia), and the other called CP-2 (Centro Piloto-2). In CP-2 people were also to work the ricefields in Aitara, Buadara and We-Beikas, We-Look. On 10 July 1978, ABRI and Hansip broke through into Ahic and people began to flee to the west to Uma-Tolu, through Zona Barique Bora to the Sahen River. In Mauruick River in Zona Barique there was more fighting between Falintil and ABRI, and many families were separated. Falintil gave an order prohibiting livestock to be brought along, so all animals except horses had to be killed. From the post at Aito'os we had to flee to Natarbora at the Sahen River. From there we fled more attacks and headed back east along the beach south of Werow, Hali-Boco, Mota Dilor, Aimanas Rai and then to Welalir, Nuhukmesak and other places. Some people wanted to go back and harvest rice from their ricefields in Aitara and Buadara but the bombing campaign forced them to abandon their crops. No one had time to grow food because we were always being harassed by the enemy. We had to leave our belongings behind and they were looted by ABRI and Hansip. Many family members lost their lives…The value of our losses cannot be calculated.*[102]

101. Many other people gave evidence to the Commission about the deaths of their family members due to hunger and lack of medical care in the mountains. The following accounts are examples of this suffering.

- Moises Quintão told the Commission:

  Mount Kablaki was destroyed. A Fretilin commander organised my family to go to the forest. My mother, Prisca de Araújo, died when [the Indonesian military] bombed Uskai. We ran to Mau-Ulo (Ainaro, Ainaro), then to Fatumeta. We stayed five days and my son Evalino died there. We walked on to Mauleo. My wife, Ludvina da Costa, died from hunger in the forest in the Ainaro area in 1977.[103]

- A man from Ainaro (identity withheld) described a mass population movement to the central sector during which more that 1,600 people died and only a few survived.[104]

- Mateus da Silva of Baucau told the Commission:

In 1976 to 1977, the Indonesian military conducted operations in Uato Carbau and Baguia. There was shooting between [ABRI] and Falintil. My family and our community fled to the foot of Mount Matebian. When they bombed Ketikura, the sound of weapons made people scared to look for food and children and old people died from lack of food. My child died because my wife could not produce breast milk. The shooting continued and my grandfather, who was about 60 years old, died due to hunger. In November 1978, we surrendered at the sub-district of Baguia, but we still did not have sufficent food and medicine. Many died, including my mother.[105]

- A man from Baucau (identity withheld) described how in October 1977 Falintil ordered people to move to Mount Matebian. Between then and their surrender in 1979, many died. After surrender, he said that deaths continued [106]

- Moises da Costa of Manufahi told the Commission:

  Because of the war we ran to Wetare, Alas in 1978. We planted crops but the Indonesian army attacked us and we could not harvest them. We left everything behind and moved to We Alas. We planted rice in large quantities but, again, because of enemy attacks we had to move to an area called Kolakau on the coast. We got separated there and my father was captured by Indonesian soldiers. We moved again to a place called Wemer where we stayed for eight months. And again we had to move, to Atabita. There my mother died due to hunger and sickness. There was no medicine. The next morning my younger sister died too. We buried them and moved to Lokfeu. A friend of ours named Calistro, under orders from [ABRI], brought us to surrender in Uma Metan. My brother, Domingos dos Santos, died in this place [Uma Metan] due to lack of food and medicine. He was only 22 years old.[107]

- Mateus da Conceição of Manufahi told the Commission that in 1978:

  We were concentrated in the area of Kolakau and Besusu (Uma Berloik, Alas, Manufahi) when the enemy attacked us. The population was not free to move around, and because of that many civilians died. Hundreds. They died because of hunger and sickness.[108]

- Luis Casimiro Martins from Aiceu in Raimerhei (Ermera, Ermera) told the Commission that many people died in his community between 1975 and1980. He recorded the deaths suffered among 27 families who lived in Aiceu and who ran to the mountains in March 1976 when the Indonesian army entered their village. In total he documented 230 deaths and their immediate causes. He listed 11 people who died in 1975, 51 in 1976, 74 in 1977, 54 in 1978, 30 in 1979, and ten in 1980. He categorised them according to the following: death

as a result of bombing (3), not buried (12), deaths from wounds (14), missing (15), starvation (4), disease and hunger (181), shot by ABRI (1).[109]

102. As conditions worsened and the bombing increased, many people wanted to surrender in order to save their lives and those of their families. They were prevented from doing so for political reasons. Fretilin believed that its political legitimacy would be undermined if people surrendered, and that encouraging people to do so was an act of treason.

Detention for wanting to surrender

103. The Fretilin leadership kept strict control over the population living around the *bases de apoio*. A rudimentary judicial process was established to punish those whose actions were thought to harm the community or put it at risk. A person accused of wrong-doing would be arrested and brought first before the military leadership, and then before the civilian leadership of the zone. The person to determine if someone had done wrong was the regional political commissar (Comissário Politico Regional, CPR). It was his responsibility to ensure that the political line of the leadership was followed. Sometimes, especially in the early days, there would be a people's court (*justiça popular*). But the political commissar had a lot of influence on a people's court. Those found guilty would be detained in make-shift prisons known as Renal (Rehabilitação Nasional).

104. Many detainees in the Renal experienced ill-treatment and torture. [see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment] As the bombings and hunger increased, some people living in the *bases de apoio* wanted to surrender to the Indonesian military. However surrender was considered by Fretilin a risk to the security of the Fretilin forces and the civilians with them.

105. The Commission heard many accounts about people who were put in prison because the leadership believed they might surrender or suspected that they had had, or were intending to have, contact with Indonesian forces. Antonino Rodrigues from Faturilau, Fahi Soi (Lequidoe, Aileu) was arrested by Fretilin in 1978. Faturilau had come under attack by ABRI. Because Antonino was afraid and his 50-year-old father, Berleki, was ill, the two tried to escape on a horse under cover of night. Before they could leave Faturilau, they were caught by F41, the assistant for security to the *adjunto*, F42, and nine other men. F41 and his men arrested Antonino Rodrigues on suspicion of having been in contact with ABRI. The next morning they loosened, but did not remove, the ties on his hands and took him to Adjunto F42 at Sungai River, Sumiun. F42 told one of his commanders, F43, to beat, kick and trample on Antonino Rodrigues for one hour. After that, F42 ordered Antonino Rodrigues to carry equipment for Falintil during a move.[110]

106. Miguel da Costa, from Sabuli Village (Metinaro, Dili), reported that Fretilin troops arrested his brother, Jorgé Carvalho, in 1977 because he was playing with a football, which he had found on the beach. Falintil was suspicious, thinking he must have been in contact with the Indonesian troops in the town and concluded that he had become a

spy for Indonesia. The Fretilin troops put him in the Renal in Remexio (Aileu), where he later died.[111]

107. Lucia de Jesus Barreto reported that in 1978 she and her family were in the *base de apoio* in Fatuberliu (Manufahi). Because they were desperate for food, her son Bastião da Silva, who was only 14, and a friend, Alcino da Costa, went to Lisimori in the village of Mada Beno (Laulara, Aileu) to look for food. They were arrested by Falintil on suspicion of being spies. The two were imprisoned in the Renal in Remexio, where they were given very little food. Bastião da Silva became ill and died in the Renal.[112]

108. Agustinho da Costa told the Commission that in 1976 he and his family fled an area called Komite Rame, Uatolari (Ossu, Viqueque) where many displaced communities had concentrated after an attack by Indonesian soldiers. They moved to Leki Loho, which was under control of Falintil and the location of a Renal. During this time a traditional leader (*liurai*) from Ossu, Gaspar Reis, escaped with his followers to surrender to the Indonesian military in the town of Ossu. Because of this Agustinho and his family were arrested by the Falintil leaders. He told the Commission:

> *They put me and my wife, Dominggas da Costa, my child Mau-Naha and eight other people inside a "pig pen." We were beaten with a stick, kicked, punched and slapped. We were given water mixed with salt to drink. At night our hands were tied behind our backs. We were in the* Renal *in Leki Loho for one year. My friend, Olo-Gari, died from the torture by Falintil.*[113]

Accused of planning to surrender[114]

Elias Quintão was the Fretilin leader (*delegado*) for the village of Hatu Makerek (Laclubar, Manatuto). In a detailed interview he told the Commission of his experience of detention by Fretilin and the suffering of hunger of prisoners in these circumstances. The following summary is based on this interview.

The people of Hatu Makerek had fled to the forest near their homes after the Indonesian armed forces invaded. On 15 August 1977 the Falintil zone commander, F44, and his men arrested Elias Quintão and his bodyguard, Luis Kehebau. They were still in the Hatu Makerek area. The Falintil men tied Elias Quintão's hands behind his back. Commander F44 shouted to the people who were watching that Elias Quintão was a traitor. They told him to walk to the front of the office where they handed him over to the zone secretary, F45, and to the commander of the Sector Centro Sul, F46.

The Laclubar zone committee said that Elias Quintão had been planning to surrender to the Indonesian military, together with the

people from Hatu Makerek. They interrogated Elias Quintão and then put him in a cell. They put his feet in stocks made from bamboo. His hands were still tied behind his back. They only released his hands and his feet to let him eat. They did not beat him.

After 40 days, at the end of September 1977, F45 told Elias Quintão that he would send the prisoners to Rameliak (Turiscai, Manufahi), the command centre for Centro Sul Sector and the location of the sector's Renal. There the Minister for Justice, F50, would deal with the prisoners. F45 also threatened to cut off Elias Quintão's head. Then Elias Quintão walked to Rameliak, tied to another prisoner named Sabino, and escorted by four armed Falintil soldiers.

Arriving at Rameliak at 5.00 in the evening, the two prisoners were taken to see Commanders F48 and F49. The two commanders put the prisoners in a cell. Elias Quintão, his hands still tied, shared a cell with Father Mariano Soares. He stayed in this cell for nearly four months, until early January 1978. He had to work in the corn garden and cook for Falintil. He was always kept under guard, but was not beaten. His hands were not tied while he worked, but at night he was tied up. According to Elias Quintão, there were as many as 146 prisoners in Rameliak.

In early January 1978, he was moved to Alas where he was detained for five months until mid-May 1978. He was still waiting to see F50, the Minister for Justice. The prisoners were also required to work. After taking a bath in the river, they were told to work in the rice fields, while Falintil guarded them with guns. He was not beaten but received only one small meal a day, at 2.00 pm, after finishing his work.

When the Indonesian military surrounded Alas, the prisoners were moved to a place near Betano where they stayed He was there until the end of July 1978. The prisoners had to work making salt for Falintil. Again they were always guarded by armed Falintil soldiers though they were not beaten and they received one small meal every day. Elias Quintão was very weak by this time. He was sick and hungry, but he still had to work.

Finally, at the end of July 1978, Elias Quintão and 27 other prisoners met F50, the Minister of Justice. He told them: "Now I will interrogate you. Anyone who is proved to have done wrong will be punished. However, if the interrogation reveals no wrong-doing, you will be set free." After being interrogated one by one, all of the prisoners were set free.

Soon after they were released, the Indonesian military attacked again. Battalion 744 captured Elias Quintão and took him to Uma Metan (Alas, Manufahi).

109. The largest number of cases of imprisonment of people allegedly wanting to surrender happened in 1977. At this time, Indonesian attacks on the Fretilin-controlled *bases de apoio* were growing in intensity. Life in the bush became more difficult. Some Fretilin leaders and Falintil commanders were in favour of letting people surrender, leaving Falintil in the mountains to continue the fight. The most important Fretilin leader to take this position was Francisco Xavier do Amaral, then President of Fretilin. For this reason the Fretilin Central Committee arrested him in September 1977. Although he survived, many of Francisco Xavier do Amaral's close colleagues and alleged followers were executed.

110. During the CAVR National Public Hearing on the Internal Political Conflict, Francisco Xavier Amaral described the rift in the Fretilin leadership, and his subsequent imprisonment by Fretilin as a "traitor". He recalled that he was very concerned about the many sick and hungry people amongst the civilian population in the mountains with Fretilin.

> *I spoke with Nicolao Lobato about this. I said, "I think this problem is really serious. Firstly, we don't know when this war will end. Secondly, we cannot compare our forces to the Indonesian forces. Thirdly, our logistical preparations to provide food to the people [were not sufficient]. Fourthly, our wounded soldiers, women giving birth in the forest, orphans, people with broken arms and legs, and we have no medicine."*
>
> *So this was my idea. We should send the population to surrender. Only those men who were strong and could fight the war would stay with the Central Committee. Because we didn't know how many years it would be before the war was over. We planned this, and then we went to a Central Committee meeting…There I discovered that one or two had ideas that weren't the same as mine. There began to be a rift within Fretilin. We had begun to divide among ourselves. Some said that the doctrine [of Fretilin] was not right. Some said that the doctrine was right but people weren't following it properly. Some said it was good. We began to lose our trust in each other…*
>
> *Because of this they arrested me, put me in prison and accused me…of having sent people to surrender so that in the future when I surrendered to Indonesia, they would give me a position as a general or a minister. This was the argument of those who were against me.*[115]

111. As many community discussions organised by the Commission attested, the affect of this rift on communities still in the mountains at this time was profound. This was especially so in those districts and sub-districts where support for Xavier do Amaral was alleged to be strong, such as Turiscai, Maubisse, Aileu and Manatuto. The entries for 1977 in two typical accounts from commuity discussions in the district of Aileu convey the atmosphere at this time. The community of Hoholau (Aileu Town, Aileu) told the Commission:

People were saddened by the arrest of Xavier. The situation became tight. The guia de marcha *[travel pass] was introduced, and those who did not have them were dubbed traitors.* The Central Committee ordered our commander F51 to move the people from Hoholau to Lequidoe. The colaborador of Zona 3, F52, came to tell the people that they must move to the forest in Lequidoe. About 500 people did move, a small number stayed in Hoholau. ABRI took advantage of the situation to kill three. F52 shot dead some people who do not want to go to Lequidoe. About 300 died in Lequidoe.*[116]

112. The community of Lausi/Bandudato (Aileu Town, Aileu) also explained to the Commission:

The arrest of Francisco Xavier do Amaral led to widespread suspicion. A commander from Bandudato, Paulino Xavier Pereira, was arrested. Nine days later his troops went to visit him in the Renal, but they could not find him. Those not in possession of a travel pass were accused of having contact with the enemy, arrested and punished in Rai Kuak Lebututu, which was under control of Adjunto F53... People wanted to surrender but had to keep it secret.[117]

On the run (1976–1978)

113. During the first three years of the Indonesian occupation increasing numbers of East Timorese people were constantly on the move. In the first year of the war people fled from the main administrative centres into the mountainous countryside as the occupying force took control of those centres. Then, in 1977 and 1978, the Indonesian military moved into the rural areas to gain control of the bulk of the population and weaken the armed resistance. Over time this action caused a massive dislocation of the bulk of population as it sought to avoid coming under Indonesian control. The effect of continual dislocation on the well-being of the population was calamitous.

Destruction of food sources

114. Traditional agricultural systems in Timor-Leste have supported the population for generations. Before the Indonesian invasion the bulk of the population was spread throughout the land in small settlements built close to fertile areas. The dislocation of the population from these settlements by military action led directly to food shortages.

* In the Central Committee denunciation of Francisco Xavier do Amaral, it is alleged that his associates had been crossing the lines to make contact with the enemy, and in what is probably a reference to the introdution of the *guia de marcha*, that such movement had been “sufficiently restricted” with the introduction by the North Central Sector Political Commissariat of direct controls on people’s movements. [*A Nossa Vitoria é Apenas Questão de Tempo, Communicado do Comité do C C da Fretilin de 14/9/77, aquando do traição de Xavier do Amaral,* (Our Victory is just a matter of time. Communiqué of the Fretilin Central Committee 14/9/97, regarding the betrayal of Xavier do Amaral *p.20*].

Worse, Indonesian forces also deliberately destroyed crops, fruit trees, livestock and food stores during this period of the occupation.

Food source destruction by Indonesian forces

115. Eye-witnesses told the Commission how, as the military campaign to force the surrender of the population in the mountains escalated, Indonesian soldiers destroyed food crops belonging to East Timorese civilians. By the end of the 1970s, this strategy of food crop destruction contributed directly to dire food shortages and famine conditions throughout Timor-Leste.

116. The Indonesian military destroyed food crops, fruit trees and livestock. From the accounts given below this tactic seems to have had a variety of motives and to have been implemented in different circumstances. Sometimes it appears to have been a form of punishment and a display of power over the civilian population. On other occasions it seems to have been intended to have had the more military objective of denying Falintil food. It was used as part of the forced displacement of people from one village to another. However, in those circumstances in which the civilian population had fled only a short distance from their homes, its purpose seems to have been to force people to surrender.

117. Examples of each of these phenomena follow.

118. The Commission received evidence that the military strategy of destroying food sources started in the earliest days of the Indonesian invasion. For example the Commission heard testimony describing the Indonesian military's systematic destruction of livestock in Metinaro in December 1975.[118]

119. Another deponent described an exodus of the population from Laleia (Manatuto) to Natarbora (Manatuto) in 1975. During the people's absence, the Indonesian military destroyed the villager's food crops. This led to great difficulty for the people in finding food, and deaths resulted.[119].

120. In another example described to the Commission, when ABRI attacked a village in Lacluta (Viqueque) in 1978, people fled to the forest. When they felt safe to return to their village, their houses, livestock and coconut trees had all been destroyed by the Indonesian military. The difficulties they faced finding food forced them to surrender in 1979.[120]

121. In 1977 in Laclo (Manatuto) Indonesian soldiers drove off hungry refugees who came down from the mountains to harvest their fields. The soldiers burned the gardens and shot the livestock.[121]

122. The Commission heard of a similar example in Laga (Baucau). After people fled to the forest, Indonesian soldiers killed their livestock, took away all the families' food supplies, and burned the people's houses.[122]

123. After Alda Pereira da Silva and his family evacuated their home in Osso Rua (Ossu, Viqueque) in 1976, Indonesian soldiers burned three of their houses, their livestock and rice barn.[123]

124. After Agapito Quintão and his family fled their home in Irabin, Letarea (Uato Carbau, Viqueque) Indonesian soldiers burned his house and rice stock, and killed a horse and five pigs.[124]

125. Francisco Barbosa was a Falintil commander. He and a large group of people from the villages of Foholau, Orana and Matorek (Turiscai, Manufahi) escaped south to Alas and Welaluhu (Fatuberliu, Manufahi) when the Indonesian military attacked Turiscai in 1978. When he was captured with a group of 150 others, Indonesian troops and Hansip brought them back to Turiscai. The Indonesian military had burned their houses, agricultural implements, stores of corn and dried cassava and had also taken some of their food to sell in the town. They were left with only some potatoes and cassava tubers in their gardens.[125]

126. In 1978, Indonesian soldiers and Hansip attacked the *aldeia* of Tasidadula, Dilor (Lacluta, Viqueque) where Guilhermino Campos and his family lived. They burned all his food supplies. The villagers fled. Guilhermino Campos later surrendered with his family.[126]

127. After Maria Alves surrendered in 1979, she returned to her village, Bubususu (Fatuberliu, Manufahi), and made a new house and prepared fields. The Indonesian military ordered her family to move again to another village, then burned her food crops (papaya and tubers) and her house to make sure she left and did not come back to her village.[127]

128. In April 1976, soon after Indonesian forces entered Lautém, Battalion 502 captured Paulo de Jesus in Parlamento (Com, Moro, Lautém). They burned all his food supplies (maize) as well as his house.[128]

129. In 1976, António Soares and his uncle, Cristovão da Costa, were guarding a Falintil post in Esa-Isi (Ossu, Viqueque). Three members of Hansip on patrol in Esa-Isi discovered them and shot Cristovão da Costa dead. They then burned the family's houses, and stole 40 buffaloes, 31 horses, 58 goats and the contents of their five rice barns.[129]

130. In 1977, in his presence, members of Hansip burned Berteti Mauhui's maize field in Hut-Manhati in Letefoho (Same, Manufahi) and took all his food supplies and livestock.[130]

131. The Commission also received evidence which shows that even after most civilians had surrendered, the Indonesian military continued to shoot livestock and destroy food crops by burning them or cutting down fruit trees and pulling them up by the roots. The objective was to deny food to Falintil. The Indonesian military called these operations *curlog (penghancuran logistik,* logistical destruction). This practice also affected the food security of civilians, as the fruit trees and crops belonged to ordinary people who needed them for their own survival.

Destruction of food crops by Fretilin

132. The Commission received testimony that Fretilin/Falintil forces were also involved in the destruction of crops. Compared with the number of reports of the Indonesian military committing such acts, reported instances of the burning and destruction of crops by members of Fretilin/Falintil were relatively few. Nevertheless, it is important to note that such violations did take place. For example, Father Eligio Locatelli of Fatumaca (Baucau, Baucau) told the Commission:

> *Between 1975 and 1978, ABRI and Fretilin destroyed civilian agricultural plots and killed scores of livestock. Fretilin burned people's crops saying that people's farms needed to be far from the towns, so that they could make use [of the produce] for themselves. When people returned to their land, there were no animals to work it. As a result people could not plant and remained hungry.*[131]

Driven by hunger and bombardment from the air

133. Between 1977 and 1978, the Indonesian military systematically attacked the *bases de apoio* using every means at their disposal to ensure their final destruction. This military campaign was in effect the final stage of Operation Seroja that began with the full-scale invasion on 7 December 1975. The Indonesian military deployed massive numbers of troops to surround the large population concentrations into which the Fretilin/Falintil leadership and the displaced civilian populations had either been driven or had fled, and then used overwhelming firepower to force them into submission. Because of the tactic adopted by the Indonesian military, the East Timorese Resistance called the campaign the encirclement and annihilation campaign (*cerco e aniquilamento,* see Vol. I, Part 3: The History of the Conflict).

Manufahi

134. In August 1978, Indonesian troops attacked the *base de apoio* of the South Central Sector in Alas, Manufahi. The attacks lasted for three months, causing many civilian deaths from bombs and bullets but especially from starvation. Because the offensive took place during the dry season, fires started by bombs burned large tracts of vegetation and burned people to death. Thousands were forced to surrender or were captured, and were placed in military camps in Betano (Same, Manufahi), Selihasan (6 kilometres east of Betano township, Same, Manufahi), Uma Metan (a temporary camp 400 metres south of Alas Town, Manufahi), Lebos (a temporary camp 2 kilometres southwest of Alas Town, Manufahi), and the town of Same.[132]

Covalima

135. People displaced in Covalima were living on Mount Taroman (Fatululik, Covalima) and Maucatar (Suai, Covalima) when the Indonesian army attacked in September and October 1977. The Fretilin leadership moved the people to the Zoilpo/Zova area in the lowlands west of Lolotoe (Bobonaro). Many people surrendered to the Indonesian

military before they reached the Zoilpo/Zova area and were directed to live near the military posts in Beco (Suai). By this time, the Fretilin leadership in Covalima had its base at Zuak, just south of the town of Lolotoe (Bobonaro).[133] Nearby was Zova Mount, four kilometers south-east of Lolotoe township, which was a leadership training centre for Fretilin cadres. The Indonesian military had occupied the town of Lolotoe, but not yet the countryside around it. During the move to Zoilpo/Zova many people died from Indonesia military attacks. Those who survived and did not surrender remained in the area around Zoilpa/Zova for about another 12 months. Indonesian forces did not conduct intensive operations in this area during that time. Their helicopters and planes frequently passed overhead without attacking. However, food supplies were dwindling and people were forced to eat wild foods such as roots and sago. Sometimes they secretly harvested fields planted by other people.[134]

136. When Indonesian forces began to attack the *base de apoio* again, the Fretilin leadership decided to evacuate the population to the Northern Frontier Sector (*Sector Fronteira Norte*), based in the Fatubessi area in Ermera. They decided to to split the population into two large groups. One planned to go west via Mount Taroman and then north; the other to go east via Beco and then north via Mount Ucecai, (Mape/Zumalai, Covalima). The first group managed to reach Ermera District on foot, but were then captured by the Indonesian military and were placed in a camp in Fatubessi. The second group did not succeed. Though weakened by hunger and disease, which had already taken many lives, they reached the lowlands south of Zumalai, an area known as Halic. They then crossed the Loumea River near Beco, but in January 1978, as they approached the Mola River, they came under attack from Indonesian forces.[135]

137. Many people are thought to have died in this attack. The survivors of the massacre at the Mola River retreated back to Halic, which was not yet under Indonesian control. Airplanes strafed and bombed the refugees; navy ships fired shells at them; machine gun fire continued into the night. The operation went on for two days and by the end most of the refugees who had survived had been captured.

> *The dead were everywhere. They had died from starvation, the bombardments and sickness. There were some corpses still holding sweet potatoes, mangoes and food, even though parts of their bodies were rotting and snakes were crawling over them. But we still had to take and clean [the food] with a cloth or whatever was available, so that we could eat it, because we were also just waiting for our turn to die from hunger. There was no clean water, only pools of soiled water in which there were dead buffaloes and human corpses. We had to filter [the water] with clothes or sarongs so that we could drink it.*[136]

138. The Indonesian military placed the people they captured in camps including one at Beco. Soldiers guarded them closely. The people received some food from the Indonesian army and from the Church, but it was not enough. Help from overseas had not yet arrived. The people were already weak; and many more died in the military-controlled camps.

Uaimori, Viqueque

139. When the Indonesian military attacked the Uaimori base in September 1978, the people first fled further south, walking all the way to the Natarbora Plain, just south of the village of Umaboco (Barique, Manatuto). Many people were killed when they were attacked during this journey. Those in the Vemasse group who survived this attack turned north towards their home village, but were captured by Hansip and ABRI at Osso-Ala (Vemasse, Baucau). Indonesian armed forces took them to Bucoli (Baucau, Baucau). Cosme Freitas from Vemasse (Baucau) described the terror and anguish of those on the run from Indonesian military attacks in 1978:

> *When we evacuated from Uaimori, people began to die. From starvation or from illness. As we walked, death stalked us. Death was behind us as we walked, and people died. Not only old people, but children, through lack of food. The old people walked, their strength all gone, carrying just one* maek *[a species of tuber], or a* kumbili *[sweet yam]. And a little water in a bamboo container on their backs. This is how many of us died. The dead were scattered all along the way [from Uaimori to Natarbora]. Others died from the mortars, 80 to 100 a day. We wanted to bury them, but the enemy kept shooting, so how could we bury them? We ran on. An old woman said: "Please my son, dig a hole to bury my child's body." We dug a hole, but less than half a metre deep. Before lowering the little angel into the hole we wrapped it in a mat to the sound of continuing gunfire. How could we bury it? We bent our heads and buried it with our hands.*
>
> *Those we could, we buried. Otherwise they were left behind. How can we now find their bones? They rotted just as they were. We saw seven or eight people were sitting while leaning against a tree. They leaned against the tree and died like that. Flies and dogs were around them. In our hearts we were terrified.*[137]

Turiscai, Manufahi

140. The community of the village of Liurai (Turiscai, Manufahi) told the Commission about the losses they suffered as they moved from place to place between 1976 and 1979. Their experience is summarised below:

> *1976: Indonesian forces entered Turiscai in March. The people and [our] forces stayed in the village of Liurai. Fretilin fought with ABRI in Geligili and three Falintil soldiers were killed. ABRI entered Liurai, killing two Falintil soldiers in Sakoko. People fled to the mountain top, some fled to Lequidoe [in Aileu], others to Orana and Foholau [both in Turiscai]. Of those who moved to Lequidoe, 80 died due to hunger and disease, and 220 died due to hunger and disease in Orana and Foholau.*
>
> *1977: The Lequidoe* base de apoio *was destroyed. The villagers from Liurai living in Lequidoe ran in all directions, including to Orana and Foholau. 250 people died due to hunger and disease.*

> *1978: In August the people left [Turiscai] to move to Alas and Fatuberliu. 50 people died due to hunger and disease in Besusu, Alas. Forty people died due to hunger and disease in Carauha (Fatuberliu).*
>
> *1979: ABRI attacked from the sea, from the sky, and by land. The people ran from Alas and Fatuberliu back to Sarin in Alas. Others ran to the town of Turiscai (which was under Indonesian control). Twenty people died from hunger and disease in Sarin; 120 people died in Turiscai.*
>
> *1980–1981: The people of Liurai lived in Turiscai. Three women (one married, two 14 year old girls) became victims of [sexual] violations by Indonesian soldiers. Indonesian and Hansip soldiers controlled members of the community who looked for food in Orana and Foholau.*[138]

141. Tomás Barbosa, also from Turiscai, described the final days of the Sector Centro Sul *base de apo*io:

> *The bombs they dropped destroyed everything. When we went to get water we did not know if it was contaminated. We did not know if we were going to die from that or from hunger. We still tried to help others who did not have food. We ran towards the coast, to Welaluhu and then to Alas. But the Indonesian forces kept coming. We ran in all directions. At the Suain River I saw a woman who had died holding her baby to her breast. The baby was still alive, suckling his mother's breast. I saw this with my own eyes. But what could I have done? I was sick, I could not walk, I was carrying my own child. I had to leave him behind. I saw people dying all around me.*[139]

Mount Matebian

142. By October 1978, when the Indonesian military launched its all-out assault on Mount Matebian, tens of thousands of civilians were concentrated on Mount Matebian. Some had been there since 1975. Others had fled there from other bases that had fallen; yet others were organised by Fretilin to move to the mountain.

143. Immediately after the Indonesian invasion of Dili in 1975, people started to flee to Mount Matebian. Some came from as far away as Dili and headed east because that was where their original home was.[140] Most came from places nearby and were settled in villages on the lower slopes of the mountain such as the village of Lavateri in the sub-district of Baguia. In 1977 evacuees from other villages were organised into new *aldeias*, according to their place of origin. There were *aldeias* for people from the Baucau villages of Tekinomata, Samalari and Boleha (all in Laga, Baucau) and Guruça, Afaça, Namanei (all in Quelicai, Baucau). Those from Dili were impressed by the level of organisation they found on Matebian. People who had been at Matebian from the *aldeias* of Benamauk, Camea and Fatuahi (Cristu Rei, Dili) said that in Baguia up until the final assault there was sufficient food and people were not dying. They attributed

this to the leadership in their zone, the political commissar, Abel Larissina, and Adjunto Xanana Gusmão, who was in charge of economic welfare.[141]

144. The Indonesian military earlier attacked the *base de apoio* at Mount Builo (Viqueque) in the middle of 1977. Since 1976, displaced people from Ossu, Uatolari, Viqueque Town, Uato Carbau (all in Viqueque) and Baucau had been concentrated there. According to Horacio da Silva, in the first few months after the evacuation to Builo, two or three people died from hunger and disease each day. The Fretilin leadership improved the situation by organising communal gardens but the Indonesian military discovered the location and attacked Mount Builo in 1977. Many civilians died as a direct result of the attack. Horacio da Silva told the Commission:

> *Our homes were burned. Cattle, buffalo and horses were stolen or killed and left to rot. Our harvest was burned and destroyed as were our fields. The whole location was totally razed. The operation was carried out by ABRI, Hansip and Partisans. Many people surrendered or were captured and were taken to camps in Uatolari and Viqueque.*[142]

145. Others ran to Mount Matebian, the last *base de apoio* in Timor-Leste. Fretilin organised the people into cooperatives and established communal gardens. The harvest was stored in "logistics warehouses" and food was distributed to Falintil soldiers and all those in urgent need. But conditions were not as good as on Mount Builo and more people died of starvation and illness on Mount Matebian.

146. Fretilin started organising the movement of people from Lautém to Mount Matebian in 1977. Not all moved willingly. The community of Puno (Pairara, Moro) told the Commission that they had been forced to move.[143] The people of Iliomar were the last group from Lautém to be moved to Matebian,[144] leaving their base on Mount Laqumau in the sub-district of Luro in June 1978, as they heard the gunfire of the Indonesian forces approaching from Uato Carbau.[145] When they reached Matebian they settled in Lavateri region. As the Indonesian forces stepped up their attacks, they moved up the mountain from Lavateri to Siriafa and from there to the top of Matebian.

147. Once the all-out Indonesian attack on Matebian began, life on the mountain became intolerable (see Box: Testimony of Survivors of Matebian par. 148). In their community discussion with the Commission, the people of Defawasi (Baguia, Baucau) said that Indonesian forces fenced off Mount Matebian like a noose. As the noose tightened, the people on the mountain were being more and more tightly packed together. Xanana Gusmão wrote that he began to doubt the wisdom of the strategy of concentrating people on Matebian:

> I regretted moving all those people to Matebian which was literally full and problems arose everywhere between the recent arrivals with the local residents.[146]

148. It was at this point that the Fretilin leadership changed its strategy, allowing the people to surrender but on the understanding that they "always fight for independence:

you may give your arms and legs to the enemy, but you must give your hearts to your country" ("*nafatin ukun rasik aan: liman ho ain fo ba inimigo maibe laran fo ba o-nia rain*").

Testimony of survivors of the Matebian bombings

Horacio da Silva, from Ossu (Viqueque), described the final days of those who had sought refuge on Mount Matebian. Between 1976 and 1977, many people from Ossu, Uatolari, Viqueque Town, Uato Carbau and Baucau lived under the protection of Fretilin/Falintil soldiers in an area called Builo. In Builo, Fretilin organised communal agricultural activities to provide for the needs of civilians and armed forces. In 1977, ABRI began intensive attacks on Builo. People surrendered in Uatolari and Viqueque, but others moved on to Matebian, the last *base de apoio* holding out against the Indonesian military assault. The final days in Matebian were very difficult.

People died of starvation and illness every day, especially the elderly and children who were malnourished…The death toll increased to 5 to 6 people per day. Although we set up a cooperative and organised people to plant communal gardens, the crops…were reserved mainly for Falintil and people who really needed it.

Horacio da Silva said that in October 1978, Indonesian forces launched an all-out assault on Mount Matebian from the air, sea and land, attacking Falintil forces and civilians alike:

We saw people die in front of us after being hit by bombs…We waited for our turn to die. There were also dead people at the water source…and we had to get drinking water from there…We walked among the dead, hid among them, because the situation made us lose our fear and we had to do it.

Horacio da Silva told the Commission that the air raids went on for two weeks without stopping. Attacks would normally start at seven in the morning and go on until about noon. There would be a short pause before they started again in the afternoon and went on until about 4.00pm. He said,

Civilians and Falintil forces were mixed together. Every day 20 to 30 people died from the bombing, stray bullets, starvation and illness. Those

who could no longer walk were just left behind somewhere, under a tree. Most of the dead were children and the elderly.

While the bombings and shelling from the sea continued, the Indonesian army began to advance into the Fretilin/Falintil strongholds. ABRI forced people to surrender and come down from the mountain. They had to leave all their possessions, including their houses, personal effects, and tools to be burned by the Indonesian army. According to Horacio da Silva: "The situation at the time was like hell." [147]

Leonel Guterres, now a health worker from Quelicai (Baucau) who was a child at the time, ran to Matebian in early 1976, when he heard reports of the Indonesian troop landings in Laga (Baucau). He told the Commission:

Even before we arrived on Matebian, thousands of people were already there. People from Baucau, Laga, Laivai, Baguia, Venilale, Lospalos, Manatuto, Viqueque, Same and Dili. Many of them had been there for almost three years.

Leonel described how, in order to survive, people had to rely on the food they had brought themselves, supplemented by tubers growing around the mountain. Fretilin organised collective agricultural activities, planting maize, tuber roots and beans. After it was harvested, the food was stored in a special place to be distributed only when needed. Yet survival was difficult. He explained:

Every day more and more people became hungry. Death could no longer be avoided. Every day two or three people died from hunger and illness. Children and infants died. They could not stand the hunger, the cold and having to eat food that was difficult to digest. They were fading away from malnutrition. There was no extra food and mothers could not produce enough breast milk. Every day was full of death.

However, the worst came with the assault of Mount Matebian by the Indonesian forces in late 1978. Leonel Guterres continued:

We were attacked simultaneously from the air, land and sea. The worst attacks were from the air. In one day, ten planes would bomb Matebian. From 6.00am to 5.00pm the planes would drop their bombs, maybe between 5 and 20 times a day. I can't count how many hundreds of bombs were dropped on Matebian, killing civilians and destroying the Falintil base. Hundreds of people died from shrapnel. Many lost limbs and became disabled. Corpses were everywhere, being eaten by vultures. The smell of

death was everywhere. The water was contaminated and could not be drunk. We could not cook, fearing that ABRI would discover our location from the smoke. In those days around 9 to 11 people died each day from hunger.[148]

Francisco Soares Pinto, deputy village head of Cainliu (Iliomar, Lautém), told the Commission:

By November 1978, ABRI had totally gained the upper hand, and we could not survive any longer. The planes bombed us from morning till afternoon. We lost so many people on Matebian. The people from the aldeia *of Larimin [Cainliu, Iliomar, Lautém] were hit by four mortar shells fired from Indonesian [ships] off Laga. Dozens of people died. We were already weak from lack of food, medicine and clothing.*[149]

Other survivors told the Commission:

We were bombarded from the air, from the ships in Laga, and by ground troops. Our situation was difficult, we ran frantically to the left, to the right. My family member, Isabel Morão, died after being hit by a mortar shell.[150]

Some people tried to run to the top of the mountain. By October–November the situation was really chaotic. Despite the deaths and continued attacks, we still tried to get to the top of the mountain, carrying what little food we had. When we reached Lavateri, between Baguia and Laga, they attacked us at night. Countless people died. That marked the beginning of the destruction of Matebian, on 24 November 1978.[151]

When Matebian was destroyed, the people ran in all directions. We were separated from each other, the Resistance going one way, and the people going the other way, each looking to save themselves. Some chose to surrender. Others continued to resist in the forest.[152]

Indonesian forces bombed Matebian from 7.00am to 10.00am, then from 2.00pm to 7.00pm. They targeted a watering hole. In one day ten to 20 people would die near that water source. Some died of thirst. We also ran out of food and medicine. We finally surrendered on 25 November 1978.[153]

After the destruction of our Resistance base in November 1978, Fretilin leaders held a meeting in Lavateri. They told us that those who want to continue to fight could stay but those who can no longer bear it could surrender in the town, particularly children and the elderly. In the middle of the meeting, ABRI began to attack again. In the end Fretilin could no longer protect us. They told us to surrender.[154]

Manatuto

149. In Laclo, (Manatuto), Manuel Carceres da Costa spoke of constant attacks from the Indonesian military on the base in Idada in the hills of Hatuconan (Laclo, Manatuto), including the use of the US-supplied slow-flying attack plane the OV-10 Bronco:

> *In May 1978, the situation became even more difficult. The enemy started attacking from all sides. In July 1978, the military began to encircle and destroy us. Many died…because they were wounded in the leg and could not walk anymore. New-born babies died of starvation. When people died we could only wrap them in mats and leave them just like that. We did not have time to bury them because the enemy kept chasing us…We moved during the night, and during the day we had to hide because the OV-10 warplanes kept following us and shooting at us and dropping bombs on us, so that many friends, family members and others died…It continued on and on.*[155]

Alas, Manufahi

150. Other witnesses from Manufahi testified about the use by ABRI of an accelerant to burn grass fields, forcing the population to flee and killing those who could not outrun the flames:

> *In 1978, the enemy began to…surround Dolok [Alas]. Many died of starvation. All the food stocks were burned; some families just abandoned theirs. They surrounded us by using warships to bombard us from the sea, and warplanes to attack us from air and by burning the dry, tall grass. Then the troops attacked from land.*
>
> *It was the dry season at the time [in August]. The army burned the tall grass. The fire would spread quickly, and the whole area would be ablaze as if it had been doused in gasoline. Those of us who were surrounded didn't have time to escape because the flames were so big. Their strategy trapped many people.*
>
> *People managed to escape late at night when the Indonesian army withdrew to their camps. When we got out we would still be showered with shells from the warships at sea. I saw many people burn to death. My grandmother burned. At the time she screamed for water to drink because she was suffering from the heat, the fire had burned her up to her hair. I could only tie three jugs of water to her neck and then we continued walking out of the area. We couldn't help each other because of the situation.*
>
> *After we got out, I could still see the old people who had been left behind by their families. They were in a sitting position. The men put on new clothes, hung* belak *on their necks and wore* caibauk*. The women had put on gold earrings and gold necklaces, prepared their* konde *and wore black veils as*

if they were going to church for mass. We just looked at them but couldn't do anything. The enemy was still after us.*[156]

Other testimonies

151. Many who were not killed directly from the bombs and bullets died from lack of food and medicine. The Commission received many testimonies describing death by deprivation during this time:

- One deponent, from Cailaco (Bobonaro), fled to the forest when Indonesian soldiers first came to Maganutu, Ritabo, very close to her village, in 1975†. She fled with her father Lae Mau and they lived in a rocky cave in the forest for about a year. In 1977 they had to move again, so they fled to the sub-district of Maubara in Liquiçá to the north. But there was not enough food. For three months they were attacked continually, so they returned to their home area. Her father died. He was sick and starving, and there was no medicine to help him. A month later she and other survivors surrendered.[157]
- Duarte da Conceição lived in Ecinesi settlement, in Culuhun, Leotela (Liquiçá, Liquiçá). In 1978, he fled his home because the Indonesian military was increasing its attacks in the Liquiçá area. He took his two younger sisters with him, Martina aged 11 and Marta aged seven. The three of them first went to Tambor, then to Goumaoloa. But it was not safe there, so they carried on to Darubutlao in Maubara (Liquiçá) where they stayed two days. They kept moving and hid at Malae Bui for two days and two nights. They planned to go on to Cailaco (Bobonaro), but decided against it and went instead to Ulukole for two days. They returned to Darubutlao in Maubara for two weeks before moving to Saibaidere for a month and to Hatuhada Leten to stay with relatives. Finally they moved via Lukubui to Mate Hata, back in the sub-district of Liquiçá. When they arrived, the two little girls died of starvation and illness.[158]
- Most people witnessed the death of people close to them both before and after they surrendered. Alarico de Jesus, from Guda Tas, Guda (Lolotoe, Bobonaro), told the Commission that he fled with his community to Mount Sabi, just south of Guda Tas, when the Indonesian military attacked the neighbouring village of Deudet in 1978. On the mountain they were short of food and medicine, and six people in the group died. They were Martino de Jesus, Ilimau da Costa, Ilda da Costa, Agata da Costa, Aurelia da Costa, and João de Jesus. In 1979, their situation grew more difficult. Unable to plant gardens, the survivors surrendered in the *aldeia* of Raimea in Opa Village, near the town of Lolotoe. More people in the group died of hunger and disease including Francisco, Martina and Salvador Fraca.[159]

* *Belak*: crescent-shaped metal chest-ornament worn around the neck; *caibauk*: crescent-shape crown; *konde*: A traditional way of styling hair by East Timorese women.

† According to other information received by the Commission, the Indonesian military did not enter Cailaco until June 1976 [CAVR Interview with Adriano João, Dili, 21 September 2004].

152. Those who testified to the Commission of fleeing attacks by the Indonesian military described the attacks as if they were aimed at them, the civilian population, as well as Falintil troops. Witnesses described attacks that did not seem to distinguish between military and civilian targets.

153. At the same time, the Fretilin strategy of having civilians living with soldiers exposed those non-combatants to Indonesian attacks on Falintil. Fretilin eventually allowed civilians to surrender but only after Indonesia had unleashed the full weight of its military resources against them. Fretilin's earlier decision to prevent people wanting to surrender from doing so undoubtedly put them at greater risk of exposing them to attack by Indonesian forces.

154. However, while it is clear that some who wanted to surrender were prevented from doing so, it is less clear how many actually wanted to surrender.

155. According to Jacinto Alves, the thinking of the Central Committee on the issue of whether the population should surrender began to change once the "encirclement and annihilation" campaign began in late 1977. At that time it was announced to the people that women, men over 56 years old and children under 18 years old could surrender. Jacinto Alves told the Commission about the reaction to this announcement in his area of Manatuto, where a group of 40,000 were then coming under heavy bombardoment:

> *We were being attacked from all sides by TNI Infantry, including bombing from planes and mortar every day... Apart from that we did not have food. We did not have anything, but the population did not want to give up. The discipline among the 40,000 people was very high. There was an order to cook only in the evening until 3.00 in the morning. After that nobody was allowed to light a fire as it could attract the attention of the planes. Everyone kept strictly to this for three months. For three months we kept moving along the 40,000 people. And later we saw people could not walk because of hunger or age and they would look for a sheltered area in the caves and sit there, until they died. You would come round a second time and see corpses and then come round a third time and see more corpses, but still they did not want to surrender.*[160]

156. Moreover, when the order to surrender finally came, it was not always well received. Adriano João, a political assistant in the Sector Centro Norte in February 1979, described the reaction of the people to the order to surrender:

> *On 16 February 1979, when we called the people together to tell them we were going to surrender, they were all angry. The people and Falintil felt disappointed and angry. They pointed their weapons at us. They rebuked us: "It was you who taught us to continue the struggle till death. Now all of a sudden you tell us you are going to surrender." We informed them a thousand and one times, patiently and courteously: "The leaders in Fatubessi have all surrendered. If we don't surrender, we'll all die in the forest from the enemy's attacks and hunger." Fortunately Rui Fernandes*

[the former adjunto *in the* base de apoio*, who had already surrendered with most of the other leaders] had sent a letter which had been delivered to us by João Freitas Maria, a platoon commander who had already surrendered. I read out the letter. They saw his [Rui Fernandes's] signature, and they agreed [to surrender]. But they said to us: "all our suffering at the hands of the enemy will be on your shoulders".*[161]

On the run in Katrai Leten and Lesemau (Ermera)

Agustino Soares was a young man of 17 when Indonesian soldiers reached Letefoho (Ermera). He told the Commission how he and his family ran from Letefoho to Katrai Leten (Letefoho, Ermera) where they lived with thousands of other displaced people for two years. In 1978, this Resistance base was destroyed, forcing him to go on the run until he finally surrendered in Letefoho Town. He told the Commission:

Indonesian [forces] entered Letefoho on 3 May 1976. [ABRI] Battalion 512 came from the direction of Mount Baumalaria. After they entered Letefoho, the situation got worse. They attacked and killed, and also conducted operations in the villages to capture people. People became terrified and suffered trauma. Most people evacuated to the forest, including my family and me.

I was 17 years old at that time. We lived in Katrai Leten at the foot of Mount Ramelau. There were ten others in the family. Thousands of people were concentrated in Katrai Leten. They were from Letefoho, Ermera, Ainaro, Aileu and Cailaco (Ermera). Katrai Leten was a Fretilin stronghold, so we were quite secure. Fretilin troops guarded us from the front, while at the rear we grew crops. Initially we had enough food. No people died of starvation or illness.

About two years later Indonesian forces moved into the territory of Katrai Leten. Indonesian troops came from Atsabe, Ainaro, Same and Bobonaro. They encircled Katrai Leten. We were surrounded and they fired on us with mortars, bazookas and cannons. Their planes bombarded us from the air. The bombs didn't burn people, but the landmines killed many. The attack on 18 May 1978 destroyed the base at Katrai Leten where we were concentrated. My family and I managed to escape from the encirclement with some others, although ABRI blocked all the exit routes. Those who didn't manage to escape were captured by Indonesian forces and taken to Letefoho Town, while we fled to the area of Lesemau.

In Lesemau we couldn't plant crops because the enemy was always harrassing us. We found it very difficult to get food supplies and many people started dying of starvation. I estimate about ten to 11 people were dying of starvation every day. Their bodies were left on the ground. When we went out at night to search for food, we would accidentally step on dead bodies. Left and right, one or two bodies would be lying around. In this precarious situation, we survived by changing our eating pattern. We tried to eat only once a day and drank a lot of water, to keep our stomachs full. We cooked by mixing different kinds of food. We took just a few corn kernels and mixed them with herbs and vegetables from the forest like ortalan tahan *[mint leaves] and* angriao *[water salad].This is what we ate to survive.*

Lesemau was attacked by the Indonesians again. Smoke was visible to enemy planes from people's cooking fires and our defence base was bombarded. But this time it wasn't bombs they dropped but poison mixed with water, which they poured from the air. This toxic bombing contaminated all our food supplies. If people collected wild leaves to eat, when they cooked and ate them, they died. They also died from drinking the water. They even died when they ate cooked tubers, which had been dug from 15 centimetres under the ground. Around 400 people died as a result of the toxic bombing, mostly people from the aldeia *of Katrai Kraik. The whole* aldeia *died. The only survivors were a woman and her granddaughter. They are still living in Katrai Kraik.*

After the [toxic] bombing we moved again, from Lesemau to Hatulete [Katrai Kraik], once we were in Hatulete, we began to cook taro leaves, but before we had a chance to eat them we were captured by Battalion 512 and Hansip. We were beaten and taken to Letefoho Town and put in a concentration camp where we stayed for one month. We experienced much suffering from lack of food and medicine, torture and interrogations. I couldn't stand it so I fled to the forest and lived in Katrai Leten. But they captured me again in March 1978 and I was taken back to Letefoho Town.[162]

Surrender, camps and famine (1978–1981)

157. Testimony to the Commission shows that the Indonesian military operations between 1977 and 1978 to bring the areas not yet subjugated to Indonesian control made survival for the people living in those places impossible. Surrender or death in the mountains became the only options for most people. Whether in small groups moving from place to place trying to avoid the attacks, or in large concentrations surrounded and under heavy bombardment, most of those who survived ended up either surrendering or being captured.

158. The Fretilin policy of opposing surrender of civilians living in Resistance bases eventually became unviable. The civilians were in grave danger; they could no longer be protected or supported by the Resistance. Their presence put Falintil's dwindling force at risk of total annihilation. According to testimonies received by the Commission, at a meeting in Werou from 20 to 28 November, in a major shift of policy, the Fretilin Central Committee (CCF) decided that civilians should be encouraged to surrender. Fretilin/Falintil would continue to fight but would change its strategy from conventional war to guerrilla warfare.[163] The Fretilin leadership believed that people were more likely to survive if they surrendered and hoped that these people would become a source of support, food and information from inside Indonesian-controlled areas.

159. Taur Matan Ruak, then a company commander, described this policy change to the Commission:

> *Many of the bases had already fallen, many of the population had surrendered and many of the leaders were dead. Our forces were dispersed and, many of them had also surrendered. Then the decision was taken to change the campaign. Although we were surrounded by the enemy, it was decided to give the order to continue the campaign and get away from the base area. First the population who wanted to surrender should surrender, but guided by the following idea: "Whether in the rice field, in the corn field, whether in the town or the countryside, everyone should continue the struggle for independence according to their capabilities."*[164]

160. Marito Nicolau dos Reis, then a political assistant in the Uaimori base, described how he explained the policy change to civilians in the base:

> *At the time many people came down and surrendered or were captured. It had become physically impossible to live in the forest. I told them: "Before I told you to leave the town, now I'm telling you to go back. If you still want to fight, you don't have to do it by staying here. You can do it from inside the town. You don't have to use weapons in the town. That is why you have to grow crops...and guard them well from the monkeys and the pigs, so you can give some of your crops to [Falintil]. If you want, you can give rice to Falintil. You will not be bothered by the army, so you can use the crops from the harvest...This is a useful way, you can go down…so we can prolong this war". After the meeting... many came down.*[165]

The surrenders: distribution and numbers

161. It is difficult to calculate the number of people who moved into Indonesian-controlled camps after surrender or capture. A detailed study of this question not long after the events, drawing on reports and population counts from Indonesian Government and international aid agency sources as well as Indonesian and East Timorese Church sources, concluded that between 300,000 and 400,000 displaced people came under Indonesian control between early 1977 and early 1979.[166]

162. The evidence of witness statements to the Commission suggests that the surrender or capture of the population occurred at different times in different parts of Timor-Leste. Figures compiled by the Indonesian police in June 1978 showing the population under Indonesian control in each district between October 1977 and May 1978 provides some empirical confirmation of this testimony.

Table 5: Indonesian police data on population, October 1977 to May 1978

Districts	Population of Timor-Leste									Infor-mation
	Pre-invasion	Oct 77	Nov 77	Dec 77	Jan 78	Feb 78	Mar 78	April 78	May 78	
[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]	[11]
Dili	28,149	35,541	35,233	35,233	35,209	33,733	33,834	33,618	37,818	
Baucau	84,626	31,891	33,727	33,751	35,189	35,194	35,200	35,513	36,000	
Lospalos (ie Lautém)	38,797	11,575	11,881	13,064	13,064	13,064	13,101	13,738	13,844	
Viqueque	62,685	12,269	12,736	12,736	12,751	12,751	12,951	12,994	12,994	
Manatuto	35,885	12,755	12,826	12,829	12,829	12,829	12,829	13,175	13,250	
Aileu	33,033	1,310	1,310	1,310	1,550	1,550	1,550	1,762	1,772	
Ainaro	49,644	22,209	41,296	41,296	41,297	41,729	41,794	41,794	41,794	
Same (ie Manufahi)	35,327	6,369	12,551	19,346	14,114	14,114	14,115	17,283	17,023	
Suai	40,655	19,392	23,202	23,202	27,730	27,730	27,730	27,714	27,741	
Maliana (ie Bobonaro)	75,159	59,392	59,957	59,957	20,709	61,316	61,316	61,316	67,946	
Ermera	70,294	47,661	47,670	47,670	49,021	49,281	49,281	50,507	51,078	
Liquiçá	49,798	6,105	6,106	6,126	5,127	5,127	5,128	5,234	5,234	
Oecussi	22,673	35,399	35,399	35,399	35,979	35,979	35,979	36,392	36,392	
Total	626,725	301,868	333,894	341,919	304,569	344,397	344,808	351,040	362,886	0

163. While these figures must be treated with caution,* they give some indication of the increase in the number of people under direct Indonesian control during this period – about 60,000. It seems reasonable to attribute these increases to surrenders because most of them occured in short periods of time in particular districts: Ainaro (November 1977), Manufahi (October–December 1977), Covalima (October 1977-January 1978), Bobonaro (May 1978) and Dili (October 1977 and May 1978). Moreover, the timing of the increases in population in particular districts shown in

* The Commission does not know how these figures were arrived at; identical numbers across several months in some districts render their month-to-month accuracy suspect; the very low numbers for the districts of Aileu and Liquiçá beg an explanation.

the table is more or less consistent with what is known about surrenders during this period.

164. When compared with pre-invasion figures, the relatively small number of people under Indonesian control in the eastern districts of Viqueque, Lautém and, to a lesser extent, Baucau is notable. This is consistent with the fact that large numbers of surrenders in these districts did not occur until the second half of 1978 (that is, after the period covered by the table).

165. The May 1978 figures for the western districts of Bobonaro and Covalima, and the central district of Ainaro, are similar to numbers recorded in the 1980 Indonesian official census.[167] This suggests a relatively stable population in these districts from mid-1978, with few surrenders after that time. Conversely, a comparison of the figures for many of the central and all of the eastern districts from Table 5 and the 1980 census suggests that large numbers of people were still outside Indonesian control in these areas in mid-1978. A simple comparison of the total population counts in the 1978 police figures and the 1980 census suggests that the number of people outside Indonesian control in mid-1978, across all districts, was in the order of 200,000 people (May 1978: 362,886; 1980: 555,350), but is likely to have been higher.*

166. In summary the Indonesian military campaigns in 1977 and 1978 resulted in ever-increasing Indonesian control of the population. Surrenders happened in waves over many months in different areas. Each new military operation caused people to surrender while others moved away to avoid surrender. Sometimes people who had already surrendered returned to the mountains.

167. Large-scale influxes of people into Indonesian-controlled centres continued until the end of 1978. Indonesian army figures, cited by an Indonesian priest who visited Timor-Leste in early 1979, indicated some 320,000 "refugees" had moved from the interior by early December 1978.[168] Reports from church and diplomatic sources at the time indicate that this flow slowed to a trickle during the first half of 1979.[169]

Life and death in Indonesian-controlled camps

168. East Timorese people who surrendered or were captured were typically held for extended periods in a succession of population-control centres often called "concentration camps" by local people.† On surrender people were often held for

* The simple comparison between the 1978 and 1980 population counts probably underestimates the number of people outside Indonesian control for two reasons. First the evidence before the Commission shows that the death rate in Timor-Leste due to killings, sickness and starvation was very high from mid-1978 to late 1979. This high death rate means that the number of people still outside Indonesian control in mid-1978 was considerably, but incalculably, greater than 200,000. Second there are strong grounds for thinking that the 1980 census underestimated the actual population in that year [see Vol. I, Part 6: Profile of Human Rights Violations].

† The term was often used in witness testimonies to the Commission. Fretilin radio broadcasts from Timor-Leste in 1977 and 1978 also used this phrase to describe places where the captured population was held [see for example summary of Radio Maubere message 10 July 1977, in *Timor Information Service*, No. 22, December 1977, p.4; Radio Maubere broadcast, 14 May 1978, in *Timor Information Service*, No. 26, August 1978, p.18].

relatively short periods in transit camps, which commonly doubled as military bases, specifically for the purpose of separating those with leadership positions in Fretilin or Falintil and Falintil soldiers from the mass of the civilian population. This process also took place in the so-called resettlement camps and relocation villages where the surrendering population could be kept under various forms of restriction for several years.

169. Security considerations and the achievement of military objectives, not the welfare of the people held in them, were the priorities of the Indonesian military in these camps. Any hope or expectation that the civilian population could be saved from death by surrendering proved false. Evidence gathered by the Commission shows that the Indonesian military failed to guarantee the basic needs of those who did surrender, many of whom were seriously hungry and weak when they surrendered, and that without access to adequate shelter, food, clean water and medical care in the army-controlled camps, thousands died.

Transit camps

170. After surrender or capture, people were first placed in transit camps. Usually established at or near an Indonesian army encampment, transit camps were located in the countryside and in sub-district capitals. While the Commission was not able to compile a complete list, there were dozens of these transit camps in Timor-Leste in the period 1977–1979. Each new major Indonesian military operation would be marked by the creation of new transit camps. Once established, they were maintained for as long as a year and people continued to brought into them, replacing others who had been moved elsewhere.

Famine and death

171. There was little preparation by the Indonesian authorities to house and care for the vast influx of displaced people, most of whom were weak and severely malnourished. Some could barely walk and were described by observers as "walking skeletons".[170] Gilman dos Santos, then working for US Catholic Relief Services (CRS), told the Commission of the terrible condition of those who came down from the mountains to surrender:

> *In 1978 the food situation in the forest got more difficult because the Indonesian military controlled more of the territory, right down to the remote villages. This food problem was confirmed by the state of those who came down from the mountains. They were very thin and sick…The Indonesians made minimal effort to help relieve this situation …What I am trying to say is that most people in the camps who were sick, died.*[171]

172. Emergency barracks were hastily constructed from palm thatch, but sanitary facilities were non-existent. On arrival in the camps people were usually given a small amount of food. In many cases this food was inappropriate for the severely malnourished with the result that many of those who ate it died. Such deaths led to the

widespread belief that people were being poisoned by the military. Witness testimonies suggest that the amount of food available was generally vastly insufficient. The ration for a whole family for a week was often one or two *rantang* (meal tins), only enough to provide one person with one or two meals. Growing or searching for additional food was not possible because of restrictions on movement away from the camps and the extreme physical weakness of the inhabitants. As a result many died of hunger while under Indonesian control in these camps.

173. Father Eligio Locatelli has been living at the Salesian technical college at Fatumaca, Gariuai (Baucau, Baucau) since Portuguese colonial times. He told the Commission:

> *People came down from the mountains to surrender between 1978 and 1982. In the beginning they had to stay for three months at ABRI surrender posts in Baucau and Uailili. After three months, they were allowed to return to their homes, but not too far from the roadside. These surrender posts were in use for one year. They [the people] were kept under close watch and were confined to a specified area. They weren't allowed to look for food and clean water.*
>
> *They were given assistance by the soldiers. But they received food only once a day, usually salted dried fish and mouldy corn. If they wanted to go out to look for food, [they] have to get permission…[from]…the Village Chief, Sub-district Administrator, the Koramil and the Kodim. Even with this letter people were still afraid. Going out meant risking death, but if they accepted their confinement, [they] would also die. Many people died.*[172]

Capture: the people of Vemasse under Indonesian Army control[173]

When Uaimori's defences collapsed in 1978, people moved in stages to the Natarbora Plain on the south coast of Manatuto. Many people died during the journey from Uaimori to Natarbora, and many more died under the Indonesian bombardment of the Resistance base in Natarbora. A group of those who escaped the Indonesian encirclement in Natarbora managed to get as far as Osso-Ala (Vemasse, Baucau) where they were captured by Indonesian troops. Cosme Freitas gave an account of their treatment after capture to the Commission:

In 1978, ABRI and Hansip captured around 120 of us in Osso-Ala. They took us to Venilale [Baucau] and then ordered us to walk from there to the village of Bucoli [Baucau]. It took us more than two days. During our three months at the Bucoli concentration camp, we faced many difficulties. We weren't allowed outside the camp to look for food and clean water, or to bathe. We were forced to just sit there [in the camp].

*Because of ABRI's restrictions, we were badly undernourished, as we weren't given the chance to go outside to look for food. We were given only mouldy corn by ABRI, three meal tins (*rantang*) per family per week. But we finished all three sets of rotten corn in just one day. When the rotten corn was finished, we didn't have any more food. So we had to wait another week for more rations. That caused many deaths due to starvation in the concentration camp. Between 1 to 3 people died every day. The dead were buried by their families not far from where they were staying. Those who ate the corn were struck down with beri-beri and cholera. I estimate that around 2 to 4 people died every day from those diseases, sometimes even more. Most of them were children and the elderly.*

After three months the Indonesian army began to move us from Bucoli to Vemasse. When we arrived in Vemasse the army dropped us off in front of the Vemasse Church. They told us to stay in the church. We stayed in there for about two weeks before we were allowed to move back to our homes.

Back in our homes, we didn't receive any help whatsoever from the local government of Baucau, ABRI, the Church or the international agencies. We suffered severe hunger. Since we had just moved back to Vemasse, we hadn't had time to plant crops. Many people starved, some even died as a result. To survive, when there was no food, the people of Vemasse went to pick young vine leaves, which were then cooked for the whole family. This went on for around two weeks, causing many to suffer from beri-beri, cholera and vomiting. It was not just that people got sick, many of them died. I estimate that around 10 to 11 people were dying of disease daily, mostly the elderly and children. So the number of people who died during the period of those two weeks was estimated at around 150 people.

Only in 1981 did we receive assistance from CRS. They handed out rice, corn, mung beans, corn starch, medicine, clothes, and soap, so our lives became a bit better. The [Indonesian] army was just beginning to give us freedom to go outside to plant crops or work the rice fields, so the number of people dying from lack of food decreased.

Registration, interrogation, execution and control

174. Civilians who surrendered were usually held in transit camps for several weeks where, on arrival, they were registered and interrogated. Interrogations were designed to identify any Resistance members and to gain information about the Resistance still in the mountains. Those believed to be Fretilin or Falintil were sometimes immediately executed. Others were interrogated and tortured for an extended time before being executed. The screening process appears to have been formally the responsibility of

a branch of the military command called the Komando Taktis (Kotis), but testimony given to the Commission indicates that troops belonging to almost any military unit – a district or sub-district command (Kodim or Koramil), a combat battalion or Special Forces (Kopassandha) – might in fact carry out the screening process assisted by East Timorese. Some people were taken to detention centres elsewhere for interrogation by other intelligence agencies. Many were executed. Some people were allowed to move to resettlement camps with the other civilians (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; and Vol. III, Part 7.4: Detention, Torture and Ill-treatment).

175. Some civilians or Resistance members who surrendered were forced to return to the mountains to persuade relatives or comrades to give themselves up. They faced the danger of being killed by Falintil as possible spies, or by ABRI if they failed in their mission. Moises da Costa related to the Commission how his family had fled in 1978 to We Alas [Alas, Manufahi] and then to Kokolau (also in Alas), before his father was captured and taken to the Uma Metan surrender camp. His father was forced to return to Kokolau to persuade his family to surrender, but was killed by Falintil as a suspected spy.[174] The wife of Francisco Ximenes (Amelia do Rego) told the Commission how soon after she and her husband had come down from the mountains, the commander of Airborne Infantry Battalion 100, F55, came to their house in Caicasa, (Fatuberliu) and ordered Francisco to go to the forest to look for his former comrades. On his return, he said that he had not been able to find any of them. Members of Airborne Infantry Battalion 100 tied him up and beat him until he lost consciousness, and then shot him dead.[175]

Obligations under human rights law and the laws of war

Human rights law, which is applicable both in times of peace and in situations of armed conflict, also provides important protection to internally displaced persons (IDPs). It aims both to prevent displacement and to ensure basic rights should it occur. The right to personal safety and to a home, as well as the rights to food, shelter, education and access to work, offer vital protection to persons who have been displaced.

"If the civilian population lacks supplies essential to its survival, parties to conflict have the duty to accept exclusively humanitarian, impartial and non-discriminatory relief operations on its behalf." (Geneva Convention IV, Articles 38 and 59; Additional Protocol I to the Geneva Conventions, Article 70; Additional Protocol II to the Geneva Conventions, Article 18).

Transit camps: detailed data received by the Commission

176. Tome da Costa Magalhães vividly described his experiences in a notorious transit and resettlement camp called Uma Metan (Black House) in Alas, Manufahi:

> *We lived in Uma Metan for three months. I saw a large concentration of civilians there, around 8,000 of them. They came from Aileu, Maubisse, Same, Ainaro, Manatuto, Dili, Liquiçá and Viqueque. They suffered greatly due to starvation, illness and lack of clothing. For the three months I was there, we weren't allowed to go further than one to two kilometres [from the camp]. If we did, they would suspect us of making contact with Fretilin. In Uma Metan there was no drinking water. The water source was far, about 500 metres from the camp. If we wanted to get water we had to be escorted by Hansip or soldiers, and only the strong could do the round trip. The weak ones would die along the way and were just left there on the slopes. We were given food, but only one small can of corn per person per week. We could cook only a handful every two days. Because of that, many couldn't endure the hunger and eventually between five and six people died each day due to hunger. Those who did eat the stale corn got sick with various illnesses such as swollen feet and hands, stomach pain and tuberculosis. Once they fell ill, they would soon die. The soldiers did not give medication to those who were sick and dying. Only the really lucky survived. The soldiers intentionally punished people day and night, and didn't allow them to go out to look for food, get water or collect firewood. Because the soldiers also did not give food to people or treat the sick, up to 40 people a week died of hunger, thirst and disease.*[176]

177. Some reports to the Commission of life in the camps immediately after surrender follow.*

Baguia (Baucau)

178. After the assault on Mount Matebian on 24 November 1978 thousands of people began to come down into the town of Baguia (Baguia, Baucau). Those who surrendered in Baguia included people from Iliomar, Lospalos, Luro, Tutuala, (all in Lautém), from Laga and Baucau (in Baucau) and from Viqueque District, as well as people from Baguia Sub-district. When they arrived in Baguia Town, the only shelter they could find was under trees and bushes. They were not allowed to go beyond a fixed distance from the town and were tightly guarded. These conditions and the sheer number of people concentrated in the town made the already debilitated inhabitants prey to infectious diseases, such as cholera, diarrhoea and tuberculosis. The result, according to one community that surrendered in Baguia, was that around 500 people from their village alone died there.[177] Other communities reported similar experiences. The community of Ossouna reported that around 280 people from their village died in Baguia.[178]

* Other transit camps known to the Commission include camps in Com (Lautém), Laga (Baucau), Beaço (Viqueque), Zumalai (Ainaro), Laclubar (Manatuto).

179. People who had held any leadership position in the forest were targeted for punishment, including execution. Around 475 people from the sub-district of Baguia were detained and tortured during interrogation. Those who were released had to report to the authorities as often as twice a day, and perform night watch and forced labour, including as TBOs. All the executions recalled by communities in discussions with the Commission were committed by members of Kopassandha (Special Forces) and Battalion 745.[179]

180. People who originally came from the sub-district of Iliomar (Lautém) told the Commission they went down the south-east side of the mountain and on 28 November they met Indonesian troops. These troops took them to their military base in Baguia, where they interrogated everyone. After a week those among the group from Iliomar who had not been identified as Fretilin leaders were told to go back to Iliomar. Fretilin leaders were kept in Baguia where they were tortured and some were executed.[180]

Oso-leru (Quelicai, Baucau)

181. Until ABRI captured it in November 1978, the temporary transit camp at Oso-leru had been a Resistance base on Mount Matebian. The Indonesian military separated Falintil fighters from the general population and many of them later disappeared (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). They gave some food to the people in the transit camp but it was insufficient. The Indonesian authorities had not made preparations for such a large number of people and people continued to die of starvation. Their stay in this place was short as the military soon took them to larger centres such as the one in the town of Quelicai (Quelicai, Baucau).[181]

Uatolari Town (Uatolari, Viqueque)

182. Uatolari (Viqueque) was used as a transit camp for some time. People who surrendered in Uatolari also experienced famine. Every day people died there. Two weeks after most people came into Uatolari from Mount Matebian in November 1978, the Indonesian military and members of Hansip moved them by foot or truck to a resettlement camp in Viqueque.[182]

Lacluta (Viqueque)

183. People from Barique (Manatuto), Fatuberliu (Manufahi), Laleia (Manatuto), Ossu (Viqueque), Venilale (Baucau), Vemasse (Baucau), Manatuto, Dili, Maubisse (Ainaro), Viqueque and Natarbora (Manatuto) surrendered in Lacluta, where they suffered from lack of food, clean water and medical care. In his testimony, Antonio Vicente Marques Soares stated that more than ten people died there each day, mainly children and older people. Restrictions on civilians in the camps made it difficult to plant crops, fetch clean water or conduct other activities on which their survival depended.[183]

Parlamento (Moro, Lautém)

184. The people of Com and Asailano surrendered to Battalion 512 in 1977. Immediately after surrender they were concentrated on the beach at Com for one week. They were

then moved to Parlamento to join other civilians who had surrendered from the all over the district of Lautém. Life was very difficult in the transit camp, with restrictions preventing movement further than 100 metres from the camp. This meant that the 2,000 people living in the Parlamento camp were extremely hungry, as no food was provided by their Indonesian military captors. A survivor told the Commission that between two and five people died each day at the camp. When an Indonesian naval ship landed at the Lautém port, some men were able to work as labourers, receiving two tins of rice for each day of work.[184]

Railaco Town (Railaco, Ermera)

185. The transit camp at the town of Railaco (Railaco, Ermera) in late 1979 was one of the worst camps. It contained people who had held out with the Resistance in the mountains longer than most. Eufrazia de Jesus told the Commission she was captured on 13 October 1979 and held in the Railaco transit camp by Battalion 721 for several months. No foreign aid agency ever visited Railaco, and the internees who survived did so by gathering roots and leaves from around the camp. Only once, more than two weeks after their capture, did the military give people a small amount of corn and salted fish. For those already badly malnourished, the fish caused diarrhoea which often proved fatal. Every day up to ten children and old people died.[185]

Fatubessi (Hatolia, Ermera)

186. Fatubessi was a Resistance base from 1976 until Indonesian forces captured it in 1978. Gabriel Ximenes told the Commission he surrendered to Battalion 611. They placed him in the transit camp at Fatubessi. The people were very hungry. The military gave them some food, but it was insufficient and was not distributed to everyone. Gabriel Ximenes said that conditions were worse in the Fatubessi transit camp than they had been just before surrender. After a month the military moved him and his group to a resettlement camp in the town of Ermera. There they were kept under tight restrictions which prevented them from planting food. Death due to starvation continued.[186]

Uma Metan and Lebos (Alas, Manufahi)

187. Uma Metan and Lebos were two important transit camps near the town of Alas in Manufahi. They were established as a base for operations against the Resistance in the mountains around Manufahi. Many ABRI units were based there, including troops from Airborne Infantry Battalion 700, Battalions 745 and 310, and Kopassandha (Special Forces), It was also the headquarters of a Sub-district territorial command (Koramil) and local Hansip. In August 1978, Uma Metan started to receive people who had surrendered or been captured. People who had surrendered in Alas, Same, Fatuberliu, Turiscai (all in Manufahi), Maubisse (Ainaro), Aileu, Soibada (Manatuto) and Natarbora (Manatuto) were brought there, and at its peak more than 8,000 people were living there. Many of the people held in Uma Metan continued to be held there rather than resettled elsewhere. Soldiers ordered the inmates to build a village hall and a school. The school was ostensibly built so that the soldiers could teach the Indonesian language to the camp's inhabitants. In fact only young women could attend the "school",

which became notorious as an ABRI rape centre.[187] The military did not permit the detainees to go outside the camp to make gardens or look for food, and although the Church organised some food assistance for the detainees it was not sufficient. Many people died of starvation and illnesses like diarrhoea and beri-beri. Others were executed for their involvement in the Resistance (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). According to local leaders, some 2,000 people are buried in mass graves at the Uma Metan camp site.[188]

Fahinehan (Fatuberliu, Manufahi)

188. In 1978 the people of Fahinehan, Bubususu and Caicasa (all in the sub-district of Manufahi, Manufahi) surrendered to Indonesian soldiers after the destruction of the *base de apoio* of the South Central Sector. They were taken first to the coastal areas of Kolokau, Besusu and Dolok in Manufahi. They were then concentrated in the village of Fahinehan, under the control of Indonesian soldiers from Airborne Infantry Battalion 100. According to Eleajáro Teófilo, larger numbers of people died after the surrender from lack of food and medicine than had been dying in the forest:

> *There were days when up to ten people died. There was no humanitarian aid. ABRI allowed us to look for food only if we were accompanied by soldiers or Hansip. We were not allowed to move further than 1 kilometre [from Fahinehan], or go anywhere where they could not see us. Two men were killed for going further.*[189]

189. Between 1981 and 1983 the people of these three villages were moved twice. Each move created problems in food and security (see paragraphs 288-289 below).

Turiscai (Turiscai, Manufahi)

190. The town of Turiscai was also used as a transit camp for people who had been living in the *base de apoio* of the South Central Sector. Those confined included both people from the 11 villages nearby such as Foholau, Caicasa and Bubususu (in Fatuberliu) and from more distant places such as Maubisse (Ainaro) and Dili. According to witness testimony, the Indonesian military distributed food only once - each family received three tins of rice when they arrived at the camp. Tomás Barbosa told the Commission:

> *The soldiers told us to look for arms in the forest. They said those who came back with weapons would get one more extra tin of corn, and those who failed to bring back any weapons would not get any more food.*[190]

191. Witnesses told the Commission that many people died during this time. The people were made to build their own make-shift houses and, eventually, were able to cultivate their own food. The situation improved when the ICRC began to provide humanitarian aid. Four or five years after they surrendered, the people were allowed to return to their own villages.[191]

Metinaro Town (Metinaro, Dili)

192. A large combined Indonesian military operation was conducted in the Metinaro area (Hatu Konan, Laclo) in the middle of 1978. The military brought people whom they captured into the Metinaro transit camp. For example, Battalion 315 captured Manuel Carceres da Costa in the sub-district of Laclo (Manatuto) in July 1978. They held him and other prisoners at the battalion command post in Ilimano (Umakaduak, Laclo, Manatuto) for one day of interrogation. After that, the military sent them to Metinaro (Dili). The camp was surrounded by military posts. No one could move out; everyone was registered and they had to stay there. Death from famine ravaged the population held there. Metinaro then became a resettlement camp and people lived there for a year.[192]

193. The investigation process for leaders or people thought to have information that could be useful to the Indonesian military was different. Jacinto Alves, who had been concurrently an assistant to the Falintil General Chief-of-Staff and was private secretary to Nicolau Lobato in the latter's capacity as political commissar to the General Staff, was captured with Manuel Carceres da Costa. He was interrogated immediately after capture. They asked him what position he had held in the forest, what was Falintil's strength and where the leaders were. He said that he had worked in the logistics section of Falintil, but then they told him that they had found his bag with a diary, a pistol and a book called Contemporary Capitalism in it. On the basis of the book they called him a communist and on the basis of the pistol they said he must be a leader. In Metinaro he was brought to the commander of Battalion 144, a red beret (Kopassus) who was also the Kotis commander, and other officers. He was handed over to the chief of military intelligence, Major Ganap, for further interrogation. After three months in Metinaro he was allowed to go home to Dili, but there he was required to report daily at the Sang Tai Hoo centre for further interrogation.[193]

How some people survived in the camps

In a discussion with the Commission, members of the community of Ahic (Viqueque) recalled their experience of surrender and their struggle for survival:

In 1979 we surrendered in the Lacluta Old Town. About 500 people died from hunger and lack of medicine to treat tuberculosis, marasmus and diarrhoea. Many who died had no more family members to bury them. Some died in the camp and some died while they were out in the forest looking for food. We survived on foods such as:

- *Sago made from Bebak palm*
- *Fruits from the rubber tree*
- *Guavas*

- *Leaves from the end of a coconut*
- Maek (*a tuber*)
- Kuan (*a small fibrous yam*)
- Aidak (*kind of lychee*)
- Kangkung (*green vegetable*)
- *Banana shoots*
- Laho (*mice*)
- Samea (*snakes*)
- Manduku (*frogs*)

*Horses were sold for only Rp1,000 plus two meal-sized tins (*rantang*) of rice from the Hansip. Gold chains could be traded for 1 tin of rice.*

In exchange for food, such as buffalo or deer meat, daughters could be forcibly married to Hansip and ABRI even though they were already legally married.

ABRI and the Sub-district administrator (camat) decided to move everyone from Lacluta Old Town to the village of Dilor. In Dilor political leaders and Falintil members were tortured and killed. All men above 15 years old were required to report to the military post in the morning and evening, and do guard duty at night. If they did not comply, all their belongings were stolen and they could be tortured. This could involve being submerged in filthy water for three hours, made to walk on thorn bushes, standing on coals or be hung upside down. Women were frequently raped and forced to "marry" Hansip and soldiers without agreement from them or their families. Many children resulting from these forced marriages were left abandoned.

In 1979–1980, we received aid from the Indonesian Red Cross such as dried fish, chickens, milk, flour, salt, blankets and medicines and were treated by medical staff – one doctor and two nurses. However the food we received had too much protein for malnourished people to digest, and many died. We began to be allowed to garden, but only less than 1 kilometre from Dilor, and only with a travel permit from the Chief-of-Security. There was frequent forced labour without pay. There was no education because there were no facilities or teachers. Schoolchildren were forcibly recruited as TBOs (tenaga bantuan operasi, operations assistants).[194]

Resettlement camps

194. With the completion of registration and screening by the Indonesian military civilian detainees were settled in controlled population centres referred to as "places of settlement" (*tempat pemukiman*). In some cases these were located in the same place as the site where transit procedures had been carried out. They could also be in the

detainees' home village, in another existing village that was not the detainees' own or in a newly-created village. Security rather than welfare considerations determined which of these options applied in any particular instance. The resettlement camps became the homes for hundreds of thousands of East Timorese. Many of these camps also became the sites of catastrophic famine in 1978 and 1979.

195. The key characteristics of the resettlement camps have been well known internationally since the early 1980s.[195] The camps were the central element of the strategy of the Indonesian military to control the population and isolate it from the East Timorese Resistance. Internees were tightly controlled and limited in the extent to which they could travel beyond the camps. The resulting lack of access to adequate agricultural land for food production resulted in widespread hunger and starvation. The camps were places of suspicion, fear and insecurity designed to control and crush nationalist sentiment among the East Timorese population. Despite official Indonesian claims to the contrary, they were never designed to assist the material development of the population.

Location of resettlement camps

196. The Commission has sought to identify all resettlement camps established in the late 1970s. Table 6: Resettlement camps in late 1979, shows a list of 139 known resettlement camps. The list was mostly derived from a crude map showing the locations where US CRS and the ICRC were distributing aid at the time.[196] The Commission believes the actual number was greater than the 139 points shown on the map because it received evidence from other sources that some places identified on the map by a single dot had several camps: Ainaro, for example, had three camps.

197. All districts except Oecussi had resettlement camps. In each of the 12 districts where camps were located, almost every sub-district had at least one camp, some had as many as five and most had three or four. Many camps were temporary. Some such as Dataran Faebere (Iliomar, Lautém) were later closed down and the area left uninhabited. Quite a few were located in new settlements that had not existed in Portuguese colonial times.

Table 6: Resettlement camps in late 1979

District	Sub-district	Place
Aileu	Aileu	Aileu Town
		Bandeira Hun (Liurai) and Fatubosa
	Laulara	Tohumeta
	Lequidoe	Lequidoe Town
	Remexio	Remexio
Ainaro	Ainaro	Ainaro Town, Soro and Builico
		Manutassi and Fatuk Maria
		Mau-Nuno

District	Sub-district	Place
		Mau-Ulo
		Suro-Kraik
	Hato Builico	Hato Builico
		Nunumogue and Dare
	Hato Udo	Hato Udo Town
		Raimea
	Maubisse	Aituto
		Lientuto (Aituto)
		Maubisse Town
Baucau	Baguia	Baguia Town
		Ledena (Lavateri)
	Baucau	Baucau Old Town
		Caicido (Caibada Uaimua)
		Ceisal
		Fatumaca technical school (Gariuai)
		Uailili and Buibau
	Laga	Atelari
		Laga
		Saelari
	Quelicai	Guruça
		Quelicai Town
	Vemasse	Ostico and Loilubo
		Vemasse
	Venilale	Bercoli (Uma Ana Ulo)
		West Venilale
Bobonaro	Atabae	Aidabaleten
		Atabae
		Biacou (Aidabaleten)
	Balibó	Balibó Town
	Bobonaro	Bobonaro Town
		Leber
		Tasgolo (Lour)
	Cailaco	Cailaco
		Marco

District	Sub-district	Place
	Lolotoe	Lebos
		Lolotoe
	Maliana	Tapo/ Memo
Covalima	Fatumean	Fatumean
	Fohorem	Fohorem Town
	Mape/ Zumalai	Beco
		Kamenaca
		Mape
	Suai	Meop (Labarai)
		Orun (Debos)
		Suai Town
	Tilomar	Casabauk (Maudemu)
		Kui Tao (Maudemo) & Kawa Uman (Casabauc)
		Tilomar Town
Dili	Dili	Dare & others
		Dili Town
		Dili Town
	Hera	Hera
	Metinaro	Manleu
		Metinaro (Sabuli)
Ermera	Ermera Town	Ermera Town
		Borhei (Humboe)
		Hotkolat?
		Falimanu?
		Mangero (Riheu)
	Hatolia	Betu Bu (Ailelo)
		Hatolia Town
		Fatu Bessi
		Poelete
		Urahu
	Letefoho	Goulolo
		Letefoho Town
	Railaco	Railaco & others

District	Sub-district	Place
Lautém	Iliomar	Dataran Faebere
		Iliomar Town
	Lautém Moro	Buihomau (Serelau)
		Com
		Daudere
		Laivai (Ililai)
		Laleno (Maina 2)
		Lautém and Moro
	Lospalos	Lore
		Lospalos
		Rasa/ Bauro and Fuiluro
	Luro	Luro
	Tutuala	Mehara
		Poros (Mehara)
		Tutuala
Liquiçá	Bazartete	Bazartete Town
		Leorema
		Raukasa (Lauhata)
		Tibar
	Liquiçá	Caikasiko (Asumano)
		Dato (Liquiçá)
		Hatarlema (Hatuquisi)
	Maubara	Irlelo (Cuico)
		Lebumeta (Vaviquenia)
		Maubara Town
	Barique/ Natarbora	Barique Town
		South of Barique (not on regular maps)
		Further south of Barique (not on regular maps)
		Tuqueti (Cribas)
		Umaboku
	Laclo	Behau (Umakaduak)
		Laclo
	Laclubar	Laclubar Town
		Lafulau (Manelima)
		Le'i (Orlalan)

District	Sub-district	Place
	Laleia	Laleia New Town (Lifau)
	Manatuto	Carlilo (Aiteas)
		Manatuto Town
	Soibada	Maun Fahe/ (Teras)
		Soibada Town
Manufahi	Alas	Alas Town, Uma Metan and Lebos
		Besusu (Uma Berloik)
	Fatuberliu	Fatuberliu/ Fahinehan
		Welaluhu (Klakuk)
	Same	Betano
		Daisua
		Holarua
		Letefoho
		Same Town
		Babulu
	Turiscai	Turiscai
Viqueque	Lacluta	Aimeta Hun (Dilor)
		Dilor
		Lacluta Old Town
		Uma Tolu
	Ossu	Buanurak (Loi Huno)
		Builale and Kaiwatu
		Loi Huno
		Ossu
	Viqueque	Buicarin (Lacluta Lama)
		Viqueque (Beloi & others)
	Uato Carbau	Irabin Leterae (Irabin de Cima)
		Uato Carbau Town
	Uatolari	Afaloicai (Babulo)
		Vessoro
		Uatolari Town

Source: interpreted from a map presented by US Ambassador Edward Masters at Hearing before the Sub-committee on Asian and Pacific Affairs of the Committee on Foreign Affairs, House of Representatives, 96th Congress, 1st session, 4 December 1979, p. 28.

Conditions in the resettlement camps

198. Testimonies received by the Commission supports the following conclusions about conditions in the resettlement camps:

- In many cases resettlement camps in an existing town or village were in a distinct area within or apart from the town. In Hatolia (Ermera), for example, the people who had recently surrendered from places outside the area were kept in a separate area called Modolaran.
- In other cases no distinction was made between people who had lived in the village before it became the site of a resettlement camp and people resettled from outside the locality. In Iliomar (Lautém), for example, residents and internees alike were confined to a small area inside a ring of military posts.
- Normal residents and internees alike were subject to a travel permit system (*surat jalan*) if they wanted to work in gardens outside the area of the resettlement camp. In this sense all East Timorese people held in camps were subject to the security function of resettlement.
- There was no barbed wire. The real enclosure was the ring of military posts and a permit system that limited access to wild food and gardens and kept people hungry.
- There were some differences in conditions for internees and those who surrendered early or never evacuated to the mountains. The latter had more access to land and better connections to authorities, making life somewhat easier.
- The towns of Dili and Baucau were the only places where life approached normality for most people. Even here there were exceptions, for example the tightly controlled camps at Dili's Municipal Market, Manlewana (near today's airport) and West Beto in Comoro.
- Most resettlement camps were maintained until about 1980 or 1981. However, many continued to exist until well into the 1980s. Moreover, after the dismantlement of a camp its inhabitants were often not allowed to return to their home villages. Instead many were forced to settle in newly created villages located in areas that were considered safe or had strategic value to the Indonesian military. If they did return to their villages they continued to live under various kinds of restrictions that affected their mobility and where they were allowed to build their houses.

Life in Iliomar resettlement camp

Fernando Amaral is a former head of the village of Fatt Iliomar (Iliomar, Lautém). He gave a detailed interview to the Commission describing the conditions of living under Indonesian military control in a camp in the town of lliomar after the population surrended from

Mount Matebian in November 1978. The following is a summary and excerpts from this interview.

The people from Iliomar came down from Mount Matebian in November 1978. After the military interrogated them in the transit camp in Baguia, they told the people to walk back to the sub-district of Iliomar, where the military established a resettlement camp. As they walked, no one was escorting them and some escaped back into the mountains at this time. When the remainder arrived in the sub-district of Iliomar, the place was completely empty. The people decided they should stay near the sub-district office built by the Portuguese (the *Posto*). About 4,000 to 6,000 people stayed around the office building where they lived in temporary shelters. Some came from other places, such as Lospalos, Tutuala, and Uato Carbau. They did not run away because they were afraid of being caught by Indonesian soldiers. But they moved around freely looking for food. They took food from their old homes and brought it back.

Three weeks later ABRI soldiers from Battalion 328 and Hansip arrived in Iliomar. They immediately built six military posts around the population concentrated around the *Posto*. Two days later they told the people to register. They summoned the village chiefs from the six villages in the sub-district and ordered them to help them organise the people. Then they told the people to rebuild their shelters inside the ring of posts. They also ordered that no one could go more than 1 kilometre from the *Posto*, warning that anyone who broke the rule would be shot. Fernando Amaral said:

We weren't allowed to visit our neighbours, or even to come out and work our fields…We tried to look for food for our own needs, but we were required to report daily to the soldiers or Hansip. And we weren't allowed to speak Portuguese.[197]

The people had just come down from Mount Matebian and were very weak and hungry. The soldiers gave them some corn, about three meal-sized tins a week per family. Although this was not nearly enough, the soldiers did not permit the people to make gardens for food. This rule very soon caused famine among the people at the Iliomar *Posto*. At first there were still coconuts in the trees, but with thousands of people picking them they were soon gone. People started eating wild roots and leaves. After that they cut the middle part out of banana trees, boiled and ate it, thus surviving on what was normally regarded as pig food. They suffered from diseases such as cholera and beri-beri, and people began to die every day.

The people begged the military for permission to go outside the resettlement camp. They asked the soldiers to send Hansip with them as guards, so they could go to their old homes and gather the food that was there. At their old homes there were edible tubers, coconuts, jackfruit, cassava, and edible leaves. ABRI eventually gave them permission to go, but before a person was allowed out the military wrote their name on a plywood board, which they had to wear around their necks. When they returned, they reported in by giving the board back. However, not long afterwards, 162 people ran away to the forest from the Iliomar camp, hoping to ease their hunger. After that the soldiers stopped giving permission for people to go out of Iliomar, and the hunger worsened again.

Fernando Amaral said that the 96 people who died from his village alone during the famine were buried at the three-way intersection at the entrance to Iliomar. Gaspar Seixas, who was the Deputy Sub-district administrator of Iliomar between 1979 and 1985, estimated that between 200 to 300 people died in Iliomar in 1978-80. Most were buried next to the old Portuguese school. Since then the families have exhumed the bones and reburied them.[198]

Mau Chiga (Hato Builico, Ainaro)

199. Mount Kablaki, which straddles the districts of Ainaro and Manufahi, was a major Resistance base. People fled there for safety in 1976 from towns and villages in the vicinity, including Same, Maubisse, Ainaro, and even from the sub-districts of Ermera and Atsabe in Ermera District. In September 1977, Indonesian forces, including Battalions 121, 521 and Airborne Infantry Battalion 100, attacked the base on the mountain and captured a large group of the people who had taken refuge there. Some of them came from the village of Mau Chiga (Hato Builico, Ainaro). The community of Mau Chiga told the Commission of its experience on surrender to the Indonesian military. The military immediately sent these people back to Mau Chiga to live. The people of Mau Chiga found that Indonesian forces had destroyed their houses, killed their cattle, and stolen the gold ornaments from their homes. About two years later, in the middle of 1979, all but a few of those who remained on Mount Kablaki surrendered. Once more, those who came from Mau Chiga were sent back home. They lived at Dare, on the Ainaro road. They could make gardens outside the settlement, but only with a permit from the military. Each time they wanted to go out they had to ask for a permit. If the military found anyone outside without a permit, they would punish them by placing them in water for a night or beating them. These restrictions made it impossible to live a normal life, and the people suffered serious starvation until the ICRC food aid arrived in 1980.[199]

Hatolia, Ermera

200. The township of Hatolia (Hatolia, Ermera) was another resettlement camp. Idelfonso dos Reis told the Commission he surrendered to ABRI Battalion 507 on 20 July 1978, somewhere in the sub-district of Hatolia. The military took him and his group to the town of Hatolia and told them to live in the neighbourhood of Modolaran. The military gave them some corn, salted fish and salt. The salted fish gave people diarrhoea, from which many died. Old people and children were the most susceptible. For about a year conditions in the Modolaran camp were very bad for the 7,000 or so people who lived there.

201. Modolaran was surrounded by eight military posts. Nobody was allowed more than 100 metres from the camp. The internees asked the soldiers to accompany them to find food. Occasionally the soldiers gave permission and they went to a neighbouring village, Leimea Kraik or Samara, to look for edible root crops. Starvation in the Hatolia camp continued until 1979. Refugees from areas other than Hatolia, for example Zumalai (Covalima), appeared to suffer more fatalities than those from Hatolia. When the ICRC came with food aid at the end of 1979, the families received sufficient food and medical care to return them to good health. Not long afterwards, in 1980, the soldiers gave more freedom of movement to the internees. In the beginning they moved the internees to Leimea Kraik. Afterwards they gave them permission to leave and return to their homes. Many left for Ermera and Dili.[200]

Betano, Manufahi

202. Maria José da Costa told the Commission that in August 1978 Airborne Infantry Battalion 700 captured her and others in the area of Dolok (Alas, Manufahi). She was taken to Betano (Same, Manufahi), where the military gave them only a small, insufficient amount of food. People were allowed to make gardens, but within a limited area and not on the other side of the Cara Ulun River, 4 kilometres west of Betano. No one was allowed to go to their gardens outside limited times. These restrictions caused starvation and many people died. In Betano people lived under these conditions for five years, until 1983. After that the military allowed people to leave Betano. Maria José da Costa went to Same with her husband.[201]

Death in the resettlement camps

203. The physical condition of many arriving in transit camps was extremely poor. Minimal food provision, combined with restrictions on movement to seek or grow food and population densities swollen by outsiders and the confined space in which people were required to live, continued to apply in the resettlement camps. As the months went by, especially in 1978 and into 1979, the death toll reached horrendous proportions and continued at these levels until international humanitarian aid programmes began in late 1979.

204. Witness testimony already recounted here paints a picture of death from weakness, illness and starvation, as seen through the eyes of survivors in the camps.

The Indonesian Jesuit priest Father Alex Dirdjasusanto, who visited various parts of the territory in early 1979, provided some independent insight into the death toll at the time. In early March, he visited the town of Maubisse (Maubisse, Ainaro) and was invited four times in the course of one day to bury the dead. The catechist in Maubisse had recorded in his prayer book the deaths for 1979: January, 79; February, 101; first week of March, 26. In Turiscai (Manufahi) a week later Father Dirdjasusanto was told that the death toll had climbed steeply since 1977: 1977, six deaths; 1978, 164 deaths; 1 January to 13 March 1979, 120 deaths. He was also told that the death rate among "refugees" in the town of Ermera was about ten per day.[202]

205. Other independent testimony to the appalling physical conditions in the camps came from the visits to Timor-Leste in September 1978 of several foreign diplomats and journalists. In the company of Indonesia's Foreign Minister, Mochtar Kusumaatmadja, the visitors were reportedly shocked at the conditions they saw in a camp in Remexio (Aileu) where 4,000 people were held. A journalist was told of the deaths of thousands in the district and that worse was happening in camps elsewhere, including Suai (Covalima). Photographs of severely malnourished adults and children, taken by another journalist and published in newspapers around the world, provided incontrovertible evidence of the famine and of the urgent need for emergency relief.[203]

206. Data compiled by CRS provides further insight into the death toll in a few places before the international aid programmes began in Timor-Leste (see Table 7 below). While CRS disclaimed "scientific accuracy" for the data, they are broadly consistent with other material received by the Commission.

Table 7: Estimated monthly death rates in some resettlement camps, before and after international aid*

District	Resettlement camp	Before aid (Jan-Jul 1979) (Av. monthly deaths)	After aid (Sep 1979-Jan 1980) (Av. monthly deaths)	June 1980 sub-district population
Lautém	Lospalos	72	12	15,693
	Lore	8	N/a	
	Lautém	171	20	9,143
	Tutuala	21	2	2,623
	Luro	479	25	5,205
	Iliomar	305	10	5,435
Baucau	Laga	200	30	13,989

* Derived from: CRS Indonesia, Emergency assistance for East Timor (Phase I): Final Report, 18 March 1980, p.8, CRS Submission to the CAVR, Annexe 10. Note: only Columns 2-4 appear in the CRS report. The total surviving sub-district population in 1980, shown in Column 5, is given for comparison only. Most sub-districts had three or four camps. The population figures for 1980 for Lore and Lospalos, which are both in Lospalos Sub-district, have been combined.

District	Resettlement camp	Before aid (Jan-Jul 1979) (Av. monthly deaths)	After aid (Sep 1979-Jan 1980) (Av. monthly deaths)	June 1980 sub-district population
Ermera	Hatolia	13	1	15,096
	Letefoho	13	n/a	11,501
	Railaco	4	n/a	n/a

207. The data clearly show one thing – that international relief programmes were absolutely necessary to arrest the spiralling death toll in the resettlement camps of Timor-Leste.

Emergency humanitarian response (1979–1980)

208. The overwhelming memory East Timorese people have of life just before and after their capture or surrender is of hunger. All governments have an obligation under international law to provide humanitarian aid when it is needed, or to permit others to provide such aid. After the 1975 invasion the Government of Indonesia had these obligations towards people under its control in Timor-Leste. For people not under its control, those in Fretilin-controlled areas, the Government of Indonesia still had an obligation to permit others to provide aid. This section describes what the Commission has learned about the humanitarian aid effort.

209. In Timor-Leste, Indonesian government policy on humanitarian relief was determined entirely by the military. Until September 1979, international relief agencies were unable to operate in Timor-Leste. Up until late 1979, the Indonesian government did supply some aid to the camps under its control, but much less than was needed. The evidence for this can be seen in the rising death toll. Neither did the Indonesian Government allow aid to go to areas outside its control. Only from September 1979 did it permit two international aid agencies to conduct large emergency relief programmes in the territory.

Before September 1979

210. The Government of Indonesia made some provision to meet the needs of people in the camps before September 1979. Officially, it required that any aid from international sources be channelled through the government; humanitarian relief was to be relayed to Timor via the Indonesian Red Cross as the responsible agency in the field.[204]

211. Several governments gave aid for Timor-Leste to the Indonesian Government, and which was then channelled through the Indonesian Red Cross. The Australian Government made cash donations in October and November 1976, and again in September 1978. The New Zealand Government did the same at the end of 1978.[205]

212. World Vision Australia and the Australian Government sent a barge of food to Dili in January 1979. But the latter were not allowed to send monitors and they received no report on its distribution. This lack of accountability was a problem with all

government-to-government aid for Timor-Leste. The Australian Council for Overseas Aid (ACFOA) reported that it had received several letters from Timor-Leste about the problem. One of them read:

> Goods from the Australian Government-chartered barge Alanna Fay, which arrived in Dili in January 1979, and medicines flown in from New Zealand, were on sale at the Toko Vong Vung in Kampung Bairo Central in Dili and another shop, the Casa Vitoria.[206]

The Church

213. The Indonesian Government did also permit some aid to come through the Catholic Church. The first Church food aid was organised by Bishop Antonius Pain Ratu SVD, from the Indonesian town of Atambua, through the Social Delegate (Delsos) of the Atambua Diocese. With the help of his order, the Society of the Divine Word (SVD), he obtained food from a German organisation interested in Timor and from US Catholic Relief Services (CRS).

214. Father Stanislaus Bessin, an SVD missionary in Atambua at the time, told the Commission that he helped prepare the first food aid shipment of 100 tons in April 1976. The Church did not deliver the aid directly to Timor-Leste, as the Indonesian military insisted that the Church surrender the truck to them. The military took the truck and promised to deliver the aid to those in need. Between December 1976 and March 1977, Father Bessin helped prepare more food aid for Timor-Leste. Using trucks rented from the military, the Church sent corn, beans, sago and rice twice a week. He was only permitted to accompany the cargo to the border town of Balibó (Bobonaro). After that the military took over the convoy, promising to deliver it. Father Bessin was unable to verify that the aid reached those in need and he feared much was corruptly used by the military. In June 1978 he asked the Governor of Timor-Leste to distribute the Church aid, but the Governor said all aid had to pass through the military.[207]

215. One place that did receive Church assistance from Atambua was the town of Bobonaro, not far from the Indonesian border. As already noted above, Indonesian military restrictions on movement out of the town resulted in food shortages and hunger. Sister Consuela Martinez told the Commission she received food, clothing, blankets and medicines from the Atambua Delsos from the end of 1976 until 1983. The Indonesian Red Cross (Palang Merah Indonesia) delivered the aid in trucks and she used it to feed between 120 and 180 children each day.[208]

216. Nevertheless, people continued to die due to hunger in Bobonaro. Sister Consuela was told by the Sub-district administrator that from the time of the surrender to the Indonesian military in February 1976 until early 1977, more than 200 people were dying each month. The number of deaths decreased slightly in early 1977 soon after the Delsos aid began arriving, but the aid was still not sufficient to reduce the death rate to a normal level. The number of deaths fell again only when direct international aid began to arrive in late 1979.[209]

217. The Jakarta Catholic organisation LPPS also directed financial assistance to Timor-Leste through its East Timor Emergency and Rehabilitation Programme, launched in September 1977. Initally led by Father Zegwaard MSC, and working through the Timor Catholic Church's Dili Delsos, LPPS continued to do its work quietly for many years.[210]

218. A report on this programme written in early 1979 said that some Rp110 million had been distributed in the programme's first 18 months. This money from Church and charitable organisations in Germany, the Netherlands, Belgium, Austria, the US, Australia, Indonesia and the UK was used for emergency clothing, food and medicine, assistance for widows and orphans, housing, agriculture, cattle breeding and schools. The report also confirmed that the Indonesian authorities controlled the distribution of the aid. It noted that in early 1979 it was difficult to distribute aid because:

> the local government wants to have a monopoly on this kind of distribution of aid, for security and social education considerations… [For this reason] a priest in one town is forbidden to buy rice or corn for distribution to the people.[211]

219. No foreign personnel involved with any of the Church programmes were permitted to visit Timor-Leste.[212]

Witness reports on Indonesian government aid

220. Many people told the Commission that immediately after surrender the Indonesian military gave them some food. Often it was dried fish, poor quality weevil-infested corn (*jagung lapuk* in Indonesian, *batar fohuk* in Tetum), sometimes with rice or corn flour. Every report to the Commission emphasised that the aid was not enough to sustain life. The report from Cosme Freitas of Vemasse (Baucau) is typical:

> *We received only stale mouldy corn distributed by ABRI, three meal-sized tin-cans for one family for one week. We would consume all three cans of stale corn in just one day.*[213]

221. Some more examples are given in the table below.

Table 8: Food aid by ABRI in transit and resettlement camps, 1978

Date	Place	Type	Witness	Food aid
Throughout 1976-77	Bobonaro Town	Resettlement camp	Sister Consuela Martinez HC	A small amount of corn for each family as they surrendered, depending on the number of children. After that, the same amount every two weeks.

Date	Place	Type	Witness	Food aid
After July 1978	Modolaran, Hatolia Town, (Hatolia, Ermera)	Resettlement camp	Idelfonso dos Reis	One meal-sized tin of corn and one of salt fish per person per week. Eaten in three days. Assistance received only four times, then not again.
After August 1978	Uma Metan, Mahakida (Alas, Manufahi)	Transit camp	Tomé da Costa Magalhães; Mateus da Conceição	One small milk tin of corn per family per week. Eaten in two days and provided just once, then not again.
December 1978	Iliomar (Iliomar, Lautém)	Resettlement camp	Fernando Amaral	Three tins of corn per family per week.
February 1979	Fatubessi Town (Hatolia, Ermera)	Resettlement camp	Adriano Soares Lemos	One tin of corn and one tin of rice per family per week. Plus some salted fish and salt. Insufficient.
November 1979	Railaco Town, Railaco Leten (Railaco, Ermera)	Transit camp	Eufrazia de Jesus Soares	Two small milk tins of corn and a tin of salt fish, once only, two weeks after capture. Caused protein shock deaths.

222. The Commission also heard that the food often caused diarrhoea. Idelfonso dos Reis said that many people died of diarrhoea in the Modolaran resettlement camp in Hatolia Town in mid-1978. Similar deaths occurred in Railaco, Remexio and Aikurus from food aid eaten shortly after capture.[214] Some people thought the food had been poisoned. On the balance of probability, the Commission believes that the victims suffered from protein shock. When a seriously malnourished person eats protein rich food, it can cause a severe reaction marked by chills, fever, bronchial spasms, acute emphysema, vomiting and diarrhoea. The fact that some people died in this way from eating the food they were given demonstrated further negligence by the institution administering the aid, namely the Indonesian military.[215]

After September 1979

223. Direct international aid began to flow to those in need in Timor-Leste from September 1979. By then the famine had been critical in parts of Timor-Leste for two years or more. The first question the Commission considers in this section is: Why did it take so long for international aid to arrive?

224. The answer to this question cannot be that Timor-Leste's aid needs were not known.

225. US Catholic Relief Services (CRS) told the Commission that the top levels of its organisation had credible information about the suffering of the East Timorese people

by April 1977. The CRS knew this from Father Lieshout in West Timor, who was managing CRS assistance for East Timorese refugees in West Timor. Father Lieshout's information came from visits to Bishop Ribeiro in Dili.[216] Father José Alvaro Nolasco Santimano Meneses e Monteiro of the Diocese of Dili told the Commission that he attended a meeting with foreign ambassadors in Jakarta in July 1977. He appealed to them for food aid for Timor-Leste.[217] As already noted, on 6-7 September 1978 a delegation of 11 foreign ambassadors, accompanied by journalists, visited Dili, Baucau, Maliana (Bobonaro) and Remexio (Aileu). They were told that up to 125,000 people had come down from the mountains, and 20,000 to 30,000 of them were in an appalling condition, suffering from illnesses including cholera, malaria, tuberculosis and advanced malnutrition. The ambassadors of Australia, Canada, the US and Japan called for an urgent international relief operation. World Vision Indonesia visited Timor-Leste in October 1978 and reported that 70,000 refugees were in desperate need and that most were malnourished women and children. One team member said about the children in Metinaro (Dili):

> They were extremely thin; we could see the bones in their legs and arms; some were so weak they could not walk.[218]

226. Clearly enough information about the humanitarian situation was available to Western and other governments and aid agencies for them to raise serious concerns about the situation for more than two years before a significant aid effort began.

Access to Timor-Leste denied

227. Some aid agencies did act on what they knew. CRS said that it had made regular requests to enter Timor-Leste during 1977 and 1978.[219] Other agencies sent similar requests. Within the space of little over a year after the Indonesian invasion, Australia's umbrella organisation for NGOs engaged in aid and development work, ACFOA (The Australian Council for Overseas Aid), called five times for the ICRC and other agencies to be admitted to Timor-Leste.* The ICRC itself negotiated continually with the government in Jakarta for access to Timor-Leste on acceptable terms. It wanted access to all parts of Timor-Leste, including Fretilin-held areas.[220] The Government of Indonesia rejected all requests for access to Timor-Leste to assess needs and distribute aid.

228. However, in 1979 Indonesia changed its policy and agreed to admit the two international agencies, CRS and the ICRC. CRS attributes the shift in the Indonesian Government position to January 1979 when its executive director, Bishop Edwin B Broderick, received encouragement from the Indonesian Vice-President, Adam Malik, to institute an emergency relief programme. However, it was not until May 1979 that the Indonesian authorities gave CRS clearance to carry out an assessment of the situation on the ground. And despite the finding of CRS's assessment report that 200,000 people were seriously or critically malnourished, it was another four months

* ACFOA issued its appeals in December 1975, April 1976, October 1976, February 1977 and September 1977.

before the relief programme was able to begin. By the time it did begin, in September 1979, the CRS estimated that the number of seriously or critically malnourished had risen to 300,000.

229. It was only in late 1978 and early 1979 that the situation changed drastically. A massive flow of sick and emaciated people came down from the mountainous interior regions of Timor-Leste and inundated the coastal settlements and villages.[221]

230. In so far as it gives the impression that the situation had become critical only in late 1978, this is not an accurate depiction of the situation. East Timorese had been coming out of the forest and mountains in large numbers since at least late 1977 in the same emaciated condition as those who came down from Mount Matebian in late 1978. This is confirmed by a variety of sources ranging from the Indonesian Government itself, to various churchmen and women, to the ambassadors and journalists who visited Timor-Leste in September 1977 as previously described.

231. The Commission does not have privileged information about internal Indonesian Government and military decisions. However, the Commission believes that the more likely reason for the change in aid policy arose from the fact that the Indonesian military had by 1979 achieved its main military objectives: the destruction of the last major Resistance base on Mount Matebian; the significant weakening of the organised armed resistance; and the control of the bulk of the population.

232. The Comission concludes that before these objectives had been achieved, the Indonesian military saw international humanitarian aid as a potential barrier to defeating the Resistance and, especially, forcing the desperately hungry population to surrender to its control. In addition, in keeping with its very tight control on any foreign visitors to Timor-Leste, it had no interest in any foreigners observing its conduct of military operations in the territory.

233. Moreover, when it did change its policy on emergency relief, the Indonesian Government permitted only CRS and ICRC to work in Timor-Leste, and required both to adopt a low profile by, for example, not making public appeals for funds. It continued to refuse access by other aid organisations, including Oxfam and ACFOA.

CRS survey and aid programme

234. When CRS and the ICRC were finally permitted to conduct a survey of needs in Timor-Leste, they found a population shattered by famine and death.

235. In May 1979, CRS's programme director for Indonesia, Frank Carlin, made an assessment of conditions in Timor-Leste. He visited 16 sites where East Timorese people lived under Indonesian control. CRS later described what he found in the following terms:

> The situation observed by Mr Carlin, a seasoned veteran of 14 years of relief work in Asia, was, in many locations, one of intense human suffering due to illness, hunger and starvation. Death rates were high. Those critically ill and dying were not limited to the very young and the

very old - normally the first to succumb to sickness and starvation. Many persons in their prime years were dying. There were a large number of teenaged youths and young adults in a marasmatic state*, a condition which had reduced them to little more than walking skeletons. Among the children, severe malnutrition was almost universal. Because of their bloated bellies and wasted limbs, children had to hold on to their tattered shorts with one hand to prevent them from sliding off; the few children less affected appeared normal by comparison.

At many of the sites visited, the people had only the most meagre of possessions: a pot, a sleeping mat and perhaps a little food from local officials. The clothing worn by the people were little better than rags. Sickness in the camps was rampant. Illnesses such as malaria and influenza, which would be serious even under normal conditions, took a deadly toll on the severely malnourished. Other health problems, such as scabies, conjunctivitis and tropical ulcers, were common. Great care had to be exercised in giving food to these people because they had been surviving on a diet devoid of protein. If given food too concentrated in protein, their systems could not absorb this. They would then go into protein shock and die. Cases of protein shock were witnessed by Mr Carlin. While it was observed that serious conditions did not exist everywhere in Timor-Leste, in those locations where large numbers of people had recently come down from the mountains conditions were as critical as anything Mr. Carlin had ever encountered.[222]

236. By September 1979, when it was able to begin its relief programme, CRS estimated that the number of people in a "serious or critically malnourished condition" was 300,000.[223] As described previously, this number coincides with the number of people believed to be in Indonesian-controlled camps by the end of 1978. Given their known physical condition and lack of access to food, it seems that many identified by CRS as in distress were indeed camp internees. In any case, it means that about 55% of Timor-Leste's surviving population (according to Indonesian Government figures) were thought to be in a serious or critical condition in September 1979.†

237. The CRS programme was the larger of the two emergency aid programs. CRS and the ICRC agreed to divide their work so that the ICRC concentrated on the 60,000 people whose condition was most grave, while CRS focused on the remaining 240,000 people. The first CRS aid reached Dili in September 1979. It went out immediately to

* Marasmus is the "dry"' (thin, desiccated) form of malnourishment, which results from near starvation with deficiency of protein and nonprotein nutrients. The "wet" (edematous, swollen) form known as *kwashiorkor* occurs when protein deficiency is more marked than the calorie deficiency.

† The Indonesian Government estimated the population of East Timor in June 1979 at 533,176. A year later, a more exact estimate was 555,350 [Quoted in "East Timor: how many people have died?" pp. 22-24, ACFOA Development Dossier No. 1, July 1980, 2d edn; Bappeda Tk. I, Timor Timur dalam angka: 1988, Dili: Kantor Statistik Propinsi Timor Timur, (Agency for Regional Development (Sub-District level), and The Statistics Bureau of East Timor East Timor in figures 1988 Dili.) 1989, p. 27].

about 120,000 people and was later extended to some 240,000 people in about 120 settlements (see Table 6: Resettlement camps in late 1979; for settlement names see par. 197).

ICRC survey and aid programme

238. In April 1979, ICRC delegates conducted a preliminary survey and found that "tens of thousands of people displaced by military operations ... (were) facing starvation unless aid was brought to them rapidly, a situation aggravated by the absence of any medical service".[224] This was followed by a survey in late July 1979 of 13 villages or camps where conditions were known to be particularly bad. Of the 75,230 people in these places, ICRC delegates estimated that 60,000 were "in a state of alarming malnutrition" including "20,000 dying from hunger". * Abandoning the usual low-key language of the ICRC, delegates publicly declared the situation was "as bad as Biafra and potentially as serious as Kampuchea". The ICRC medical coordinator for the aid programmme said "he had rarely been so distressed by what he had seen."[225]

239. As shown above (see Table 7 par. 206), CRS figures showed high death rates in Luro (479 per month) and Iliomar, both in Lautém, (305 per month) – both places on the ICRC's list. The Commission has also received evidence of very bad conditions in Laclubar (Manatuto), Uatolari (Viqueque), Natarbora (Manatuto), and Lolotoe (Bobonaro). All were strategic locations, mostly in the mountains. The Indonesian military prevented people from leaving the towns, each of which held only a few thousand people. The traumatic impact of such massive numbers of deaths on these small communities is now difficult to imagine and continues in its long lasting impact on the social, cultural and economic fabric of these communities

240. ICRC aid began to arrive in Dili in October 1979. It was administered jointly with the Indonesian Red Cross. The first assistance went immediately to Hatolia (Ermera) and Laclubar (Manatuto). The initial six-month relief operation was expected to distribute 1,800 tons of corn, 360 tons of rice, 1,080 tons of beans, 216 tons of vegetable oil, 270 tons of milk powder, and 180 tons of protein biscuits to 60,000 people. By 1981 the ICRC's food aid programme was reaching 80,000 people in 15 settlements.[226] It budgeted A$7 million (US$ 6.26 million) for the first stage of the operation, almost half of which was earmarked for the transportation of the aid by helicopter.[227]

Controls and limitations

241. Both the CRS and the ICRC aid programmes were subject to stringent Indonesian military control. Military intervention often served to restrict the relief programme rather than to facilitate it. The CRS submission to the Commission shows that all government decisions in Timor-Leste, including on matters relating to CRS operations,

* ICRC Communication, 21 August 1979. John Waddingham, "Notes on 'counter-insurgency' in East Timor: The Indonesian government's resettlement program", in Senate Standing Committee on Foreign Affairs and Defence [Reference: East Timor – Human Rights and Condition of the People, Commonwealth of Australia, Canberra, 1982, pp. 715-748]. Places named were Uatolari, Iliomar, Luro, Abafala, Seiçal, Ostico, Cassa, Zumalai, Hatolia, Fatubessi, Natarbora, Laclubar and Dilor.

were controlled by Lieutenant General L B (Benny) Moerdani, who in 1979-80 was Assistant to the Minister of Defence and Security for Intelligence (Asintel Hankam) and Deputy Chief of the State Intelligence Coordinating Agency (Badan Koordinasi Intelijen Negara, Bakin). General Moerdani had been closely involved in planning the invasion of Timor-Leste in 1975 and it remained his area of competence.*

242. Security was so tight that CRS Jakarta was not permitted to telephone its office in Dili, leading CRS to directly ask General Moerdani to authorise a phone line. CRS also asked him to intervene when a helicopter was withdrawn for use by the oil industry. General Moerdani vetoed a proposed school-feeding programme and blocked the appointment of Father Locatelli as project manager for a proposed development programme in 1981. A proposal to recruit Indonesian doctors for CRS was also blocked.[228]

243. On the ground, a severe shortage of trucks could have been relieved by a military organisation maintaining tens of thousands of troops in the field. As it was, CRS had to build its truck fleet by chartering private trucks, and repairing and then renting the civil administration's broken-down trucks. Even these trucks were sometimes taken back for use by their owners.[229]

244. The actual ICRC presence in Timor-Leste during the emergency aid programme was minimal. The distribution was actually conducted by Indonesian Red Cross personnel. This compares unfavourably with the level of ICRC presence in Timor-Leste before the December 1975 invasion when no famine conditions existed in the territory.[230]

245. Gilman dos Santos, who worked for CRS in 1979, gave valuable testimony on the scale and nature of the humanitarian crisis at this time and of the limited ability of agencies to address it. During his work with CRS, Gilman dos Santos travelled to all districts across Timor-Leste and observed for himself the condition of communities and the role of the Indonesian military:

> *In 1979 CRS arrived. The presence of international organisations in 1979 was due to the terrible situation of famine across all of Timor-Leste. This assistance came one year after the reports from the ambassadors' visit. Imagine, one year later! But still it helped. At that time we never heard of anyone visiting from the United Nations, even though we were engaged in a colossal conflict. I want to say that the humanitarian assistance that came was late, but it also saved many people. It was too late because Timor was closed off. Not even Indonesian civilians knew what was happening here. Journalists, whether they were Indonesians or foreigners, could not report on what was going on here. We couldn't even telephone other parts of Indonesia. It was very closed off. Very closed and tightly watched by the*

* "The agreement signed between CRS and the Department of Home Affairs was a legal device to legitimize CRS's presence in East Timor.... The fact is that this agreement with Home Affairs had no real power as all decisions in East Timor matters was [sic] really controlled by ASSINTEL HANKAM. This was pointed out in the cover letter accompanying the agreement when it was sent to CRS/ NY. This situation has been acknowledged by USAID..." [Enclosure with Patrick C. Johns, CRS Indonesia Director, to Donald J. Crosson, CRS Director-Region II, 15 December 1980, in CRS Submission, Annexe 4].

Indonesian military. Because of these tight controls, CRS left Timor-Leste after five years of its humanitarian mission.

Just travelling between Dili and Baucau we had to stop 13 times, at every district and sub-district command, to have our papers checked. We already had 26 signatures but they would require more…There were some military people who were helpful, in Vemasse for example, and in Turiscai and Alas…To overcome problems with the military we told them the food came from America. We showed them the US flag on the packages, and the Indonesian soldiers were very afraid of the Americans.[231]

246. The Commission notes that aid was not distributed in a non-discriminatory manner to those in need. According to Gilman dos Santos, CRS was not able to distribute humanitarian relief in a politically neutral way:

CRS was allowed to distribute food only to people in ABRI-controlled areas. We could not distribute to people in the mountains. ABRI did not want food distributed to people in the mountains, because they thought that way they could force them down to surrender.[232]

247. The Commission also heard testimony alleging that the Indonesian military misappropriated aid. According to Gilman dos Santos, aid goods often surfaced in the local market or were witheld for personal use:

Our job was to go to the district or sub-district and count the number of families. Then we would report back and be given 10kg of food for each person, plus medical supplies. We were supposed to distribute the food [directly] but were forced to surrender it to the Koramil district military post. They would not permit us to give out so much food at once because they said it would be given to Fretilin. They would only give out 5kg. They were supposed to give out the other 5kg when new supplies were sent by CRS. The rest, we were told, they used themselves or sold or used as wages for building programmes, although the goverment had already made funds available. Or they exchanged it for eggs, chickens and so on…We know food was sold by ABRI in the following places and we reported this to the CRS head office in Dili: Maubisse, Ermera, Hato Builico, Liquiçá, Manatuto, Baucau, Lospalos, Laga and Suai. Clothing aid was sorted and the good clothes were kept by the military. If a CRS worker protested they would be hit and threatened with a pistol: "You must be one of the Fretilin – I will kill you."

We were told by people, and sometimes we would see this ourselves, that aid was being sold by soldiers from the Kodim or Koramil to local stores or to wealthy civilians. Often it was just given to members of their family.[233]

248. In a separate interview with the Commission, Father Eligio Locatelli of Fatumaca (Baucau) confirmed these allegations:

Several Chinese shopkeepers were forced to buy some of the aid rice from soldiers and resell it in their shops. One Chinese man came to the priests worried about what he was being forced to do.[234]

Impact of aid on the population

249. During its emergency programme (5 September 1979 to December 1980), CRS delivered 17,000 tons of food, 430 water buffaloes, 195 tons of rice seed and 326 tons of corn seed. It claimed to have reached 240,000 people. In its Final Report of 18 March 1981, CRS noted that based on data collected in ten of the locations where it had been working, its programme had had the effect of sharply reducing mortality rates:

> In the period of January 1979 through July 1979, the average number of deaths per month was 1,296; in the period September 1979 through January 1980, the rate had dropped to 70, clearly illustrating the positive impact of the emergency feeding programme.[235]

Concluding comment

250. From evidence it has gathered, the Commission acknowledges the already desperate condition of the people when they surrendered to Indonesian forces. However it believes that the famine took place because the Indonesian military was negligent by not ensuring basic needs were met after people entered camps under its control. From the evidence it has gathered, the Commission believes that, for the many who surrendered, famine began some time in 1978 and continued for at least a year, up until September 1979.

251. The famine was not caused by unusual seasonal conditions (see Box below, par. 252). The Commission believes if the military had arranged or permitted the delivery of emergency food aid, or allowed the population to return to their home villages and work their gardens, there would have been no famine in Timor-Leste. But the military did not permit them to do so because its overriding objective was the military defeat of Fretilin/Falintil. This same objective meant the military continued to prevent aid distribution in areas outside its control, even after admitting international aid agencies into Timor-Leste.

252. In short the Commission believes Indonesian military policies and practice were directly responsible for the disastrous 1978–1979 famine in Timor-Leste.

El Niño was not the cause of the famine

Several people have suggested that famine in Timor-Leste in the years 1978-79 was caused by drought rather than the actions of the Indonesian miltiary. For example, the US ambassador to Indonesia

at the time, Edward Masters, told the US Congress after a visit to Timor-Leste in September 1979 that the rain that year had been only 25% of that during the previous season. Although he said the famine was due to war and environmental factors, he testified at length about the drought and local agricultural practices, ignoring the effects of the war and the use of internment camps.[236]

Periodic extended drought caused by El Niño weather patterns often affects Timor-Leste's agricultural production. In Timor-Leste, if the El Niño event begins between February and April, it can cause drought or late rains. During the period of the conflict in Timor-Leste, significant El Niño events occurred five times, as shown in the table below. At other times the rainfall was normal.[237]

An El Niño event can change the weather in two ways. It can delay the start of the wet season, and it can reduce the rainfall during the wet season. If the wet season starts late, the harvest is also late and food stored during the dry season can run out while people wait for the rains to come. However, East Timorese farmers normally turn to other food sources at such a time, for example wild foods. So a late wet season is not a major cause of hunger. If less rain falls in the wet season, the result is much worse because the harvest will be small or it might fail completely. This can cause food shortages until the following harvest.

The Commission found that little rainfall data was freely available for this historical period in Timor-Leste. However, Dr John McBride of the Australian Bureau of Meteorology prepared an analysis of the potential impact of El Niño on Timor-Leste from sets of historical rainfall data for Dili as well as a number of towns around the eastern Indonesian archipelago, which appear on a publicly accessible website.[238] These data show that the El Niño event of February 1977 to April 1978 occurred roughly at the time when famine was serious in Timor-Leste. However, this particular El Niño event was one of the mildest to occur in Timor-Leste. Rainfall during the wet season was only 7% less than normal. The wet season did start late, but this, as explained, is not in itself a major problem. Moreover, there was no El Niño event in 1979.

Table 9: El Niño events and rainfall in Timor-Leste

El Niño event (Shortage Months)	Wet Season Start	Wet Season Rainfall Decrease	Potential Food Shortage
Feb 1977-Apr 1978	70 days late	7 %	Apr 1978
Apr 1982-Jul 1983	40 days late	53%	Apr 1983-Apr 1984

Feb 1991-Jun 1992	10 days early	22%	little effect
Mar 1994-Jun 1995	30 days early	68%	Apr 1995-Apr 1996
Mar 1997-Apr 1998	on time	71%	Apr 1998-Apr 1999

Source: http://www.bom.gov.au/bmrc/clfor/cfstaff/jmb/east_timor_5.html

The rainfall data for the eastern end of the Indonesian archipelago are not conclusive. The average for the whole north coast of Timor-Leste (known as DMP91) does not show lower than normal rainfall in 1979.

This was based on three or four stations. But Dili was very dry between January and April 1979. It experienced a meteorological drought in those months. For the whole year of 1979, rainfall in Dili was 31% below normal (not 75% below normal as alleged). However, Dili is much drier than other parts of Timor-Leste. It lies on the north coast, which receives much less rainfall than the mountainous interior and the south coast. Low Dili rainfall is not a good indicator of drought in Timor-Leste's agricultural regions. We have no data for those regions. Other towns in the eastern archipelago also experienced low rainfall at this time, namely Kendari (South-east Sulawesi), and Waingapu (Sumba). Some had normal rains, namely Kupang (West Timor) and Saumlaki (South-east Maluku). Ujung Pandang (South Sulawesi) had above average rainfall in the first months of 1979.

Thus the data are insufficient to be completely sure that there was no drought in 1979. However, several reasons suggest that 1979 was not a drought year for all of Timor-Leste. They are: absence of an El Niño event; normal average rainfall along the north coast (DMP91); and the absence of consistent drought in towns around the region. Therefore the Commission does not believe that rainfall (whether late or absent) was a significant enough factor to have caused the famine of the years 1978-79. Only the actions of the Indonesian armed forces, described in this section, can explain the famine.

More serious El Niño events occurred at other times during the period 1974-99. Some of these did cause food shortages. The years 1983, 1995 and 1998 were years of fairly severe drought. The hunger that occurred in parts of Timor-Leste in 1983-84 may have been partly caused by drought. However, none of these hunger years were as bad as 1978-79. The people of Timor-Leste can generally cope with drought. The real problem was war and the actions of the Indonesian military.

Forced displacement and localised famine in the 1980s

253. Forced displacement, causing localised food shortages and sometimes resulting in deaths, continued to take place in the 1980s. From evidence that it has gathered, the Commission has found that there was an Indonesian policy with two main patterns of forced displacement in this period:

- relocation to new resettlement areas in order to achieve better military control of the population
- relocation and concentration in a defined area under restriction, in retaliation for, or as collective punishment for, an attack on Indonesian military targets.

254. During the early 1980s, Resistance forces regrouped and reorganised, and staged a number of localised attacks on ABRI units, such as the Marabia (Dili) attack of 10 June 1980, the Kablaki (Ainaro and Manufahi) uprising of 20 August 1982, the Kraras (Viqueque) and Lautém uprising of 8 August 1983. These attacks were followed by retaliatory operations by the Indonesian military, one consequence of which was the displacement of thousands of civilians in the surrounding areas, with severe humanitarian impact.

255. In the early 1980s, thousands of young men were forcibly recruited to join military operations to search for Falintil. This mass forced recruitment affected agricultural activities, and thus food security. Forced recruitment of the civilian population is not discussed at length in this section, but in Vol. III, Part 7.7: Violation of Laws of War.

Dismantling the resettlement camps: strategic relocation

256. By the 1980s the Indonesian military had control over much of the territory. Many of the resettlement camps were closed. Some of their inhabitants moved back to their own villages. Some remained confined in the places where they had been resettled after surrender, subject to the same restrictive regime of control. Others spent several years being moved from village to village before finally being allowed to return to their home villages. Yet others were moved to strategic relocation villages, sometimes called "new settlements" (*pemukiman baru*), usually located near major roads. The decision seems to have been based on a variety of security considerations, including the accessibility of the villages from which camp inhabitants had originated.

257. The Indonesian Government claimed that the resettlement policy was designed to help people. In various parts of Indonesia such as Kalimantan and Sulawesi, the government also moved people out of remote areas to live in towns or near roads with better access to schools, clinics and markets. The policy was a part of the government's rural development programme. In Timor-Leste the authorities often said that their reason for establishing these new villages was to ease delivery of services to otherwise remote populations, or because "slash-and-burn" farming practices had destroyed the soil in areas where the people transferred to the new villages had previously lived, rendering agricultural production impossible.

258. The Commission notes that there were positive aspects in the resettlement policy. Even after independence, many East Timorese people chose to stay in the towns and villages where they had been resettled. However, the evidence in this section shows that to portray these forced relocations as part of a rural development programme is misleading. It overlooks the fact that in Timor-Leste the transfers were organised by the military with military objectives in mind. Military documents make plain that the overriding reason for the creation of the new villages was to remove people from areas where the Resistance was active. Especially in its early years, the programme did not improve people's welfare but had the opposite effect, starvation. Consequently many people moved away from these relocation villages as soon as they could.

259. The creation of relocation villages occurred in different ways. They were often built from forced unpaid labour. Some were already existing villages, which grew much larger as the military forced people from the countryside around them into these places. In some cases entire communities were relocated into existing villages along major roads, often causing land and resource disputes (see Vol. III, Part 7.9: Violations of Economic and Social Rights). Some existing camps became strategic villages as people continued to be held there.

Relocation in the 1980s: the options

Return to the home village

260. A series of military manuals were written in 1982. They contain detailed information about the Indonesian army's strategy for establishing security in areas of the district of Baucau that were still considered "sensitive", and provide some insight into military thinking about resettlement at this time. One of the manuals makes it clear that the military thought that returning people to their home villages could have security benefits:

> The Sub-district of Laga has proposed the relocation of the Soba village to [Boleha], and of the [Tekinomata] village to Sama Guia. If settlements are established in these two places, it will be possible to gain control of the north side of Mount Matebian and the region of Susugua. Meanwhile, the administration of the Sub-district of Baguia has proposed that the village of [illegible] should be returned to its original site in the region of Bahatata while the village of Lari Sula should for the time being be resettled in the region of Caidawa…The opening up of these new resettlement areas will open up the way to [Uato Carbau].[239]

261. Another manual contains an analysis of one village, Bualale, on the slopes of Mount Matebian, whose population had been allowed to return home from the town of Quelicai in 1982 in the general context of its "comprehensive development".[240] It is acknowledged that in the town of Quelicai the villagers were unable to cultivate their own gardens, and therefore they did not have enough food. This was given as one reason for returning them to Bualale. But there was another reason, based on

security considerations. It was noted that Bualale was the home village of David Alex, the commander of the 2nd Company of the Red Brigade of Falintil, and therefore a potential breeding ground of support for the Resistance. The manual makes it clear that the Indonesian military believed that the return of the population could actually bolster security in the area. Several measures had been taken that, it was hoped, would produce this outcome. Most of the families with relatives still in the forest had already been sent to the island of Ataúro. A new village head had been appointed, who was regarded as supportive of Indonesian aims. The people were described as "participating well in security and development", although it was admitted that because of intimidation by Fretilin and "for other reasons" a resistance network was still thought to be operating in the village. There were ten Hansip and one platoon of Ratih, and another 50 people who could be mobilised on an occasional basis.

262. Another of the military manuals gives an indication of the real impact of the military's security priorities on village populations. In a section on "Intensified Control of the Population" it prescribes heavy surveillance and restrictions on movement. The manual instructs units operating in villages that "every single activity of the population should be known precisely". It advises establishing networks of informers, requiring travel permits for journeys out of the village, setting up checkpoints around the village, holding unscheduled roll calls or inspections and house-to-house patrols.[241]

263. The Commission's discussion with the people of the village of Bualale about their lives during the Indonesian occupation reveals how the village viewed the regime imposed on them by the military after they returned to their homes:

> *1981: About 20 inhabitants of Bualale were suspected of being "GPK" [*Gerombolan Pengacau Keamanan*, members of the "band of security disruptors", that is, the Resistance] and were arrested by Battalion 521 and brought to Quelicai. They were detained for one year. While in detention, their activities included the following: constructing the meeting hall in Quelicai, building the health clinic and forced labour repairing the roads around the town of Quelicai…That year [1981] about five families suspected [by ABRI] of being in contact with Falintil were forcibly moved to Ataúro. At that time the people became more afraid and traumatised because they were always under suspicion of being in contact with the people in the forest (Falintil). One woman, Eugenia, from the* aldeia *of Lialura, died of hunger on Ataúro…Three families, who were due to depart for Ataúro, ended up staying in Bualale, because there was no ship to take them. So they remained in Bualale, but lived under constant threat [from ABRI] who were always accusing them of being "GPK" or "Fretilin".*
>
> *1982-83: It was only [in 1982] that the people of the village of Bualale who had been living in the Quelicai camp were sent home to the village of Bualale.*
>
> *At this time the inhabitants of Bualale were always under suspicion because there was still a group from the village who were still in the forest, and [ABRI] were always doing things such as:*

- *Ordering the women to prepare food for the Hansip who were assigned to Bualale*
- *Holding entertainments (dances) with the women every night*
- *Forcing women whose children were still small to participate in these events*
- *Forcing women to perform the night watch.*

> *At that time Battalion Zipur 9 (109) and Team Saka (Railakan) led by F57 tortured the inhabitants and there was one person, Mateus from the* aldeia *of Lialura, who was tortured to death…*
>
> *1984-86: In these years the situation continued as before.*[242]

New villages

264. Villagers were often moved from resettlement camps to entirely new villages located in places that were deemed by the military to be more secure than their home villages.

265. Between 1979 and 1981 people from six villages in the sub-district of Quelicai (Baucau) – Quelicai, Guruça, Afaça, Abafala, Uaitame and Bualale – were forcibly moved from the camp in town of Quelicai to a new settlement on the coast called Kampung Mulia, sited between the villages of Tequinaumata and Seiçal (Laga, Baucau). Approximately 205 families were made to move to Mulia because their own villages were close to the forest and it was thought that they might give support to Falintil. When it was the turn of the people of Guruça and Afaça to move, they refused to leave their villages. All their belongings were then taken out of their houses. The houses were then burned, their crops and livestock were destroyed, and several of the inhabitants were beaten and stabbed. They were then put in army trucks and taken to Mulia under heavy guard.[243] The community of Uaitame recalled that on 8 January 1979 Indonesian troops under the command of a Special Forces (Kopassandha) officer came from Laga to move all 600 inhabitants of Uaitame from the town of Quelicai to Mulia. The people refused to go at first but the next day the Kopassandha commander and his men returned and forced them to board the 13 trucks they had brought with them while shooting wildly into the air.

266. The first few months in their new location were the most difficult. The people of Uaitame described to the Commission the conditions they lived in when they arrived in Mulia:

> *The people living in Mulia did not have houses, beds, cooking equipment, food or clothes. As a consequence about 250 people died of hunger and disease. At that time those who died were buried naked and without coffins. Between 8 and ten people were dying every day.*[244]

267. After three or four months the people started receiving food through the Catholic Church. Two months later the local government provided them with zinc sheets for roofing so that they could build houses.[245]

268. The situation improved slowly. Restrictions on movement caused the inhabitants of Mulia to face continued food shortages, as they were unable to farm away from their immediate surroundings. Their living conditions were still very basic and there was no access to medical care. As a result, according to a source who did not wish to be identified, people continued to die during this period. In 1980, CRS and the ICRC began distributing aid in Kampung Mulia. The Indonesian military began to ease the restrictions on movement, allowing people to find suitable agricultural plots away from their homes, though they were still required to carry travel passes (*surat jalan*).[246]

Repeated resettlement

269. The people of some villages were not allowed to return to their homes for many years. In such cases, after the dismantlement of the resettlement camps the population was often moved several times before being allowed to settle again in their home village.

270. The people of Lelalai (Quelicai, Baucau) experienced this. They told the Commission of years of forced displacement and control at the hands of the Indonesian military-supported militia, Team Saka, before they were allowed to return to their home village in 1988:

> *1982: The population was moved to an area near the village of Aba. There they were ordered to build an emergency school, but the children could not go to the school because they did not have clothes to wear.*
>
> *1984-86: The population was moved again, to the village of Laisorulai, where they were kept under close surveillance by the Team Saka militia [Railakan] led by Julião Fraga and others. At that time the people were allowed to go looking for food, though at night they had to return to the "concentration camp". [When they went out to look for food] they were told to collect candlenut and copra to give to them [the militia]. If they failed to bring back [candlenut and copra], whether they were men or women, they would be tortured, beaten and put in a drum filled with water.*
>
> *1987: The commander of Team Saka told the people of Lelalai that they could go back to their* aldeia*, but first they had to make gardens and plant candlenut, copra and teak in them. At that time the local government paid no attention to the needs of the people of Lelalai, whose life and death was in the hands of Team Saka.*
>
> *1988: After the villagers had done what they had been told to do by the commander of Team Saka…they were told to go to their former homes. But still their everyday lives were not free or normal. All their activities were subject to exactly the same restrictions as before.*[247]

Continued restriction in resettlement areas

271. As noted previously in this section, when people returned to their home sub-district of Iliomar (Lautém) in late 1978, they were not allowed to return to their own

villages, but rather were resettled into strategic settlement areas (*daerah pemukiman*). The villagers of Iliomar II, who had previously lived in the area of Kampung Lama about three kilometres south of the town of Iliomar, were relocated in an area north of Ailebere Village and south of Iliomar I. The people of the village of Fuat, who had previously lived in the Bubutau area north of Maluhira, were concentrated adjacent to the northern edge of Iliomar I. Villagers from Cainliu, including those from the distant *aldeia* of Larimi, were forced to settle in the area of the present day junior high school and church, with the villagers from the *aldeia* of Caidabu resettled nearby. Tirilolo villagers were also resettled near the church.

272. In the resettlement area of the town of Iliomar, the villagers were only permitted to farm within 500 metres of their new homes, with any further movement requiring approval and the issue of a travel permit. These restrictive measures were intended to cut supplies to the Resistance by isolating the civilian population from Falintil who remained in the forest. Unable to gain access to their traditional gardens and fields, the villagers suffered considerable hunger and hardship.[248]

273. In 1982, the people of four of the villages of Iliomar Sub-district were allowed to return to their villages. However, for the villagers of Iliomar I and Iliomar II, the situation did not change. They were forced to remain in their resettlement area until 1988.

274. The people of Iliomar suffered considerable hardship and hunger in the years 1984-85. The villagers of Tirilolo and Cainliu had been allowed to return from the town at the Iliomar resettlement area to their original village locations in 1981. The people of the *aldeia* of Larimi had been moved to an area adjacent to the *aldeia* of Liufalun, Cainliu in 1982. Even so, access to many of their traditional fields remained restricted by the Indonesian security forces. Conditions were particularly difficult for the villagers of Iliomar I and Iliomar II, who had not been allowed to return to their homes.[249] The ICRC conducted an emergency feeding programme in Iliomar from 1979 to 1981. This was continued by UNICEF from mid-1982, but suspended in 1983 when there was an escalation of Indonesian military activities in the area.* Mário Viegas Carrascalão, who was the Governor of East Timor at the time, recalled that his "bitterest memory was when famine hit the district of Iliomar in 1985".[250]

275. In 1988, the Indonesian military adopted a new strategy for the people of Iliomar II by moving them from the sub-district centre of Iliomar to the area of Iradaruta, on the northeastern fringe of their original village. This amounted to the creation of a strategic relocation village: the aim, the community of Iliomar II told the Commission, was to "cut Falintil routes and support the military's operations in the area". The community also told the Commission that the military did not achieve their objectives because the population did not give them information.[251]

* Ramos-Horta, 1987: p. 196. Budiardjo, 1984: p. 94 quotes a comprehensive Fretilin report on conditions: "in Luro... starvation is the constant companion of people here who have no staple food at all.... All that can be said of conditions in the Iliomar camp is that they are just as bad as in Luro".

Population redistribution

276. The forced relocation of people, first during the surrenders and captures between 1977 and 1979 and then later when further forced transfers took place, caused a radical change in the settlement pattern in Timor-Leste. Entire areas were emptied of people, who were moved to new places, some previously uninhabited.

277. The table below shows the change in population in different sub-districts between 1970 and 1980. While the two sets of figures should be compared with a great deal of caution,* they certainly indicate major changes in population distribution. Most of these changes were the direct result of the Indonesian military operations between 1977 and 1978 and the forced resettlement which followed.

278. On the whole, the areas where population declined were in remote forest or mountain areas, such as Barique/Natarbora (Manatuto), Fatuberliu (Manufahi), Lolotoe (Bobonaro), Lacluta (Viqueque), Turiscai (Manufahi), Maubisse (Ainaro), Mape/Zumalai (Covalima), Laclo (Manatuto), Quelicai (Baucau), Luro (Lautém), Fatululik (Covalima), Baguia (Baucau) and Laclubar (Manatuto). Many of these areas had been Resistance strongholds in the late 1970s, and certainly suffered many fatalities. After the destruction of the Resistance bases between 1977 and 1978 the Indonesian military moved many survivors out of these areas in the hope that the remnants of the Resistance would be starved of support.

279. By contrast other sub-districts contained a larger population in 1980 than in 1970, far more than could be caused by births alone. This happened because survivors of the war moved to these places. Many of the places were district capitals, situated along main roads and in the lowlands. The towns of Dili, Manatuto, Viqueque, Baucau, Atabae (Bobonaro), Lautém/Moro, Lospalos, Maliana (Bobonaro), Hato Udo (then in Manufahi, now in Ainaro) and Bobonaro are examples. Sub-districts in Oecussi grew for a different reason. In Oecussi there was no war, and no displacement. In the late 1970s Indonesian civilians began to settle in Oecussi. Growth in Dili was also partly due to Indonesian immigration.

Table 10: Sub-district population change 1970–1980

District	Sub-district	1970	1980	% Change
DECREASE				
Ainaro	Maubisse	20,119	10,409	-48.3
	Turiscai	5,981	2,890	-51.7
Baucau	Baguia	12,239	8,138	-33.5
	Laga	14,914	13,989	-6.2
	Quelicai	18,780	11,258	-40.1
	Vemasse	5,727	4,977	-13.1
	Venilale	11,736	11,148	-5.0

* On the shortcomings of data derived from both the 1970 and 1980 censuses, see Vol. III, Part 7.6: Profile of Human Rights Violations.

District	Sub-district	1970	1980	% Change
Bobonaro	Balibó	30,743	13,179	-57.1
	Cailaco	6,753	5,240	-22.4
	Lolotoe	11,689	4,502	-61.5
Covalima	Fatululik	1,899	1,215	-36.0
	Fatumean	2,379	2,164	-9.0
	Fohorem	4,677	3,515	-24.8
	Mape/Zumalai	13,494	7,043	-47.8
Dili	Aileu	26,217	9,241	-64.8
	Remexio	7,851	4,880	-37.8
Ermera	Atsabe	15,325	10,668	-30.4
	Hatolia	20,743	15,096	-27.2
Lautém	Luro	8,212	5,205	-36.6
Liquiçá	Bazartete	16,610	8,997	-45.8
	Liquiçá	16,416	8,895	-45.8
	Maubara	14,610	11,450	-21.6
Manatuto	Barique/ Natarbora	5,744	1,683	-70.7
	Laclo	6,512	3,578	-45.1
	Laclubar	15,316	10,611	-30.7
	Laleia	3,169	1,695	-46.5
Manufahi	Alas	5,034	3,574	-29.0
	Fatuberliu	8,942	3,074	-65.6
	Same	18,438	17,250	-6.4
Viqueque	Lacluta	9,965	4,132	-58.5
	Ossu	16,655	12,022	-27.8
	Uato Carbau	6,071	5,802	-4.4
INCREASE				
Ainaro	Ainaro	8,985	10,428	16.1
	Hato Builico	6,829	8,459	23.9
Baucau	Baucau	20,398	25,317	24.1
Bobonaro	Atabae	5,013	6,346	26.6
	Bobonaro	11,085	20,480	84.8
	Maliana	7,508	12,233	62.9
Covalima	Suai	13,484	15,250	13.1
	Tilomar	3,272	3,501	7.0
Dili	Ataúro	3,133	5,206	66.2
	Dili	28,516	62,874	120.5

District	Sub-district	1970	1980	% Change
Ermera	Ermera	18,506	18,816	1.7
	Letefoho	11,410	11,501	0.8
Lautém	Iliomar	4,136	5,435	31.4
	Lautém/ Moro	7,088	9,143	29.0
	Lospalos	10,992	15,693	42.8
	Tutuala	2,200	2,623	19.2
Manatuto	Manatuto	5,703	6,875	20.6
Manufahi	Hato Udo	4,724	7,871	66.6
Oecussi	Nitibe	4,753	7,058	48.5
	Oesilo	5,922	7,296	23.2
	Pante Makassar	10,698	17,034	59.2
	Passabe	4,379	5,722	30.7
Viqueque	Viqueque	14,665	17,986	22.6
	Uatolari	13,911	14,683	5.5
Totals		610,270	555,350	

Sources: 1970: Repartição Provincial dos Serviços de Estatistica. 1972, "Recenseamento Geral da População e da Habitação (as 0 horas de 30 de Dezembro de 1970)." [Provincial Statistics services 1972, General "census of the population and dwellings" (as at 12:00 December 30 1970] Lisbon (unpublished report).
1980: Biro Pusat Statistik, Penduduk Propinsi Timor Timur 1980: Hasil Pencacahan Lengkap, Kantor Statistik Propinsi Timor Timur, SP80-54.2, 1980. The Central Bureau of Statistics, The population of East Timor 1980: Results of Census Survey, Statistics Office of East Timor, SP80-54.2 1980.

Relocation after resettlement: some examples

280. To better understand the nature and impact of forced population movements in the 1980s, the Commission conducted research to document people's experience of relocation and its consequences. The Commission believes these relocations were not organised in a way which guaranteed the protection of life. The basic needs of the affected people were not met, particularly during the transition period before the relocated population could support itself.

Natar Ulun (Vemasse, Baucau)

281. In 1979 or 1980, the people of Caicua and other *aldeias* in the hills behind the town of Vemasse were forced to move to Natar Ulun, three kilometres outside Vemasse. Because of Caicua's isolation (there was no road connecting Caicua and Vemasse), Indonesian patrols had difficulty in gaining access to the area. Manuel Alves Moreira told the Commission that the Indonesian military believed that the people of Caicua were supporting Fretilin/Falintil and that some had fled to the forest to join the Resistance.

282. Sixty-nine families were forced to move. They were made to dismantle their houses and pack all their possessions. Their agricultural plots were razed to ensure that

Falintil forces did not take their crops. With their meagre possessions on their backs, the families were forced by the soldiers to walk through mountainous country to their new location, Natar Ulun. The move took three days.[252]

283. On arrival their movements were limited to the immediate area. They experienced hunger and sickness due to this restriction. Manuel Alves Moreira recalls that during the first year between 2 and 5 people died every day of hunger, malaria, cholera and tuberculosis. In 1980 CRS and the ICRC began to provide relief aid. At the same time the Indonesian military began to allow the community more freedom to go beyond the new village to farm. However, their movements were still under strict control. They were required to obtain special permits (*surat jalan*) if they wished to move outside the village, and to report in on their return (*wajib lapor*). The situation improved with the opening of access to agricultural land, but the strict permit controls continued until 1988.[253]

Laclo (Laclo, Manatuto)

284. After fleeing to the mountains of Hatu Konan during the invasion, the people of Laclo were driven out of the mountains by repeated bombing and surrendered in Ilimano (Uma Kaduak, Laclo) in July 1978. They were brought to the camp in Metinaro (Dili) where 40,000 people who had surrendered were being held. Manuel Carceres da Costa told the Commission that he was eventually allowed to move back to the town of Laclo in August 1979. The move back was not easy. First only the men could go, and only as far as the bridge near Manatuto where they stayed for a month. Then the soldiers took the men to Laclo where they built barracks to live in. The women followed in October. Soldiers from Battalion 405 guarded the community for three months. The ground in the town is stony and hard, but the soldiers would not allow the people to go to their old gardens outside town. During this time the people went hungry and many died due to hunger and illness. Manuel Carceres told the Commission that there were deaths every day during this period, and that only in early 1980 did the soldiers give people freedom to go out to make gardens:

> *During the three months we were held in a "concentration camp", around 300 residents of Hatu Konan perished. Only after many people had died did the Indonesian military began telling people to go home. By then there were only 400 of us left.*[254]

Lacluta (Viqueque)

285. José Andrade dos Santos gave evidence to the Commission about the forced displacement of the people of the village of Ahic (Lacluta, Viqueque) at the foot of Mount Laline in 1980. As already noted, people from Viqueque, Manatuto, Manufahi, Baucau, Ainaro and Dili had been concentrated in the town of Lacluta after surrender. Under instructions from the Sub-district administrator (Camat) of Lacluta and soldiers from Battalion 745, the population of Ahic and other villages in the sub-district were moved to Rade Uma (Dilor, Viqueque).

286. In their testimony to the Commission the community of Ahic described their treatment after the move as much the same as it had been when they were still in the

town of Lacluta. Women continued to be subject to rape and "forced marriages" by members of the Indonesian military. People who had held positions in Fretilin and former Falintil soldiers continued to be subjected to regular interrogation and ill-treatment. All males over the age of 15 were forced to perform nightly patrols, and if they failed to do so were subjected to such punishments as having to walk on hot ashes and lie in dirty water for several hours. At least one person, Carlos from the *aldeia* of Halimean, was killed by ABRI. Another, Mario Lopes, also from Halimean, was taken to Baucau and disappeared. The men also had to do forced labour. They built six public buildings without pay, including a clinic and houses for the Sub-district military command (Koramil) and government officials. They were made to work on the water system for one month. The distribution of food, blankets and medicine by the ICRC in 1980 helped improve living conditions, but restrictions on movement one kilometre beyond the village continued, making it difficult to carry out routine tasks essential to making a livelihood, such as cultivating gardens, cutting sago palm and tending buffaloes.[255]

287. In 1982 the people of Uma Tolu, another village in the sub-district of Lacluta, who had also been resettled in Dilor, were forced to move to Uma Lor in the village of Luca (Viqueque, Viqueque). The reason given for the move was to "facilitate ABRI control of the area".[256] The operation was led by the head of the military, the head of police, and other officials of the sub-district of Lacluta.[257]

Weberek, Weto (Alas, Manufahi)

288. The people from the villages of Fahinehan, Bubususu and Caicasa (Fatuberliu, Manufahi) were forced to move in 1981 to a new location called Weberek, in the *aldeia* of Oeto (Dotik, Alas, Manufahi), because they were suspected of providing food and support to Falintil. They were made to leave their agricultural plots, which were burned and destroyed by Indonesian soldiers to prevent Falintil from harvesting the abandoned food sources. As mountain people who had originally lived in a fertile area, the villagers found it difficult to adjust to living in the hot swampy lowlands. Sebastião Magalhães told the Commission: "During these moves many people died because they could not cope with the heat and the hunger."[258]

289. The Indonesian military provided only tarpaulins for shelter and insufficient rations of poor quality corn and rice for emergency consumption. During the first year and a half the people living in Weberek suffered from malnutrition, malaria, cholera and tuberculosis. It was only after the arrival of the ICRC in the middle of 1982 that the situation improved. The Indonesian military began to allow villagers to return to their fertile agricultural plots to plant food during the rainy season, but in 1983 they were moved back to Weto and their agricultural plots were destroyed for the second time. This situation continued until the 1990s when some people returned to their original homes. Others moved to sites established by the Indonesian government under its "local transmigration" programme in the newly-established sub-district of Weilaluhu.[259]

Gleno (Ermera, Ermera)

290. Gleno was a new township, created to replace Ermera Town as the district capital. It was built on the riverflats several kilometres north of Ermera Town. Gabriel Ximenes told the Commission that he had been moved to a resettlement camp in Ermera Town with his family after surrendering in Fatubessi in February 1979. Shortly after the family had been allowed to return to their home in Ermera, Indonesian soldiers took him and about a hundred other men from Ermera Town and the nearby village of Ponilala. Their families stayed behind in Ermera Town. The military forced them to start clearing the uninhabited area that later became Gleno Town. Every day they were ordered to clear vegetation from a fixed area. If they failed to meet their daily quota they were punished by being tortured. Gabriel Ximenes said that the soldiers killed three men who were too ill to work. They worked on the construction of the new town for four years. They had no time to make gardens, and ate their meals at the ABRI posts. In 1983, once the work was finished, ABRI no longer fed the men. Nor did they permit them to return to Ermera Town. Instead, their families came down to Gleno. The men still had not been able to make gardens and with the arrival of the families, there was starvation and some people died. Only in 1985 did the military allow them to move about freely. Gabriel Ximenes became a successful coffee trader.[260]

291. The Commission received many other accounts of forced displacement where isolated communities were made to move by the Indonesian military for security reasons. In the table below a selection of accounts from community discussions is summarised.

Table 11: A selection of accounts of forced displacement of communities

Source	Location and Date	Description
CAVR Community Profile	Rotutu, Same, Manufahi 1981	About 800 people from the village of Rotutu were forcibly moved by ABRI to Raifusa (Alas, Manufahi), Ataúro and Aileu because they were suspected of being in contact with Falintil in the forest.
CAVR Community Profile	Caicasa, Fatuberliu, Manufahi 1981	The people of the village of Caicasa were forcibly moved by ABRI to Welaluhu. Many died of malaria and hunger, and eventually the people were moved back to Fatuberliu.
CAVR Community Profile	Soibada, Manatuto 1982	F58, the deputy governor, and ABRI forced about 57 families from Soibada to move to the village of Manehat to build ABRI posts there.
CAVR Community Profile	Fatisi, Laulara, Aileu 1984	The people of the village of Fatisi were forcibly moved, some being taken to Dili and some to Aileu Town, because the village was suspected of being a Falintil base. As a result of the forcible transfer, the village was uninhabited between 1984 and 1990.

Retaliatory internment and collective punishment: Ataúro and other internment camps

292. Uprisings (*levantamentos*) against the Indonesian military in the 1980s precipitated an Indonesian military response that produced a new form of internment. People taken to the camps included those who were directly involved in the uprisings, although most of them fled to the mountains immediately after the attacks. A large number of the detainees were relatives of those who had attacked the military posts. Often entire villages bore the brunt of the Indonesian retaliation, making their internment a form of collective punishment. The interrogation and torture of people involved in the attacks (and sometimes their relatives) was brutal and protracted, and often ended in death (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

Ataúro internments

293. The most notorious and the largest of these internment camps was the island of Ataúro (Dili). The Commission received evidence from a wide variety of sources on the number of people held on Ataúro at different times. It has concluded that the displaced and detainee population of the island peaked around September 1982 at just over 4,000, although various sources have put the figure much higher and cumulatively the number of people transported to Ataúro between 1980 and 1984 may well have exceeded 6,000.*

Displacement to Ataúro, 1974–1999



Source: Narrative statements given to CAVR

* The data given in Amnesty International, *East Timor: Violations of Human Rights* (p. 71), based on a variety of public and confidential sources, show the number of people held on Ataúro at different times between mid-1980 and late 1984. Higher estimates from a number of other sources ranged between 5,000 and 9,670, but these may have been estimates of the cumulative total [see CAVR Interview with Faustino Gomes da Sousa, Ataúro, Dili 1- November 2003; Ceu Lopes Federer, testimony to CAVR National Public Hearing on Political Imprisonment, Dili, 17–18 February 2003; and CAVR Interview with Luis da Costa Soares, Letefoho, Same, Manufahi, 23 February 2003].

294. Internment on the island of Ataúro was a unique case. Because of its isolation from the mainland, it did not require the tight security measures imposed in the resettlement camps and relocation villages discussed above.* Ataúro served a dual role as internment camp for families of Resistance fighters and detention for individuals directly involved in the Resistance (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment). No clear or consistent reasons for these forced relocations were given by authorities. No judicial or formal administrative process to support the internments were in evidence. Instead, the majority of those transported to Ataúro were generally people, including women and children, who had been picked up in large groups after attacks on military posts by the Resistance or as part of military operations intended to eliminate the Resistance. By contrast the number of people who were arrested as active members of the clandestine movement and transported to Ataúro was relatively small.†

Forced displacement, internment or detention?

The people who were rounded up and brought against their will to the island of Ataúro used different terms to describe their experience. Some said that they were in exile on Ataúro. Others said they were detained or imprisoned there.

Human rights principles and international humanitarian law prohibit the arbitrary transfer of civilians. The Universal Declaration of Human Rights clearly states that everyone has the right to liberty of movement and freedom to choose his or her residence.[261] The UN Guiding Principles on Internal Displacement provide that every person has the right to be protected against arbitrary displacement from his or her home, including in situations of armed conflict.[262] Where people do suffer displacement, authorities must ensure their well-being including their access to food, water, shelter and medical services.[263]

Article 49 of the Geneva Convention IV prohibits an occupying power from carrying out individual or mass forcible transfers or deportations of the population.[264] Internment of civilians can take place under special conditions. Article 78 of Geneva Convention IV

* The island of Ataúro was used as a prison island during the Portuguese colonial period. According to Vasco Lopes da Silva, in 1937 dissidents from Portugal and its colonies began to be exiled to Ataúro. After the Portuguese regained control of Timor at the end of the Second World War, many Timorese were sent to Ataúro for alleged collaboration with the Japanese.

† One example is Marito Nicolau dos Reis, who was arrested in December 1980 with other members of a clandestine group operating in Ostico, Baucau, and sent to Ataúro for four months [CAVR Interview with Marito Nicolau dos Reis, Baucau, 17 November 2002]. Another is Adelino Soares, who was one of a group of nine members of a clandestine cell arrested in March 1982 in Uatolari, Viqueque who were sent to Ataúro in May 1982 [CAVR Interview with Adelino Soares, Viqueque Town, 27 October 2003]. At least by March 1984, the Indonesian authorities seem to accept that those held on Ataúro comprised distinct groups. At that time detainees were classified as "detainees", "former detainees" and "displaced persons" with the majority falling into the last category [Amnesty International, *East Timor: Violations of Human Rights*, 1985, pp. 65-66].

states that decisions on internment have to be made according to a specified procedure, which includes the right of appeal for all parties involved and to have rulings regularly reviewed.

Ataúro internments: 1980

295. The former prisoners of Ataúro told the Commission that forced displacement to Ataúro was organised in waves.[265] The first wave took place on 10 July* and 3 September 1980, moving those allegedly involved in the guerrilla attack on the Marabia radio and television station and the Battalion 744 barracks in Becora, Dili on 10 June 1980. Bernardino Villanova described his experience to the Commission during its National Public Hearing on Political Imprisonment:

> *On 10 June 1980, I took part in the attack on Marabia. I was the Falintil contact in Lorosae region. First we attacked the Gedung Negara Lahane (Lahane Government Building), then we continued to the television tower in Marabia. The aim of the attack was to show that Fretilin still existed. On 11 June I was taken to the Kodim. I was told to go home, but then I was called back again. I hid in a church. But in the church there were members of the intelligence and I was taken again on 12 June.*
>
> *[Recalling his detention and torture in Mes Korem, Kartika Sari (SGI headquarters in Colmera) and Comarca Balide]*
>
> *On 3 September 1980 I was put in a black car at midnight and taken to Tacitolu. I didn't know where I was being taken. From Tacitolu a navy ship took us to Ataúro. The first group included Commander Nahak and his family. In the second group there was me and 13 other people including Custódio, Tarzizu, Alfredo, Geraldo, Vicente Simões, Domingos Santos, Domingos Santos from Becora, Bernadino from Lacoto. In the third group were José Soares Guterres and Maria Fatima. There weren't many in the second group, so we stayed with the locals. We were told to live near the Koramil.*
>
> *In Ataúro I moved freely but I had no contact with my family. We received very mouldy corn. Each family received equal rations, regardless of its size. The people of Ataúro shared their soil with us, even though they were also hungry. We...helped them by working in their fields and received part of the harvest. People also gave us land to work on. I was forced, with the 13 others involved in Marabia case, to work the fields in Beloi which were not very fertile. Armed soldiers kept us under guard. In 1983 I was declared*

* Casimiro Suriano da Silva gave evidence to the Commission about the detention and forced displacement of his family and others, a total of 9 persons, after his son was implicated in the Marabia incident in 1980 [HRVD Statement 01498].

"free" but there was still a very long rope tying me. I decided that I would stay on Ataúro.[266]

Ataúro internments: 1981

296. In 1981 another wave of mass transfers occurred, mainly of people from the eastern districts of Baucau, Viqueque and Lautém. Most of these people were transferred during August–November 1981. It therefore partly overlapped with Operation Kikis, the "fence of legs" operation in which 60,000 civilian East Timorese civilians were mobilised to converge on Falintil (see Vol. I, Part 3: The History of the Conflict). The transportation of people to Ataúro appears to have been part of an overall strategy for destroying the Resistance by eliminating its fighting forces through Operation Kikis and removing its support base by sending them into exile on Ataúro.

297. The Commission received evidence that around 300 families were moved to Ataúro from the 15 villages in the sub-district of Quelicai (Baucau) alone.[267] One person in this group was Joana Pereira. Having lost her parents to hunger and disease in 1978 while the family was living in the mountains, Joana Pereira was forcibly moved to Ataúro from her village of Laculio (Quelicai, Baucau). She described to the Commission her and her brother's experience as orphans brought to the island:

On 29 August 1981, the Koramil commander said: "Those who still have family members in the forest will be punished." He then made a list. After a couple of days I saw lists of names that were put on the board in front of the village office. By then I knew that we would be imprisoned on Ataúro. I was only 13 years old, and my brother Mateus Pereira was only 9 years old. We were to be imprisoned on Ataúro because our brother Pascoal Pereira (Nixon) was still in the forest. On 30 August 1981, the Koramil [commander] of Quelicai forced us, under tight guard, onto four military trucks and brought us to the port in Laga (Baucau). We stayed there for a day and a night. Then we were brought to Dili in a warship numbered 502. On this ship there were other families from Seiçal, Buibau, Quelicai and Laga.

When we arrived in Dili, ABRI soldiers gave us some food in buckets. I made Mateus take some for both of us, since we had not eaten… on 1 September, we were boarded on another warship, number 511. We left at 8.00am and arrived around 12.00 noon. When we disembarked at the Ataúro port, the Ataúro Koramil commander and other prisoners who had arrived earlier greeted us… the Koramil [commander] of Ataúro made us stand in line, and our names were listed one by one. After that we were brought to our prison. When we got there, my brother and I were separated. I don't know why, but he lived in Barracks Number 22 together with 60 other people and I lived with 70 other people in Barracks Number 24. We were put in barracks with nothing in them. There was a zinc roof and the walls were made of tarpaulin. There were no beds. In the beginning we were given

no food by the military. Mateus and I only ate the food we brought from Quelicai. One month later we received an allocation of three small tins of maize from a soldier. Each family received this much once every fortnight.

These conditions caused famine. Many people from Lospalos and Viqueque died. Between two and five people died every day, especially small children and old women and men.[268]

298. Hermenegildo da Cruz was a member of the Indonesian district parliament [DPRD II] in Viqueque and the *liurai* of Ossu (Viqueque). He described to the Commission a ceremony in 1981 to send off 700 families to Ataúro from villages in the sub-districts of Viqueque, Ossu, Uatolari, Uato Carbau, and Lacluta (all Viqueque), and Barique (Manatuto). The deportees to be were gathered in a soccer field for the ceremony, which was attended by the sub-regional military commander (Danrem), the head of the provincial parliament (DPRD I), the district administrator (Bupati) of Viqueque, his deputy (the Sekwilda), the district military commander (Dandim), and other military and civilian officials. The Danrem explained to Hermenegildo da Cruz that although 700 families were to be moved to Ataúro, only about 32 families had strong connections to Fretilin/Falintil. Hermenegildo recalled that the Sub-district administrator (Camat) of Lacluta, Antonio Vicente Marques Soares, intervened during the ceremony and succeeded in preventing the people from Lacluta being moved to Ataúro. He told the Commission of the plight of those who were interned on Ataúro:

Many of those people from Viqueque died on Ataúro due to the hunger, disease and change in climate. Old people and children died every day, until the ICRC were finally able to provide assistance in 1982. In 1985 and 1986 people began to return to Viqueque, although many chose to stay elsewhere.[269]

The Kablaki uprising

299. After the 20 August 1982 uprising in the Kablaki area, more than 600 people from Mau Chiga, Dare, Nunumoge, Mulo and Hato Builico (in Ainaro) and Rotutu (in Manufahi) were brought to Ataúro.

300. Abilio dos Santos, from Mau Chiga, was detained by the Indonesian military on 10 July 1982 after he attended a secret meeting to organise the uprising. Despite his capture with 15 others, the uprising still took place. In retaliation, Indonesian forces destroyed Mau Chiga, burning all the houses, food stores and killing all livestock. The whole village of Mau Chiga was evacuated. Some were killed in Builico, others were detained in Dare, Dotik, Ainaro and Ataúro (see Vol. I, Part 6: Profile of Human Rights Violations; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment and Part 7.7: Sexual Violence).

301. Abilio dos Santos was among those brought to Ataúro. He and 14 of the 15 who had been arrested in July were taken to the Balide Prison in Dili on 29 August 1982 by the Indonesian military. The other member of the group, Ernesto, had been shot dead

shortly after their arrest.[270] Two days later, at three in the morning, they were taken to the Dili port. There they were told:

> *The state is not punishing you. The state must evacuate you because your area is not secure. If the people of Dare and Mau Chiga stay in their villages, and there is an Indonesian soldier or Hansip killed, then you would be killed. That is why we are taking you to Ataúro now.[271]*

302. The Commission has received a list of 373 names of people from the village of Mau Chiga who were forcibly displaced to the island of Ataúro in 1982, including 73 people who died on the island between 1982 and 1987.*

Conditions on Ataúro

303. People were held on the barren island in makeshift bare barracks in overcrowded and unhygienic conditions. Plaçido Lisboa was forcibly moved from Viqueque to Ataúro on 15 November 1981. He described the living conditions:

> *There were two settlements at that time. One barracks was 12 by 6 metres, for one Neigbourhood Unit (Rukun Tetangga, RT) of 80 to 90 families. There were usually six rooms in one barracks, and each room had six families. There were 45 barracks on Ataúro. Between the church in Vila and the junior secondary school (SMP) there were 32 barracks; from the market to the end of the road, 13 more barracks. The reason we were moved [there] was to be "secured", so we wouldn't support people in the mountains.[272]*

304. There was little food or fresh water, and starving internees were forced to survive on what wild roots and fruits they could collect around the camp or beg or steal from the local community. They also collected small fish and shellfish on the beach at low tide. According to witnesses, Indonesian officials distributed corn to each family, but the amount and quality was not sufficient for survival.[273] According to Adelino Soares, who later became the local health coordinator of the ICRC's aid programme, between 300 and 350 people died in the early years of their time in Ataúro, before the arrival of aid from the ICRC in 1982.† This was confirmed by Faustino Gomes de Sousa, a native of Ataúro and currently the village head in Vila (Ataúro, Dili), who as a child witnessed the situation of the deportees:

> *I remember seeing 5 to 6 children dying every day from diarrhoea. They were all buried at the back of the barracks. There used to be gravestones to mark their graves but a flood and landslide in 1998 washed all the graves away.[274]*

* Submission to CAVR, List of victims from Mau Chiga. The people of Mau Chiga were also forcibly moved to Dare (Hatu-Builico, Ainaro), Dotik (Manufahi).

† CAVR Interview with Adelino Soares, Vila, Ataúro, Dili, 7 March 2002. Corroboration from Rui de Araújo who cites 319 deaths in Ataúro in CAVR Interview with Rui de Araújo, Maumeta Ataúro Dili 27 October 2003.

305. Ceu Lopes Federer, another local from the island of Ataúro, also joined the ICRC effort to assist the internees. She described the living conditions in the barracks, where each room housed 5 to ten families. An outbreak of cholera resulted in scores of children and adults dying. She told the Commission:

> *The little children were dying like ants, like flies. The mothers would call out to their [dead] children through the night. Some wanted to kill themselves, going out of their minds, their breasts full of milk.*[275]

306. Luis da Costa Soares was a carpenter and member of the clandestine movement, working in the area of Tutuluro (Same and Ainaro). In 1982, after the 20 August uprising in Mau Chiga, he was detained and eventually brought to Ataúro. His transfer from Manufahi was handled by the district military command (Kodim) in Same and provincial military command (Korem) in Dili. He told the Commission:

> *The situation on the island of Ataúro was very difficult, particularly for those from eastern areas such as Baucau and Viqueque, and Lospalos [and also those from] Dili, Aileu, Ainaro and Manatuto Districts. Many died, mostly children and old people. Five to six people died a day. There was hunger, mental depression and malnutrition. People were traumatised… This situation continued for about one year, until the arrival of the ICRC [when] the deaths began to decrease.*[276]

Civilian detainees

307. The majority of people brought to Ataúro were not political detainees, nor were they armed Resistance fighters. For the most part the people who found themselves on Ataúro were ordinary villagers from areas where Fretilin/Falintil was considered to be active. "Separating the fish from the water" was a phrase often used by Indonesian military authorities to explain the strategy of mass removal of the population.[277] The following table presents a selection of testimonies given to the Commission by survivors of the Ataúro island prison camp:

Table 12: A selection of testimonies of survivors of Ataúro

Source	Name and Location	Description
HRVD 00047	An East Timorese man Dili	In June 1980, after the Marabia incident, the deponent was captured by Battalion 744 soldiers, along with two women. They were brought to Ataúro and placed under the control of the Koramil commander, Suryana. The two women were sexually violated by soldiers at the Koramil. The deponent cited 5,000 detainees in Ataúro. Many died of hunger and lack of medicine.
HRVD 05668	Paulo Soares, Viqueque, Viqueque	Paulo Soares, with four others (Builou, Gamalu'u, Lorenço Soares and Lorenço) were captured by the intelligence section (Kasi 1) of the Viqueque Kodim and brought to Ataúro. They experienced hunger every day on Ataúro, eating only sago and corn from the church. There was not enough food for all those brought to Ataúro. Lorenço died from hunger and lack of medicine.

Source	Name and Location	Description
HRVD 06489	Maria Soares, Ailili, Manututo, Manatuto	Maria Soares and her cousin, Juliana Soares, were arrested by Hansip at their home in Malarahun. They were detained at the Manatuto Kodim for two nights then brought to the Dili port. The following day they were transported to Ataúro where they stayed for 4 years. The reason was because her three sons remained in the forest with Falintil forces. She suffered from lack of food during her time in Ataúro.
HRVD 04801	Evalina de Jesus, Daisua, Same, Manufahi	Because her son Alexandrino Buti Bere did not surrender with her and her family, Evalina together with her husband, César Doutel Sarmento, and other members of her family were brought to Ataúro. The military alleged that she and her family were supplying food to Falintil. They were interned on Ataúro for four years.
HRVD 07503	Olinda Cabral Matahoi, Uatolari, Viqueque	Based on an order from the local liurai, F56, Olinda was told to prepare for her family to be moved to Ataúro. She, her parents (José Sarmento and Lourença) and other family members travelled to Viqueque to report to the *liurai*. They were forcibly moved to Ataúro. There both her parents died from illness. She was in Ataúro for five years before she was returned to her village in Uatolari.
HRVD 08717	Sebastiana Soares, Aiteas, Manatuto, Manatuto	Because her husband was a Falintil soldier in the forest, Sebastiana Soares was taken from her village in Hirileun and brought to the Manatuto Kodim. She was transferred to Ataúro where she stayed for three years. She was released in 1984.
HRVD 00039	RL, Viqueque, Viqueque	On 28 August 1983 RL, along with 98 others was forcibly moved to Ataúro by members of the Viqueque Kodim. On arrival on Ataúro, they were interrogated by members of the Kopassandha (Special Forces), being made to walk on their knees on the ground covered with soybeans and cow dung. They were tied up and given electric shocks. Domingos Boek was taken out and disappeared. In Viqueque, during the time he was detained on Ataúro, RL's wife was subjected to sexual violations by an Indonesian soldier.
HRVD 00076	An East Timorese man Lahane, Dili	After one year of detention in the Balide Prison, 46 detainees were taken to Ataúro on 5 September 1981. They received one can of corn per week. Malequias and many others died there from lack of food. There was some improvement after the arrival of ICRC in 1982. The survivors of this group were released in 1984 and returned home.
CAVR Community Profile[278]	Vemasse, Baucau	Forty people from Vemasse Sub-district were displaced to Ataúro because they were suspected of being supporters of Fretilin
CAVR Community Profile[279]	Eraulo, Samalete, Railaco, Ermera	The people of the *aldeia* of Eraulo were forcibly displaced by ABRI to Ataúro in 1992 because they were said to have family members in the forest. After two months on Ataúro, three died of starvation.

Leaving Ataúro – but not always returning home

308. The ICRC's humanitarian aid programmes that began in 1982 alleviated much of the immediate suffering. Witnesses speak of a slow decrease of the number of deaths due to the regular distribution of aid and provision of medical care. Conditions improved to the extent that the Indonesian authorities allowed international observers

to visit the island in 1982, including journalists from Portugal and the former Prime Minister of Australia, Gough Whitlam.

309. According to statements received by the Commission in 1983, the Indonesian military began to return people in large numbers from Ataúro after pressure from the ICRC. As with their original deportation to the island, they were returned in groups. The first group to be returned were from Baucau. One year later, in 1984, the internees from Lautém were allowed to go home. People from Viqueque were returned between 1986 and 1987. Everyone else was returned by 1987 except for 17 families who chose to stay on Ataúro.[280]

310. The suffering of those who had been interned on Ataúro did not end with their release. Many of them experienced discrimination and hardship after their return. SL was a single mother whose husband was a Falintil soldier in the mountains. While in detention, but before being sent to Ataúro, she was raped. She and her two sons, then aged four and six, survived the hardships on Ataúro, and with the help of ICRC were returned home to Same. SL told the Commission:

> *My husband and four of our children ran to the forest. I stayed behind with our other children. In 1981, during Operation Kikis in Aitana, I was detained in an ABRI post for seven months, with three other women. An Indonesian military commander raped me and a colleague of his raped my sister-in-law, even though she was pregnant at the time. They raped us for seven months… We were moved to the Same Kodim, then my children and I were moved to Ataúro…We were imprisoned on Ataúro for four years, seven months and seven days…on Ataúro it was terrible, there was no food. With the help of ICRC, we were returned to Same. But the people there would not accept us. They called us* batar fuhuk *(rotten corn). They said we were Fretilin and they wouldn't give us food.*[281]

311. Ermelinda Nogueira was released from Ataúro with members of her family in 1982, where she had been sent because she had relatives who were fighting in the forest. She returned to her home in Maluro (Lore I, Maluro, Lautém). Not long after her release she was caught up in the backlash against the *levantamentos* of August 1983. Because she still had relatives in the forest she was brought to the ABRI post in Maluro with four of her children where she was interrogated and tortured for two days, including by being given electric shocks, hung upside down and beaten by the post commander. Soon after this two other members of her family were arrested and disappeared. Nine months later her husband, Carolino, was arrested and tortured by the local Babinsa by being beaten with a rifle butt on his face, head and chest. He was so badly injured as a result of this treatment that when the Babinsa summoned him again, he was unable to go. When Ermelinda Nogueira went in his place, the Babinsa threatened to kill her before releasing her.[282]

312. Others returned from Ataúro only to find that while they had been interned, relatives who had been fighting with Falintil had been killed or disappeared.[283]

313. Yet others were brought back to the mainland from Ataúro only to be relocated to another internment camp. The locations included Bonuk (Manufahi), Cailaco (Bobonaro) and Dare (Ainaro).

314. Among these new camps the one in Kale in the village of Purogua (Cailaco, Ermera) was used for the longest period.[284] For example, João Bosco from Bucoli (Baucau, Baucau) was detained by members of Kopassanda (Special Forces) in 1982. He was interrogated at the Hotel Flamboyan in the town of Baucau for three days, and then moved to a location in Fatumaca, then back again to the Hotel Flamboyan. He was then taken by military plane to Dili and detained at the Battalion 744 headquarters. After nine days, he was taken to Ataúro where he stayed for three years. In 1985, he was "released" but brought to Cailaco (Bobonaro). Three years later he was returned to his village with the assistance from the ICRC.[285]

315. Felijarda Florinda Pereira, Domingos da Silva, Natercia da Silva and Dircia Fatima Corsila were also relocated to Cailaco (Bobonaro) after their time in Ataúro. They stayed in Cailaco for another three years and finally returned to their village in Osso-Ala (Vemasse, Baucau) in 1986. They never saw their fathers or husbands again.[286]

Sexual violation and starvation in Bonuk (Ainaro)

316. For those brought to Bonuk from Ataúro the situation went from bad to worse. SL (from Hato Builico, Ainaro) was forcibly displaced to Ataúro in 1982 after her husband fled back to the mountains. She was there for two years and two months, during which time her eldest child died due to lack of medical care. From Ataúro she was brought to Bonuk. She was intimidated by soldiers from the local Koramil and raped by a Hansip. She became pregnant and had a child from the sexual violations she experienced.[287]

317. Mário de Araújo gave evidence to the Commission about his internment in Ataúro between 1982 and 1985 and subsequent removal to Bonuk. During the two months he was held in Bonuk he saw eight people die from hunger and malaria.[288]

318. Abilio dos Santos told the Commission how when he and about 30 others were being returned from Bonuk by truck, they were ordered to get down in an area called Mau-ulo III, near Builico in the town of Ainaro. There were some make-shift houses already prepared by the military, surrounded by Hansip guard posts. They lived there for one and a half months, without receiving any assistance except for a few hand-outs from the local priest.[289]

319. The people of Mau Chiga who had been interned on Ataúro were not returned to their original villages, but made to stay in the sub-district town of Dare (Hato Builico, Ainaro) where hundreds had already been displaced in the aftermath of the 20 August uprising in 1982. The sudden influx of people to Dare brought about another crisis in food security. They were finally allowed to return to their homes three years after their forced relocation to Dare.

Displacement, violence and hunger in Dare

Amelia de Jesus testified about her experiences during the three years she and many others from Mau Chiga were forcibly displaced in Dare after the Falintil attack of 20 August 1982. The following text is excerpted from her testimony to the Commission:

On 20 August 1982, the guerillas entered Mau Chiga and we helped them by giving them food. When Indonesian soldiers later came to our village they burned all the houses. My family and I hid in the caves, with 29 other people including children, women and men. We stayed there for about one week. My son, Bernadino Tilman, a teacher, was shot dead when he went down to Mau Chiga to look for food.

Four days later Hansip and the Indonesian military found us. They had brought gasoline to burn the grass. They asked: "Who told you to hide here? The people in the forest? Are Falintil hiding weapons here?" So finally I left the hiding place. They told us to leave all our belongings and food. Throughout the journey to Dare we were verbally abused.

We were taken to the primary school in Dare and they kept us there. When we got there, they took down our names and gave them to the Koramil. The name of the Koramil commander at the time was Rusu. While we were in the school, we were treated very harshly. I was there with my husband Alarico Tilman and two of my children Angelita da Silva (one-and-a-half years old) and Alexito Araújo (9 months old). At the end of August a Hansip, F40, stabbed my husband until he bled. Another Hansip, Paulo, a man from Mau Chiga who also happened to be our relative, helped us. He told them "don't hurt my uncle", and said that we had better give them something. So my husband gave a surik *(traditional sword) and a* tais *(traditional woven cloth) to a soldier to save our family.*

One night a group of Hansip forced their way in by breaking the door open. They ordered me to come out for questioning. I realised that they actually wanted to rape me. My husband said: "You go out, so you won't be killed." Indonesian soldiers came, their faces masked so that only their eyes were visible. They yelled: "Come out, come out." I held on to my husband's arms and didn't let go. They pulled my hair and hit me, but I didn't let go of my husband. They hit my head and back. I shouted: "Let us both die, but let my children live." So finally they gave up and left us.

While we were in the school, we had to find our own food. Every morning we were taken out to look for food.… They [Indonesian soldiers] followed carrying weapons.

During that time people died from two things: hunger and night-time interrogations. At night at the school, we weren't allowed to go out. We had to relieve ourselves in a can and clean it up in the morning. We slept on a cement floor stained with blood. The blood was from those who had been detained there earlier. So many people died. Some were burned alive. Some were thrown into the river. Hundreds from villages nearby were detained there. Every night they took women to rape them. They said "to get information," but actually they were raped. This was done to girls and mothers. They were called and raped in the forest near the school.

Then we were allowed to stay with my father in Dare. But every night, Hansips and the people were required to do night watch, including my husband. About three years later, people were returned from Dotik and Ataúro, causing another period of hunger in Dare. We weren't free to plant crops, and we had to have a travel pass if we wanted to go to Ainaro, Suai or Maubisse. Every time we worked the gardens, they [Indonesian soldiers] followed holding weapons. We remained hungry, because there wasn't enough land for such a dense population. We lived like this for three years.

Alternatives to internment on Ataúro: Raifusa and Dotik

320. In addition to places of detention in Dare, Ainaro, Aileu and Ataúro, inhabitants of the villages around Mau Chiga were also sent to Raifusa (Betano, Same, Manufahi) and Dotik (Alas, Manufahi) after the 20 August uprising. In some cases, after their release from Ataúro, detainees did not return to their place of origin, but instead joined those already in Dotik and Raifusa.

Dotik (Manufahi)

321. After the 20 August incident hundreds of villagers fled to Mount Kablaki in the hope of escaping the expected reprisals. They were eventually rounded up and detained at the Same Kodim and Koramil. From there they were eventually brought to Dotik, a village south of Alas on the southern coast of Manufahi.

322. Laurinda dos Santos, told the Commission how, when they heard of the Falintil attack, she and 95 other villagers fled to Mount Kablaki. They were pursued by Indonesian forces who shot one of them, Domingos Lobato, dead and captured the rest. They were detained in Same for one week, before being moved to Dotik.[290]

323. UL later joined those already in Dotik. She had managed to evade capture for three months, living with about 30 other families on the mountain. They were captured and brought to the Rotutu Koramil, then transferred to the Kodim in Same, where they were interrogated. She told the Commission that she was transported in a convoy of ten military trucks to Dotik. When they arrived there, there was no shelter for them. They

had to stay in the houses already built by the internees, or build their own. UL told the Commission how she and two other young women in her family were frequently raped by soldiers during the three years that she was in Dotik.[291]

324. After being captured in November 1982 and held for one month in the Same Kodim, João de Araújo was reunited with his wife and children in Dotik. He described the living conditions there:

> *We were just dumped there without being told where we should live. The village head gave us some land on which we built our homes. We were about 100 people, but so many died during this time from shortages of food and medicine. We were sick from mosquito bites. Initially we had no food to eat. Luckily some of the families already living there gave us some cassava and sago so we could survive for a few months. After a few months ABRI came and gave us agricultural tools so we could plant food.*[292]

325. João de Araújo lived in Dotik for three years. Mário Viegas Carrascalão, then the provincial governor, visited the people in Dotik in 1984 and promised to secure their release. João de Araújo told the Commission that the Governor sent some food to them but the army swapped the rice for corn. In 1985 they were brought to the Dare Koramil where they lived for another two years, before being allowed to return to their homes in Mau Chiga.

326. While he was in Dotik, Januario de Araújo and others were ordered to go out and find a Falintil commander and his men, and was told that if they did not succeed, their families would be killed:

> *When we got to Rotutu, they took our machetes and did not return them until we reached this abandoned place called Dotik. We were given two weeks to build our own houses, or else we would be killed. We were given only two sacks of corn, which had the letters USAID written on it. Troops from Same guarded us. After two weeks we had built our homes and guard posts for the platoon. Forty-three men were ordered back to Same. There they were put in a dark cell for four nights and given a task of looking for people in the forest. If they succeeded in capturing Commander Sarmento and Pires then our families in Dotik would live. If not, they woud die. They spent two weeks in Kablaki but did not succeed.**

327. Later people from Ainaro, who had been released from Ataúro, were brought to Dotik for a few months before being moved to Dare. Candida Pinto told the Commission that the group with which she returned from Ataúro was sent to Lafukar in Dotik (Alas, Manufahi) by the Ainaro Kodim, which refused to let them resettle in Mau Chiga:

* CAVR Interview with Januari de Araújo, Mau Chiga, Ainaro 4 June 2003; HRVD Statement 07200 [José Rosa de Araújo] corroborated the practice of forcibly recruiting civilians in operations to look for Falintil. He gave evidence of the killing of two civilians by ABRI during such operations.

[Lafukar] was completely uninhabited. Seventeen people died from lack of food during the three months of our stay there.[293]

Raifusa (Betano, Same, Manufahi)

328. The Commission was told that many of the people of Rotutu (Same, Manufahi) were forcibly displaced to Raifusa. This occurred as reprisal for a raid by local Hansip and Falintil on 20 August 1982, the same day as the attack on Mau Chiga, on the offices of the village Babinsa and Bimpolda in which a number of weapons had been taken.[294] People from Mau Chiga were also brought to Raifusa. Most of those displaced to Raifusa from Rotutu and Mau Chiga were brought there almost directly after the 20 August 1982 uprising, following a brief stop at the Same Kodim. A few were brought to Raifusa after years of internment on the island of Ataúro. As in Dotik the conditions in Raifusa were harsh. The Commission received statements from survivors describing their own suffering and the deaths of others during their internment in Raifusa.

329. An East Timorese man told the Commission how his family was forcibly displaced to Raifusa after a number of human rights violations including the rape of his wife by Hansip and the Babinsa, and the beating of a group of young men. According to the man:

There was a decision by ABRI that all the people of Rotutu were to be moved to Raifusa to make it easier for the authorities to control the population and prevent them from contacting Fretilin. We were hungry in the new location. Two of my family members, Paulo da Silva and Francelina dos Santos, died from lack of food and medicine.[295]

330. After the incident in Rotuto Domingos Melo, a member of Hansip who had not participated in the raid, was arrested and brought to the Same Kodim where he was detained for three months. While there he was beaten with a stick and his knee was stabbed with a knife. After being released he found that all the people of Rotutu had been moved to Raifusa. He joined them but found the living conditions in Raifusa very difficult. The people of Rotutu are mountain people and were unaccustomed to the coastal lowlands. One of the victims of the inhospitable environment was Domingos Melo's wife, Constantina Soares, who died there from disease.[296]

331. The vulnerability of those displaced to Raifusa is evident in a number of testimonies.

332. Armando Borsa also told the Commission how he and seven others were detained one week after being forcibly moved to Raifusa from their village in Rotutu. They were beaten and interrogated at Same Kodim, and finally released 11 days later, but only after giving their captors took traditional jewellery (*belak*) and a chicken.[297]

333. In 1982, the ICRC began to provide aid in Dotik and Raifusa. Saturnino Tilman was employed as a health worker in the malaria prevention programme. He remembers that even after ICRC began relief work in Raifusa, the mortality rate was still high. People died of tuberculosis, malaria, marasmus (beri-beri), diarrhoea and cholera.[298]

334. Joaquim da Silva and his wife, Alexandrina, were captured by Hansip in their home in Rotutu. They were brought to the Same Kodim where both were interrogated. Joaquim da Silva was released, but his wife and their children were sent to Ataúro for five years. On Ataúro their daughter, Frentelina da Silva, died. Alexandrina was eventually moved to Raifusa, with her two remaining children. Both children died in Raifusa from lack of food.[299]

335. Eventually the people displaced to Raifusa were allowed to return to their home villages in 1986. A number of families chose to continue to live in the government-supported local transmigration locations called SP1, SP2, SP3 in Colacau, Besusu and Dotik.[300] During the Commission's research in Raifusa, witnesses showed Commission staff a graveyard with approximately 800 gravestones which they believe is where the dead from Rotutu and Mau Chiga were buried.[301]

Lalarek Mutin (Viqueque)

336. In Kraras (Viqueque) on 8 August 1983, 14 Indonesian soldiers from the combat engineering battalion, Zipur 9, were killed in an uprising of Ratih, the village civil defence force. This incident brought about a protracted military response throughout the district of Viqueque that involved widespread detentions and mass executions (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). The people of Kraras who survived, most of whom were women, were moved to a new location called Lalerek Mutin.

337. The people of Kraras had already experienced forced displacement and its harsh consequences. They were originally from the village of Bibileo, which in 1970, at the time of the last Portuguese census had had a population of 3,000. The people of Bibileo fled to the mountains in the 1977 as the Indonesian forces advanced into their area. They surrendered in the town of Viqueque in 1979, and were in an area of the town called Beloi. According to José Gomes, restricted movements and lack of basic provisions caused 1 or 2 people to die each day in Beloi.[302] In 1980 they were about to move back to Bibileo, but at the last minute were moved to a new location called Kraras. Kraras was considerably more fertile than Bibileo, and the community were initially content to resumer their agricultural activities.

338. In testimony to the Commission, José Gomes described the background to the Ratih attack on 8 August 1983. The killing of seven civilians by soldiers from Battalion Zipur 4, including during the period of the ceasefire between Falintil and the Indonesian forces, and persistent cases of sexual violation and harassment had raised tensions in the village to the point where they exploded in the violence of 8 August. After the killings the population of Kraras fled to the villages of Luca, and Buikarin, to the town of Viqueque and into the mountains, knowing that the repercussions would be harsh.[303] The Commission received evidence about the series of massacres and mass executions that followed, including the massacre on 17 September 1983 in the area of Tahubein in the village of Buikarin, in which as many as 181 people are believed to have been killed (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

Creation of Lalerek Mutin

339. The survivors from the village of Kraras gathered together from Buikarin, Luca and Viqueque and moved to Lalerek Mutin (Luca), a previously uninhabited area due to its extremely hot, dry climate and infertile soil. On arrival in September 1983, they were ushered into make-shift barracks built by the military. Rita Amaral da Costa told the Commission:

> *There was no office, not even a house then. It was an empty place, just forest. Food was difficult to come by. No shelter. All our farming tools – our hoes, machetes and so on – had all been taken by ABRI. We were able to use only a broken old machete, which had been left there. We used it to cut the bushes and tall grass to clear new land. We built a simple garden hut for temporary shelter. For something to sleep on we cut branches and arranged them on the ground, then on top we placed spliced bamboo, and we slept on top of it. We looked for old fallen coconuts to eat. We'd split the coconuts with used tools. We used a pickaxe and the used machete in turns trying not to be detected. For the children we had to find food from sago trees. We would cut down a sago tree from morning until late at night, and would only manage to do one tree. We would first take the fresh part of the sago, boil and eat it. Then we would peel off the skin and cut it in small pieces to be dried, while waiting for the pounding tool (*oro*) to be made. After it was finished, we'd begin pounding and process it into flour, only then we'd be able to feed our children.*
>
> *We were left for two months [not under the control of security apparatus]. Only then a Nanggala and several Hansip from Buikarin were assigned in Lalerek Mutin. It was then that ABRI began pressuring and forcing people to work on building the village of Lalerek Mutin. We were forced to cut and carry lumber, build houses, work the fields and do other such work. During the daytime we worked on village projects while at night we did night watches and guard duties around the village, both the men and the women.*[304]

340. The new inhabitants of Lalerek Mutin were mainly women, children and elderly men. The able-bodied men had either been killed, had run to the mountains, or had disappeared.* The women of Lalerek Mutin spoke of the hardship they faced during the first years of their lives in Lalerek Mutin. They were made to do "men's work" – such as planting, constructing public buildings and taking part in security operations. At least four women became victims of sexual violence perpetrated by members of the Indonesian military (see Vol. III, Part 7.7: Sexual Violence).

* Olinda Pinto Martins gave evidence to the Commission that 17 men were boarded on a truck, under the premise of fetching food from Kraras, never to be seen again. In the CAVR National Public Hearing on Women and Conflict (28–29 April 2003), Beatriz Miranda Guterres spoke about her husband being recruited as a TBO and never to return. [Corroboration in HRVD Statement 00155. See also CAVR Interview with Honorio Soares de Gonzaga, Lalerek Mutin, Viqueque, 30 May 2003].

Extreme conditions

341. The residents of Lalerek Mutin lived in conditions of severe deprivation and close surveillance: no accessible source of clean water; strict security control of all movements; compulsory attendance at morning and afternoon roll-call; restricted communication with any persons from neighbouring villages; no medical care; and permits required for anyone wanting to travel more than 200 metres away from the village centre. The most severe deprivation was the lack of food. The people of Kraras came with no food, received none from the military, and had been left without agricultural tools.

342. Domingos Rangel was in school in Viqueque when the Kraras incident occurred. He and nine members of his family fled to the mountains, fearing retaliation from the army. After three months on Mount Bibileo, he and his family surrendered in Lacluta (Viqueque) where he witnessed his uncle being tortured under interrogation. A day later they were put on an army truck and taken to Lalerek Mutin. Domingos told the Commission:

> *I remember four or five people dying every day. We just wrapped them in mats and buried them.*[305]

Forced food destruction

343. One of the operations internees were forced to participate in was *curlog*, the Indonesian abbreviation for *penghancuran logistik* or destruction of all food sources. The curlog operations were organised by Chandrasa 7 Group 2, a Kopassandha unit (Special Forces). Soldiers and Hansip would go out with the people once or twice a week. Before going out, everyone was required to assemble and be counted. No one was allowed to walk alone. Wherever they found coconuts, bananas, papaya, breadfruit, jackfruit or other fruit trees, they would take all the fruit and then have to cut down the trees. The purpose was to deny Falintil access to food supplies. When they returned to the village, everyone had to assemble and be counted again. Some people did not mind doing this because it was an opportunity for them to go outside and find food. However, it also had the result that fruit trees were destroyed and these resources lost for the future.

344. In 1984 José Gomes, as the village head of Lalerek Mutin, was asked by the military to conduct a census of the village population. He counted approximately 1,300 people, many less than the 3,000 who had been living in Bibileo in 1970. He believes that more than 1,000 persons died between the events in Kraras and the census. The *curlog* operations only ended in December 1985 when the Chandrasa unit returned to Java. Around this time life in Lalerek Mutin began to improve as the people were able to resume their normal agricultural activities.[306]

345. Lalerek Mutin remained closed to outside help, and never received assistance from the ICRC or CRS. It was known, popularly, as the "village of widows". Access to Lalerek Mutin remained difficult even into the 1990s.

The uprisings in Lautém

346. Between 5 and 8 August 1983, hundreds of members of civil defence groups, including Wanra, Hansip, and other able-bodied men from the villages of Mehara (Tutuala, Lautém), Lore and Leuro (Lospalos, Lautém) and Serelau (Moro, Lautém), fled from their villages to join Falintil forces in the mountains. Many of the armed members of the civil defence groups carried their weapons with them into the forest. The villages from which the men fled were severely punished by the Indonesian army.[307] In response to the mass defection, Indonesian soldiers gathered all the women and others who were left behind. The people of the town of Tutuala (Tutuala, Lautém) recalled what happened:

> *On 9 August 1983, the people of the* aldeias *of Loikero and Porlamano were forcibly moved from their homes by Indonesian soldiers from Territorial Units 515 and 641 and Commando Groups 1, 2 and 4, under the overall command of Second Lieutenant Toto (Airborne Infantry Battalion 100), to the elementary school and church buildings in Mehara. This was done to increase control by ABRI after the Mehara incident. Two people died from lack of food.*[308]

347. An East Timorese woman told the Commission how she and the people of Mehara were loaded on to two military trucks and taken to Tutuala where they were interrogated about their contacts with Falintil.[309] Another East Timorese woman whose husband was among those who ran to the mountains, recounted how she and hundreds of women were made to gather all their belongings, including food and livestock, to be relocated in the village centre in Mehara. They were made to live there for two months.[310]

348. VL told the Commission about sexual violence committed against her by Indonesian soldiers from Infantry Battalion 100, about two months after the relocation:

> *After two months the soldiers from Infantry Battalion 100 ordered all the women whose husbands had run off to the forest to assemble…After all the women had gathered, they said: "Everyone can go home except for VL and WL. They must stay and be examined"...[We] were taken to the ABRI Infantry Battalion 100 post…Then they started beating and stripping us... from 6.00pm until 1.00am. They hit us with wooden sticks, they kicked, stripped and threatened us with weapons, ordering us to confess. We did not confess to anything because we did not know anything. [T]hat night an army intelligence officer (Kasi I) started to interrogate me while pulling out my pubic hairs one at a time…I remained silent although I was in great pain. Because I did not confess they became increasingly angry and beat me until blood was coming out of my nose and mouth. Then at 1.00am they stopped torturing me.*[311]

349. After the August incident, hundreds of people from the district of Lautém were moved to the island of Ataúro. Families from at least three villages in Iliomar, where a planned uprising had been prevented by divisions among the local Hansip, were forcibly removed to Ataúro. Gaspar Seixas, a community leader from the village of Iliomar (Iliomar, Lautém) told the Commission that about 300 families were rounded up and moved to Ataúro from the villages of Iliomar I and II. Fernando Amaral, from the village of Fuat (Iliomar, Lautém), recalled that 300 families were brought to Ataúro, in the aftermath of the August uprising.[312]

Displacement before and after the Popular Consultation, 1999

350. The fall from power of President Soeharto in May 1998 ushered in great changes in Indonesia and Timor-Leste. The demand for greater political freedom and democracy in Indonesia, known as Reformasi, was also taken up in Timor-Leste by the recently-formed CNRT, by students and youth, and by the broader East Timorese public. For the East Timorese, Reformasi opened up new horizons. As the Habibie Government began to define a new Indonesian position on Timor-Leste with its offer of a special status for the territory, these hopes quickened. Public demonstrations and debate put the Indonesian authorities on the defensive.

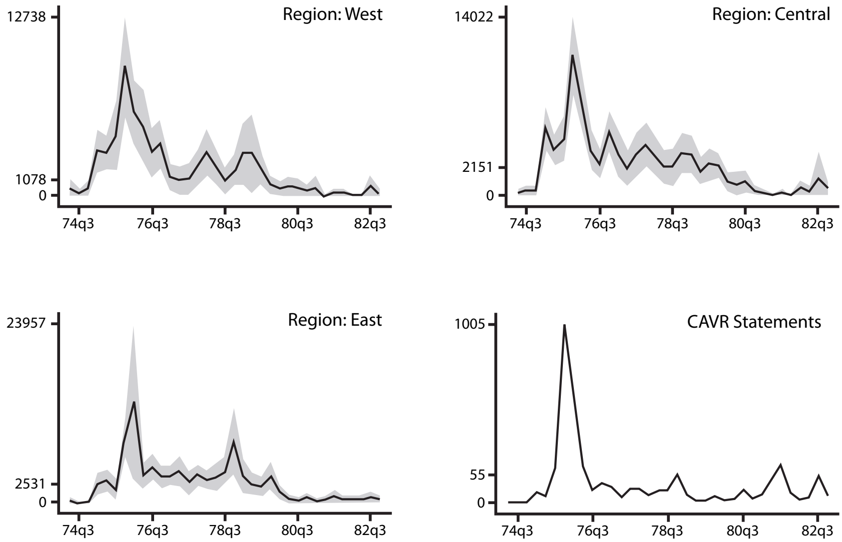
351. The most disturbing response of the Indonesian authorities to the new-found confidence of the independence movement was the formation, beginning in late 1998, of militia groups. These groups, ostensibly a spontaneous pro-integrationist backlash against the gathering momentum in favour of independence, were in fact the culmination of the Indonesian militarisation of East Timorese society (see Vol. I, Part 4.2: The Regime of Occupation: The Militarisation of East Timorese Society). By early 1999, soon after President Habibie had announced that the people of Timor-Leste could choose between continued integration with Indonesia and independence, well-armed militia groups had been formed in every district and had begun to terrorise the population. The proliferation of hand-made guns and modern weapons, in the hands of newly formed militia groups, fuelled a wave of violence. This began at the end of 1998, reached a peak in April 1999, tapered off between May and August during the months leading to the UN-supervised Popular Consultation, and culminated in the frenzy of violence and destruction that followed the announcement that the people of Timor-Leste had voted for independence.

352. The violence of the militia groups, often working openly with their TNI sponsors, resulted in human rights violations on a scale not seen since the late 1970s. Detentions, torture and ill-treatment, killings, sexual violence and forced recruitment all reached new peaks in 1999, as did displacement. During 1999 displacement occurred both as spontaneous flight from militia violence and intimidation, and as the organised

movement of people from their homes and places where they had sought refuge. As in earlier years, displacement in all the variety of circumstances in which it occurred in 1999 had a severe impact on people's ability to feed themselves, especially as the Indonesian authorities made a concerted effort to deny them humanitarian assistance.

353. From the mobilisation of the first militia groups in late 1998, violence and intimidation by the militias caused people to flee their homes. In the early months of 1999 militia attacks on pro-independence communities in villages and the attempted forced recruitment of a largely unwilling population to militia ranks was already causing the internal displacement of many thousands of East Timorese, who sought refuge in what they supposed to be the safety of churches, urban Dili, Falintil strongholds and inaccessible mountain and forest areas. In April, as the UN-sponsored negotiations between Portugal and Indonesia in New York entered their final phase and rallies and inaugurations were held to consolidate the militia structure, militia violence and the displacements that were its by-product reached new heights. In the months of campaigning leading up to the ballot on 30 August, there was a reduction in the number of people displaced from their homes. However, the lull in both violence and displacements was relative. Militia and TNI intimidation continued during the campaign, and although many of the displaced returned to their home areas to register and vote, they often did not return to their actual homes but to places that they hoped would provide safety, such as the church in Suai. The paroxysm of violence that occurred after the ballot caused the displacement of the overwhelming majority of the population of Timor-Leste, both through the organised deportations to West Timor of about 250,000 East Timorese and the internal flight of most of the remainder of the population. Both forms of displacement were again accompanied by widespread human rights violations of other kinds, including detention, torture and ill-treatment, sexual violence and killing, on a massive scale.

Estimates of displacement in Timor-Leste in 1999



Source: Retrospective mortality survey, CAVR

Initial turbulence (November 1998–March 1999)

354. In June 1998, the newly appointed President Habibie launched the idea of "special autonomy" for Timor-Leste. Determined to see an internationally acceptable solution to the question of Timor-Leste, Habibie's Government entered into tripartite talks on this proposal with the UN and Portugal in August 1998. This initiative had major repercussions on the ground in Timor-Leste.

Table 13: Popular Consultation and civilian displacement: key dates and events

27 January 1999	President Habibie announces that the people of Timor-Leste will directly determine whether they will accept or reject Special Autonomy
11 March 1999	Agreement is reached between Portugal and Indonesia that the people of Timor-Leste will exercise their right to self-determination through a direct ballot
5 May 1999	A tripartite agreement between Indonesia, Portugal and the UN gives the UN responsibility for administering the Popular Consultation
1 June 1999	UNAMET arrives in Dili
16 July 1999	Voter registration begins
5 August 1999	Voter registration ends; 451,792 potential voters registered
14 August 1999	Campaigning begins

30 August 1999	Ballot day, 98.6% turn-out
4 September 1999	Results of the ballot announced, 21.5% in favour of autonomy within Indonesia, 78.5% against.
12 September 1999	Indonesia agrees to a multi-national force (Interfet) to restore order in the territory
20 September 1999	Interfet arrives in Timor-Leste

355. On 9 November 1998, Falintil forces attacked the Sub-district military headquarters (Koramil) in Alas (Manufahi). The attack resulted in the deaths of at least three Indonesian soldiers and nine Falintil soldiers and their supporters.[313] For more detail on the Alas incident see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment and Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances. The TNI launched a large-scale military operation in retaliation, attacking civilians and burning the homes of suspected independence supporters in the surrounding villages of Taitudak, Aituha (Alas, Manufahi), Manumera, and Lesu Ata (Turiscai, Manufahi).

356. The village head of Taitudak (Alas, Manufahi), Vicente Xavier, and the young men of the village ran off to the forest. A few days later they were discovered by soldiers from Airborne Infantry Battalion 744 and Vicente was shot dead. The troops ransacked people's homes, their food supplies and livestock.[314] Alcina Fernandes, the wife of Vicente Xavier, described to the Commission how she, along with others, sought refuge at the church:

> *In November 1998 I heard gunshots. I ran to the house. But my husband, Vicente Xavier, had already fled. So I ran to the church with my baby, and my house was burned and all our belongings were looted and stolen. Our livestock, such as horses, cows and pigs, were killed. After this I sought shelter in the school building. While I was staying in the school, the wives of soldiers assigned there came by and verbally abused me every day. [One day] the food I was cooking on the stove was tipped over [by them].*[315]

357. One account described how the Sub-district administrator (*Camat*) moved the people from the church to the local school. They were only allowed to return to their homes on 20 December 1998, more than one month after the incident.[316] An eyewitness, who was still a refugee in West Timor when the Commission took his statement, described the burning and looting:

> *On 12 November 1998, Timorese members of the Koramil in Alas, F1, F2 and their men burned the houses of civilians in Kampung Lurin, Kulutetuk, Hasbot and Kampung Natarwen. As a result of the house burnings a number of traditional items and people's possessions were destroyed. The perpetrators also looted people's property. I witnessed the burning of the first house. All the residents were told to leave the houses and the village.*[317]

358. In response to these widespread retaliatory attacks, some people ran to the forest.[318] Others sought safety in the relative anonymity of Dili. Luis Godinho Manuel da Costa,

for example, told the Commission that after initially seeking refuge at the house of the local parish priest in the village of Liurai (Turiscai, Manufahi), he discovered the shallow grave of a local youth and fled to Dili until after the Popular Consultation.[319]

359. By early January 1999 people from other districts were also forced to flee violence and intimidation. The Commission received reports of violent incidents which led to the flight of civilians in January 1999. Some people remained displaced for the whole period of the Popular Consultation-related violence.[320] Most of the early reports of violence and displacement received by the Commission came from the district of Liquiçá.

Liquiçá

360. In Liquiçá, the newly formed Besi Merah Putih (BMP) militia were already active in early January 1999. Forced recruitment into the militia, particularly in the sub-district of Maubara, where the BMP had its headquarters, was one of the factors leading to displacement. An East Timorese man was abducted by five members of BMP militia in January 1999 in Maubara (Liquiçá). He was slapped, beaten and forced to "guard" the BMP post for the following nine months. After the Popular Consultation he was forcibly deported to Atambua. He was in West Timor for one year before he returned home.[321] Others fled their homes to avoid forced recruitment into the militia.[322]

361. The Commission received statements describing a BMP attack in Maubara on 19 January 1999, causing many to flee to villages in the mountains such as Leotela (Liquiçá, Liquiçá).[323]

362. Typically, those who were displaced in these early months stayed away from their homes until the arrival of Interfet in Timor-Leste in late September 1999. For example, on 16 February 1999, a local East Timorese BMP militia commander, F3, together with 35 militia men, captured Alarico Manuel and his family in Vatuboro (Maubara, Liquiçá). They were held and beaten at the local health centre, then moved to the agriculture department's housing complex in Cuico (Maubara, Liquiçá). BMP militia attacked Cuico four days later on 23 February 1999. Alarico ran to Dili and sought protection at the house of Manuel Carrascalão in Lecidere. Over 100 displaced persons were in this house when Aitarak and BMP militia attacked it on 17 April 1999.[324] Again, Alarico was detained in various places, this time by the Indonesian police. He was released by Interfet in Dili in late September.[325]

Deaths by deprivation in Liquiçá

363. Although the humanitarian consequences of displacement in 1999 were less severe than those of the displacement and famine of the late 1970s, the Commission received reports of death by deprivation related to these displacements. Augusta da Costa Freitas was pregnant when BMP militia attacked her village of Vatuvou (Maubara, Liquiçá). She fled with her husband Domingos and their children to Faulara in Leotala (Liquiçá). After two weeks, her husband contracted malaria. Physically exhausted and weak, with insufficient food and no access to medicine, Domingos died on 29 February 1999. Soon after, Augusta gave birth to her child. The baby died at the age of two weeks and four days.[326]

364. A similar story was related by Miguel dos Santos. When, on 15 February 1999, BMP militia began attacking the villages of Vatuvou and Cuico (Maubara, Liquiçá), a large number of people sought safety in the mountains and other places. Miguel ran away with his wife and their new-born baby to escape the violence. They hid in the Bikolo area near the Kaisavo River for 30 days. Living in very poor conditions, the five-week-old baby died. After burying their child, Miguel and his wife fled to Sare, Asulau (Hatolia, Ermera), which borders the sub-district of Maubara. Thousands of displaced people were already gathered there, and the family stayed there until the arrival of Interfet in late September 1999.[327]

365. Marcelino Utasulu told the Commission how he and his wife, Magdalena Marcal, fled to Asulau when his wife was three months pregnant. Magdelana died during childbirth on 3 June 1999. The new-born baby could not survive without his mother; and died six days after his birth.[328]

366. Security continued to deteriorate in the district of Liquiçá, culminating in the massacre on 6 April 1999 of those seeking refuge at the Liquiçá Church (see par. 379 and 459 below). The Commission received accounts of acts of violence by BMP militia against suspected pro-independence supporters in the district, forcing thousands to flee to the mountains and to cross the border into West Timor, even before April 1999.[329]

Viqueque

367. Two other districts which reported violence and displacement before April 1999 were Viqueque and Covalima. In this period the number of reported cases of violence leading to displacements occurring in Viqueque was exceeded only by the number reported from Liquiçá. The earliest incident was reported by Domingos Gomes. It occurred on 4 January 1999 when soldiers from Kodim Viqueque and the Team Makikit militia began firing into the air. The shooting continued for some hours, scaring people in the immediate vicinity to run into the forest. The shooting did not stop until the village-level military officer and the local parish priest, Father Francisco, intervened.[330]

368. The Commission also heard evidence about coordinated attacks by the Team Makikit and Naga Merah militias in a number of locations in Dilor (Lacluta, Viqueque) on 20 March 1999:

> On 20 March, after gathering at the TNI post in Dilor, in Lacluta Sub-district, newly-recruited militias attacked people in surrounding villages; beat and threatened alleged supporters of independence. Roughly 160 people were briefly detained at the Koramil in Dilor by TNI and [the Team] Makikit militia and an estimated 500 people from the area fled their homes in fear.[331]

369. The Commission received a report that 11 militia members assaulted an East Timorese man during March 1999, causing him to flee to the forests of Wefia Aitana. He returned home but was assaulted again on 17 and 19 April 1999 and fled to Kakae Uma.[332] The Commission also received a report that seven men fled to the mountains

in Luca. They were eventually captured by a Babinsa and detained in the Koramil in Viqueque. They were released on 15 April and again ran to the forest.[333]

370. An East Timorese woman from the village of Dilor (Lacluta, Viqueque) described an attack on her house by Team Makikit militia on 20 March 1999. Failing to capture her son who had earlier fled to safety, the militia moved on to the house of another person thought to be a pro-independence supporter. However this person also escaped. The militia looted the family's possessions.[334]

371. The Commission also received a report that an East Timorese woman and her family fled their home in the village of Dilor (Lacluta, Viqueque) to Laline, after hearing that there would be an attack by Naga Merah militia. She was found by members of the Koramil who threatened her with weapons as they tried to extract information about the whereabouts of a family member who was active in the clandestine movement.[335]

372. The Commission received reports about the detention of three civil servants in Lacluta by Team Makikit, led by an East Timorese F4. After vowing to "eradicate civil servants known to be two-faced", F4 and about ten militia members sought the three men in their homes in Rade Uma, Dilor. They took Arthur to the Koramil headquarters in Lacluta, but allowed Filomeno and José Andrade to come unaccompanied the following morning. One of the men, who was wounded by an arrow that night by a Makikit militia member, F38, ran to the mountains with two of his friends. After asking for protection from the local priest and being detained for a short while, they fled to Dili.[336]

Covalima

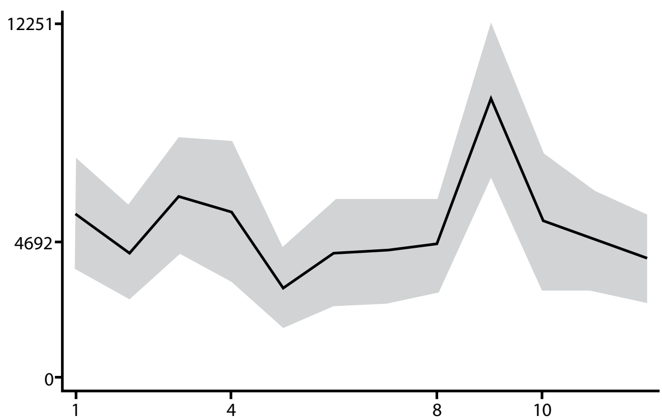
373. In Covalima, the Avé Maria Church in Suai was already being occupied as a place of refuge as early as February 1999. The Mahidi militia, based in Cassa (Ainaro) had killed at least five civilians in Galitas (Quimaki, Zumalai, Covalima) on 25 January 1999.[337] While the Mahidi militia continued to operate in the sub-districts of Zumalai and Suai, the Laksaur militia, formed in early January 1999, began terrorising the population in Suai, Tilomar and other sub-districts of Covalima.

374. Maria Amaral told the Commission that in February 1999 F5, the East Timorese Sakunar militia leader, and his men threatened the residents of the housing complex in the village of Salele (Tilomar) who were thought to be pro-independence. She said that about 200 people sought refuge in the Suai Church. They stayed there until the ballot, and were joined later by thousands of others before the attack on the church on 6 September 1999.[338] By March the militia members had begun to focus their attention on the displaced people in the church, seeing them as supporters of independence. An East Timorese man told the Commission that when he was captured by Laksaur militia on 13 March 1999, he was told that he would be killed if he took refuge in the Avé Maria Church.[339] By March 1999, the climate of terror created by militia violence in the area meant that the mere accusation by police and TNI that villagers were supporters of independence was enough to cause them to flee in fear to the mountains or to the Avé Maria Church in Suai.[340] In the coming months, the church was to become an epicentre of militia and TNI intimidation and violence against the population who had fled their homes.

375. By the end of March, the problem of internal displacement was serious enough to warrant Dili-based NGOs to decide to develop a mechanism to distribute humanitarian aid.* In an activity report for the period of March to May 1999, the local NGOs listed a total of 12,073 internally displaced persons known to them at the time. They comprised 2,670 displaced to Dili from various districts and 9,403 displaced in other districts. The report gave a breakdown showing large concentrations of displaced people in specified locations: 2,753 people in Gariana (Vatuvou, Maubara, Liquiçá) displaced from the town of Maubara and Vatuvou Village; 375 people living with the Carmelite nuns in Lisadila (Maubara, Liquiçá); 3,033 people in Sare (Hatolia, Ermera), most from the neighbouring Maubara Sub-district; 2,753 at the church in Suai, most from Tilomar; and 489 in the town of Viqueque from neighbouring villages.[341]

First mass displacements, April 1999

Estimated numbers of households displaced in 1999



Source: Database statements given to CAVR

376. In March 1999, Indonesian and Portuguese ministerial-level negotiations in New York, facilitated by the United Nations, worked towards an agreement on the modalities to offer the East Timorese people a choice to accept or reject the Indonesian Government's offer of "wide-ranging autonomy". In the month of April, during the period leading up to the 5 May Agreements, there was an upsurge of violence that caused thousands of people to be displaced.

* The Emergency Secretariat (Posko) for Internally Displaced People was established on 27 March, 1999 by East Timorese NGOs, church organisations, volunteers and representatives from displaced communities after a disaster preparedness workshop held by Yayasan HAK in cooperation with Oxfam Australia. Its aim was to coordinate humanitarian aid by local NGOs as well as collect and disseminate information on internally displaced people (IDP's). Members included Yayasan HAK, Etadep, Caritas, Timor Aid, Yayasan Kasimo, Biahula, and Volunteers for Humanity (Jakarta).

377. Although there had been sporadic violence in the early months of 1999, inauguration ceremonies for militia from early April sparked organised waves of violence, especially in the western districts. The Commission received more than 120 statements from the districts of Liquiçá, Dili, Bobonaro, Ermera, Manufahi and Oecussi, describing incidents of violence leading to displacement in the month of April. Major human rights violations took place in Liquiçá, Cailaco (Bobonaro), and Dili (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

Liquiçá

378. In the district of Liquiçá the BMP militia began a campaign of violence on 5 April, when BMP militia from Maubara attacked the town of Liquiçá.[342] The attack left at least seven dead or disappeared and 150 houses burnt. More than a thousand people sought shelter at the main church and adjoining parish priest's residence in the town of Liquiçá.

379. BMP militia surrounded the church grounds the next day. After hours of tense negotiations during which police officers demanded that the parish priest surrender a CNRT leader, BMP militia with support from the Indonesian police and military attacked the church compound. Between 60 and 100 people were killed or disappeared during this attack[343] (see Vol. II, Part 7.2 Unlawful Killings and Enforced Disappearances for detailed account of the Liquiçá Church Massacre).

380. The killing spree continued and spread to other areas in the district. Thousands of people fled to the mountains, including to Sare in the village of Asulau (Hatolia, Ermera), which was considered to be under Falintil control.[344] Some were forcibly displaced by the BMP and Indonesian military to Maubara and West Timor.[345]

381. The violence in the month of April in the district of Liquiçá did not end with the massacre at the church. Villagers were forced from their homes in Luculai, Loidahar and Darulete in Liquiçá Sub-district to the town of Liquiçá, where they were subjected to intimidation and abuse and pressured to support autonomy. Men were forced to join the militia groups or flee. People were also forced to fly the Indonesian flag, to build militia "guard posts", and participate in "night watch" patrols to search for and capture independence activists. Girls and young women were forced to attend parties where they had to dance for the militia.[346] In this context of violence and intimidation people continued to flee Liquiçá for their safety. Approximately 150 people fled to Dili, seeking refuge at the house of Manuel Carrascalão, a public figure from Liquiçá. Two weeks later they became victims of further militia violence, when militia groups attacked Manuel Carrascalão's house in Dili (see Dili, par. 399 below).

Bobonaro

382. On 8 April 1999, a large rally was held in Maliana, the capital of Bobonaro District, to announce the district inauguration of the United Front for Unity, Democracy and Justice (FPDK, Forum Persatuan Demokrasi dan Keadilan, a recently formed pro-autonomy political group with close links to the civil administration and the military)

of the militia groups in Timor-Leste. In attendance, among others, were the district military commander (Kodim commander), Lietenant Colonel Burhanuddin Siagian, his intelligence chief, Sutrisno, João Tavares and the district administrator, Guilherme dos Santos. District civil servants were required to attend the rally, during which Lieutenant Colonel Siagian and João Tavares publicly threatened to kill independence supporters.[347] After the ceremony, an order went out that all householders were required to raise the Indonesian flag or risk being beaten. More than ten pro-independence leaders were killed and mutilated in the weeks immediately following (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). By late April several hundred people had fled to the Maliana Church, hoping that the priests could protect them from the escalating violence.[348]

383. On 12 April 1999, the TNI-escorted vehicle of a pro-autonomy leader, Manuel Gama Soares, was ambushed in Poegoa (Cailaco, Bobonaro). Gama and a TNI soldier were shot dead by unknown perpetrators. In retaliation on the same day TNI soldiers and Halilintar rounded-up men, women and children from surrounding villages and brought them to the Koramil in Marco. In two separate incidents, seven men were executed while in TNI custody (see Vol. II, Part 7.2 Unlawful Killings and Enforced Disappearances). The bodies were kept on public display for the rest of the day, apparently intended as a warning to terrorise the population. That night they were removed and were never recovered.[349]

384. Indictments filed by the Prosecutor General at the Special Panel for Serious Crimes in the Dili District Court allege more events followed the Cailaco incident.[350] Between 12 and 13 April 1999, in the sub-district of Cailaco and the town of Maliana, the houses of pro-independence supporters were burned and their property stolen. On 13 April 1999, the villagers of Daudo were rounded up and forced by TNI members to move to the village of Biadila. The men were also forced to join the Cailaco-based Guntur militia. On 14 April 1999, at the funeral of Manuel Gama, João Tavares made a speech promising to kill all Falintil members and their supporters. The TNI district commander, Lieutenant Colonel Burhanuddin Siagian, also told mourners that if there were any pro-independence supporters among them, they would suffer the same fate as those who had been killed. In the following days TNI and militia members went to various villages in Cailaco believed to be supportive of independence. Under threat of death, villagers were forced to move into camps in Samutaben and Raiheu.

385. On 15 April, the approximately 700 to 800 people of Goulolo were forced to move to Turema. Once resettled, the men were forced to join the newly formed Guntur militia. On 16 April, the population of Raiheu in the sub-district of Cailaco (approximately 800 to 1000 people) were forced to move to the village of Ritabou in Maliana Sub-district.[351]

386. Members of the TNI and the Guntur and Halilintar militias gathered for a roll-call at the Koramil in Marco on the morning of 18 April. In the presence of TNI officers, the East Timorese Halilintar militia commander, F6, told militia members they were going to go to the villages in the surrounding mountains and destroy the homes of independence supporters. Militia members were also told to shoot at anyone making trouble or running away. The members of Guntur and Halilintar militia split into groups

and went to Bisale, Samutaben, Asalau, Adusleten and Kalicoe and looted, burned and destroyed the houses of independence supporters.[352]

387. Between 14 and 19 April, members of the TNI and numerous militia groups from the district of Bobonaro went to Manapa in Cailaco Sub-district and forced the population to walk to the *aldeia* of Samutaben. Many of the men who were independence supporters had already fled from Manapa. On or about 19 April, members of the DMP (Dadurus Merah Putih) militia went to Manapa and began burning the village and destroying houses.[353]

388. The violence continued and spread to other areas, including the sub-district of Atabae. The Commission received numerous testimonies describing the forced displacement by the Halilintar and Armui militias under the command of F6 of people from villages in Atabae Sub-district to other villages in the sub-district, such as Koilima and Atabae, and to West Timor.[354] Others fled to the mountains to escape the violence.[355]

Covalima

389. By April 1999, the Laksaur militia had begun to attack pro-independence supporters in the town of Suai and the surrounding sub-districts. The Commission received at least 17 testimonies of violent incidents causing displacement in Covalima in April 1999.[356]

390. Rosantina de Araújo told the Commission of an attack on 9 April 1999 by Laksaur militia. Armed with modern weapons, they attacked Nainare (Suai Town) from their post in Leogore. The civilian population fled to the forest as the militia burned and destroyed their properties.[357] A similar incident took place on the same day in Holpilat (also in Suai Town), resulting in hundreds of civilians fleeing to the forest.[358]

391. The attacks continued throughout the month of April, causing hundreds of people to flee their homes. On 12 April 1999, Laksaur militia broke down the door of Madalena Moniz's house in Asumaten (Debos, Suai Town). They were looking for her husband, who had already fled.[359] On the same day, in Camanasa (Suai Town), Francisco Cardoso, a treasurer in the local Education Department, was assaulted by an East Timorese Laksaur commander F7. Cardoso was also threatened with death if he did not withhold the salaries of teachers who supported independence. Francisco Cardoso's wife, Felismina de Jesus and her sister Angela Maia, fled to Lospalos (Lautém) after being told that if they became "mistresses" to militia leaders, Francisco Cardoso's safety would be guaranteed.[360]

392. Ermelinda Moniz told the Commission of the brutal killing of at least three suspected independence supporters in Nikir Raihun (Foholulik, Tilomar, Covalima) on 23 April 1999. One of the victims was beheaded (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). Led by East Timorese militia leader F5, the militia then burned the surrounding houses causing the population to flee into the forest. Three civilians were shot from behind as they attempted to run away.[361]

393. Julião Gusmão was detained by Laksaur militia in Leogore (Suai Town) on 24 April. He was beaten and interrogated about the activities of his relatives. When he was released, he did not return home but sought refuge in another village, Ogues (Maucatar). He later moved to the Suai Church.[362]

394. Paulus Vicente told the Commission that, on 24 April, he was abducted by Laksaur militia from his home in Belulic Leten (Fatumean). He was taken to the local Laksaur post where he was beaten by at least six militia members known to him. After being detained there for one week, Paulus fled to the town of Suai.[363]

395. On 26 April, Francisco Espirito Santo and Vicente Alves were attacked and abducted in Debos (Suai Town) by ten Laksaur militia. They were detained at the Laksaur post in Leogore for about one week. Finally they were released after they signed a letter pledging their support for pro-autonomy. They sought refuge in the forest because they felt unsafe.[364]

396. The Commission received evidence that women became vulnerable to sexual violence during their displacement (see Vol. III, Part 7.7: Sexual Violence). At least three cases of sexual violence against women from Covalima are known to have occurred in April 1999. WL reported her rape by a member of Laksaur militia when she fled her home and sought protection with relatives who were members of Laksaur.[365] On 25 April 1999, YL's house was taken over by Laksaur militia, led by F5, for use as a militia post. Her husband fled to the forest. YL became a victim of sexual slavery.[366] ZL fled to Labarai in Betun, Atambua (West Timor, Indonesia) together with five other members of her family. When they arrived there, F8, an East Timorese member of the Mahidi militia, asked them for their identity cards. Failing to produce these cards, they were forced to give a "donation" of cash. F8 then forced ZL to accompany him to an isolated rice field, while verbally abusing her with lewd remarks. He led her to an abandoned hut but ZL was able to escape.[367]

Dili

397. On 17 April 1999, an *Apel Akbar* (Great Rally) of Aitarak militia and pro-autonomy supporters took place in front of the Governor's Office in Dili. In front of Indonesian officials, Eurico Guterres, formerly head of Gadapaksi (Garda Muda Penegak Integrasi, Youth Guards for Integration), publicly announced his intention to kill pro-independence supporters. A secret TNI report quotes his words:

> Aitarak forces are going to carry out a cleansing operation (*operasi sisir*) against civil servants who have used official facilities while being traitors to the integration struggle. Aitarak forces are going to crush anyone – be they government officials, community leaders or businessmen – who has assisted the anti-integration camp. Aitarak forces will not hesitate to wipe out Mário Viegas Carrascalão and his circle, who have betrayed the Balibó Declaration.[368]

398. At the end of the rally Aitarak militia went on a rampage across Dili. Targeting those suspected of having ties to the pro-independence movement, they destroyed

five vehicles and seven buildings, including the offices of the local newspaper *Suara Timor Timur (Voice of East Timor)*.[369] Julio da Costa Xavier described how members of Aitarak militia attacked him in his house at Metiaut, Bidau Santana (East Dili, Dili) after attending the rally. He managed to escape to the relative safety of Laga (Baucau).[370]

399. The Aitarak militia massed in front of the house of Manuel Carrascalão, where his family and villagers who had fled the violence in Liquiçá sought refuge, and killed at least 12 people (see Vol. II, 7.2: Unlawful Killings and Enforced Disappearances).

400. The day of this militia campaign, 17 April 1999, marked the beginning of large-scale displacement within Dili. Many people began to seek shelter in church buildings hoping that they would be protected by their sanctity. Others sought shelter with family members or in uninhabited areas. Local NGOs providing humanitarian aid to displaced people in Dili documented at least 44 locations in East and West Dili where more than 2,000 people sought safety away from their homes.[371]

Oecussi

401. Following the PPI inauguration at the rally in Dili on 17 April 1999. members of the Sakunar Militia returned to the district of Oecussi armed with automatic weapons. They began attacking CNRT leaders and terrorising the population. At the same time the militia began to recruit young men. Village heads who refused to produce recruits, and the young men who refused to join, were threatened that their families would be killed and their homes burned.

402. The Commission received at least ten statements recounting incidents of violence that led to displacement.[372] Julio Tout reported how he and three other men – Antonio Beto, José Sufa and José Poto – were captured by the Sakunar militia and brought to the *aldeia* of Bebo. Julio managed to escape to the village of Anfoang (Central South Timor district, West Timor, Indonesia.)[373] The remaining men, joined by Domingos Ele, were detained in an elementary school where they were severely beaten for two days. Antonio Beto died while in detention. Sakunar militia then burned the homes of the detainees and other houses.[374] Antonio de Jesus told the Commission how the Sakunar militia came looking for him on 25 April 1999. He ran off to the forest, leaving his family at home. However because they were also threatened, his wife and children followed him into forest soon after.[375] In another incident three East Timorese men were detained by Indonesian soldiers from Kodim 1639 in Oecussi. They were brought to Martinho Lelan, the East Timorese village head of Lela Ufe (Nitibe), and were beaten by members of Sakunar militia. Badly wounded, they managed to escape to the forest.[376] Bentu Bobo told the Commission that he and seven other men were forced to join the militia in Hoinino by the East Timorese Oesilo Sakunar commander, F10. In order to avoid this forced recruitment, they fled to the forest.[377]

403. By the end of April the situation in Oecussi was very tense and many fled to the forest or to West Timor. During the Sakunar inauguration on 1 May, CNRT leaders were rounded up at gunpoint and forced to drink their own blood and to publicly declare that CNRT was dissolved and to pledge their support for autonomy. Uniformed members of TNI publicly beat several of the CNRT leaders at this rally.[378]

Ermera

404. According to witness testimonies the month of April marked the beginning of a wave of violence in the district of Ermera. An East Timorese commander of the Darah Merah militia told the Commission that in April the district military commander (Kodim commander) of Ermera gave at least seven pieces of modern weaponry and two military vehicles to the militia group. Two hundred members of Darah Merah militia launched an attack against CNRT supporters in the sub-district of Hatolia. The CNRT members fought back and one militia member and two CNRT members were killed in the melée.[379]

405. The Commission received numerous statements describing cases of violence in April 1999 in Ermera, Gleno and Atsabe, causing the population to flee their homes.[380]

406. Erminia Soares do Ceu from Potete (Ermera) witnessed a military operation conducted on 10 April 1999, conducted by Indonesian soldiers from the Kodim in Gleno and Darah Merah militia in which dozens of houses in Ermera were burned.[381] These included the house of Alexandre dos Santos and his wife Regina de Araújo, both supporters of independence, who fled to the forest.[382] Some who fled, like Saturnino Borromeo, sought protection with Falintil forces.[383]

Conditions of the internally displaced in Sare (Ermera) and Faulara (Liquiçá)

From 2 to 4 July 1999 a group of NGOs, accompanied by UNAMET and UNHCR officials, distributed 25 tons of food and other humanitarian aid to the Internally Displaced Persons (IDPs) in Sare. The following are excerpts from a report of the visit:

"In Sare, we discovered that there were 3,800 IDPs from seven villages: Vatuboro, Cuico, Lisadila, Vatuvou, Maubaralisa, Vaveknia, Guguleur (all in Maubara, Liquiçá). On our drive to Sare we saw the villages of Cuico and Lisadila were completely burned to the ground, without a single house left. After a day in Sare we discovered a second location, Faulara, which had 3,500 IDPs according to the refugees themselves.

"We were told by the village head of Asulau [Sare is an *aldeia* within Asulau] that the displaced began to come in February, [when] the militia attacks began. Before the violence Asulau had a population of 1,449, and now it has more than 5,000 people. Earlier in February–March there were around 5,000 IDPs in Asulau. Some have moved on to Atabae (Bobonaro) and Hatolia (Ermera), leaving more than 3,000 here now. According to the village head of Asulau, most of the houses in the seven villages have been burned except the houses

of those who have agreed to join the militia. According to him, the militia are trying to drive the people to Maubara Town where they will be under the control of the militia to ensure that they vote for autonomy. Families have been separated, some fleeing to safer areas, others having to comply with the militia's plan to relocate masses of people to Maubara.

"Since February at least five [people] have been killed by Besi Merah Putih and Halilintar, the two militia groups operating here. These people – Sabilu (21 years), Silvanu (35 years), Maubisa (50 years), Eduardo (18 years) and Amelia (60 years) – were killed when they attempted to return to their homes to pick cassava and find food for their families. The last shooting occurred on 16 June. During our time there we were also presented with a list of 23 women from one village who were raped by militia. According to the community leaders, women are called to the militia post where they are harassed and raped. They also testified to the fact that the attacks of the militia are supported by BTT Batalyon Tempur Teritorial, (Territorial combat battalion, the battalion assigned to the area), Koramil Maubara and Brimob. The Sub-district administrator (*camat*) and Sub-district military commander (Koramil commander) are leading the activities of the militia.

"In February the local community shared their food with the displaced people but by March their food supply could no longer support such an influx...Since March the IDPs have had to find their own food in the forests and by scavenging what they can from their gardens. But this is a risky endeavour as they must enter into BMP-controlled areas. The BMP not only burned their houses and granaries, but also looted anything that could be sold, such as zinc roofing and livestock. They also burned and destroyed the fields. [The IDPs say]: 'When it is safe we want to return to our homes, but where will we stay?' referring to the fact that all their resources have been destroyed. 'It is like we are back in 1975,' said one old man. Another refugee told us that this is now the time to begin preparing their fields for the next planting season. This may mean that they cannot plant in time for the rains in October.

"Some of the internal refugees from Cuico (Maubara, Liquiçá) said that all 400 families have lost their homes there. The IDPs from Cuico make up at least 2,250 of the refugees in Sare now. In Cuico, as in the other villages, they plant corn, beans, cassava, and coffee. When they fled their village they had not harvested their crops. This month is the beginning of the coffee harvest, however it seems that the militia are the ones who are picking coffee.

"According to the Asulau village head, at least 3 to 4 die everyday. There is a health centre in Asulau, however the nurse fled to Hatolia in March 1998 and prior to that there were no medical supplies. Many of the refugees have malaria, respiratory infections, diarrhoea, and dysentery. There are sources of clean water but not enough. Households who get to these sources earliest are the ones who have enough for their daily needs. Now, they are eating cassava and 'all that goats can eat, we can eat'.

"Faulara is a transmigration site in the village of Leolata (Liquiçá) which was opened in 1996. According to a community leader of this area, there are 1,600 original inhabitants. Now there are 5,100 people, which means an IDP population of 3,500. The IDPs have been arriving since January and February, approximately 70 people have died from disease since January. Because many were sick, the community decided to separate them into smaller groups. For example out of the 3,500, there are now 500 IDPs in Bantur which is about 8 kms from Faulara. They plan, however, to move these IDPs back to Faulara.

"The IDPs and local community in Faulara are living in fear of the militia. A man from the village of Asumanu (Liquiçá) told the story of how his house was burned by militia and military. On 17 May, militia encircled his house, assisted by military personnel. They closed the door to the kitchen in which his wife and three other women were trapped, and burned the kitchen. His wife and the three women eventually were able to escape, but three others died during this attack.

"In Faulara we also interviewed a woman who had just escaped captivity by BMP militia in the town of Maubara. In February 1999 she ran from her home in Maubaralisa due to attacks by militia to Gariana. She and her family were there until March when she moved to Asulau. After the Indonesian elections (June 1999) they moved to Faulara. She was captured on 17 June when she returned to her home in Maubaralisa to pray at her parents' grave and harvest cassava for her family. She was accompanied by her seven-year-old daughter. When the militia took her she resisted but then they took her daughter so she had to follow. She was held in captivity for two weeks. She said that she was put in the house of a militia family, was not mistreated but was not allowed to leave. When the militia told her that she and others would be brought to Atambua (West Timor) in order to register [to vote], she ran away. Asked how many others were captive like her, she said thousands. She and her daughter walked for two days through the forest. She arrived the morning that we were there. Her daughter looked very weak and tired."[384]

407. The Commission notes that in April 1999 violent incidents occurred in all 13 districts. However, the gravest human rights violations took place in the six districts mentioned above. These events, and others not described here caused large-scale displacement throughout Timor-Leste.

The quiet before the storm (May–August 1999)

408. With the arrival of UNAMET personnel and large numbers of international observers in June 1999, physical attacks on independence supporters declined somewhat.

409. The period leading to the planned August ballot was relatively quiet. In some areas however, serious incidents of human rights violations leading to further displacements continued to take place. Examples of such violations include: the detention, rape and torture of suspected independence supporters by militia in Lolotoe (Bobonaro) in June 1999;[385] the killing of two university students in Hera (Dili) in May and the attack on the UNAMET office in Maliana (Bobonaro). The establishment of militia roadblocks, forced relocation and the burning and looting of homes continued unabated and with complete impunity. As the day of the Popular Consultation neared, there was a dramatic increase in intimidation by the militia groups as well as the TNI, the police and the civil administration. These terror tactics were directed not only against those who were perceived to be pro-independence but also against UNAMET local staff, and anyone assisting internally displaced people.

Food security and humanitarian aid to the internally displaced

410. The violence and security situation exacerbated existing food shortages created by climatic extremes. Harvests were already depressed in 1998 by an El Niño drought and in 1999 by excessive La Niña rains. In addition the poor security situation in February–March made it difficult for people to sow and tend their fields, further endangering food supplies. Flight and forced relocation separated some from their farms completely, while those still at home found their food security imperilled by severe restrictions on mobility during the June corn harvest* and militia looting and destruction of crops and livestock. In addition travel restrictions also prevented the movement of food commodities to markets.[386] Intimidation of humanitarian workers made assistance virtually unavailable to most of the population, making the internally displaced people even more vulnerable to hunger and disease.

Attack on the humanitarian convoy in Liquiçá

On 4 July 1999, a humanitarian convoy organised by local NGOs and accompanied by officials from UNAMET and UNHCR was attacked by BMP militia in Liquiçá as it returned from delivering aid to IDPs.

* Travel permits (*surat jalan*) signed by the local militia leaders, the sub-district chief and the local military commander, were a requirement for anyone wishing to travel beyond their village. [UNAMET, Political Overview, Atambua-Covalima-Ainaro, 15–17 June 1999]

Several local NGO workers were seriously injured, a UNAMET staff member was directly threatened at gunpoint and vehicles were smashed with pipes and rocks. Militia pursued the convoy, clinging to the outside of one of the vehicles while threatening the NGO passengers with homemade guns and machetes. A joint statement issued on the day after the attack described attempts to obtain police escorts, including through meetings with officials at the police headquarters (Polda), and the governor days before the food delivery, as well as attempts by UNAMET to organise a police escort for the return journey.[387] In this joint statement the NGOs described the attack:

"A blue minibus [came] from the direction of the Koramil filled with armed militia. The militia were waving their weapons and screaming 'Kill, kill' at members of the humanitarian mission. Indonesian police and intelligence members at the location watched this happening, without reacting. Members of the humanitarian mission were pursued by militia with guns, knives, and machetes. UNAMET personnel attempted to intervene, to protect the NGO workers from the attacks of the militia. Gunshots were fired.

"Members of the humanitarian mission scrambled into some of our vehicles, and the UNAMET vehicle. We were pursued by the militia, who also hung onto the UNAMET car, smashed the windows. At one point a traditional gun was pointed into the car. One of our members saw a traditional gun dropped into the car in the fracas. Sixty-two out of our contingent of 77 escaped to the Polres [police station] in Liquiçá. At the Polres, humanitarian mission members were treated roughly by some members of the police as if we were the accused. A traditional (hand-made) gun was found on the floor of the UNAMET car. This gun was given to the Liquiçá police for evidence. UNAMET personnel being evacuated from Liquiçá joined us at the Polres. After a while the ten members were brought from the Kapolsek. Those who were held at the Polsek were intimidated and interrogated. After negotiations between UNAMET police and local police, we were allowed to leave with the UNAMET convoy to the Dili Polda where we would be questioned. We were missing five NGO workers and one refugee. We arrived late at night in Dili. After negotiations between Polda and UNAMET, the humanitarian mission was allowed to leave Polda together with UNAMET personnel."

The police took no action to arrest the armed militia members who remained outside of the police compound continuing to shout threats at the victims. On the contrary, a week after the attack, the police launched an aggressive investigation to bring a spurious weapons charge against the UN humanitarian officer, whom they alleged had been carrying arms.[388]

Ian Martin, UN SRSG (Special Representative of the Secretary-General) for the East Timor Popular Consultation and head of the UN Mission in East Timor from May to November 1999, assessed the impact of the convoy attack this way:

"The militia attack on the Liquiçá convoy had set back efforts to deliver assistance, although the ensuing publicity had compelled the Indonesian authorities to recognise the humanitarian issue and Habibie had ordered efforts to address it. Not only were [internally displaced persons] seen as undesirable pro-independence elements [the very reason they were targeted in the first place], but so were the East Timorese NGOs who wished to assist them. The Indonesians saw themselves in competition to deliver relief through government channels…Obstacles imposed by authorities meant that it was not until 2 August that another convoy reached one of the major areas of displacement – one month after the Liquiçá incident."[389]

The attack received widespread attention and forced Indonesian authorities to admit the role of intimidation in preventing humanitarian access. Despite President Habibie's demand that the attacks stop, the attacks on internally diplaced persons continued unabated, apparently in an attempt to keep them from polling places. On 16 July the BMP attacked them in Faulara, and on 18 July in Liquiçá, causing many to flee back into the mountains.[390]

411. The exact numbers of the internally displaced persons are difficult to estimate. The combination of frequent movement and the fact that most were not in formal camps (most sheltered either in the homes of friends or relatives or in remote areas) makes the calculation of numbers problematic. The biggest problem, however, was the lack of access to the displaced by humanitarian relief agencies because of poor security. UNAMET compiled data from humanitarian sources at the time and estimated that by mid-July there were some 40,000-60,000 people displaced, 80% of whom were from the border areas of Bobonaro, Covalima, and Liquiçá.[391] In Ermera 4,000 people were being held by militia in the sub-district of Cailaco in mid-July.[392]

The displaced return to register

412. In late July, the displaced began to return home. The return, however, was reportedly driven by the desire to vote and to be with their communities at this crucial time rather than improved security. There are reports that the CNRT also instructed people to return. In late July UNAMET reported that some 9,000 people who had been displaced in Liquiçá were returning to villages in the district or registering in Dili. Of the 5,000 people who fled from the district of Bobonaro, 3,500 had registered in Dili.[393] As a

result many returned to the renewed danger of militia attacks and to locations without humanitarian access.[394]

413. The increased danger faced by displaced persons when they emerged from their hiding places is illustrated by the plight of those who returned to Suai. In late July, those who had fled to the surrounding mountains and villages came back to Suai where they sought refuge in the Avê Maria Church. The church was surrounded by increasingly threatening militia. There was no police or Brimob security presence. The number of people seeking shelter in the church rose from 700 on 12 July to 1,700 by 9 August and then to 2,500 by 19 August.[395] Following a large pro-independence rally and a visit from the UN SRSG (Special Representative of the Secretary General) and the chairman of the Indonesian Task Force for the Implementation of the Popular Consultation in East Timor (Satuan Tugas Pelaksanaan Penentuan Pendapat Timor Timur, SatGas P3TT) on 19 August, the district administrator informed a priest that the internally displaced were a political group and must disperse. The district administrator cut the water supply to the church in an effort to force the displaced people out of the compound. Water was restored on 22 August after protests from UNAMET and a visiting US Congress delegation.[396]

414. In the days leading up to the Popular Consultation roadblocks, armed patrols and open threats of violence if people did not vote "the right way" continued. In Bobonaro on 10 August, a meeting of the district administrator, the Kodim commander, the FPDK, the BRTT and several village heads openly threatened attacks on villagers if autonomy was not successful.[397] CNRT activity in Covalima prompted militia armed attacks on rallies, CNRT offices, and people displaying support for CNRT. In both Covalima and Ainaro, Mahidi and Laksaur militiamen, many of them armed, patrolled and intimidated with impunity, threatening to kill those on a list of pro-independence supporters reportedly provided by a TNI soldier.[398]

415. In Oecussi on 27 August 1999, community leaders in pro-independence strongholds had late-night visits from members of the Sakunar militia who threatened to burn their homes and harm their families. Militia prevented people attending CNRT events, while 300 BMP members "on a camping holiday" drove around with Sakunar, firing guns into the air. Both militia groups stoned the CNRT office all night and into the next day. CNRT members asked for police protection. Police arrived and lined up behind the militia and began firing at the CNRT office for several hours, killing six. Many houses in Santa Rosa near the CNRT building were burned and the CNRT building was totally destroyed. When the CNRT held a campaign event in Padiae (Pante Makassar) uniformed police attacked them. CNRT leaders, high-profile student leaders, UNAMET local staff, local election observers and ordinary community members, especially those from around Santa Rosa, fled to the mountains. Some 667 people sheltered together in Cutete in the hills outside Pante Makassar. Some took refuge in the church and police station, others were taken forcibly by police to the station.[399]

416. In Viqueque on 21 August, severe intimidation and gunfire in Uma Tolu (Lacluta, Viqueque) was reported by the international observer group, the International Federation in East Timor (IFET), in the final days before the Popular Consultation. On 22 August, Babinsa and soldiers from Battalion 406 surrounded a group of internally

displaced people at the village meeting house near the football field in Uma Tolu. One villager was shot in the leg and nine others were wounded as well. Several houses were burned and belongings destroyed, including voter registration cards. One of the homes destroyed included that of the school headmaster, who had organised youths into an anti-militia guard. Some 260 people fled as a result of these events.[400]

417. Elsewhere in the district police did not intervene to stop militia attacks on a pro-independence student office and on CNRT offices in Viqueque Town. TNI and militia members came to a voter education seminar to photograph those in attendance and threatened to kill those who did not vote for autonomy. Militia knocked on people's doors, shouted obscenities and threw stones. There were militia checkpoints at key locations, especially in Uma Tolu.

418. In the village of Beloi, (Viqueque, Viqueque) a neighbourhood watch group put up a roadblock. Militia responded by descending on the village, firing weapons. Phone calls to the police for help produced no result. The militia continued the attack throughout the day, killing three. Many fled into hiding: 200-300 of 600 eligible voters fled the village of Lamaclaran; only four elderly people were left in Taular; 30 men fled from Buanarak; 25-30 people were left Mamurac. Residents fled to Ossu, Raitahu and the nearby transmigration area. The displaced in Ossu came from Bubur Laran (273), Buanurak (9), Loi Huno (65) and Lia Ruca (102).[401]

419. The campaign period saw the threat of violence increase in many places. In the district of Bobonaro the Indonesian authorities did all they could to prevent the CNRT campaigning. The CNRT office was sacked by militia one day after its opening.[402] The CNRT had to stop open campaigning after one day when students were attacked by militia with machetes. Meanwhile, the pro-autonomy campaign continued aggressively. On 17 August, people were forced to attend an Indonesian Independence Day rally. People in Moleana and Halecou were beaten by Dadurus militia from Ritabou for not attending. Militia attacked student centres, wounding students, and a church youth centre where IDP families were sheltering in Luguli near Maliana. Militia fired on fleeing people, burnt 15 houses, causing locals to flee to the seminary.[403]

420. In the district of Covalima local leaders reported that military and government officials were actively campaigning and issuing threats against people in public meetings.[404] In July and August Laksaur blocked major roads and confiscated personal property and food.[405] In August the traditional house "Seri Bein" was burned and everything inside stolen, including livestock and food.[406] These militia activities led to an increase in the number of people sheltering in the church compound at Suai. In addition a pro-independence activist was kidnapped and murdered. After a clash between militia and pro-independence supporters waiting to leave a campaign rally on 19 August, the CNRT suspended its activities.[407]

421. On 26 August, the last day of campaigning allocated to the pro-autonomy camp, the militia engaged in aggressive intimidation, especially in Dili where they had gathered from across the country. Eurico Guterres, addressing a pro-autonomy rally of 15,000 in Dili stadium, promised that Timor-Leste would become a "sea of

fire" if independence won the vote.[408] Violence on that day killed eight; all but one at the hands of militia or security forces.[409] Militia either directly interfered with or prevented people from attending UNAMET voter education activities and CNRT campaign events.[410] Threats against UNAMET local staff increased greatly in mid-August, causing many to cancel their contracts and flee to the forest.[411]

422. On polling day, 30 August, in Boboe Leten (Atsabe, Ermera) militia armed with firearms and stones attacked a polling centre, killing two local UNAMET staff and attempting to kill a third. Although Brimob were present, they did not intervene. A special polling site had to be set up in Asualu/Sare (Hatolia, Ermera) for the internally displaced who were too scared to return home to vote. For those who had returned however, most – especially CNRT leaders, UNAMET staff, and student activists – returned to their hiding places in the mountains and forest after casting their ballots, in anticipation of violence. In Bobonaro many hid supplies and belongings in the mountains and the forest in expectation of the coming upheaval. The village head of Atabae (Bobonaro) reported that a Halilintar leader told them in July to prepare their belongings because if they did not leave after the ballot they would be killed. Pro-autonomy supporters immediately left for Atambua (West Timor, Indonesia).[412]

Massive displacement and deportation, September 1999

423. Following the announcement of the result of the ballot, widespread violence was unleashed against the East Timorese population. The Commission received 713 statements describing acts of forced displacement and destruction of property in September 1999.* The evidence of an organised scorched-earth campaign of property destruction and mass deportation is overwhelming. UNHCR estimated that some 300,000 people fled to the hills and forests near their homes, and 250-280,000 people were deported to West Timor (Indonesia).[413] Amid mass killing (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances) and destruction of 70-80% of buildings, hundreds of thousands of people were rounded up by militia and TNI and herded like cattle from their homes or places of shelter onto trucks and boats bound for West Timor. Some went willingly to West Timor to flee the violence or because they were supporters of the autonomy option. However the evidence also clearly demonstrates that thousands were forced to leave against their will, under threat of death. By 31 December 2002, some 224,570 had returned to Timor-Leste.[414]

Dili

424. The scale of the violence in Dili is explained by its special character as the headquarters of the TNI and one of the fiercest militias in the territory, the site of numerous public

* The Commission received 414 statements describing forced displacement and 469 statements describing destruction of property, totalling 813 statements. However subtracting the 170 statements which record both forced displacement and destruction of property from this total leaves 713 statements.

buildings and already the most populous town in Timor-Leste before its numbers were swelled by an influx of displaced people in the months leading up to the ballot.

425. Dili predictably became a crucible of post-ballot violence and destruction. Immediately following the ballot thousands of people began to take refuge from militia violence in the compounds of the Dili Diocese, the house of Bishop Belo and the ICRC, and in hundreds of other locations throughout the city. The announcement of the results of the ballot by UNAMET on 4 September 1999, broadcast by radio throughout Timor-Leste, raised the tensions and fears felt by ordinary East Timorese people.

426. By 5 September, there were some 300 people in the Camara de Ecclesiastica compound of the Diocese of Dili, 5,000 at Bishop Belo's residence and 2,000 at the ICRC compound. Bishop Belo and the director of the Justice and Peace Commission of the Dili Diocese, Manuel Abrantes, reportedly went to the regional military headquarters (Korem) and asked TNI to act. They asked the military to take control of the city from the militias in order to protect the people in the Bishop's compound. João Tavares, who was also present at the meeting, said his militia would not surrender until Falintil surrendered and that his militia did not accept the results of the Popular Consultation and were ready to fight.[415]

427. While this meeting was underway Aitarak militia attacked the compound of the Dili Camara de Ecclesiastica, killing at least eight people and injuring scores more. The militiamen were armed with M-16 rifles, pistols, homemade guns and sharp-edged weapons. According to the Serious Crimes Unit indictment, a large number of heavily-armed Indonesian military and police were present but took no action to disperse the militia or stop the attack. A priest inside the compound phoned the police headquarters (Polda) to report they were under attack. He was told that officers were on their way.

428. People were forced outside and were moved to the harbour, being beaten as they went. At least 14 men who were badly beaten were forced into trucks by militia and were never seen again. Once the group from inside the compound arrived at the harbour, militia and police separated the men from the women. The women were taken by the poIice to their headquarters in Comoro (Dili). The men remained at the harbour where several were attacked by militia and TNI, without intervention from the police. Those known to be independence supporters were singled out for abusive treatment.[416]

The attack on the Bishop's compound

429. The following day, 6 September, Bishop Belo telephoned both the provincial chief of police (Kapolda), Timbul Silaen, and the provincial military commander (Danrem), Colonel Nur Muis to ask for protection and assistance in evacuating the thousands of people in the compound of his residence. Both refused the Bishop's plea. However, an unidentified TNI Lieutenant Colonel came in person to assure the Bishop that the TNI were available to protect the residence. He left after 15 minutes and shortly after militia began to arrive.[417]

430. An eyewitness reported that some 100 militia arrived by Kijang vehicle, motorbike and dump truck and began shouting threats and circling the compound.[418] Witnesses

report that the militia began firing into the air and then threw Molotov cocktails into the Bishop's house, setting it alight.[419] Militia then stormed the Bishop's compound and the Canossian Convent behind the Bishop's house where some 100 people were hiding. The militia arrested young men and forced the remainder of the people out of the compound. The indictment states that TNI and mobile brigade police (Brimob) also entered the compound firing their weapons, assaulting the occupants and ordering them outside. Police also assisted in ordering them into the square in front of the Bishop's house, one police officer reportedly dousing the Bishop's house with gasoline and setting it on fire. Militia and TNI searched the house to ensure that there were no displaced people left inside.[420]

431. Militia freely interrogated the civilian population in the presence of TNI, Brimob and police, searching for independence supporters. Some were ordered to walk to the harbour where they were loaded onto boats for Kupang. Others were taken to the village office at Bidau Santana (Nain Feto/Dili Oriental, Dili) or to the police headquarters to board trucks, minibuses, or Indonesian air force planes for West Timor. They were warned that if they did not comply they would be killed.[421]

432. The Commission received a number of statements on the attack on the Bishop's house. Herminia Godinho and her family sought protection at the Bishop's residence on 4 September. She told of the attack on the residence by Aitarak militia, including the fatal shooting of a number of civilians:

> *After the attack, I was brought to the Bidau Santana village office. Others were brought to the Dili port. I saw four militia take Mario Correia Fernandes to be killed.*[422]

433. Francisco Tilman reported to the Commission the disappearance of a family member, Vicente da Costa Carlos Tilman. He was among the displaced people at the Bishop's residence but has never been seen since the attack on 6 September.[423] Fernando da Silva also reported the disappearance of his brother, Mario Correia Fernandes. They sought refuge at the Bishop's house after the announcement of the ballot results. After the attack they were forcibly moved to Bidau Santana. In the middle of the night, masked men took his brother Mario away. He has not been seen since and is survived by his wife and three children.[424] Armindo Moniz told how his child, Etelvina Martins aged 13, became ill with fear and shock when Aitarak militia began their assault on the Bishop's residence. He and his family were forcibly deported to the island of Alor (Nusa Tenggara Timur, Indonesia) where his child eventually died from illness.[425]

434. At about the same time as the Bishop's house was attacked, the ICRC compound was also under siege from Aitarak militia armed with automatic weapons, homemade guns and sharp-edged weapons. At least two persons were killed and the remaining displaced persons were forced either to the port or the police headquarters for deportation.[426]

Evidence from militia members

435. In Metinaro (Dili) in a large-scale operation coordinated by the Sub-district military commander (Koramil commander), the Aitarak militia carried out deportations of thousands of people to West Timor. Orlando de Meio Maia was an Aitarak militia leader in Metinaro who participated in the violence. In his statement to the Commission he described a meeting on 5 September called by the Koramil commander, F13, at which other TNI soldiers were present. During this meeting F13 ordered Orlando and other civil servants to become Aitarak militia, arming them with guns. On the same day, the newly-armed Aitarak members attacked. They burned the house of the local CNRT leader and, the following day, a local leader named Antonio Saldanha was shot by militia in front of the Metinaro military headquarters. Orlando and his family were brought to Atambua by TNI on 10 September 1999.[427]

436. An East Timorese man told the Commission that he was under orders to burn and kill. He understood that unless he did this BMP militia from Liquiçá would attack him. He and his friend burned houses, boats and nets in a village in Liquiçá, and burned a private house in another village. Later they were deported to Atambua.[428]

437. The Commission received a report that Mateus de Carvalho, the village head of Hera (who was also commander of Aitarak militia), fired guns and threatened to deport the civilian population to Kupang (West Timor).[429] The Commission was told that on 6 September an East Timorese woman went to the police station in Metinaro, under instructions from TNI soldiers who shouted at her: "Those who do not want to go will die." At first the soldiers said that only civil servants and soldiers would go to Kupang for three months. However, after learning about the murder of the principal of the local school (Antoninho), she became very frightened and agreed to go to Kupang.[430]

438. The mass deportation did not mean suffering and death was then confined to refugee camps in West Timor. Madalena da Costa Aleixo told the Commission:

> *On 7 September when we were forcibly moved to Kupang I had to leave my invalid mother behind in our traditional house in Metinaro. My mother died while we were in Kupang. She was traumatised by the situation which reminded her of the civil war in 1975.*[431]

439. At the same time as hundreds were being herded onto trucks to be brought to the Dili port, some people, led by pro-independence leaders, escaped from the Koramil in Metinaro where they were being held. They fled to the mountains while their homes and villages were burning.[432]

440. For days groups of heavily armed militia continued to roam freely in Dili, attacking unarmed civilians and driving them from places of refuge to collection locations where they were loaded on to trucks or boats and deported to West Timor. Militia checkpoints were set up throughout the town and along all roads leading out of Dili to ensure people did not leave for anywhere other than West Timor. Dili became a ghost town as most of its inhabitants were either deported to West Timor or fled to the

nearby hills.[433] Only a handful of people managed to stay in the town, hiding among the smoking rubble.

441. The following table contains further statements from residents of Dili who experienced violence, deportation and displacement in September 1999.

Table 14: Deportation and displacement, Dili District (Aitarak and Makikit militia)

HRVD	Name and Location	Summary
03726	Brigida Freitas Correia, Comoro, Dili	On 1 September militia came to my house looking for my husband who was not home. Our house was burned and destroyed. They took me and my child to the Aitarak Post 2. There we were threatened and later moved to the Tropical. A member of Team Makikit from Ossu (Viqueque) intervened and saved us. We were brought to Atambua where we stayed for two months.
05705	Domingas da Silva Andrade, Camea, Dili	My family was forced by Aitarak militia from Post 13 to go to Kupang. We were there until April 2003.
05744	Filomeno Matos Guterres, Becora, Dili	After the ballot, militia and TNI began attacking the population. I took my family and ran to Darlau (Aileu). We came back on 22 September 1999 when the situation was better, only to find our house burned to the ground.
08117	Florentina Rodrigues, Santa Cruz, Dili	On 7 September Aitarak militia burned and attacked my house. I ran to Dare and returned only after the arrival of Interfet.
00342	Cosmos Olin, Comoro, Dili	On 3 September Aitarak militia dressed in black came to our area. I recognised one person in the militia who was a friend of mine. He allowed me to leave and I ran to the Don Bosco Church compound in Comoro. More than 1,000 people were already there. After four days Aitarak militia came and ordered us to move to the Museum. My friend made me join Aitarak and go on operations in Manatuto and Aileu. When I returned I took my wife and our two-month old child to Atambua.
05725	Antonio Henriques Soares, Bidau Santana, Dili	On 4 September after the announcement of the ballot results, the local Aitarak militia from Post 12 ordered me and my family go to the Dili District military headquarters (Kodim). Later on we were moved again to Hotel Mahkota. We were there until Interfet came. On 27 September we returned to our house which had turned to ashes.
00150	Gaspar Mesquita Mendonça, Duyung, Metinaro, Dili	On 5 September the militia which was formed by TNI began to conduct an operation against people who were pro-independence. My house was burned, so we moved to Besahe in Kampung Baru. On 14 September the same militia group led by the same local commander burned this place as well.
00143	Manuel Mendonça, Besahe, Metinaro, Dili	On 6 September I was detained together with three other men by Aitarak militia in Basahe. I was beaten with a handmade gun and then shot at, but the bullet missed. We were then brought to the Koramil. There we were ordered to put our names on a list, along with all our family members, to be taken to Atambua. We managed to slip away.

HRVD	Name and Location	Summary
05720	Manuel Sarmento, Camea, Dili	After the announcement of the ballot result, my family and I sought safety in Kaisabe as we were frightened of threats from BRTT and Aitarak militia from Hera, Dili. When we returned home, our house was burned and all our livestock gone.
00153	Manuel Maria de Carvalho, Duyung, Metinaro, Dili	On 4 September the village head of Hera, who was also the local commander of Aitarak, ordered his men to force me and my family to go to Kupang. We were brought to the Dili port and put on a boat. We lived in the refugee camp in Noelbaki, Kupang, and returned on 23 November 1999.

Bobonaro

442. Even more than other western districts, Bobonaro was a pro-autonomy stronghold and as such was the site of extreme militia activity in September 1999. The backlash against UNAMET local staff began before the Popular Consultation results were announced. On 2 September two local UNAMET staff, Ruben Barros and Domingos Pereira, were killed by Dadurus Merah Putih (DMP) militia and TNI. This led to the evacuation of UNAMET staff the same day. Militia began burning and looting the UNAMET offices and the houses nearby.[434] Agapito Soares told the Commission that DMP militia attacked the CNRT's Maliana office, during which a CNRT supporter named Mateus Breok was shot dead. Agapito along with others fled to Mount Loelaku (Balibó, Bobonaro) seeking protection with Falintil soldiers.[435]

443. By the day of the announcement of the results of the ballot thousands of people had already left their homes seeking safety. The TNI and the militias completely controlled the town of Maliana. People remaining in the town were forced to go to the police station, as TNI and militia threatened to kill all independence supporters. Once the police station compound was full, members of the DMP militia and TNI forced people from their homes to the hospital or the Maliana sports stadium (GOR) nearby. Eventually the militia brought everyone they could find across the border to the refugee camps in West Timor.

444. Laurentina Amaral and her husband, Florindo da Conceição, for example, were brought to Hakesak (West Timor) by DMP militia on September 8.[436] On the same day Jaime dos Santos, Felix Laku and Luis de Jesus hid at the house of a TNI soldier when they were attacked by DMP militia, some clad in all-black "ninja" uniforms. They were forced to go to an area called Turiscai in West Timor.[437] Some however escaped the militia. Julião Marques fled his home to hide in the village of Tapo (Bobonaro, Bobonaro) on the day after the ballot. On 7 September DMP militia and soldiers from the Kodim in Maliana attacked her and the community. They ran to the forest in Lepgeun, Tapo Memo (Maliana, Bobonaro).[438]

The Maliana Police Station massacre

445. By 8 September, about 1,000 displaced people were in the Maliana Police Station compound. Some had been there several days. At about 6.00pm the TNI and militia,

their faces covered with masks or red-and-white bandanas, attacked with knives, machetes and swords. Witnesses recount that pro-independence leaders were separated out and hacked to death. Some sought Brimob protection but were offered none. Some were killed in front of their families, others as they tried to escape. Some had their bodies burned. People scattered: some hid in trees, others crawled up into the ceilings of buildings or hid in wardrobes or rolled-up mattresses.[439] There were some 435 police present in the compound at the time of the attack, including the local police, mobile brigade and the eastern contingent (Kontingen Lorosae), which had been brought in to secure the ballot.[440] All the police officers, except eight who were suspected of being independence supporters, were armed, yet no shots were fired by them to prevent the attack. Police officers took no steps to protect the internally displaced people and stopped those who attempted to escape the rampage from doing so.[441] The attack lasted three hours and afterwards the bodies were loaded on to waiting trucks and transported to Batugade (Balibó, Bobonaro) to be dumped at sea. It is not known how many were killed.

446. That night independence supporters who had survived escaped to hills. The following day DMP militia from Ritabou (Maliana, Bobonaro) tracked a group of 13 survivors to a waterhole in Mulau, Ritabou (Maliana, Bobonaro) All were shot and hacked to death (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).[442] One of the bodies later washed up on the beach and was positively identified. The survivors in the police station and hospital who had not been able to escape to the hills were forced to go to West Timor.[443]

447. Following the massacre TNI soldiers and militia began clearing the town. People were either forced to walk to West Timor or had to pay for it if they were transported by truck. The TNI coerced people on to the trucks by threatening to drop bombs on Maliana, to destroy the villages in the mountains or to wage all-out war.[444]

448. At the same time those who attempted to avoid the violence by fleeing to the forest were pursued by militia, driven back into town and then forcibly deported to camps in West Timor. In these camps they continued to suffer violence and extortion by the militia. The people in the village of Saburai (Maliana, Bobonaro) recalled their capture when they were attempting to flee to the forest. Their houses were burned and they were brought to the sports stadium:

> *TNI and [DMP] militia led by their East Timorese leader F15 attacked [those of] us who had fled to the forest in the foothills and took [us] back down. On 8 September [they] forced people to come down to Maliana and burned all the people's houses. On 10 September all the people concentrated in the GOR [stadium] Maliana were taken to Turiscai in West Timor.*[445]

449. Around the time of the attack on the police station, other militia groups across the district of Bobonaro, including Halilintar, Armui (Atabae), Firmi Merah Putih (Balibó), Guntur (Cailaco), Hametin Merah Putih (Bobonaro) and Kaer Metin Merah Putih

(Lolotoe) were burning houses and herding people to West Timor.[446] In the district of Bobonaro some 13,500 homes were rendered uninhabitable. Only a handful of villages, in Falintil-controlled areas, were not utterly destroyed. Almost all government buildings, schools and clinics were also destroyed and completely emptied of their contents. Only some churches were left untouched. Some 30,000-40,000 people were deported. Large numbers of people from the villages of Balibó, Atabae, Soileso, Oeleo, Malilait and Kotabot have yet to return.

Covalima

450. Following the pre-ballot violence, Covalima was a key site of post-ballot violence, displacement and destruction. Witness testimonies recount that Laksaur militia together with Indonesian TNI and civilian authorities organised the deportation of all civilians they could find.[447] On 6-7 September the Laksaur commander, Olivio Moruk, drove around Suai Town using a loudspeaker to announce that any villagers remaining on 9 September would be killed. In response, fearful villagers gathered their belongings and waited for transport along the main roads. Witness testimonies describe how the district administrator, F17, arranged for more than 30 trucks to deport the population.[448] Some community members reported being made to pay Rp800,000 for their own forced deportation.[449]

Suai Church Massacre

451. The Commission received numerous testimonies on killings and displacement of those who sought refuge at the Suai Church.[450] One eyewitness vividly recounted the attack on 6 September:

> *Since July 1999, the situation in Suai had been very unsafe. My husband, who was a member of the CNRT, fled to the mountains. CNRT people were being searched for by Laksaur, so my family and I ran to the Suai Church. On 6 September 1999, at around 2.00pm, the Laksaur militia attacked the Suai Church. During the attack I saw TNI soldiers dressed as civilians using handmade guns, machetes and swords. They killed the parish priest. I saw three Indonesians, the district administrator of Suai, F17, and the Salele Koramil [commander], F18, and another man F19 walk away together, just before the attack. I saw people being attacked with machetes and being shot. We were told to gather and not move, unless we wanted to be killed. At about 10 minutes to three in the afternoon, my family and I were brought to the Kodim in Suai. On 7 September, at about midnight, an East Timorese militia member, F20, who is also a* Babinsa *in Suai Loro, part of the Koramil, came and threatened me. He raped me, and I could not do anything because I was frightened.*[451]

452. After the massacre at the Ave Maria church in Suai, members of Laksaur militia and TNI forced the survivors to the Suai Kodim and the high school (SMP 2) building.

Guarded by militia and TNI, they were detained for eight days before being forcibly deported to West Timor, where violations continued. While being held at the school and the Kodim, and later in the camps in West Timor, some women were repeatedly raped by militia (see Vol. III, Part 7.7: Sexual Violence). Such violations are described in the two statements below:

> *We were brought to the Kodim. Every night we were harrassed. They came in and took away women at night. They used a flashlight on us while we were asleep and forced women to come out with them. They would not allow them to bring their things.*
>
> *We stayed at the Kodim until 14 September 1999, then we were brought to Betun. That night, at about 6.00 or 7.00pm, a hardtop car with four people, two of them armed, took me to the forest. I was raped by two men, one after the other. They were two Laksaur militia, F21, who was a taxi driver, and F22, a man from Fatumean. I did not recognise the other two because it was dark and I was frightened.*[452]

453. Another survivor told the Commission:

> *Then they forced us to go to the junior high school (SMP2). The militia continued to insult us. We were not given any food for three days. We were hungry and divided pieces of burned corn among the other refugees. We picked up crumbs that had fallen because we were so hungry. At night they disturbed us, especially the women. We were so scared we could not sleep. They turned off the electricity we lit some candles but they were put out by militia. Then the militia took a flashlight and shined it on us women. At night, the militia came with weapons and swords, and they would take away women and young girls.*[453]

454. Laksaur militia members, under orders from their East Timorese commanders, F5 and F24, went to the forests in the district of Covalima to kill people hiding there trying to avoid deportation.[454] Among those who fled were villagers from Nikir, Raihun (Tilomar, Covalima) who were attacked by Laksaur militiamen and a member of TNI on 25 September in the Wea Forest. Armed with automatic rifles and machetes, the militia began shooting. They killed Januario Maya, Damião Ximenes and Titua Mali, and injured Juliana Moniz. The militia arrested Juliana along with seven others who did not manage to escape. They deported them to West Timor.[455] Others, like Eugenio de Deus, were able to escape to the forest.[456]

455. The following table contains a selection of statements received by the Commission describing the violence and forced deportations and displacements across the district.

Table 15: Deportation and displacement in Covalima District (Laksaur militia)

HRVD	Name / Location	Summary
03624	Aquelina Cardoso, Debos, Suai	I was a refugee at the Suai Church when Laksaur militia attacked us on 6 September. I saw East Timorese militias F25 and F26 shoot dead ten people, including a woman named Matilde who was seven months pregnant. We were moved to the local high school (SMP 2). At the school, I was beaten and kicked. One day I saw two Laksaur militia who were also policemen rape four women. Then the four women were taken to Atambua.
05162	Manuela Cardoso, Fatumean	My husband was detained by Laksaur militia at their post in Bubur Fehan on 2 September. Two days later they killed him and dumped his body in West Timor. I was scared for my life and ran to the Koramil in Tilomar. My family and I were taken to West Timor. I was still threatened there by Laksaur militia.
08587	Adão Mali, Camanasa Suai	I ran to Mount Fohorau with two friends to avoid the rampage of killing and burning by Laksaur militia against the people in Camanasa (Suai, Covalima). After four days on the mountain, we were attacked by the TNI and militia carrying automatic weapons. My two friends were killed in the shooting. That afternoon I returned with other members of my community and found their remains.
01302	Pedro de Jesus, Fatululik	On 4 September Laksaur militia opened fire at me in front of the chapel in Fatuloro. I ran to Beco where a militia member and a policeman from the Lorosae Contingent told me I had to go across the border if I did not want to be shot dead.
02025	Carlito da Costa, Fatululik	On 5 September I ran to the forest with other members of my community. On the way Laksaur militia shot dead one of the young men in our group named Domingos Taiasa. He was only 17 years old.
02034	Abilio Gusmão, Hopilat, Suai	I had already run to the Suai Church on 27 March 1999, but in April I moved to Hasain Belekasak because the situation was too difficult at the church. I was attacked by militia that month, and one month later Laksaur militia and soldiers from the Suai Kodim burned my house. On 1 July I was again a refugee at the Suai Church. We ran to the mountains on 5 September, fearing an attack by militia and the TNI. My family was forcibly deported to Atambua by Laksaur militia and the TNI.
08485	Madelena de Jesus, Suai	On 5 September I was captured at my home in Babu Lakunak by ten Laksaur militia. They also took my motorbike. I was detained at their post in Leogore for one night. The following day my family and I were moved to West Timor.
01266	Lucia Guterres, Fatululik	I was a refugee at the Suai Church when we were attacked on 6 September. Four Laksaur militia took me and another woman out of the church. Right in front of the building I saw a woman named Jacinta Gusmão fall down after being hacked in the neck with a machete by militia. We were boarded on to a truck which took us to the Kodim in Suai. We were held there for six days. On 12 September we were brought to Atambua.

Liquiçá

456. The district of Liquiçá was also hit hard by the post-ballot violence. BMP militia forcibly deported thousands of people to the port town of Atapupu, about one hour's drive from Atambua [NTT/West Timor, Indonesia].

457. On 31 August, Armindo da Silva Cloria was captured and beaten by Halilintar militia when he attempted to take food to Falintil soldiers in the forest. He was brought to a BMP post in Batubetilu, Vatovoru (Maubara, Liquiçá) where he was detained and tortured for one day. The next day a local nun, Maria Lourdes, negotiated his release. He stayed with this nun in a refugee camp in Atabae (Bobonaro) and was later deported to Atambua (West Timor, Indonesia).[457]

458. An East Timorese women described the killing of her husband on 7 September by more than six BMP militiamen. Led by F39, the militia shot her husband in the back at least eight times. She ran to Bazartete.[458] Similarly, another East Timorese woman told the Commission that on 7 September BMP militia, while conducting an operation in Leorema (Bazartete, Liquiçá) killed her husband. Her husband was standing in front of their house when the BMP militia came and accused him of providing food to Falintil and shot him on the spot. She ran to Ermetalau, Leorema (Bazartete, Liquiçá) but was captured by BMP militia, brought to Bazartete, and later deported to West Timor.[459] BMP militia conducted these deportations for at least two weeks. On 19 September 1999, BMP militia hunted down a family who had avoided deportation by hiding in an area in the mountains at Ailetehei (Bazartete, Liquiçá). Mariano de Jesus was shot in the shoulder and had to be carried by his mother back to Lauhata village for medical treatment.[460]

459. Amelia dos Santos became a widow after the attack on the Liquiçá Church on 6 April 1999. She and her husband, Victor Manuel da Conceição, were refugees at the church. BMP militia beheaded her husband at the church door. She continued to suffer violations and, under duress, paid a member of the BMP militia to deport her and her children to West Timor:

> *Close to the day of the ballot, the district administrator of Liquiçá, Leoneto, wrote a letter ordering my arrest. I was detained in the Maumeta Police Station for two days. Then I was moved to the Koramil. They said to me, "If autonomy wins you can be a maid to our wives." When we heard that the pro-independence side won, the militia came to the Koramil threatening me, "You have to die because you chose independence." I was very frightened. I paid Rp100,000 to a militiaman to bring us to Atambua. In Atambua I met a militia who said that after my husband was killed his body was put in a burlap sack. They stripped him naked first because he owed his clothing to the people of Indonesia.*[461]

460. For those who escaped forced deportation to West Timor, survival in the mountains was difficult. Mário dos Santos told the Commission how he ran with his wife and child to the mountains at Asaleten (Suai, Covalima). His 7-year-old child, Germano dos Santos, died due to lack of food while they were in the forest.[462]

The central districts

461. Although the western districts were hardest-hit, the central districts of Aileu, Ainaro, Ermera and Manufahi were not spared post-ballot destruction and deportation. Villages in the district of Aileu were destroyed in a systematic fashion. Beginning

on 4 September the following villages were razed on consecutive days: Mantane (4 September), Aissirimou (5 September), Aeloi Malere (6 September), Saboria (7 September), Sukuliurai (8 September) and Hoholu (9 September). TNI and militia members reportedly drove around all day on 4 September shooting livestock. Then AHI (Aku Hidup dengan Integrasi/Indonesia) militia rounded up people in *aldeias* near the main road, including Fatubossa, Hoholete and Likilaukana, and forced them to the town of Aileu. From there they were loaded on to vehicles and taken to Atambua.[463]

462. The Commission received many statements from Talitu (Laulara, Aileu) describing acts of violence and deportation. For example, Francisco Carvalho reported the burning of his house by AHI militia and then his deportation with his family to West Timor.[464] Clementino Araújo and the people of Fahiria (Aileu, Aileu) were forcibly displaced to the town of Aileu on 4 September by AHI militia after their homes in Fahiria were burned and their livestock killed.[465] Domingos de Araújo told the Commission that on 5 September he was taken from his home in Aissirimou to the town of Aileu. When he and the people of Aissirimou left their village, AHI militia burned their homes and feasted on their livestock. They were later taken to the provincial police headquarters (Polda) in Dili, before being taken by truck to Atambua.[466]

463. Others were able to escape deportation. Eduardo Moniz and his family ran to Motakuak on 2 September after his house was attacked by AHI militia. When they returned, after the arrival of Interfet, they found their house burned to the ground and all their possessions destroyed.[467]

464. In the district of Ainaro an estimated 13,000 civilians were ordered to leave their homes between 4 September and 23 September. Mahidi militia attacked villages, burning homes and blocking all exit routes. In Maubisse the militia first looted and killed the livestock of those people already in the hills. Then they burned the houses. In Hato Builico residents were ordered out of their houses which were then set alight. People from surrounding villages were assembled near the church in the town of Ainaro and forced onto trucks leaving for West Timor. The militia then burned houses before they too left for West Timor around 22 September 1999.[468]

465. Prisca da Conceição described the burning of her house and the shooting to death of her husband on 4 September. She ran to the police station for protection. During her 6-day stay there she was continually harassed and threatened by militia bearing traditional arms. On 11 September, all those sheltering at the police station were transported to Betun in West Timor. In Betun they continued to be threatened by Mahidi militia who tried to prevent them from returning home. She was able to return to Ainaro on 22 November 1999.[469]

466. Statements received by the Commission describe acts of violence perpetrated by Mahidi militia against defenceless civilians. Teresa da Silva told the Commission that she witnessed 15 members of Mahidi, including a police officer who she knew, attack her village of Lepo (Zumalai/Mape, Covalima) on 5 September 1999. They burned houses, including hers, and randomly fired their guns. André da Sena ran into the forest into the area of Lour in the sub-district of Zumalai (Covalima).[470] On 7 September, at least

50 Mahidi militia attacked the village of Fatulebo (Zumalai/Mape, Covalima) burning houses. An East Timorese man was shot in the leg but managed to escape into the forest along with others.[471] Isabel dos Santos was told by a Mahidi militia member that her husband was killed on September 7 1999. However, she found her husband still alive at the TNI post with gaping bayonet wounds to his thigh and back, and they managed to escape and sought refuge in Dare (Dili).[472]

467. The Commission received testimony about a Mahidi militia attack on the *aldeia* of Maununo (Ainaro, Ainaro) on 23 September. The militia killed people and burned the houses of the village, and forcibly transported 56 survivors to Betun in West Timor. Regina Beanto described the event:

> *Because the militias carried sharp weapons the people were afraid and just obeyed. Otherwise we would be shot dead, our lives taken…People followed the militia on foot. Children, pregnant women and old women and men were all threatened. [We] had to cross the river on foot. People were thirsty and hungry. We had no energy. There were about 50 militia involved.*
>
> [Regina described how a militia member threatened the group with a grenade, then fatally shot her mother in front of her]
>
> *A member of the militia pulled my arms and forced me onto a truck. The path to the truck was steep and we were ordered to climb fast. Those who were slow to do so, children and the elderly, were just thrown onto the truck. We just managed to set our feet on the truck…We rode with the militia and went straight to Betun.*
>
> *In Betun we suffered a lot…We only stayed there for two months. On 26 November we heard information that refugees could return. We registered and went back home right away.*[473]

468. In the district of Ermera there were not enough vehicles to carry everyone. Militia and the TNI arranged for trucks to make several trips to Atambua and return.* People were forced from their homes by Darah Integrasi militia and members of TNI and on to trucks. Their houses were set on fire. The Human Rights Unit of UNTAET estimated that after the ballot some 43,000 people were forcibly displaced from Ermera to West Timor, while some 10,000 fled to the mountains. Entire villages were completely emptied and people reported that only families of militia members and the TNI left voluntarily.[474]

469. Gracilda told the Commission that Darah Integrasi militia, with TNI members, searched for her husband who had fled to the mountains. She ran to the Letefoho Koramil for protection. While she was there the militia took possession of her truck,

* Fokupers, *Gender-based Violations of 1999*, Submission to CAVR, July 2004, HRVD Statement F9430. Evalina Soares described how her son met a convoy of 20 vehicles returning after taking people from Atsabe (Ermera) to Betun (West Timor) on 16 September 1999. When he tried to run he was shot.

filled it with goods from stores and kiosks at the market and ordered her two sons to drive the truck to Atambua.[475]

470. Some communities were able to resist deportation. On 9 September, Darah Integrasi militia burned 20 houses in the *aldeia* of Hunda (Letefoho, Ermera) and most people sought protection in the house of the head of the *aldeia*.[476] On 13 September Darah Integrasi militia and BTT soldiers tried to force Anita dos Santos and her family to go to Atambua. They refused but continued to receive death threats, particularly aimed at a daughter who was a member of UNAMET local staff. On 20 September militia came back and shot at the house, smashing the windows. The family had already left the house to hide.[477]

471. The looting and burning continued for two weeks. Teresa de Deus told the Commission that her house was doused with gasoline by Darah Integrasi militia members when they came searching for her two older sons. They had burned a motorcycle owned by this family and were about to take her and her young children to Atambua when Interfet arrived.[478]

472. An East Timorese man testified about his forced recruitment into the Darah Integrasi militia. During a meeting between the Darah Integrasi commander, F27, and all the village heads of Letefoho Sub-district, each village head was obliged to provide 50 names of young men to be recruited as militia. His name was among the 25 submitted by the head of his village. He described how the Babinsa and other TNI soldiers posted in his village coordinated militia members to burn most of the houses in the village. He said that on 19 September he fled to Atambua with F27 and other militia members.[479]

Displacement and sexual violence

The Commission found that in times of heightened conflict and wide-spread displacement throughout the mandate period, women became increasingly vulnerable to sexual violence. Sexual violence was experienced by women who were forced to leave their homes and by women who stayed behind in September 1999.

In town of Ainaro one young woman told the Commission that she was raped after most of the population fled after the ballot:

After the vote everybody had ran away to Ainaro Town. My family – my father, aunt, and younger siblings – all stayed home because we did not know that everybody had left. Many had secretly run to the mountains. A Mahidi member, F56, came to our house carrying a SKS firearm at about 9.00pm. He forced me to come with him. He said that there was nobody left in Cassa. He stripped off all my clothes and raped me. He said that they held power and only they could guarantee my family's safety. During August and September he raped me five times. My family could not bear this any longer so we ran to Betun in West Timor with my uncle, who was

a low-ranking TNI soldier. We were in Betun for five months, until 10 February 2000.[480]

Some women were raped during deportation to West Timor. Example of testimonies from women who experienced this include:

We were brought to the Stadium in Maliana by Dadurus Merah Putih militia in order to be deported to West Timor. At about 4.00am I was dragged to the back of the stadium by a militia. He threatened to kill me and to cut off the sexual organs of my brothers in the forest if I did not let him rape me.[481]

We ran to the forest after my house was burned by Dadurus Merah Putih militia on 9 September 1999. Two days later my husband returned home to look for food but he was killed by militia. My son and I tried to find him the next day, but on the way there we were captured by militia. They held a knife to my son. I was raped. Eventually, we were forced to go to West Timor.[482]

Others were threatened in a sexual manner:

On 8 September, Dadurus Merah Putih militia forced me and my grandfather to go to Maliana. My grandfather was very tired and stopped walking. A militia threatened us. He said we were not allowed to stop or else he would put his sword into my vagina. I was very frightened. I carried my grandfather for the rest of the journey to Maliana.[483]

Finally, women were vulnerable in the refugee camps:

In October 1999, I was forced by a member of Sakunar militia to go to West Timor. He burned my house and six other houses. I was told to find the men so they could take us all to West Timor, and I was put in a vehicle and brought to West Timor. I was threatened and raped by a member of Sakunar militia in West Timor.[484]

473. The Commission received a report about the attack on Sura, Selihasan (Same, Manufahi) on 16 September. The ABLAI militia (Aku Berjuang Laksanakan Amanat Integrasi, I am fighting to carry out the integration mandate), members of Gadapaksi and TNI soldiers from Battalion 311 in Betano carried out the attack. Some villagers had already fled to the forest at Fatukuak. The militia and soldiers began burning houses and herding the people onto vehicles to be transported to Betano. The militia later returned to the village to kill all the livestock. People were forcibly taken to Atambua.[485]

474. Two women from the *aldeia* of Orema, Holarua (Same, Manufahi) told the Commission that they were raped on 17 April 1999 during an attack by the ABLAI militia. After the results of the ballot were announced they were deported to Atambua by militia and were only able to return to their homes on 7 December 1999.[486]

475. When ABLAI militia attacked her home in Betano on 16 September, Reinalda Tilman ran to the forest leaving her invalid husband, Guilhermino Tilman. ABLAI militia burned her house while her husband remained inside. He managed to escape but was badly wounded and died three days later.[487]

Eastern districts

476. Although the relative number of people forcibly deported to West Timor was much lower in the eastern districts (Baucau, Manatuto, Viqueque and Lautém), the Commission received evidence that widespread displacement due to the conflict did occur. Most people ran to the forest and mountains to seek safety and stayed for a short time until the arrival of Interfet in late September. Some were forcibly deported to West Timor by militia and the Indonesian military. Others moved voluntarily to West Timor, particularly East Timorese members of Indonesian security forces and civil servants. A selection of statements received by the Commission has been summarised in the tables below.

477. In Viqueque an estimated 10,000 people were deported. On 20 September four ships with a capacity of 4,000 people each reportedly departed Beaço (Viqueque, Viqueque) for West Timor filled with civilians. An estimated 2,149 homes and 70% of school buildings were destroyed.[488]

Deportation and displacement in Lautém, Baucau, Manatuto, Viqueque

Table 16: Deportation and displacement in Lautém District (Team Alfa militia)

HRVD	Name and Location	Summary
02268	Nicolau Mendes, Parlamento, Moro	In September 1999 the people of Lautém were forced by members of Team Alfa to gather in the village of Com, and to board boats going to West Timor. I was forced to join Team Alfa's operations in the villages of Serelau, Baduro and the *aldeia* of Laikara where they burned people's houses.
02270	Ilda Eugenia, Parlamento, Moro	On 12 September a member of Team Alfa who I knew forced me and my family to go to Kupang. We were transported to the port in Com and waited for a boat to take us. At midnight, a TNI member threatened me with a gun.
02285; corroboration 03941	Jorgé Ximenes, Parlamento, Moro	On 21 September I went with about 20 friends to Ira-ara, Parlamento to look for food because we had run out of food in the forest. Militia from Team Alfa began shooting at us. Two of my friends, Alfredo Araújo and Calisto Rodrigues, were shot dead.

Table 17: Deportation and displacement in Baucau District (Team Saka militia)		
HRVD	**Name and Location**	**Summary**
07746	Tomás Soares, Abo, Quelicai	On 2 September members of the Team Saka militia and Rajawali soldiers beat me and four of my friends using their weapons and boots. One soldier cut the shoulder of one of my friends with a sword. Then we were brought to Luga, in the village of Abo. We witnessed a member of Team Saka strangle a mother and her son until they urinated. They were being forced to go to Atambua with the father. On our way back from Abo to Quelicai I witnessed Team Saka militia burn my house.
02311	Celestina dos Reis, Mulia, Baucau	On 7 September my family and I ran from Uaiaka (Laga) to Quelicai in fear of an attack from TNI and Team Saka. On 10 September a man named Sebastião dos Reis was shot dead by a TNI on board a Milsas (Team Saka) truck. Two of his friends escaped.
07089	Joaquim Maria Sarmento, Guruça, Quelicai	On 8 September Team Saka militia burned houses in Guruça and killed livestock. Children of police and TNI soldiers were forced to go to Baucau. The following day a youth from Guruça, Celestino, was killed by a Team Saka commander. This commander also threatened another person with a gun to his chest and then burned his house.

Table 18: Deportation and displacement in Manatuto District (Mahadomi militia)		
HRVD	**Name and Location**	**Summary**
07949	Octávio Carceres de Carvalho, Lakumesak, Laclo	On 6 September the people of Laclo were expecting an attack by Mahadomi militia and TNI. We ran to the forest, but came back to our homes later that day. On 7 September we ran back to the forest as Indonesian police and military began burning public buildings and Mahadomi began patrolling Laclo. At least four people were killed and numerous others were wounded by gunshot.
08282	Roserio Maia, Manatuto	Because I was a known supporter of independence and had already been detained twice (at the Manatuto and Dili police stations), I was escorted to Kupang by the head of the local police (Kapolres) from Manatuto on 6 September 1999. I returned from Kupang to find my house had been burned by Mahadomi militia.
F9314	Ester Luruk Koli, Lakumesak, Laclo	On 7 September 20 TNI soldiers carrying weapons (from BTT and Koramil) and three Milsas began shooting in the streets and attacking my house, because my brother was a coordinator of the independence group. Some of the Laclo youth fought back with stones. Two people were shot dead, including my husband, Domingos Carceres. The people ran to Hatu'un where we stayed for two weeks.
06561	Antonio Almeida, Aitas, Manatuto	On 15 September my family, my neighbours and I ran to the mountains because there was shooting between pro-autonomy and pro-independence factions. We went to a place where we had previously hidden food, but were captured by Mahadomi militia and Milsas soldiers and taken to the TNI headquarters. We were handed over to the Mahadomi militia and beaten at their headquarters and then returned to the TNI to be interrogated. My neighbours, Sebastião Biti and Cazamiro, were dragged away by four TNI and never returned. The next day my wife and I managed to escape.

Table 19: Deportation and displacement in Viqueque District (Naga Merah militia)		
HRVD	Name and Location	Summary
03730	Victor Soares, Bairro Pite, Dili	After the announcement of the ballot result, my wife ran to Dare on 7 September. I stayed home with my mother. The next day at 1.00am Naga Merah militia together with Mobile Brigade police (Brimob) took us by force to the Brimob headquarters in Bairro Pite for interrogation. We were moved to Balai Prajurit, a public meeting place for soldiers. On 13 September, about 20 Naga Merah militia and TNI known to me came looking for me. Because they could not find me they beat my brother-in-law, Afonso Gonçalves, and then shot him dead.
04129	Paulino Freitas, Carabaco, Viqueque	On 4 September my family and I fled my home in Rai Tahu, Uma Uain Kraik. On 18 September we could see the smoke from fires burning from where we were. TNI and Naga Merah militia torched the houses and all the possessions of the people of Uma Ain Kraik.

Oecussi

478. The enclave district of Oecussi, which had largely escaped forced displacement during the occupation, experienced large-scale deportations following the ballot. The late deployment of Interfet to Oecussi also meant that militia were free to wreak violence and destruction in the district for much longer than in the rest of the territory.[489]

479. On 6 September, UNAMET evacuated its office in Oecussi to Dili and the violence and deportations became more intense. Using machetes and homemade guns, some 200 armed militiamen attacked Tumin, Quebesiolok, Nonquican and Nibin, killed 17 people with machetes and homemade guns, and attempted to kill another five people. Homes were burned and looted, and the surviving population was rounded up and taken to Imbate in West Timor. On arrival in West Timor the refugees were registered and sorted into age and educational groups. TNI, Polri and members of the Sakunar militia isolated 80 young educated men and tied them up in pairs. Beaten while being marched to the riverbank in Passabe, they were then killed by being shot and stabbed with machetes. Seven people escaped and ran away into the forest (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).[490]

480. The UNTAET Human Rights Unit reported that following the ballot, some 4,500 people were forcibly deported to West Timor in trucks brought to Oecussi for the purpose. Others were forced to walk to Kefamenanu (North Central Timor, West Timor Indonesia). TNI reportedly distributed firearms and motorbikes to members of Sakunar militia. Militia used trucks to loot all moveable property and deport civilians across the Indonesian border. Members of Sakunar militia went house to house forcing people into trucks and firing their guns into the air as they drove around. Some 10,000 people fled to the hills.[491]

481. By 18 September, homes in Pante Makassar had been indiscriminately looted and burned. The only buildings not destroyed were two Catholic churches. Militia and TNI looters took everything: roofs, windows, doors and furniture were all carried off to

West Timor. The only areas to avoid destruction were Citrana, Bebo and Baoknana in the sub-district of Nitibe, (where a local leader was able to persuade the militia not to destroy buildings), Mahata in Pante Makassar and Passabe.[492]

482. On 23 September, Sakunar militia attacked a refugee camp in Cutete where 5,000 people were sheltering under the protection of Father Richard Daschbach. The temporary shelters were burned, two people were shot and the refugees scattered. A 14 year-old boy from Oecussi walked overland, across West Timor, to the border to tell the authorities in Timor-Leste about the dire situation in Oecussi and plead for Interfet to intervene.[493]

483. Militia killings and destruction continued well into October. On 20 October, Sakunar militia moved into Maquelab to search for people hiding in the forest surviving on whatever wild leaves and roots they could gather. The militia found one group of 300 people and forced them back down into town, beating the men. Two CNRT leaders were identified, separated from the group and killed. A Sakunar deputy commander ordered the IDPs to gather together and to sit on the ground. He selected four men, a UNAMET local staff member, two CNRT leaders and a student leader. He forced them to stand and shot them in front of the terrified civilians. Later that day Interfet arrived in Oecussi and the militia fled to West Timor.[494]

484. The following table summarises other testimony on violence, displacement and deportation in the district of Oecussi after the ballot.

Table 20: Deportation and displacement in Oecussi District (Sakunar militia)

HRVD	Name and Location	Summary
00335	Bento Bene, Bene Ufe, Nitibe	In September 1999 the situation was very bad and I had already become a refugee in Oepoli, Kupang. However, I was forced to join Sakunar militia operations in Citrana by East Timorese militia leaders F28 and F29. In Citrana, together with about 30 militia, I dismantled government-owned houses. I told the people in Citrana to flee to Oepoli to escape the wrath of the militia.
00346	Simon Palat, Bene Ufe, Nitibe	We ran to the forest when Sakunar began their large-scale operations in September 1999. My house and 65 others were burned.
00368	Martino Seco, Banafi, Nitibe	Because of the Sakunar attack in the *aldeia* of Tumin (Bobometo), I ran to Sai-Tau, West Timor. There, under threat of death, I was forced to join military exercises by an East Timorese Babinsa named F30.
00382	Fernão Sequeira, Lela Ufe, Nitibe	TNI and Sakunar militia burned our homes in September 1999. We were made to pay Rp70,000 to militia to guarantee our safety before we could return to our homes in Oelfab.
00383	José Poto Lela Ufe, Nitibe	The situation in our village was very tense after Sakunar militia, led by East Timorese F31, killed two CNRT supporters. My wife, Celeste Busan, was stopped by militia who were asking for me. Because she did not give a satisfactory answer she was made to stand under the sun for four hours. She was about to be deported, together with our two children, when I disguised myself as a militia and took her to safety. Our house and many others were burned by militia, TNI and police.

00399	Fermino Taequi, Bobocase, Pante Makassar	After witnessing the killing of two young men by 12 Sakunar militia in Sikone-Cunha, I ran with at least 15 others to the mountains of Fatubena. We stayed there for a few weeks.
00891	Angelina Cuono, Usi Taco, Nitibe	Thirty militia under the command of East Timorese F32 burned the houses in the village of Usitaco. I ran to West Timor but was continually harassed until I returned.
02192	AM, Tokoluli, Railaku	On 15 September I was raped by an Aitarak militiaman. The next morning I reported this incident to the local Sakunar commander, Domingos Marcelino, but he did nothing about it. Later the Aitarak militiaman came again and tried to kill me near the river. I screamed for help and a local policeman and a relative intervened. After that my family and I became refugees in Hali Ulun, Atambua (West Timor).
00333	Juliana Ua, Bene Ufe, Nitibe	On 15 September, Sakunar and Besi Merah Putih (BMP) militia threatened to kill me and my relative Celestino Te'u Elo because we supported independence. We ran to the church. Three days later our house was burned and the militia came after us in the church. They grabbed my hair and threatened to cut my throat. We were forced to go to Oepoli, Kupang.
00321	Anastasi Quelo, Lela Ufe, Nitibe	In September 1999 the situation was very bad, so we paid Rp70,000 and a cow to a member of Sakunar militia. But things did not improve and my family and I fled to Neon Ben in West Timor.
00310	Martinho Mene Bene Ufe, Nitibe	We were made to pay money to the Sakunar militia commander, and were then moved to West Timor. The militia took all the zinc from the roofs of the houses and stole things from the local cooperative in Citrana and Boaknana.
00358	Marcolino Tafin, Bobocasae, Pante Makassar	On 23 September Sakunar militia under the command of East Timorese F32, F33 and F34 burned all the houses of the village of Bobocasae. This included furniture, corn and rice in the granary. They also looted all our livestock. My family and I ran to the forest, hiding in Faub for one week.
00371	Ilena Mauno, Taiboco, Pante Makassar	On 20 October 40 militia attacked our house, saying that we had given refuge to people who have fled to the forest. They killed my husband, Antonio Beno, and tried to burn my house while I was still in it. I fled. Many houses were burned that night, including the house of our neighbour, Quelo Meni. He was also killed near the Suni Ufe River.
00375	Terezinha Kolo, Taiboco, Pante Makassar	On 20 October my husband, children and I ran from an attack by Sakunar militia. My husband was shot in the elbow by an East Timorese militia commander F10. We were brought to the market where four men were killed with a machine gun.
00377	Matias Slain Colo, Taiboco, Pante Makassar	We were taken to the Makelab market where a member of Sakunar militia hit me in the mouth with a machete. My teeth were broken but I stayed silent. About 30 minutes later a Sakunar militia F10 took two men, Atili da Costa and Paulus Cussi, behind the toilets and shot them dead. After a further 30 minutes, F32 came on a motorbike. Without much comment, he called for João Talias, Paulus Kelu, Mateus Ton and Francisco Taek (secretary of Taiboco Village), and shot them one by one. We were told to hold our heads down. We were not allowed to scream or cry.

00384	Fatima Aban, Taiboco, Pante Makassar	On 20 October my family and I ran to Sai Laut. We witnessed the killing of a person there by the TNI and Sakunar militia. We were forcibly brought to Maun-Ana and later moved to a refugee camp in North Central Timor District (TTU) in West Timor.

Refugees in West Timor

485. By 6 September 1999, a stream of refugees began to arrive in West Timor. This included those who fled of their own accord seeking safety and those who were forcibly boarded on to trucks, boats and planes. Some were able to stay in the homes of family members or had enough resources to rent their own accommodation. Most refugees, however, stayed in groups organised by their place of origin and remained under the control of militia from those places. The people of Belacasac (Maucatar, Covalima) recalled their time in West Timor:

> *In the refugee camp in Wemasa (Belu, West Timor) and the surrounding area the people suffered from lack of food, shelter, clothing, and medicines. We were not free to go about our activities. We were always intimidated and terrorised by Laksaur militia under the command of F35.*[495]

486. In total there were at least 200 refugee camps throughout West Timor. According to NGO workers who conducted a documentation project on conditions in the camps, with particular attention to the situation of women refugees, life in the camps was difficult. In some camps barracks were laid out in rows. Other sites consisted of living spaces defined by plastic sheeting or whatever materials could be scrounged, haphazardly constructed around local homes, in woods or along riverbanks. Sanitation facilities in the camps were virtually unavailable. Many refugee locations were close to each other and situated in the midst of West Timorese communities.[496]

Mass deportation to West Timor

An NGO working in West Timor reported on the situation in Belu regency on 15 September 1999:

The [refugees] arriving from Timor-Leste were primarily from Dili, Maliana, Bobonaro, and Ainaro. Approximately 80% were women, 10% children under 5 years, and 1% infants. There were 20% school age children. Male refugees were rarely found in the camp, except the elderly and children under five.

The first East Timorese refugee exodus entered West Timor on 3 September 1999 using trucks, cars, and ships. The second massive group of refugees came in on 10 September 1999, loaded down with their belongings such as refrigerators, television sets and so on.

Along the roads from Kupang to Atambua we also witnessed a lot of looted goods from Dili brought into West Timor by TNI, policemen and militias.

"In the district of Belu-Atambua (about six hours of inland travel from Kupang, or about three hours driving to Dili), the militias, primarily from the groups Aitarak and Besi Merah Putih, are roaming the streets on trucks, cars and bikes with guns and swords. These militia have been searching for anyone suspected as pro-independence supporters. Some of the vehicles are clearly UNAMET property. Policemen and TNI are never seen stopping these cars for questioning or obstructing them in any way. Similar cases have been reported in Kupang.

The refugees were placed in public schools, fields, bus terminals, and parish (facilities)/convents. Most of them were from the middle class. The elite have already fled by plane to Darwin or Jakarta. The poor East Timorese were left behind in camps or are hidden in the mountains still in Timor-Leste. The local government of West Timor has provided plastic sheeting for tents and lean-to buildings for refugees. In Nenuk and in Kupang in parishes and convents, refugees sleep in halls and under eaves, in garages and classrooms.

The normal population of the Atambua is about 30,000 people (Regency of Belu: 243,169). This morning the Bishop of Atambua (15 September) informed us that as of this morning the count of refugees in his diocese had already reached some 85,000."[497]

Humanitarian aid

487. The humanitarian response to the flood of refugees to West Timor was relatively swift. UNCHR and international and local NGOs, as well as Indonesian government agencies and the Indonesian Red Cross had begun to provide emergency shelter, food, water and sanitation by September 1999. Up to the end of March 2000 a huge amount of humanitarian aid had flowed into West Timor. According to NGO observers, standard food allocations consisted of 400 grams of uncooked rice and Rp1,500 for food supplements per person per day.[498] The situation worsened when UNHCR and other agencies withdrew from West Timor in September 2000 following the murder of three of members of staff.

488. Despite this humanitarian effort many community members described conditions in the camps in West Timor as desperate:

While we were there we were very poor, threatened, and estranged from our environment – with no opportunity to work or farm, no house to take

shelter in. Many died because of lack food, medicine and sanitation and clean water.[499]

Security

489. The greatest threat experienced by refugees and humanitarian workers was the lack of security. Domestic and international aid workers found ample evidence that armed, or potentially armed, militiamen were the ones actually in charge of the camps. Militiamen often held powerful positions as food distributors, camp leaders or guards at security posts. In a published report, NGO observers reported that they saw guns in the camps or heard references to them. Those who controlled the camps also controlled the aid flowing into them.[500]

490. Refugees were left largely unprotected from militia violence. Access to the camps was severely restricted by militia intimidation and violence. For example, the Commission received a statement from Deolindo Ximenes describing the abduction and disappearance of Venancio do Rego, the village head of Fatumean Village (Fatumean, Covalima). On 8 September 1999, eight known Laksaur militia took Venancio from the temporary shelter in the camp in Nenuk (Atambua) where he and his family were staying. They beat him and put him on the back of a motorcycle. Venancio never returned to his family.[501]

491. Militia also continued to loot and assault the refugees in West Timor. Ciprianus José (Covalima) told the Commission that 15 militiamen beat him and his uncle on 9 September 1999 in a camp in West Timor. They were detained and assaulted for one day by militia carrying guns and machetes and not given any food. The militia stole the buffaloes that they had brought with them from Timor-Leste.[502]

492. UNHCR staff faced various kinds of harassment from militia in West Timor. This included crowds of militia blocking entrance to the camps, stone throwing and firing guns into the air.[503] These militia actions prevented refugees from gaining access to the UNHCR, and as a result the UNHCR was forced to embark on "snatch-and-run" operations. UNHCR would park its trucks outside a camp and move in as quickly as possible to "extract" refugees before militia members were able to organise a response.[504] The UNHCR reported a total of 120 incidents of attacks, harassment, and intimidation of humanitarian workers and refugees during its 12-month presence in West Timor. In August 2000 UNHCR was forced to close down its operations in the camps when three of its staff members were attacked and seriously injured while delivering assistance to Naen camp, outside Kefamenaunu Town. A week after resuming operations UNHCR pulled out completely after the murder of three UNHCR staff members in Atambua on 6 September 2000.[505] Other international agencies followed. Some local NGOs also briefly stopped humanitarian activities due to the dangerous situation in the camps.

493. Refugees were vulnerable to everyday extortion by militia "protection rackets" in the camps. The Commission was told of an incident where an East Timorese man had his life threatened by members of Sakunar militia after they were captured when he and his family were on the run in the forest in Timor-Leste. They were caught by a member

of Aitarak militia and taken to West Timor, where they were forced to pay Rp 40,000 to the village head as guarantee for their lives.[506]

494. In their discussions with the Commission the people of Memo recalled how a village-level Babinsa intimidated and forced the people to cross the border to Turiscai, Hakesak and Atambua (West Timor). Some ran to the house of the East Timorese district administrator F36 only to be ridiculed and beaten.

> *When we arrived in the refugee camp in Turiscai, we were made to pay the village head to guarantee our safety. They asked us to pay three times. We paid Rp 5,000 to 10.000 for ordinary people and Rp10,000 to 20,000 for civil servants.*[507]

Women refugees

495. Women in the camps were particularly vulnerable, both economically and physically. Female refugees had few economic opportunities to enable them to support themselves. They were dependent on men who were themselves often demoralised by the crowded, lawless post-conflict situation. Reports of domestic violence against women refugees were frequent. In the crowded conditions of the barracks privacy was non-existent. Their exposure, along with the near-absence of law enforcement and the presence of militia in the camps made women refugees particularly vulnerable to sexual assault.

496. The Commission received many statements from women who experienced sexual violence in the refugee camps in West Timor. Some had already been victimised in their homes before their deportation or in the places where they had sought refuge in Timor-Leste. The sexual violence they experienced in the camps was often a continuation of this violation; other women suffered sexual violence only after reaching the camps (see Vol. III, Part 7.7: Sexual Violence).

497. BM described how she was virtually a prisoner in the hands of a militiaman who had already raped her in the school in Suai where she was held with other women after the massacre at the Church in the days after the announcement of the results of the ballot:

> *On 13 September we were forced onto a Hino truck with "SOE-DH" written on it. We were brought to a refugee camp near a soccer field. The militiaman [who had raped me at the school building] found me and said that he had been searching for me for two days. He was angry, and hit me in the mouth with a handmade gun, and kicked me in the chest and back. That night he brought me to his house and raped me again. I was there for three months and 16 days. In the morning when he went out he would lock the door. When he came back he would rape me again. If he had to go somewhere far away he would take me with him. Every night I could not resist, because he would get angry at me and hit me. Every night he would rape me. He did not care, even if I got my period. In October I did not get my period, but he did not care either. When I was two months pregnant*

I was nauseous and could not eat, but he did not care about my health and continued to rape me… In December when he went to Atambua he did not lock the door. I lied to his sister and said that I would visit my sick mother. Instead I met a young man sent by my mother, who already found out where I was held. He told me that my family was in Namfalus Wemasa. We walked to Namfalus and hid under a tree. The next day, we went back to Suai.[508]

498. Another woman was raped in front of her family:

On 4 September 1999 we ran from Salele to the Suai Church. After the attack on the church, we were brought to Manumutin, Betun. We slept on the verandah of the village cooperative (KUD), because there was no more space. On 11 September, around 2.00am, six Laksaur militia came in a vehicle. Five of them who were armed stayed guarding the vehicle. One person came to where we were sleeping. The man was F37, a Laksaur militia. He pulled out a bloody sword and said, "You see this. This sword is covered with the blood of the four people I have killed." I stayed quiet. They told me to get into the car...I had no choice because they were armed…F37 pushed me hard. I was raped in front of my own son-in-law. I cried and cried and felt so powerless. It was as if I had died.[509]

Returning home

499. In interviews in Dili in December 1999, many returnees reported being physically prevented from leaving the West Timor camps.[510] As one UNHCR spokesperson put it: "The moment an East Timorese expresses a desire to leave the camps and go home, their life is in danger."[511] One refugee described a daily roll call to make sure everyone was in the camp. They were terrorised at night by militiamen warning them of the dangers of returning to Timor-Leste. A man who had recently returned from Betun (West Timor) said militia members told refugees they would be killed if they went back to Timor-Leste. Another man said his family, who were staying in a house in Silawan (Atambua) wanted to leave but were afraid of the militias. When asked to fill out government forms stating their preferred destination, they had said they wanted to stay even though it was not true.[512] The effect of these physical threats was reinforced by a campaign of misinformation that told the refugees that war and chaos continued to rage in Timor-Leste. Refugees were told that there would be revenge attacks against them if they went back, and that Australian peacekeepers were committing atrocities including raping East Timorese women.[513]

500. Amelia Madeira told the Commission that refugees had to leave all their belongings and pay a fee in order to be able to return home:

After the Laksaur militia burned all the houses in Suai on 7 September, I ran with other members of my community to Alas [Betun, West Timor].

After three weeks we wanted to return home. The TNI and a village official from [my village of] Foholulik [Tilomar, Covalima] confiscated all our belongings. They said if you want to go home you have to leave all your possessions behind. Each family had to pay him and the soldiers Rp75,000 each. There were about 100 families wanting to return.[514]

501. In a discussion with the Commission, the people of the village of Beco II (Covalima) recalled the dangers of revealing that they wanted to go home and what they found upon return:

After things became calmer in Timor-Leste our desire to return had to be kept secret, because it was dangerous if people knew. Mutual suspicion in the camps was very high…

[Back in Timor-Leste] people came out of the forest and down from the mountains, but they had no houses or food or medicines. They returned to their villages to find their homes and schools had been turned to ashes. They found that all their possessions were gone and that they were poor. They felt very helpless.[515]

Findings

502. The Commission finds that:

1. The people of Timor-Leste experienced repeated periods of displacement, often in massive numbers, between 1975 and 1999. Most individual East Timorese people alive today have experienced at least one period of displacement. Many have experienced several. All displacements caused major disruption to the lives of those affected. Some directly caused major loss of life.
2. At a minimum, during the period 1975–1999, at least 84,200 people died due to hunger and illness in excess of the peacetime baseline for these causes of death. That is, these deaths were caused by the conflict, and the figure could possibly be as high as 183,000. The overwhelming number of these deaths occurred in the years 1977–1978 and during the period of large-scale Indonesian military attacks on Fretilin bases in the interior where large numbers of civilians were living and in 1979 during the subsequent period of Indonesian military detention camps and ABRI/TNI-controlled resettlement areas.
3. These displacements took many forms, occurred in a complex variety of circumstances and lasted for periods that could extend from days to years. For example:
   - In the period before and during the civil war of August–September 1975 displacement commonly took the form of flight to escape

coming under the control of or being subjected to violence by one of the parties to the conflict.

- After the Indonesian invasion in December 1975 some people fled spontaneously either in response to perceived threats or to escape a very real and present threat. At the same time Fretilin organised the evacuation of communities, sometimes resorting to coercive methods.
- When the Indonesian military stepped up its attacks on Fretilin and the population under its control from 1977 onwards, some groups scattered, others were forced to keep constantly on the move to evade capture, and yet others moved in an orderly fashion to new locations.
- The massive Indonesian assaults on the population concentrations still under Fretilin control that lasted from late 1977 until the end of 1978 ended with tens of thousands of people being forced into resettlement camps under the strict control of the Indonesian military. In these and subsequent displacements by the Indonesian military, such as those to the island of Ataúro in the early 1980s, the displaced found themselves being subjected to a rigorous form of detention intended to further Indonesian military objectives.
- The large-scale movements that took place in the period surrounding the Popular Consultation of 30 August 1999 involved both flight from TNI and militia violence and forced deportations to West Timor.

503. However, whatever form it took displacement invariably had a seriously damaging impact on those affected, including by ending in the deaths of tens of thousands of people in the 1970s.

4. Death was caused by famine, famine-related diseases, vulnerability to sickness from hunger, fear or exhaustion and a lack of access to medical care. Although the actual number of deaths is incalculable, it is likely that more people died from the effects of displacement than from any other violation.
5. For the survivors, displacement was the direct cause of a deep and abiding anguish at the loss of family members in horrific circumstances, which they were powerless to control or change. Displacement also meant vulnerability to other violations, including arbitrary detention, torture and ill-treatment, extrajudicial killings, sexual violence, forced labour and forced recruitment. It also regularly entailed hunger and deprivation of the means of making a livelihood through the destruction of or loss of access to food crops, livestock, housing, agricultural implements and land.
6. Displacement also disrupted the fragile subsistence economy on which the majority of the population depended. One indication of this disruption was the dramatic fall between 1973 and 1980 in the number of livestock, which are crucial as factors of production, means of transportation and sources of wealth in East Timorese agricultural communities. The devastation of Timor-Leste's livestock was closely related to the wider disruption created

by displacements, resulting as it did from their abandonment by fleeing communities, their intentional destruction by Indonesian forces, their consumption by a population desperate for any form of sustenance, and their deaths due to starvation and bombardment.

7. In Timor-Leste, displacement was a violation that primarily affected communities. Its affect on communities was often long-lasting and utterly destructive of their integrity. Displacement was often used indiscriminately by the Indonesian military against communities or groups within communities as form of collective punishment and sometimes as a form of hostage taking.
8. Displacement was a persistent theme running throughout the period of the Commission's mandate. This was so not just because 1974-99 were years of conflict in Timor-Leste. The Commission believes that some of the most harmful impacts of displacement were the direct result of mistaken policy decisions. The Commission believes, for example, that Indonesia displaced people from their homes repeatedly in order to control them, used food as a weapon of war, refused for reasons of military strategy to allow international humanitarian agencies access to Timor-Leste until famine had reached catastrophic proportions, and forcibly displaced East Timorese civilians to West Timor for purely political ends.

The internal conflict August–September 1975

504. The Commission finds that:

9. In the period after the formation of political parties, but before the outbreak of the internal armed conflict, there were instances where communities fled to escape violence at the hands of their political opponents. The scale of these displacements was relatively small and the length of time for which people were displaced relatively short.
10. The inter-party conflict in August and September 1975 resulted in population displacements. Fearing persecution from opposing parties, many people fled their homes to safety. Fretilin supporters were forced to leave their homes which were burnt by UDT supporters. After 20 August 1975, UDT supporters who felt threatened by Fretilin, spontaneously crossed the border into West Timor, Indonesia. Others were forced across the border by members of UDT. Smaller numbers went to Australia, Portugal and other countries, either at this time or later after a period spent in the camps in West Timor.
11. The Commission was unable to determine with any certainty the number of refugees in West Timor. The international aid agencies operating in West Timor at the time seem to have relied on figures received directly from the Indonesian authorities, who claimed that 40,000 East Timorese had taken refuge in West Timor. A wide range of informed East Timorese people who were in West Timor at the time has contested these figures. These latter sources say that the actual number of refugees in West Timor

was significantly lower than the Indonesian figure. These sources have said that the Indonesian authorities inflated the figures both in order to receive larger quantities of relief aid than were justified by the true number of refugees in need of assistance and to create the impression that the scale of the fighting was greater than it actually was, that large numbers of East Timorese were unwilling to accept a Fretilin administration and that Fretilin's victory in the civil war posed a threat to regional stability.

12. The Commission is uncertain of the number of people who were internally displaced at this time. It has no way, for example, of verifying the ICRC's estimate that more than 50% of the population was displaced during this period. Whatever the number, most had spontaneously returned to their homes within weeks of having fled them.
13. A small number of the people displaced within Timor-Leste and of people who fled over the border into West Timor died as a result of the deprivation they suffered while displaced. In the camps in West Timor there were also cases of people being killed. Usually these people were Fretilin supporters who had been coerced into crossing the border.
14. International humanitarian agencies were able to provide emergency food and medical aid inside Timor-Leste and in the camps in West Timor.
15. The *de facto* Fretilin administration in principle allowed aid agencies access to all areas of Timor-Leste. In practice the main agency providing food aid to the population, the ICRC, chose to restrict its relief activities to a small area around Dili, while supplies provided by the Australian Council for Overseas Aid (ACFOA) were distributed by Fretilin in Fretilin-controlled areas. All aid programmes had only just got underway when they had to be abandoned in early December 1975 because of the impending Indonesian invasion.
16. Aid flows to refugees in West Timor after the invasion also diminished. The testimony of people who were in the camps, including church people, indicates that the food was used as both a political tool and as a means to recruit East Timorese to fight as auxiliaries with the Indonesian army. There is also evidence that food and other assistance was withdrawn in April 1976 when East Timorese in West Timor refused to endorse Indonesia's political goals in Timor-Leste. Thereafter the refugees suffered severe hardship, and some died.

The invasion

505. The Commission finds that:

17. Large numbers of people fled their homes in anticipation of and following the Indonesian invasion. Large numbers of people fled major population centres as Indonesian forces moved to control them from December 1975 onwards. Most who fled did so in fear for their lives.
18. Many people living in areas outside Indonesian control and in areas where fighting was not going on still fled their homes as soon as they heard

that Indonesian forces had invaded. They fled for a number of different reasons: in fear for their lives; in response to Indonesian claims that they would achieve a quick victory; on learning of Indonesian atrocities in the early days of the invasion; and because Fretilin ordered them to do so.

19. The evacuation of the population took place in a variety of circumstances. Some evacuations from towns and villages were unorganised; others were coordinated by the Fretilin-led resistance.
20. The level of organisation of the evacuations varied according to the extent to which Fretilin itself had developed its own organisation during the period of its *de facto* administration and whether it had taken measures to prepare for the evacuation of the population.
21. Fretilin had a declared policy of evacuating the civilian population to safety and of organising a national liberation movement in the mountains and interior. The Commission learned of instances where, to achieve that objective, it forced communities to evacuate, including people who were reluctant to leave their homes.
22. The Commission has been unable to calculate the number of people who were displaced during the first two years of the occupation. The eventual movement of around 300,000 people into Indonesian-controlled centres by 1978-79 is the best pointer to the massive scale of the displacement which began in late 1975. In view of the fact that a large number of people died in the mountains, and therefore never became part of the Indonesian-controlled population, the actual number of people who were displaced after the invasion is likely to be higher than 300,000.
23. The mass evacuation to the mountains, including Fretilin's decision to take large numbers of people with it, was made without sufficient thought about the problems of housing, feeding and protecting such a large population. In many Fretilin-controlled areas living conditions in the months after the initial flight were extremely difficult. Their difficulty was somewhat alleviated once structures had been set up to mobilise the population for such tasks as communal farming and to provide for the needs of the most vulnerable. However, even where such organisation was in place, the Commission learned, the death rate continued to be abnormally high.
24. The Commission received evidence suggesting that in the years 1976-78 the desire to surrender was geographically widespread and persistent among the population under Fretilin control. It is impossible to gauge how many people wanted to surrender, particularly as those expressing their feelings on this matter were liable to severe punishment, including death. The Commission did receive testimony supporting the conclusion that some communities understandably concealed their true feelings on this matter. At the same time it also heard of instances where civilians given the opportunity to surrender refused to take it and where, when people were finally ordered to surrender, they did so with great reluctance.
25. For most people who stayed in the mountains until the end of Operation Seroja in late 1978-79, the pattern of their lives was that after a period of

relative calm and adequate living conditions they were constantly on the move until the final stages of the military campaign. In these stages they were hemmed in with thousands of others in an isolated location where they came under terrifying attack by Indonesian forces using all the means at their disposal to force them into submission, including starvation. The incessant bombardments to which they were subjected made it impossible for them to look for food, much less grow or harvest it. In these final stages of resistance the number of people who died increased sharply.

26. Some communities either did not flee the invading forces or surrendered early to them. However, Indonesian forces also confined these communities in designated areas where they suffered from lack of food, restricted movement and harsh repression. The Commission was told that conditions in the camps where people who had surrendered to, or had been captured by, Indonesian forces in the first two years of the occupation were so inimical to survival that many deaths by deprivation occurred. All the elements that led to deaths by deprivation on a massive scale in later years were already present during this early period: the refusal to grant direct access to international aid agencies, minimal provision of food and medicines, the concentration of the population in camps, tight restrictions on freedom of movement which made it difficult to grow food crops, the use of intimidation and terror to punish and ensure the compliance of camp inmates.

Food crops and livestock destroyed

506. The Commission finds that:

27. From 1976 to 1978 the Indonesian armed forces systematically destroyed or removed food crops, food stores, agricultural implements, gardens and fields, and livestock belonging to East Timorese people who had fled from their homes and villages.
28. The Commission has not been able to obtain any documentary material which explains the thinking underlying this strategy. However, it can only conclude that the aim of these Indonesian military operations was to starve the civilian population under Fretilin control into surrendering, and to deny Fretilin/Falintil access to food sources.
29. The impact of the destruction of farmers' capital embodied in their gardens, agricultural implements and livestock was that when they did return to their home villages they found it difficult to resume agricultural activity.
30. As large numbers of East Timorese civilians came under direct Indonesian control the Indonesian military conducted special operations to destroy cultivated and wild food sources to deny food to the Resistance. This practice also resulted in long-term damage to food sources for all East Timorese people.
31. The Indonesian military also regularly burned and destroyed the crops and livestock of people already under their control, either as a form of

punishment, as a means of ensuring that they did not stray beyond the limits of the camp to farm their plots, or to force them to move to a new place and to deter them from returning to their original homes once they had moved.

32. The Commission also received some reports of Falintil forces destroying agricultural plots of the local population. These were isolated reports of isolated incidents, and did not point to a systematic or widespread pattern.

Life and death in the mountains

507. The Commission finds that:

33. For many East Timorese civilians life in the rural areas and mountains was relatively peaceful and stable for the first year or two after the invasion. This changed when Indonesian military operations began in their area.
34. During this "normal" time, in many areas of Timor-Leste under their direct control, the Fretilin leadership took steps to organise food production and distribution and to provide basic healthcare. In the *zonas libertadas* it pursued this policy, which relied heavily on the support of the civilian population. In many of the cases of which the Commission has learned, attaining the level of organisation needed to meet the needs of the population under its control took time. In the period before minimal self-sufficiency was achieved the evacuated population suffered severe deprivation that caused some to die.
35. The Fretilin/Falintil leadership imprisoned people under its control for allegedly wanting to surrender. Preventing surrenders may have been a justifiable action to protect the security of Resistance bases and the civilian population in them. However, the persecution of people suspected of wanting to surrender became indistinguishable from the political conflict within the Resistance.
36. Reported torture or other inhuman treatment by Fretilin/Falintil and extended time in primitive prison pens for civilians attempting surrender or suspected of spying was cruel and excessive, and led to the deaths of many detainees. Fretilin/Falintil also executed persons suspected of wanting to surrender, often on the flimsiest of evidence and without following judicial proceedings.
37. Fretilin policy preventing surrenders changed only in late 1978 when it was forced on the leadership by the critical situation of the civilian population. The Commission is unable to determine how many people did want to surrender. It has, however, received testimony both that ordinary civilians who were offered the option of surrender before late 1978 refused to take it and that when finally ordered to surrender some were reluctant to do so. In some cases this reluctance appears to have driven by a determination to continue the struggle against the invading forces at all costs. However, the Commission also received testimony indicating that well-grounded fears

of ill-treatment by Indonesian forces was also a reason for their reluctance. In the final stages of their displacement under Fretilin control the civilian population faced an agonising choice between death in the mountains and the possibility of a similar fate if they surrendered to Indonesian forces. In fact the conditions after surrender were not sufficient to sustain life.

38. Large numbers of people died of hunger and hunger-related disease while under Fretilin control. Although people were dying throughout the period when they were fleeing the Indonesian military or living under Fretilin control, the largest number of deaths occurred in the final months before surrender, both as a result of Indonesian bombardment and of hunger and hunger-related disease.

39. Between mid-1977 and late 1978 the Indonesian military launched a military campaign to crush the Resistance, conquer the extensive areas still outside its control and force the population living in those areas to surrender. Before launching this "encirclement and annihilation" campaign Indonesian forces constantly harried the population, forcing them to make repeated flights. These flights typically ended with many thousands of people being concentrated in particular areas, such as Mount Matebian, the Natarbora Plain, Fatubessi in Ermera, Mount llimanu in Manatuto and the coastal areas of Alas in Manufahi and Beco and Halik in Covalima, where they then came under intense bombardment from the land, sea and air.

40. As the intensity of Indonesian military operations increased in particular areas many displaced people were continually on the move to avoid death, injury or capture. While on the run from Indonesian attacks, many East Timorese civilians died from deprivation due to hunger, exhaustion, sickness and lack of access to medical services. Life on the run meant that food cultivation was virtually impossible.

41. In their attacks on Resistance bases or Fretilin-led population groups on the run, Indonesian forces did not discriminate between civilians and combatants. Many civilians were killed in these attacks.

42. As large concentrations of people came under attack, the wild foods and natural water sources that were their only means of sustenance often became contaminated. In most cases where witnesses reported the occurrence of such contamination it appears to have been the result of routine bombing attacks. However it was alleged that the Indonesian attack on Lesumau in Ermera in mid-1978 used toxic bombs which contaminated food and water supplies in the area.

43. Famine conditions began to emerge in Timor-Leste some time between late 1977 and late 1978 – that is death from hunger and associated weakness began to occur on a large scale. These conditions were increasingly present among people on the run and among those driven in large numbers into circumscribed areas where encirclement by Indonesian forces effectively prohibited further movements, even in search of food. During this phase famine was the direct result of military operations; it was not caused by drought.

Camps and settlements under Indonesian military control

508. The Commission finds that:

44. People who surrendered or were captured by the Indonesian military had to live in camps for up to several years. The camps were supervised and monitored closely by the military. They were created for security reasons, not for the welfare of the population in them.
45. Civilians who surrendered or were captured were first moved to transit camps for registration and interrogation before being relocated to internment and resettlement camps and later to resettlement villages. While security controls eased at each of these stages, a defining characteristic of all such camps or villages was restricted or no access to gardens located further than a specified distance from these settlements.
46. The Indonesian military gave a higher priority to the attainment of military objectives than to meeting its humanitarian obligations to the inmates of these camps. From the time of their creation, provision for basic food and survival needs in the camps was inadequate.
47. The camps became the sites for a fully-fledged famine in which unknown numbers died. Already in a weakened state when they entered the camps, internees endured extended periods without access to food gardens or emergency humanitarian aid. The food that they received from the military was utterly inadequate to keep them alive. It was also often inappropriate for people already suffering severe malnutrition. Even the meagre rations that the military made available to camp inmates were distributed in a discriminatory way. The Commission has learned that in exchange for food the military and their auxiliaries extorted money, family heirlooms and other valuables (for example gold and traditional beads), and sexual favours.
48. Although the military campaign waged by the Indonesian military in 1977-78 had aimed precisely at the outcome it achieved – namely the mass surrender of the population under Fretilin control into areas under Indonesian control – the Indonesian authorities made little or no preparation for meeting the barest needs of this population for shelter, food and medicines. In the early stages of this campaign it must have become apparent to the Indonesian military that the surrendering population was seriously debilitated and in dire need of these essentials for their survival. However, rather than creating conditions that might avert famine, it both neglected the basic needs of the surrendering population and imposed restrictions and sanctions on them that were bound to make their already dire circumstances even worse.
49. The scale of the famine in mid- to late 1979 and the fact that it was rapidly worsening can be seen in international aid agency reports of the time. For example, as a result of its survey in April 1979 US Catholic Relief Services estimated that 200,000 people were in a "serious or critically malnourished condition". By September 1979 it found that the number of people in this

condition was closer to 300,000. The International Red Cross described 60,000 out of the 75,000 people it surveyed in July 1979 as being "in a state of alarming malnutrition" including "20,000 dying from hunger".[516]

Humanitarian aid

509. The Commission finds that:

50. The Indonesian Government refused permission for any international humanitarian aid agencies to operate inside Timor-Leste from the day of its invasion on 7 December 1975 until late 1979. There can be no doubt that the Indonesian military authorities in Timor-Leste were aware of the rising death toll due to famine in the camps under its control.
51. From at least late 1976, the Indonesian Government allowed food aid to reach the people and camps under its control through the Indonesian Red Cross and the Catholic Church. All reports to the Commission show this aid was far too little or too late to prevent famine in the camps between 1977 and 1979. The efforts of the Catholic Church to provide more aid and to handle or monitor its distribution were systematically frustrated.
52. Reports of death from protein shock after receiving food aid and the near universal observation of former inmates that the rice and corn they received were mouldy demonstrate the unfitness of the Indonesian authorities to handle famine relief.
53. Reports of famine began to reach international aid agencies as early as April 1977, prompting requests to the Indonesian Government for aid agencies to enter the territory. A high-level visit by nine foreign ambassadors in September 1978 to resettlement camps in Timor-Leste increased international awareness of the need for a major humanitarian aid programme. Yet the Indonesian Government did not permit international agencies to operate in Timor-Leste for another 12 months.
54. The Indonesian Government's refusal to admit international aid programmes, even when the need for them was widely known internationally, was almost certainly because the Indonesian military did not want any witnesses or impediments to its military campaign to bring the population under its control and weaken the Resistance. The Commission believes that the timing of the decisions to permit CRS and the ICRC to carry out surveys in Timor-Leste, in April and July 1979, and then to allow the agencies' operations to begin only in September 1979 is highly suggestive. What had changed by that time was not that the scale of the famine had reached massive proportions – that had already been known many months earlier – but that the Indonesian military believed that the campaign to destroy the Resistance was essentially over.
55. Once admitted, international aid organisations were still restricted in their operations. They were permitted few non-Indonesian personnel on the

ground in Timor-Leste. They faced frequent impediments to their work in what was already a difficult operational setting. They were not permitted to deliver aid to areas outside Indonesian military control.

56. The international aid operation that began in late 1979 reached most of the population in the camps and others in need. It greatly relieved the famine conditions prevailing across Timor-Leste.
57. The Commission received evidence from East Timorese people who had worked with the international aid agencies, from church people and from the intended recipients of the aid that relief aid was routinely diverted from its supposed target, either to be sold for personal gain or to be used for personal consumption by members of the Indonesian military and some staff members of the aid agencies in question.

Strategic relocation villages and internment

510. The Commission finds that:

58. From the early 1980s the Indonesian authorities introduced new forms of displacement. These were related to two separate developments. The first was the decision to dismantle or scale down the resettlement camps that had been established to accommodate the population that had surrendered in the late 1970s. The second was the reorganisation of the Resistance as a guerrilla force capable of launching localised attacks on ABRI.
59. For many the decision to move them out of resettlement camps did not lead to a marked improvement in their living conditions. There were some positive aspects, in particular the provision of schools, clinics, markets and easier transportation. However, the Commission has overwhelming evidence that at least during the first half of the 1980s, this phase of displacement was often managed in such a way as to ensure that those displaced did not enjoy the supposed benefits of the programme. Yet again it was a programme that served military objectives, but did not guarantee survival. For many of those moved, their transfer from resettlement camps to strategic villages, new villages and even back to their own villages did not substantially improve their lot. Restrictions on freedom of movement continued to have a serious impact on food production and thus on people's well-being.
60. Moreover, even after the resettlement camps were dismantled, settlement patterns in Timor-Leste remained radically different from their pre-invasion form. Even today there are many signs of it. Many people were forced to live in towns and along major roads. Many fertile areas of the country were abandoned.
61. The displacements carried out in response to signs that the Resistance had survived the destruction of its bases were heavily punitive. These displacements took place following guerrilla attacks, defections to the Resistance by East Timorese who had been enlisted into Indonesian civil defence units, and the establishment of clandestine support networks. They

involved the collective punishment of whole communities and the proxy punishment of relatives of people still fighting in the forest and interior.

62. A cumulative total of more than 6,000 people were forcibly displaced to the island of Ataúro between mid-1980 and 1984. At its peak in late 1982 the displaced population exceeded 4,000. The majority of people sent to the island were not political activists or Resistance fighters, but people from the 12 districts (excluding Oecussi) who were relatives of, or were suspected of having contact with, Resistance fighters still in the forest. They consisted predominantly of women and children, and found it extremely difficult to fend for themselves in an environment which was extremely barren. They were kept on the island for periods ranging from a few months to six years. Those who arrived in the first wave of forced displacement were not given adequate food or other support. The Indonesian military was also negligent in its provision of basic medical care, clean water, sanitation and shelter. About 5% of the people displaced to Ataúro died there. Some were able to survive because they received help from the local population, even though an influx of people in numbers that were not far short of the island's total indigenous population put a severe strain on its meagre resources. Conditions improved when the International Red Cross was permitted entry in 1982. When people were released from Ataúro, some were merely transferred to other areas for a further period of internment.

63. Some of those detained after attacks by members of the Resistance on military posts and units were also sent to Ataúro. Others were displaced from their home villages and sent to areas where they had to rebuild their lives virtually unaided in extremely inhospitable environments. This was the fate of many of the inhabitants of the villages in Ainaro and Manufahi that took part in the Kablaki uprising of August 1982 and of the mainly women survivors of the mass executions that followed the Kraras (Viqueque) uprising in August 1983. The latter group were sent to the previously uninhabited area of Lalerek Mutin where they were left to fend for themselves under tight military surveillance. The population of Lalerek Mutin suffered sexual violations, disappearances, hunger, disease and death there. Their treatment was strikingly similar to that of the people from Ainaro who had been moved to the villages of Raifusa and Dotik in the district of Manufahi the previous year.

Displacement before and after the Popular Consultation in 1999

511. The Commission finds that:

64. There was a direct connection between the creation of anti-independence militias in Timor-Leste from late 1998 and an upsurge in violence which caused fear, displacement, deprivation and death.

65. This fear was compounded by a widespread understanding that despite the obligation of the Indonesian Government under the 5 May Agreements to

create and maintain a secure environment for the Popular Consultation, the militia groups had the support of the TNI and the wider governmental apparatus, and on that basis enjoyed impunity for their actions. Most of the violence and intimidation in Timor-Leste in 1999 was conducted by militia members rather than Indonesian military personnel. Much of this violence did however occur in the presence of armed Indonesian military or police who took no action to prevent it. People seeking police protection from militia violence were denied assistance.

66. There is strong evidence that the militia groups forcibly recruited members into their ranks. One reason why people fled their homes was to avoid recruitment into the militias.
67. Militia violence before the Popular Consultation reached a peak in April 1999 with attacks in many places, the massacre at the Liquiçá Church and spontaneous flight of many people. They sought refuge in the remote locations in the countryside, with relatives in other areas and in church compounds. Some, from the western districts and Oecussi, crossed the border into West Timor, Indonesia.
68. The objective of militia violence was to win a majority for the autonomy option in the ballot of 30 August. In the lead-up to the Popular Consultation it used violence indiscriminately to secure that outcome. Thus, while it also targeted those who were prominently identified as pro-independence, such as leaders of CNRT and members of pro-independence student organisations, ordinary civilians and whole communities and those who offered them protection, including the Church, also became its victims. One reflection of these priorities is that the militias (and the TNI) did not engage militarily against Falintil forces.
69. Under threat of this indiscriminate violence from militia groups, large numbers of people stayed away from their normal places of residence. One authoritative source estimates as many as 60,000 were displaced. Many returned only to register or vote before again returning to places of refuge.
70. As the number of displaced persons grew and settled in large concentrations in places where they thought they would find safety, their living conditions deteriorated, in some cases becoming acute.
71. The Indonesian authorities and their militia allies resorted to a variety of means, including bureaucratic obstructionism and violence, to thwart attempts by local NGOs, supported by UNAMET and UN agencies, to give humanitarian assistance to the displaced.
72. Poor security conditions and the associated flight of large numbers of people during 1998 and 1999 disrupted the planting of food crops. This compounded food shortages caused by a poor harvest in 1998 due to low rainfall.
73. The comprehensive "scorched earth" tactics employed by the TNI and the militia groups after the Popular Consultation, marked by threats of violence, killings, mass forced deportations and the destruction of public

and private buildings throughout Timor-Leste, caused the bulk of the population to become displaced, either internally or externally.

74. About 250,000 people were displaced to West Timor after the ballot. Detailed plans for the evacuation of a large proportion of the population, involving several Indonesian Government ministries, had been drawn up well before the ballot. Most of these people were forcibly displaced, that is, violence or the threat of violence was used to ensure that the civilian population complied with the wish of the Indonesian authorities that they should leave Timor-Leste.
75. East Timorese in camps and other places in West Timor where people had settled continued to be subject to the control, intimidation and violence of militia members. Many who wanted to return to Timor-Leste were prevented from doing so by a combination or threats and misinformation from militia members.
76. While international aid organisations were able to distribute humanitarian assistance to the forcibly displaced, they were also subject to control, intimidation, attacks and killings by militia members.

Endnotes

1. *International Criminal Court Elements of Crimes, Adopted by the Assembly of State Parties*, ICC-ASP/1/3, Article 7(1)(d), p.118. This definition, taken from a draft version of the Elements of Crimes, was endorsed by the ICTY in *Prosecutor v Radislav Krstic*, ICTY Case No IT-98-33-T, *Trial Chamber Judgment*, 2 August 2001, Paragraph 529; and in *Prosecutor v Milomir Staki*, ICTY Case No IT-97-24-T, *Trial Chamber Judgment*, 31 July 2003, Paragraph 682.
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3. *ICC Elements of Crimes, adopted by the Assembly of State Parties*, ICC-ASP/1/3, Articles 7(1) (d), 8 (2) (a) (vii)-1, 8 (2) (b) (viii) and 8 (2) (e) (viii), pp. 118, 130, 136 and 154.
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5. Article 12(3) ICCPR; Human Rights Committee (HRC) General Comment No 27, paras 11, 14 and 15.
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18. ICESCR General Comment No 12 para 8.

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20. ICESCR General Comment No 12, para 14.
21. ICESCR General Comment No 15, para 3; Article 11(1) ICESCR.
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24. Article 3 UDHR, Article 6 ICCPR.
25. Article 54, Protocol I of the 1977 Protocols Additional to the Geneva Conventions and Article 8 (2) (b) (xxv), *ICC Elements of Crimes, adopted by the Assembly of State Parties*, ICC-ASP/1/3, p. 144.
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After looking at forty truth commissions world-round, I concluded that the truth commission of East Timor was among the five strongest. It was an impressive, passionate and scrupulous exercise. And its report, *Chega!*, stands in testament to this careful and rigorous exercise, honestly re ecting the victims' stories as well as the far-reaching conclusions that emerged from this work. It is wonderful that this will now be available, in full, in English; it will be an important reference for others embarking on a similar path.

Priscilla Hayner,
Author, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd ed., 2011)

"The extensive CAVR Report is an encyclopedia of our history, rich in both teachings and suffering. We must utilise its great teachings to better understand today's crisis and to help prevent future crises."

Jose Ramos-Horta,
Nobel Peace Laureate, former President and Prime Minister of Timor-Leste (July 2006)



"*Chega!* is troubling testimony. This report will jolt Indonesian readers who think that under the Soeharto regime everything was peaceful in Indonesia's then 27th province. Page after page recounts the stories of victims of massacres, rape, forced disappearances, torture and other unimaginable crimes ... Indonesia can learn from *Chega!* This report is an important contribution to democratisation and security sector reform in Indonesia."

Ifdhal Kasim,
Chair, Indonesian Commission on Human Rights (August 2010)

"The CAVR Report constitutes an important milestone in the search for justice, truth and reconciliation in Timor-Leste. It is my sincere hope that (it) will be an enduring contribution to building the Timorese nation and will help to prevent the recurrence of such tragic events in Timor-Leste and elsewhere."

Kofi Annan,
UN Secretary-General (July 2006)

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Chega!
The final report of the Timor-Leste Commission
for Reception, Truth and Reconciliation (CAVR)
III

Chega!

Volume III

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Chega!

The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)

Volume III

JAKARTA
KPG IN COOPERATION WITH STP-CAVR

Chega!

The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)

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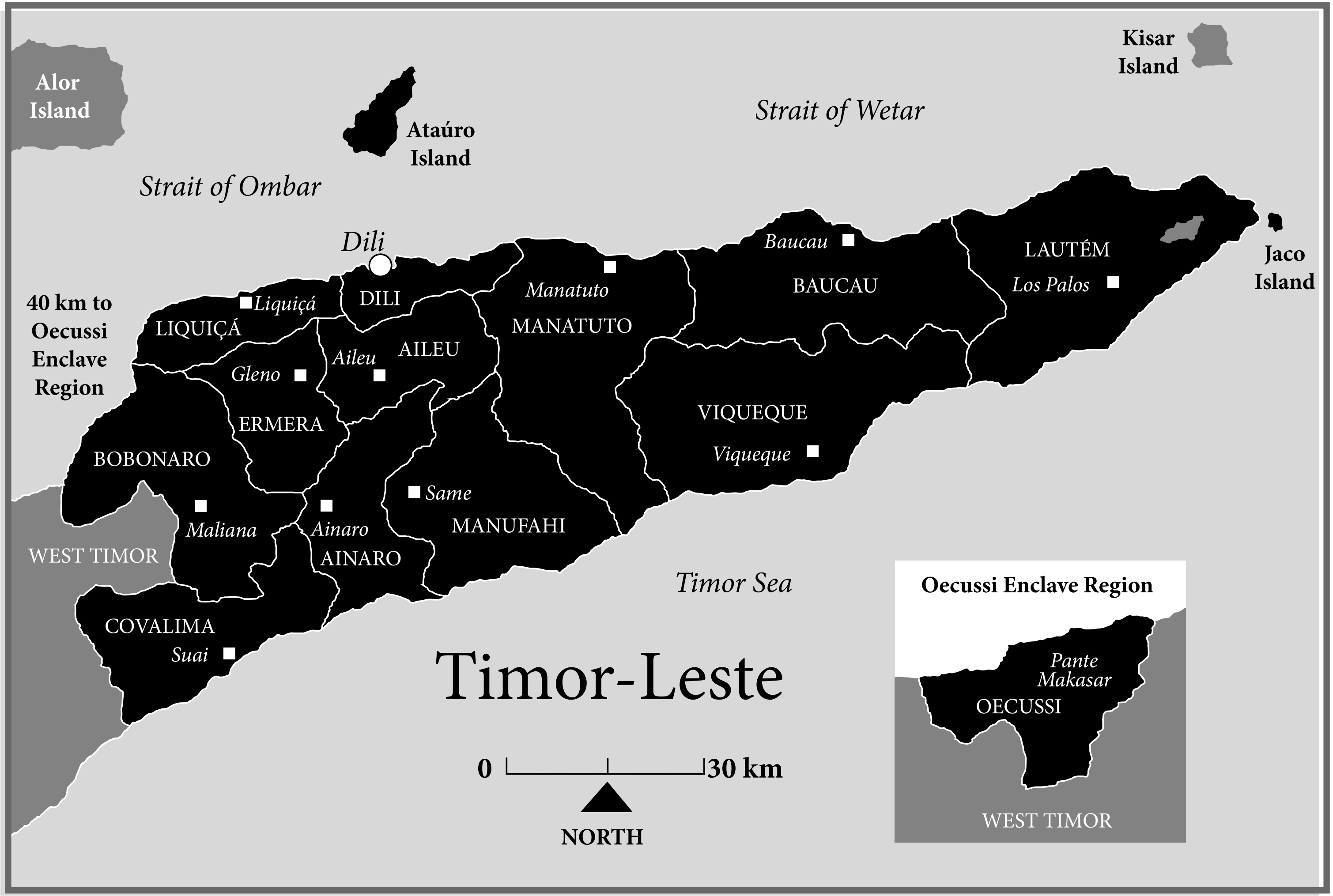
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Chega!

Part 7.4.

Arbitrary Detention, Torture and Ill-treatment

Part 7.4. Arbitrary Detention, Torture and Ill-treatment

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7.4. Arbitrary Detention, Torture and Ill-treatment

Introduction

1. Arbitrary detention, otherwise known as the arbitrary deprivation of liberty, was suffered by East Timorese people more than any other violation recorded by the Commission. It occurred throughout the entire period of conflict in Timor-Leste, during both the internal armed conflict and the conflict with Indonesia, and it occurred in all districts. Although all sides to the conflict arbitrarily detained people, members of the Indonesian security forces were responsible for the vast majority of cases documented by the Commission.

2. Arbitrary detention is important to consider not only because it is a violation in itself but also because it exposed victims to many other violations. Ill-treatment and torture (the third and fourth most frequent violations respectively) occurred overwhelmingly while victims were in detention. Other parts in this report also find that sexual violence, executions and disappearances, forced recruitment, forced labour, looting of belongings, deprivation of food and forced displacement all often occurred while victims were in detention and therefore in the power of the perpetrators.

3. The extent to which the people of Timor-Leste suffered being locked up and physically abused reveals a 24-year period of brutality and the repeated use of violence to crush political opposition, which eventually culminated in the violence and destruction of 1999. The UN Special Rapporteur on Torture concluded in his January 1992 report that torture was commonplace in Timor-Leste.* As this part sets out the occurrence of these violations was too often condoned, ignored or even perpetrated by those in command in each stage of the conflict. Impunity for the perpetration of arbitrary detention, torture and ill-treatment was standard.

* The UN Special Rapporteur put forward 11 recommendations to be implemented by the Indonesian authorities to put a stop to torture. Only two of those recommendations were implemented, namely the establishment of a National Human Rights Commission and accession to the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment. The latter was not carried out until 1998.

4. This part looks at the nature and extent of arbitrary detention, torture and ill-treatment over the period 1975-99.* There were very few cases reported in 1974, the start of the mandate period. It is hoped by examining these patterns and the structures and strategies behind them, that the people of Timor-Leste can understand how these violations were able to occur and what can be done to prevent them occurring again.

Definitions and legal principles

Arbitrary detention

5. International human rights law guarantees every person the right to liberty of the person and freedom from arbitrary arrest or detention by the state.[1]

Arrest

6. In this Report the Commission has used the word "arrest" broadly to describe the process whereby a person is taken into detention, regardless of whether that process is carried out by proper authorities acting within the law or not.

Detention and imprisonment

7. The words "detention" or "imprisonment" have been used to refer to any enforced deprivation of liberty, whether in a formal prison environment or elsewhere. That is, detention is any situation in which a person is held within a confined area against his or her will.

8. Under international law, detention is arbitrary where any of the following occurs:

- There is no legal basis justifying the detention
- The detention arises from the legitimate exercise of fundamental rights (for example freedom of expression or opinion)
- The situation involves human rights violations of such severity that the detention may be regarded as arbitrary (for example, where due process or a fair trial is lacking).[2]

9. In an armed conflict, it is permitted to capture enemy combatants and detain them as prisoners of war. However, under domestic criminal law civilians must not be detained without there being a legitimate reason for doing so.

10. Where a civilian or an unlawful combatant is detained on a criminal charge that person must be brought promptly (within a few days)[3] before a judge, and must either be tried within a reasonable time or released.[4] If this does not occur, the detention may be considered arbitrary.

* Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances, reports on killings and disappearances in detention.

11. The Commission notes that these standards have been used only as guides to the Commission's research and has not made a finding of whether the detention was arbitrary in each case.

12. Under Indonesian law, kidnapping or depriving a person of his or her liberty were prohibited.* These offences applied equally to officials including members of the Indonesian Armed Forces, and sentences were specified as higher in cases where an official used his power to commit an offence.† Portuguese criminal law prohibited illegally detaining, arresting or restraining a person.‡

Torture

13. Torture is considered a grave violation of human rights and is prohibited absolutely in all circumstances.[5]

14. Under international law, "torture" involves the intentional infliction of severe pain or suffering, usually for the purpose of punishment, intimidation, coercion, obtaining information or a confession or for any reason based on discrimination of any kind.[6] Although this definition also requires the involvement of the state in perpetrating the act of torture, the Commission is of the view that, in the light of authorities from other international bodies, under customary law acts carried out by non-state actors without the acquiescence of the State may also constitute torture.[7]

Cruel, inhuman or degrading treatment (ill-treatment)

15. Where an act falls short of torture, either because it is not severe enough or because it is not clearly carried out for one of the required reasons, it may still be cruel, inhuman or degrading treatment (referred to generally as ill-treatment). This covers, for example, solitary confinement,[8] sleep deprivation,[9] restraining a person in painful positions,[10] keeping a person's head hooded,[11] and subjecting a person to death threats.[12] Ill-treatment is also prohibited in all circumstances by international law.[13]

16. Where the conditions in which a person is detained fail to meet minimum standards set by international law, it may amount to cruel, inhuman or degrading treatment or punishment.[14] International law requires that all detainees must be treated humanely.[15] They must not be subjected to hardships or constraints other than those resulting from the deprivation of liberty and must be allowed to enjoy all human rights subject to the restrictions that are unavoidable in a closed environment.[16] In particular, prolonged periods of solitary confinement or incommunicado detention may violate these standards.[17]

* Articles 328 and 333 KUHP (Kitab Undang-Undang Hukum Pidana – Indonesian penal code).

† Articles 421 52 KUHP.

‡ Article 330 Portuguese Criminal Code.

17. More specific standards are contained in international instruments such as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; the Basic Principles for the Treatment of Prisoners; and the Standard Minimum Rules for the Treatment of Prisoners. These standards include requirements that prisoners be provided with the following:

- Accommodation meeting all requirements for health, taking into account climatic conditions, cubic content of air, minimum floor space, lighting, and ventilation
- Sufficient windows and artificial light to enable sufficient ventilation and lighting
- Toilet facilities allowing use in a clean and decent manner
- Adequate bathing facilities
- A separate and clean bed for each prisoner
- Food of sufficient quality and quantity adequate for health and strength
- Drinking water whenever it is needed
- Regular opportunities to exercise
- Access to medical treatment
- Opportunities to communicate with friends and family by correspondence and receiving visits
- Access to books, newspapers and other sources of information
- The ability to satisfy the needs of religious life so far as practicable.

18. Not all of these requirements are binding in themselves, but they provide standards that help in determining when the general obligation to treat prisoners with humanity and respect for the inherent dignity of the person has been breached.

Distinguishing between ill-treatment and torture

19. The Commission notes that drawing a distinction between torture and ill-treatment is often difficult, involving questions of fact and degree. Especially in the light of linguistic considerations – the word in Indonesian for "torture" is commonly used to cover a wide range of forms of mistreatment from light ill-treatment to severe torture – it has not always been easy for the Commission to determine which violation has occurred in a particular case of physical or emotional abuse. Further, as victims are not often aware of such fine legal distinctions they do not always describe what they suffered in sufficient detail for their experience to be classifed under international law.

20. As the Commission is not a court, it was not essential for the Commission to make a finding on the legal nature of the victim's experience. Unless the treatment was clearly in one category or another, the Commission has not classified the treatment under either category but rather has set out the specific acts of physical or emotional abuse suffered by the victim. In cases where the victim did not specify the

particular forms of abuse and simply described his or her experience as "torture", this description was accepted for statistical purposes.

Prohibitions under domestic law on assault and mistreatment

21. In addition to international standards dealing with torture and ill-treatment, domestic laws prohibiting the commission of various forms of assault and mistreatment also applied so as to criminalise this type of conduct. Under Indonesian criminal law "maltreatment" of a person was criminalised, and a higher penalty prescribed in cases where it had the effect of causing serious physical injury or death or was done with premeditation.[*] It was a crime to deliberately cause serious physical injury to another person.[†] These offences applied equally to officials including members of the Indonesian Armed forces, and sentences were specified as higher in cases where an official used his power to commit an offence.[‡] In addition, certain specific conduct by officials was prohibited, including the misuse of power by an official to force someone to do, not to do, or to tolerate something,[§] and the use of coercion by an official to procure a confession or statement in a criminal case.[¶] Portuguese criminal law also prohibited assault, especially in cases where an illness, injury, psychological harm or death resulted.[**]

Patterns of detention, ill-treatment and torture over the mandate period

22. As mentioned above, detention, torture and ill-treatment were among the most frequently reported violations across the entire mandate period. Of all the non-fatal violations reported to the Commission, 42.3% (25,347/59,972) were detentions, 18.5% (11,123/59,972) were acts of torture and 14.1% (8,436/59,972) were acts of ill-treatment.[††] Nearly 67%, or two-thirds, of victims of non-fatal violations reported being detained at some point. Most torture and ill-treatment occurred while in detention.

* Articles 351-353 KUHP.

† Articles 354-355 KUHP.

‡ Articles 421 52 KUHP.

§ Article 421 KUHP.

¶ Article 422 KUHP.

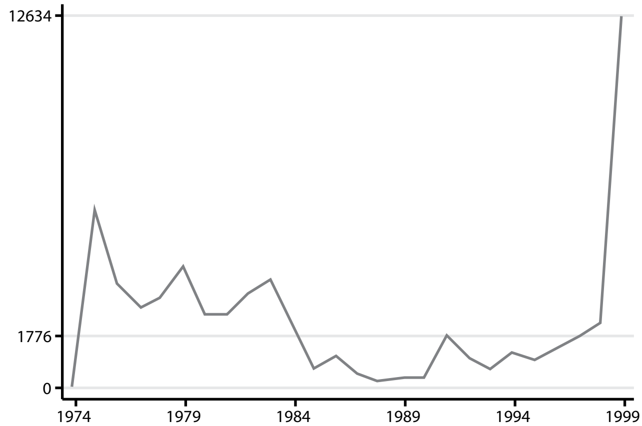
** Articles 359, 360, and 361 Portuguese Criminal Code.

†† These numbers do not by any means represent the total number of cases of arbitrary detention, torture and ill-treatment to have occurred in Timor-Leste over this period. They are the result of statements from only around 1% of the population, and have not all been statistically "matched" so that two statements may refer to the same incident of detention, torture or ill-treatment [see Vol. I, Part 6: Profile of human rights violations].

Patterns over time

23. The incidence of arbitrary detentions was not uniform over the period. The graph below shows the pattern of reported detentions, torture and ill-treatment over time.

Number of reported acts of non-fatal violations, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

24. It reveals that all three violations followed similar patterns and that there were two peaks in the levels of such violations: in 1975 during the period of the internal armed conflict and the Indonesian invasion of the territory, and in 1999 when the population of Timor-Leste voted for independence and the Indonesian military departed. During the entire period 1976-84, however, when large-scale Indonesian military operations to conquer Timor-Leste and destroy the Resistance were conducted, there were high levels of detention, torture and ill-treatment. During the 14-year period of 1985-98, when Timor-Leste was supposedly a normal province of Indonesia, arbitrary detention and torture was still reported to have occurred every year and took the form of sporadic low-level violence.

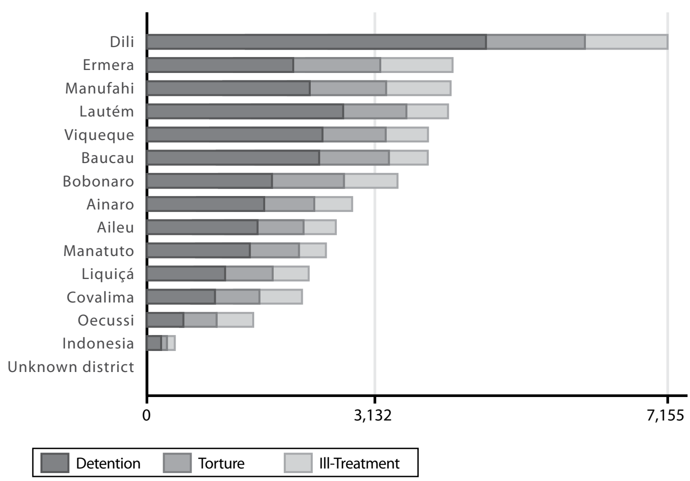
25. This pattern is consistent with the pattern of fatal violations: at times when more people were being arbitrarily detained and physically abused, larger numbers of people were also being killed (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

Patterns over space

26. Patterns over space also were not consistent throughout the conflicts. In the first years of the mandate period, the highest numbers of detentions and cases of ill-treatment and torture were in the western districts. By 1980, this had swung sharply to the eastern districts, where the Resistance was based and most resistance activity occurred, and this continued until 1984. Between 1985 and 1998, there was sporadic violence at similar levels in all regions of the territory but not in all districts in all years. In 1999, districts close to the border – Bobonaro, Covalima and Liquiçá – again saw most of the violence.

27. Overall, the highest number of people detained over the mandate period (18% of total reports) were detained in Dili, followed by Lautém, Viqueque and Baucau (the eastern region). The least number of documented cases came from Oecussi (0.8%),* followed by Covalima and Liquiçá Districts. Torture and ill-treatment, however, while highest in Dili (12% and 13% of total reported cases respectively), occurred most frequently in Ermera and Manufahi Districts.

Count of reported violations, by type and district



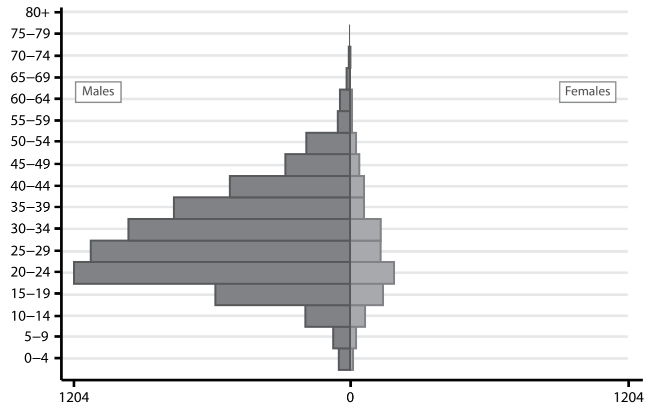
Source: Database of Narrative Statements Given to the CAVR

* Until 1999, there were almost no cases of detention, torture and ill-treatment in the enclave of Oecussi, apart from in 1975. This changed in 1999 when militia violence targeted the area.

The victims

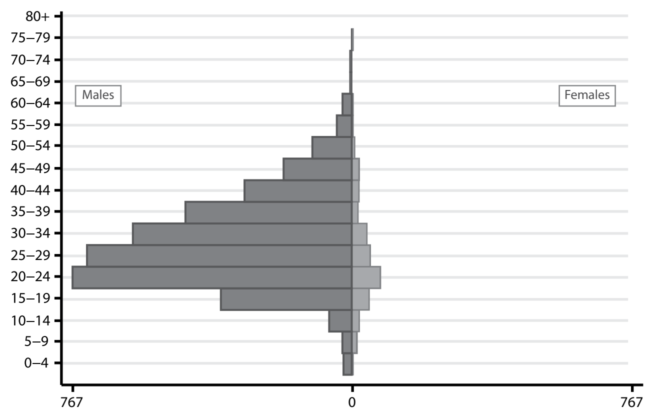
28. The Commission's statement-taking process identified 17,169 victims of arbitrary detention, 8,508 victims of torture and 6,872 victims of ill-treatment. From these cases it is clear that young men of military age involved in Fretilin/Falintil or other groups resistant to the Indonesian occupation, suffered the majority of violations.

Number of reported acts of detention, by age and sex, 1974–1999



Source: Database of Narrative Statements Given to the CAVR
Note: 72.4% of the records are missing age or sex of the victim

Number of reported acts of torture, by age and sex, 1974–1999



Source: Database of Narrative Statements Given to the CAVR
Note: 63,9% of the records are missing age or sex of the victim

Gender

29. Overall, women comprised 13.9% of victims in cases of arbitrary detention, 12.3% in cases of torture and 7.7% in cases of ill-treatment. This strong gender bias reflects both that men were at the forefront of the conflict, fighting in the internal armed conflict and taking part in the armed resistance or the clandestine networks during the occupation, and also that less women came forward to give statements than men. Only 21% of statements in the Commission's statement-taking process were given by women.

Affiliation

30. Victims of detentions and torture and ill-treatment were mainly members of the Resistance and the clandestine movement, as well as students and other real or suspected supporters of independence. Many people only indirectly involved in the struggle were also detained and tortured. Family members and friends of alleged insurgents and clandestine members were detained, often in an effort to isolate alleged members of the armed or clandestine Resistance from their support networks and so force them to surrender. Relatives and associates were also detained, tortured and ill-treated to extract information from them on the whereabouts and activities of their suspected family member or associate. An example of this is the hundreds of families that the Indonesian authorites sent to Ataúro in the early 1980s because they had family members in the Resistance or were from areas where the Resistance was strong. That is to say, very few of the detentions or cases of torture and ill-treatment reported to the Commission were random attacks on civilians with no political motivation. Only a very small number of victims were East Timorese who collaborated with Indonesia.

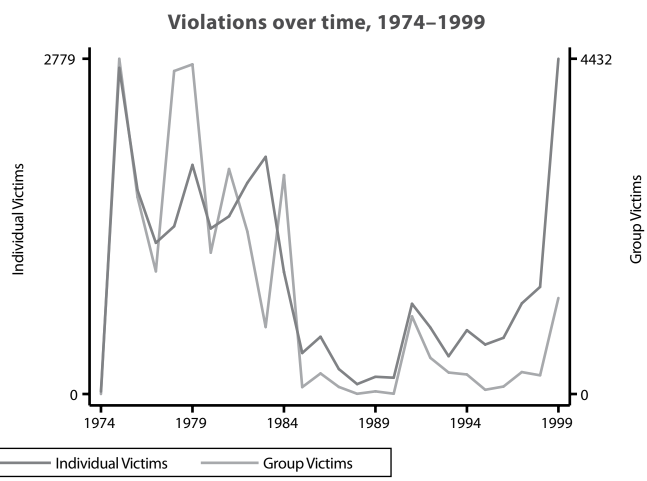
Group size

31. Most victims were detained individually, suggesting that they were specifically targeted by the perpetrator. Close behind this though were victims who reported being detained as part of groups of 98 people or more. The detention of individuals and groups is closely correlated; when more individual arrests are being made, more mass arrests are also being made. The patterns changed over time. In every year between 1975 and 1984, except 1983, more people were arrested in large groups than as individuals. Between 1985 and 1998, more people were being detained individually than in large groups. This suggests that detention by Indonesian security forces became more targeted and strategic towards individuals in later years of the occupation.



Source: Database of Narrative Statements Given to the CAVR

32. Torture and ill-treatment were obviously more often experienced by victims on an individual basis than as part of a group. Nevertheless, the category "groups of 98 people or more" was the second highest category in which people reported suffering ill-treatment or torture and in two years, 1975 and 1982, more people reported being tortured in a group than individually. Examples of torture and ill-treatment of groups include where large groups of people were detained and then beaten by their captors or were kept in terrible conditions amounting to inhuman treatment.



Source: Database of Narrative Statements Given to the CAVR

Institutional perpetrators

33. By far the most frequent perpetrators of arbitrary detention, ill-treatment and torture were the Indonesian military and police together with their auxiliaries. Together they were named as directly involved in 82.2% (20,867/25,383) of arbitrary detentions and 82.4% (16,135/19,578) cases of torture and ill-treatment.

Table 1: Violations by institutional perpetrator group*

Violation type	ABRI/TNI alone	East Timorese Auxiliaries Alone	ABRI/TNI with East Timorese Auxiliary	Fretilin/ Resistance	UDT	Civilian Popula-tion	Pro-Au-tonomy	Not re-ported†	Violation Count
Detention	12,212 (48.1%)	3,126 (12.3%)	5,557 (21.9%)	3,309 (13%)	984 (3.9%)	772 (3%)	222 (0.9%)	14 (0.1%)	25,383
Torture and ill-treatment	8,890 (45.4%)	4,380 (22.4%)	2,880 (14.7%)	2,250 (11.5%)	747 (3.8%)	509 (2.6%)	157 (0.8%)	27 (0.1%)	19.578

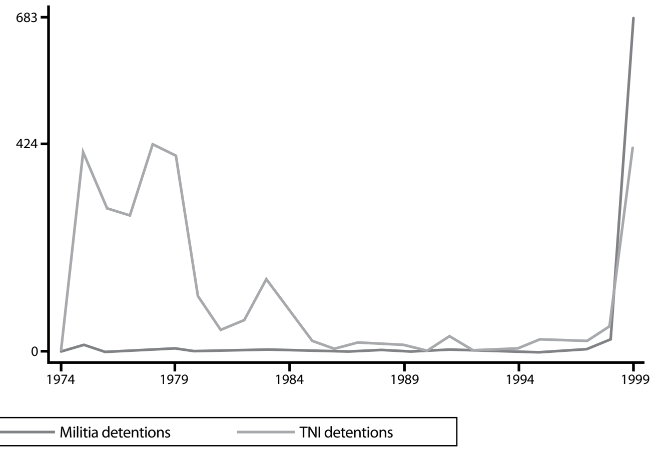
Source: Database of Narrative Statements Given to the CAVR

34. If this figure is broken down, it is clear that members of the Indonesian military and police acting on their own were still the largest perpetrators. Victims attributed 48.1% (12,212/25,383) of arbitrary detentions and 45.5% (8,890/19,578) of incidents of torture and ill-treatment to members of the Indonesian armed forces acting alone. Different agencies of the Indonesian armed forces were attributed responsibility at different times. In the early years, battalions and their commanders were named in most cases of detention, ill-treatment and torture because they were carried out during military operations. By the late 1970s, units which formed part of the territorial structure such as District and Sub-district military commands (Kodims and Koramils) were most frequently named. Police became more active in the latter part of the occupation, when the detention procedures in the province were normalised. Reflecting the fact that the chief targets of the security apparatus during the occupation were members of the armed and clandestine Resistance, throughout the occupation the various intelligence agencies and the Special Forces (Kopassandha/Kopassus) frequently perpetrated arrests, detention, torture and ill-treatment. They perpetrated these violations both directly and indirectly, for example, by ordering or encouraging East Timorese auxiliaries such as Hansip or militia groups to perpetrate violations.

35. East Timorese who worked with the Indonesian security forces (such as civil defence, local administrators, "village guidance" officers, and paramilitary and militia groups) acting alone were named in only 12.3% (3,126/25,383) of cases of detention and 22.4% (4,380/19,578) of other cases. The following graph shows the involvement of the military relative to East Timorese who worked in these auxiliary roles in detention cases alone. It is clear that the Indonesian military is the chief institutional perpetrator in all years except for 1999.

* Note that the violation count is not a total of the figures in the table as in many cases more than one institutional perpetrator was identified by the statement-giver [see Vol. I, Part 6: Profile of human rights violations].

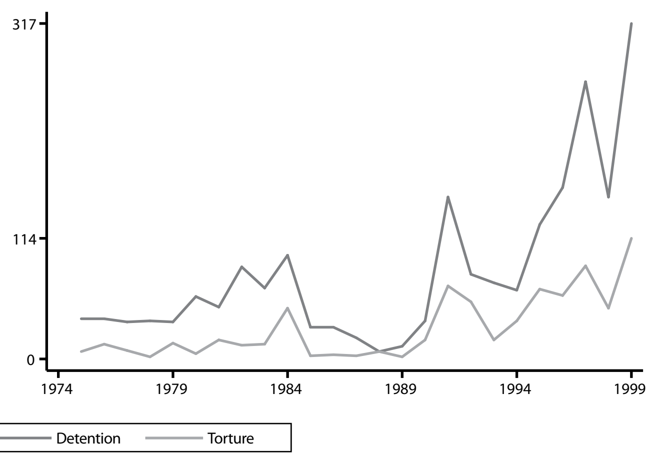
Violations over time, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

36. The Resistance movement was identified as the institutional perpetrator in 13% of detention cases, 11% of torture cases and 13% of ill-treatment cases. Most of these cases occurred in 1975 during the period of the internal armed conflict, and between 1976 and 1979 when internal divisions within Fretilin were at their height.

Non-fatal violations over time, 1974–1999, committed by Police



Source: Database of Narrative Statements Given to the CAVR

* Where the statement-giver did not identify the institutional affiliation of the perpetrator in his or her statement.

Where people were detained

37. The Commission's data analysis process did not analyse the type of places used to detain victims. However qualitative review of victim statements and information obtained through interviews and Community Profiles have revealed a number of patterns.

38. First, a huge variety of places were used to hold prisoners. During the internal armed conflict and the period of Fretilin administration, both UDT and Fretilin used whatever places were at hand. In some instances these were large buildings such as warehouses, military barracks or school halls; in others they were pens which resembled chicken coops, bamboo huts or holes in the ground. The Indonesian military continued this pattern after it invaded in 1975 and before it had built its own military structures. By mid-1976, the military had established military commands and police stations and it began to use these and other military buildings, such as barracks and mess halls, to detain and torture victims. Many victims were moved between detention centres numerous times and thousands were sent far from their friends and family to other parts of Timor-Leste, including the island of Ataúro or parts of Indonesia. The Annexes to this report contain a list of all of the detention centres in all districts reported by statement givers. It is not comprehensive but provides a sense of the number and variety of places used.

39. Second, throughout the mandate period but particularly in the early years and in 1999, conditions of detention were routinely far below internationally accepted minimum standards. Victims held by both political parties (UDT and Fretilin), and by Indonesian security forces and their agencies frequently reported suffering food deprivation, inadequate sanitation and ventilation, overcrowding and long periods of solitary confinement. Beatings and other forms of physical abuse were routine. Many people died in detention or were injured so seriously that they were never able to live normally again. Indonesian authorities are plainly the most culpable, as indicated by the number of people who suffered, the systematic nature of abuse and the length of time over which it occurred.

Structure of the part and key findings

40. This part is arranged both according to periods of time and perpetrators. Given the sheer number of reported cases of arbitrary detention, torture and ill-treatment, it was impossible to enter every deponent's testimony into this part. This should not be taken to imply that one deponent's testimony was more or less valuable than another's, merely that owing to constraints of space it was necessary to cite cases which exemplify general patterns.

41. The Commission has looked at patterns of who suffered these violations, who perpetrated the violations, and what strategies or policies (or lack thereof) led to these violations occurring. This was not always a straightforward process. Deponents described what happened to them in the way that they experienced it. Many victims did not even know who was committing the violation, let alone who had ordered

it or of the policy behind it. Nevertheless, from reviewing many thousands of such testimonies, certain clear patterns can be gleaned and responsibility attributed.

42. Victims' experiences were drawn not only from statements but also from extensive interviews conducted by the Commission's research team between 2002 and 2004. The experiences of communities as a whole, as set out in Community Profiles, were also a valuable research tool.

Detention, torture and ill-treatment by UDT, 1975

43. The first section looks at the nature and extent of arbitrary detention, torture and ill-treatment perpetrated by UDT during its August 1975 armed movement, carried out between 11 and 20 August 1975. It looks at the reasons for the detentions and then the patterns of detention, ill-treatment and torture on a district-by-district basis. The Commission has found that a key strategy of the UDT armed movement was the detention of leaders and ordinary members of the main opposition party, Fretilin. The Commission received testimony about people being arbitrarily detained in all districts of Timor-Leste apart from the enclave of Oecussi, but the largest concentrations of prisoners were in the districts of Dili, Ermera and Manufahi. Most of those detained by UDT were held in such poor conditions, often without any food or water, that some died in detention. Beatings and other forms of physical abuse occurred widely but incidents of torture were isolated and torture was not perpetrated systematically. As the UDT armed movement was short-lived, so were most of the detentions.

Detention, torture and ill-treatment by Fretilin, 1975

44. Fretilin forces declared an armed general insurrection, or "armed action", on 15 August 1975. It responded to the violations perpetrated by UDT with ferocity, detaining many hundreds of UDT leaders and supporters. As the threat of Indonesian invasion became more real, Apodeti leaders and members were also targeted for detention. Many former detainees of Fretilin report being heavily beaten, in some cases tortured. Fretilin also differed from UDT by actively engaging the civilian population in the punishment of UDT members. Many detainees died or were killed while in detention. After the Indonesian invasion, Fretilin continued to hold several thousand people in detention, depriving them of food and water but making them perform forced labour such as carrying heavy goods. Some prisoners died in these conditions and some were executed.

Detention, torture and ill-treatment by Fretilin/Falintil, 1977–1979

45. Indonesia did not have complete control of the territory until early 1979. Until then, Fretilin had control of a large part of the civilian population. In Fretilin-controlled zones it set up a rudimentary justice process. This section outlines the justice process, the reasons that people were detained through this system, as well as the treatment of prisoners in several districts. The Commission finds that arbitrary detention was widespread and was not mitigated by the Fretilin practices of meting

out justice. Ill-treatment and torture were also widespread and in some areas were systematic. They occurred during both interrogation and in the punishment of the prisoner. This treatment can be partly explained by the chronic food shortages in the Fretilin zones due to the need to continually move from the invading Indonesian forces and that crops were being burned by the Indonesian military.

Detention, torture and ill-treatment by the Indonesian security forces and collaborators, 1975–1979

46. The Commission's data show that the peak years for arbitrary detentions, torture and ill-treatment were the early years after the Indonesian invasion of Timor-Leste. This section looks at these violations: at the time of the Indonesian incursions along the border; during and immediately after the invasion of Dili and other major population centres; when people surrendered; or when they were captured in large numbers during military operations aimed at destroying the Resistance and bringing the whole population under Indonesian control. The Commission finds that targeted detention of East Timorese that the Indonesian security forces identified as members of Fretilin occurred from the day of the invasion of Dili. As well as targeted detentions, mass detentions of communities who surrendered or were captured occurred frequently throughout this period.

Detention, torture and ill-treatment by the Indonesian security forces and East Timorese auxiliaries, 1980–1984

47. Between 1980 and 1984, large military operations were again conducted to destroy what remained of the Resistance and its new support base in towns and villages. This section is chronological and examines the military's tactical response to the reformed Resistance. It begins with the first major attack by the Resistance after its apparent defeat, on the Marabia broadcasting station, followed by Operation Security and the transfer of thousands of people to the island of Ataúro, the crackdown following the Mount Kablaki *levantamentos*, the ceasefire and its tragic aftermath in 1983, the peak year for detentions and torture in this period, and finally the decline in detentions in 1984. Although the military still played a leading role in this period, East Timorese auxiliary forces, such as civilian defence (Hansip), became heavily involved in detaining and torturing suspects. This period is also notable for the number of mass arrests following events that demonstrated that the Resistance was still active. Entire families were detained for several years on Ataúro or in resettlement villages. The number of people tortured relative to the number detained increased after 1983 and this trend continued throughout the remainder of the occupation.

Detention, torture and ill-treatment by the Indonesian security forces and East Timorese auxiliaries, 1985–1998

48. This section looks at the nature and extent of detention, torture and ill-treatment during the long period of "normalisation" in Timor-Leste. Indonesia's decision to "open up" Timor-Leste, from the end of 1988, together with the increased international

scrutiny that followed the Santa Cruz Massacre and the growing importance of clandestine and diplomatic activity to the Resistance struggle resulted in new patterns of arrests and detentions in the late 1980s and the 1990s. There were fewer arrests and detentions during this period but they were more targeted. There were also preventive arrests made, for example, before visits by international delegations. The increasing mobilisation of youth by both sides led to numerous spontaneous clashes and violent outbursts around religious, economic and political issues. The number of incidents of detention, torture and ill-treatment began to increase substantially from 1997.

Detention, torture and ill-treatment by the Indonesian security forces and East Timorese auxiliaries, 1999

49. 1999 is dealt with separately because of the unique circumstances of that year. The announcement of, and preparation for, the Popular Consultation led the military to take drastic measures to influence the outcome. This part looks at the main perpetrators and the main victims of non-fatal violence, the reasons for detention, torture and ill-treatment, the patterns over time and space and the forms of detention and torture that emerged in 1999 and that were unique to this period.

Detention and torture by UDT, 1975

Introduction

50. The first major wave of detentions, torture and ill-treatment was carried out by the União Democrática Timorense (UDT) political party when it launched an armed movement in August 1975. This act is commonly known as the UDT 11 August 1975 armed movement or anti-communist movement (see Vol. I, Part 3: The History of the Conflict).

51. In the first days of the armed movement, UDT supporters attacked and burned villages where there was strong support for Fretilin. They arrested members of Fretilin and members of the Fretilin Central Committee (CCF). Radio broadcasts from Dili on the morning of 11 August urged UDT supporters in the districts to take up arms against Fretilin "communists", encouraging violence and inter-party conflict in all areas except the district of Oecussi.* The UDT armed action lasted until 20 August 1975 when Fretilin launched its general armed insurrection.

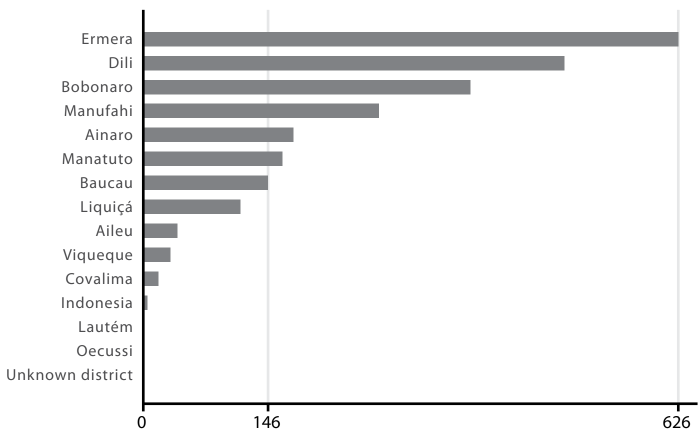
* In Oecussi, according to the official Portuguese *Relatorio da Commissão de Analise e Esclarecimento do Processo de Descolonizacão de Timor* [Report to the Commission of Analysis and Explanation on the Process of Decolonisation in Timor], the situation was unchanged on 11 August. Oecussi remained quiet on 12 and 13 August. On the night of 13–14 August, when the Portuguese Governor briefed representatives of Dili units on the latest situation and asked them to come up with a solution, the Oecussi Mounted Company said that it would abide by any decisions made by the Dili units' representatives. The town of Aileu was under the remaining *Metropolitano* (Portuguese metropolitan police) unit, and most of Fretilin's Central Committee members were based in Aissirimou (Aileu) until 15 August. UDT therefore reportedly did not enter the area. Detentions in other parts of Aileu were reported, however, such as a joint UDT and Apodeti arrest of two members of Fretilin on 11 August in Seloi Malere. [HRVD Statement 3256].

52. Detainees were released after Fretilin gained control of the territory in September 1975. The periods of detention were therefore no more than a month; in most cases, they were for less than two weeks.[18] Although the UDT armed movement was led from Dili, it was coordinated by district level leaders in each district. The overall statistical patterns of, and reasons for, detention by UDT and the treatment prisoners in detention in seven districts of Timor-Leste is considered below.

Statistical patterns

53. The Commission's research found that the level of violence related to the UDT armed movement varied between districts. The graph below shows the numbers of reports of arbitrary detention by UDT in each district.* It is clear that the violence was concentrated in the district of Ermera, followed by Dili, which was the UDT headquarters, Bobonaro and Manufahi. No detentions were reported in Oecussi and the numbers in the districts of Lautém, Viqueque and Covalima were low.

Count of reported acts of detention commited by UDT, by district, 1974–1979



Source: Database of Narrative Statements Given to the CAVR

54. A popular notion in Timor-Leste is that the UDT movement was not especially violent and that prisoners were treated well, particularly compared to the way that Fretilin treated its prisoners. For example José Ramos-Horta once wrote:

> The leaders of UDT acted more sensitively and humanely compared to the leaders of Fretilin…no leader of Fretilin who was detained by UDT stated that he was tortured by UDT. The same could not be said about the conduct of some Fretilin leaders.[19]

* Although the time period on the graph is 1975–1979, the first phase of the conflicts, it should be noted that the vast majority of these cases occurred in 1975.

55. However, the Commission's research has found that many detainees reported experiencing torture and ill-treatment at the hands of UDT members and supporters.

56. Qualitative analysis of the statements reveals that in most cases violations that detainees reported having experienced were closer to ill-treatment than to torture. Common violations were beating, kicking and slapping. Detainees were kept in detention for extended periods without food or water and in poor sanitary conditions. They were also used as forced labour. In many cases these actions amounted to cruel and inhuman treatment. These violations were often perpetrated by the UDT leaders themselves. An analysis of the deaths in detention by UDT is found in Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances.

Victims

57. Almost all the victims of arbitrary detention by UDT reported to the Commission were of Fretilin leaders, members and sympathisers, either real or suspected. Indeed, 81.1% (673/830) of detentions attributed to UDT reported to the Commission were committed against victims affiliated with Fretilin. Another 7.7% (64/830) of victims were reportedly civilians and 3.7% (31/830) were "other". UDT members themselves constituted 7.6% (64/830) of victims. These figures support the qualitative research findings of the Commission that UDT targeted Fretilin members when it conducted its 11 August movement.

58. Apodeti maintained a neutral position during the UDT movement, and its members were not targeted by UDT.[20] Only 0.2% (2/830) of victims in cases of detentions attributed to UDT were Apodeti members. Some Fretilin members reportedly hid in the homes of Apodeti supporters while the armed action was taking place.[21] Other Fretilin members fled from the fighting and many sought refuge in Dili, for example at the Office of the Department of Social Services (Assistençia).*

59. Paulo Freitas, President of the Trabalhista party at the time, said that the party had verbally "collaborated with UDT's anti-communist movement" but did not join the party when it launched its UDT armed movement. He was, however, placed under house-arrest by UDT in Ossu (Viqueque) during the UDT movement:

> *UDT made the coup and imprisoned me…what had I done wrong for them to come and imprison me? They took me and our* liurai *Gaspar… held a pistol and threatened the two of us: "You two, from now on you keep away, you must not get close to the people, I now control the people…You go to your homes and stay there [and be] silent. You will have to put up with this like a prison." So the two of us were just dumbfounded and stayed in our houses.*[22]

* The Office of the Department of Social Services was in Caicoli (Dili). This building is now used by the National University of Timor-Leste (UNTL).

Arbitrary arrest

60. The Commission heard testimony that the orders for the detention of Fretilin members in the districts came from the UDT leadership in Dili. Francisco Xavier do Amaral, the first President of Fretilin, described how he heard UDT giving orders over the radio:

> *Radio Dili sent UDT to attack Bucoli. They said: "Arrest Fretilin! Go and arrest them in Cairui, go and arrest the communists." I thought, "What communists? Don't tell me that Fretilin are all communists". They were saying that all Fretilin was communist…I listened to the radio all the time; there wasn't an hour when I didn't have it on. I heard that they attacked in Aileu, attacked in Ermera, attacked in Letefoho and those from Atsabe [Ermera] came and attacked the Central Committee in Aileu. From Turiscai [Manufahi], Funar, Fatumakerek, Laclubar [Viqueque], Soibada [Manatuto], Barique, they all came together and formed a crusade. They said: "This war is a crusade, a war against communism". This had the blessing of the priests. The priests prayed with them in a big mass and gave them their blessing.*[23]

61. João Carrascalão, the military leader of the UDT party at the time of the armed movement, denied that the UDT leadership in Dili ordered the arrests. He told the Commission:

> *There was no order to arrest Fretilin members and take them to prison. Suddenly we were surprised to see the prison full. There was no order from the Central Committee. The action taken was spontaneous…and many people acted for their own personal reasons, from earlier years, and they took the opportunity and just took people arbitrarily…Every day I went to the UDT prisons and released 50 to 60 people.*[24]

62. The evidence suggests that local leaders at the district and sub-district level identified the Fretilin members and supporters in the area and either apprehended them personally or sent other UDT members to make the arrests. Victims were taken wherever they were found. In some cases this was at home, on the street or at work. Two nurses were arrested while on duty and were still wearing their uniforms in the detention centre.*

63. Others were caught as they tried to flee their villages from UDT armed supporters who were burning down their houses and looting their belongings. For example, UDT captured Fretilin leader Vicente Reis (Sahe), his brother Marito Reis

* Enfermeiro José Espirito Santo was arrested at Lahane Hospital in Dili. Agustinho Freitas said that Guido Valadares and José Espirito Santo were still wearing their hospital uniforms when they were arrested and detained in Palapaço. [CAVR interviews with Maria José Fatima Ximenes, Enfermeiro José Espirito Santo's former wife, Baucau Town, Baucau, 2003; Agustinho Freitas, Carabau Village, Bobonaro, 12 June 2003].

and 11 other Fretilin supporters in Laleia (Manatuto) after they fled from the UDT attack on the village of Bucóli (Baucau). Marito Reis described how UDT supporters yelled abuse at them when they stopped in Manatuto:

> *They surrounded our car and screamed at us things like: "Kill communist sympathisers!…Like you Vicente Reis! Can you rule Timor?" We just stayed silent because in that situation we were unable to speak.*[25]

64. Others were arrested when they were found to possess a Fretilin membership card. João Lopes of Memo Village (Maliana, Bobonaro) told the Commission that a UDT leader arrested him in the village of Asumali because he was found with a Fretilin membership card, and then he was tied, beaten and detained.[26] In another case from the sub-district of Maliana, António da Costa Guterres told the Commission he was arrested on 2 September 1975 in the village of Odomau (Maliana) with a person called Carlos because they held Fretilin membership cards. Their captors were a Bobonaro UDT leader T1 and his men T2, T3 and T4. António and Carlos were tied, beaten and threatened with death.[27]

65. The Commission also heard of cases in which the victims were detained when they were caught up in the general chaos and violence of the time, not specifically for their party affiliation. For example, Lucio Dinis Marques described his arrest with eight of his friends:

> *On 11 August, we were living in Rosa Lay [a shop in Bairro dos Grilos, East Dili]. I was 19 years old and working at the Dili Diocese at the time. My younger brothers and sisters…and I were watching UDT men marching with their weapons. Then the men began shooting sporadically in our direction. We ran inside the house and no one dared go out because gunfire could be heard all over Dili. Around 3.00pm the same UDT men came back by car carrying Mausers and G-3s. They broke into our house and told us to go out into the street. They took the nine of us to Palapaço [location of the Portuguese military police headquarters] in a pick-up truck. A lot of people were already being held there. We did not know for sure if we had become prisoners, they just told us to join the other detainees in Caserna [the barracks]… While we were in detention we weren't beaten.*[28]

Detention centres and cases of human rights violations

Detention centres

66. UDT set up detention centres in various districts in Timor-Leste. In general, these facilities were temporary, to meet the immediate need of holding large groups of people. The Commission heard of schools, military compounds, warehouses and other large buildings used as UDT detention centres.

67. In most districts, one or two main detention centres were established, and then smaller places were used on an ad-hoc basis in other parts of the district. The main centres in each district were as follows:

Table 2: The main UDT centres of detention in every district	
District	**Main Detention Centres**
Dili	Palapaço, Portuguese military police barracks
Ermera	Ermera Prison Aifu, a coffee warehouse
Manufahi	Former Portuguese Prison in Same A "Chicken Coop" in Wedauberek, Alas
Liquiçá	Liquiçá Primary School Maubara Primary School
Bobonaro	Corluli, a rice-storage warehouse
Lautém	Military barracks at Companhia dos Caçadores 14 (14th Rifle Company)
Baucau	Pousada Baucau, a former hotel *Descascadeira*, a rice mill in Bahu, Baucau

68. Many prisoners told the Commission of suffering human rights violations including torture and ill-treatment while being held by UDT. Many also told of being held in poor conditions with little food or water.

Dili

69. On the morning of 11 August, UDT seized key points around Dili including the Portuguese Military Police barracks called Caserna Palapaço. As well as providing the UDT forces with a considerable arms cache, this became the UDT headquarters and the main UDT detention centre in Dili.[29] As well as detainees from Dili, the Commission also heard of people arrested in the districts of Manatuto and Baucau who were brought and detained in Palapaço.[*] Fretilin leaders such as Vicente Reis, Guido Valadares and José Siqueira were detained in Palapaço. Other detainees included Fretilin members and sympathisers, and civilians suspected of supporting Fretilin.

70. Mario Carrascalão described visiting Palapaço around 14 August 1975, after being in the districts of Timor-Leste:

> *In Palapaço I found old men, young boys and young men…12-year-olds carrying guns. I saw the son of a friend of mine, 12 or 13 years old, carrying a G-3.*[30]

* Vicente Reis and several other members of Fretilin from Bucoli (Baucau) were arrested and taken to Palapaço in Dili to be detained. Domingos Gusmão, a member of Fretilin, was apprehended by UDT soldiers in Gariuai (Baucau) and was also brought to Dili to be detained in Palapaço. [CAVR Interview with Agustinho Boavida Ximenes (Sera Malik), Soe, West Timor (Indonesia) 28 August 2004].

71. From victim testimonies and interviews, the Commission has heard estimates ranging from 100 to 200 Fretilin members and supporters detained by UDT in Palapaço.* The room in which people were held was so full that the guards had to stand outside.[31] Female guards brought the food and fed the detainees with plastic spoons. Each detainee was entitled to one spoonful of porridge twice a day.[32] The guard used the same spoon for all detainees.[33]

72. Witnesses told the Commission that prisoners in Palapaço suffered ill-treatment at the hands of UDT members and guards. At the prison door, the guards beat detainees who had to go to the toilet so that many detainees chose to urinate in their cells. Several detainees were reportedly shot dead by prison guards, one accidentally.† Some detainees also experienced torture, as illustrated by the following statement of Luis de Jesus Guterres to the Commission:

> *On 11 August 1975 in Ailok Laran, Dili, my wife, my child and I, with some of our neighbours [there were 12 of us altogether] were taken away by force by ten people from the UDT party whom I didn't recognise. They made us walk to the prison at Palapaço. When we arrived we were separated from our children and wives. They were taken to Liquiçá and the men were held together in Palapaço. We [the men] were interrogated by two members of UDT, T5 and T6. Then they beat us with a leather belt until we were bleeding all over and the torture went on for two days…We were made to cook for the other detainees for eight days. After that we were released by the UDT leaders at Palapaço, João Carrascalão and Manuel Carrascalão. Then we went to Liquiçá to find our families.*[34]

73. Members of the CCF did not escape ill-treatment in detention. Vicente Reis (Sahe) suffered beatings and verbal abuse after he was taken to Palapaço and interrogated by a UDT member, T7.‡ Vicente Reis's brother, Marito Nicolau dos Reis, gave the following account of their detention in Palapaço.

> *First we came in…then [T7] called Sahe: "You brought communism from Portugal. Come here!" He slapped, kicked and beat his face. [Sahe] fell and knelt with his hands on the ground. T7 reached for the bayonet from his Mauser and aimed it at Sahe but a police officer, T8, who collaborated with UDT, quickly slapped the bayonet away and said to him in Portuguese:* "Não faz isso" *[Do not do that]. When the beating stopped, Sahe was told to sit. I remember when they beat and kicked us,*

* According to Vicente Araújo there were around 200 members of Fretilin detained in Palapaço,

† Marito Reis told the Commission that a guard accidentally killed José Espirito Santo in Palapaço when his gun went off unintentionally and that José Siqueira was shot by a guard when he was sick and cried out [see CAVR Interview with Marito Nicolau dos Reis, Dili, 27 July 2003].

‡ T7 was a member of UDT. He was killed by T9 and T69 of Fretilin in Hola Rua (Same, Manufahi) on 28 January 1976, one day after he had escaped from the massacre of José Osorio's group in Hat Nipah, Hola Rua Village (Same, Manufahi) [see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances].

maybe only the two of us. Then they ordered us to sit near the door, and said: "You are from Unetim, you are those communists in Baucau."*[35]

74. Xanana Gusmão, who was arrested and detained by UDT in Palapaço, also recalled the detention and torture of Vicente Reis:

They yelled "Communist!" as they beat and kicked Sahe's body until he staggered. But he never complained. A UDT guard told us that we were in detention because we were all communists. Sahe asked him whether he knew what communism was. He said: "Communism, yeah, ah, I am not sure" and he left.[36]

75. The Commission also received testimonies suggesting that some detainees experienced physical abuse before they arrived in Palapaço.

Manuel Agustinho Freitas, detention in Palapaço

Manuel Freitas was a Fretilin delegate from Lepo Village in Zumalai, Covalima District. UDT arrested him in Mota Maloa, Dili, on 11 August 1975. He described his arrest and detention in Palapaço:

On Monday morning, 11 August 1975, UDT arrested me in Mota Maloa, Dili. The four of us were arrested and taken to Aitarak Laran (Dili) in a jeep. At the bridge, UDT supporters beat us with wood. Then they said: "Take them to the port and throw them into the sea."

Somehow, they decided not to take us to the port. Instead, they took us to Mandarin.† There, I saw people lined up in the street. They stopped our car. They started beating us…Then they took us to Palapaço. As we got out of the car, UDT supporters beat us and threw rocks at us. We were put into a military compound at 6.00am. There, I saw nurses like Guido [Valadares] and José Espirito Santo from Baucau who were still in their hospital uniforms.

On 14 August, I tried to talk to UDT leader T10 and I said: "Why not just capture the leaders, why [capture] us small people?" We asked whether he could facilitate our release. He refused and said that he could not sleep until UDT captured Francisco do Amaral and Nicolau Lobato. So we had to die. They dragged us back to the cell. On the night of 15 August, Senhor Arthur came. I did not know him, I only heard people

* União dos Estudantes de Timor (Unetim) was a student organisation affiliated with Fretilin.

† Mandarin is an area in Dili near Farol and Palapaço.

address him as Senhor Arthur. He entered our cell and wanted to free us that night…but nurse José Espirito Santo raised his hands and advised him not to let us go that night. He was afraid that other UDT members would think that we were escaping. He suggested that we be freed in the morning. The next morning at 7.00, the police chief, T11 entered the prison and screamed angrily: "You wait until you die. You communists cannot leave." We were tied up and stomped on.

On 17 August, a Malae, T12, and a police officer T13, the in-law of Lucio Marques who was detained with us in our cell, came. With a Mauser in his hand, he stood at the prison door and said, "Raise your hands if you are a blood relation of Albano." I pinched Lucio to also include me. We raised our hands, and made a "V" sign† and we were released.*[37]

76. Reports obtained by the Commission show that while the political violence was widespread at the start of the UDT armed movement, UDT continued to arrest people until Fretilin launched an armed reaction in Dili on 20 August 1975. The following reports obtained by the Commission describe the arrests and detention of Fretilin supporters in Dili:

Table 3: The arrests and detentions of Fretilin supporters in Dili

Deponent	Date and place of arrest	Detention	Torture
Matias de Jesus Soares[38]	11 August 1975 Arrested by ten UDT members.	Detained for six days in Palapaço.	Not mentioned by the deponent. On 16 August, Matias and Felix Fatima, a UDT driver, fled Palapaço by car. T7, a UDT member, shot at them but missed.
Vicente de Araújo[39]	11 August in Camea (Dili).	Taken to Palapaço.	When he arrived at the prison door he was hit by a rifle butt on his back, beaten and kicked.
Domingos Carvalho[40]	11 August arrested by UDT members in Becora (Dili).	Put in a car with eight others and taken to Palapaço.	Slapped twice on arrest. Beaten for three days in detention and closely guarded by UDT members from Ermera armed with swords, knives and arrows.
Alexandrino da Silva[41]	11 August, UDT members T14 and T15 attacked the deponent's house in Bairro Pite airfield, West Dili, and arrested deponent.	Deponent tied-up with other victims, Suriano and José. They were taken in a jeep to Palapaço.	João Carrascalão was standing at the door; they were untied and detained with Guido Valadares, José Alexandre Gusmão (Xanana Gusmão), Cornelio, Pontelião, José Siqueira, José Espirito Santo, Domingos Conceição, Alberto da Costa and Manuel Freitas. They were given dirty food, once a day; other detainees from Ermera and Maubisse (Ainaro) who went to the toilet received beatings.

* A term used in Timor-Leste to describe an outsider or foreigner, in this case a Portuguese person.

† Their fingers formed a V sign, a sign of UDT.

Moises Soares Pereira[42]	18 August, by UDT troops in Audian, Dili.	Tied up and taken to Palapaço by car.	Was put into a cell that already had around 250 people inside. While in detention he was forced to clean the cell.
Manuel do Rêgo[43]	18 August, deponent was stopped by an armed UDT member who asked for his UDT card, but he did not have one.	Soon after, a jeep came by and took the deponent to Palapaço.	Upon arrival, UDT members T7 and T16 hit the deponent, Mário Sousa, Acaçio Carvalho and Moises, with G-3 rifles until the weapons broke. The deponent was ordered to fix the water pipes and the other victims were ordered to clean the toilet.

Ermera

77. Ermera was also a UDT stronghold and the Commission received the highest number of reports of arbitrary detention by UDT in the district of Ermera, numbering 626.* Ermera was a coffee-growing area, and an owner of the plantations in Aifu, Ermera, T17, was the head of the UDT regional committee in Ermera.[44] He was named to the Commission as being directly involved in numerous cases of arrest and detention in Ermera District.†

78. UDT set up two major detention centres in Ermera District, in Aifu and the Ermera Prison. Other smaller detention centres were set up throughout the district. Once Fretilin's armed reaction was underway, UDT transferred all prisoners in Aifu to the Ermera Prison. UDT forced around 70-75 Fretilin prisoners into one small cell with poor ventilation, making it difficult for the prisoners to breath. Conditions in this prison were poor. Prisoners were deprived of food. There was no toilet in the cell; the guards provided a drum for prisoners to use instead. On 1 September 1975, UDT guards began to take the prisoners out of the prison. Some were executed and others were released[45] (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

79. Two women from Ermera described detention and torture in Aifu and Ermera Prison. Eufrasia de Jesus Soares from Poetete (Ermera, Ermera) was married to Daniel Carvalho, the Apodeti Regional Secretary for Ermera District. She told the Commission:

> *After their coup d'etat, UDT began to become violent in various areas from Ermera to Railaco…I followed all the developments in Ermera...In the beginning they did not kill, they just beat, captured, and engaged in various inhuman activities, so that many sought our protection. At that time we were living in Railaco. But acts of violence occurred in many places. People were captured, beaten and killed in Aifu.*[46]

* Note that this figure does not represent 626 separate detentions; some deponents may have described the same incident.

† HRVD Statements: 1061; 4540; 6156; 8341; 6203; 8304 and 6421.

80. Maria Cecilia de Jesus told the Commission that UDT troops arrested her husband Virgilio Agustino Exposto Monteiro and his friend Luis da Costa at the Humboe intersection (Ermera Sub-district, Ermera) on 11 August. The arrest was ordered by UDT leaders T18 and T19. Both victims were detained in the Ermera Prison for two days and on 13 August António Casimiro released them. But, on 20 August, Virgilio was re-arrested at Humboe by UDT with Cecilia's father and detained in Ermera Prison. Because Cecilia was not yet legally married to Virgilio, she went with Father José Maria Barbosa to Ermera Prison and married Virgilio. Father Barbosa was threatened and expelled from the prison by T18. She said that she saw 72 people detained in the Ermera Prison.[47]

81. Adelino Soares described his arrest in Sakoko (Ermera) and his detention in Aifu:

> *On 11 August, UDT armed supporters arrived in Sakoko, Ermera. They came to Sakoko first because they thought it was a Fretilin stronghold. They came with a major and guns like Mausers and G-3s. The villagers panicked when the armed supporters opened fire, shooting randomly. People ran in all directions. The supporters arrested ten of us who did not manage to escape and took us to Aifu. T20, a UDT commander, and T17 were waiting for us.*[*]
>
> *[T20] asked: "Are you the [Fretilin] delegate in Sakoko?" I answered: "Yes, I am", although I was just a regular member. Then [T130] said: "You can go home now, but tomorrow you must come here with your spears, arrows, machetes and any other sharp weapons you can find." At 6.00am we returned to Aifu [and] they took our weapons. They said: "Now go and find your Fretilin friends!" We obeyed and went to look for our friends but when we returned at 10.00am they tied our hands and feet. We were left tied up for a week. They beat other prisoners but they didn't beat people from Sakoko…*
>
> *They starved us for a week. They tied our hands and feet from morning until night. Many friends cried because of the unbearable suffering. Some died of starvation.*[48]

82. Adriano Ximenes's older brother was one of those detained in Aifu. Adriano reported that a UDT commander, T21, went to Lekesi in Poetete Village (Ermera, Ermera) and threatened to shoot Adriano's older brother, Alexandrino Mau Soko. Because Alexandrino knelt at T21's feet, he was not shot but was instead imprisoned in Aifu. When they arrived Alexandrino was slashed across the back with a machete and was then forced to clean and cook for members of UDT.[49]

* T17 was a UDT leader and the owner of a coffee plantation in Aifu. He owned a house in Aifu. On 1 September, UDT guards took prisoners from Ermera to his house and executed them [see Vol. II, Part 7.2: Unlawful killings and enforced disappearances].

Manuel Duarte, imprisoned in Aifu

Manuel Duarte managed to escape from a group whose members were eventually killed by UDT in early September. He gave a description of his imprisonment by UDT in Ermera and in Aifu to the CAVR National Public Hearing on the Internal Political Conflict of 1974-76, held in Dili from 15 to 18 December 2003:

On 9 August I arrived in Dili from my home in Ermera. On 11 August I was at Zeca Bras's house when T22 from UDT captured me and took me to Uma Kleuk. At Uma Kleuk they exchanged my Fretilin card for a UDT card and then released me.

The next day on 12 August, T22 with four others recaptured me and took me to Aifu where there were many prisoners. They tied us up and made us lie on the ground like pigs. We were held there for over two weeks. On 20 August in response to the counter coup in Dili, UDT fled to Ermera. T18 moved us from the prison in Aifu to the prison in Ermera. We were kept there for five days. The toilet was just a drum in the middle of the cell.

On 1 September, T69 ordered the UDT armed supporters to take Lorenço dos Santos, Armando Barros, Miguel Salsina, Vicente and myself to Aifu to be killed. Before we arrived in Aifu we met UDT forces and a commander coming from the direction of Aifu and we were ordered to go to Claetreman [a place in the aldeia *of Duhoho, Catrai-Leten Village (Letefoho Ermera)]. There, they took our wristwatches and money and we thought we were going to be killed. We met a second group of prisoners there but we didn't speak to each other, we just prayed.*[50]

83. Prisoners affiliated with Fretilin were also kept in smaller detention centres throughout Ermera. The Commission heard testimony about UDT prisoners held in the sub-district of Hatolia in Nunsloet, Lemia Sorin Balu, Boatu, Koliate (all in Hatolia, Ermera), and Leotela;[51] in the sub-district of Letefoho,[52] in the Lihu Primary School; and other locations in the sub-district of Railaco;[53] a private house in the village of Poetete and an improvised prison in Maudiu Village in the sub-district of Ermera.[54] Detainees in these smaller detention centres also suffered torture and ill-treatment. The following cases occurred on the day of the armed movement, 11 August 1975:

- Dinis da Costa Pereira of Gomhei, in Riheu Village (Ermera, Ermera) told the Commission that on 11 August 1975, he was arrested in his home by 12 UDT armed supporters led by T25 and acting on the orders of T18 and T19. They took Dinis Pereira to a makeshift prison in Maudiu Village, Riheu

(Ermera, Ermera) where he saw five other people who had been detained that day, namely Nicolau, Mau-Hatu, Viegas, Mau-Usi and Francisco. The prisoners were stripped naked, beaten heavily, kicked and punched. They were given no food or drink during their time in detention. On 20 August, as Fretilin launched its armed response, they escaped.[55]

- Also on 11 August, a UDT local representative, T26, asked the head of Nukurai Village, namely, T27, and T28 to arrest five Fretilin members. The victims were arrested in Haufu Village (Letefoho, Ermera) and taken to the Companhia (Portuguese military headquarters) in Dinhati (Letefoho). While in detention, they were tortured and subject to inhuman treatment.[56]
- Luciano Salsinha Ximenes described how in Railaco Kraik Village (Railaco) on 11 August, UDT forces, including UDT members T29 and T30, arrested him. They tied his hands, beat him with an iron bar and wood until blood streamed all over his body and then took him to Railaco Town to the head of UDT in the area, T31. There, he was put into a cell with four other people including the *liurai* Napoleão from Taraso (Railaco, Ermera), Mau Tero and Mau Lere from Lihu and José Tilman from Aileu.[57] On 13 August they were beaten again and then taken to Aifu (Ermera).
- Abel de Oliveira Pinto told the Commission that UDT leader T17 arrested him on 11 August in Eratoi (Letefoho, Ermera) because he was a Fretilin supporter. T17 tied Abel Pinto's hands and then beat him, before taking him to Letefoho where he was held with 25 other Fretilin prisoners. UDT supporters also burned down his house. He described how on 20 August UDT leaders, including T18, T19, T32 and T33 came to Letefoho to see the prisoners. They threatened to kill Abel Pinto but instead, they slashed him with a knife.[58]

84. Detentions continued on 12 August: Paulino de Deus Araújo described how on 12 August 1975 in Lauana (Letefoho, Ermera) UDT members forced him to join UDT. The same day he was arrested and taken to Letefoho. The following day, he and another detainee named Victor were tied and beaten by three UDT supporters named T34, T19 and T32.[59]

85. Serafin de Jesus Martins testified about his detention and that of his father during the UDT armed movement. In his statement he recounted that as a 16-year-old Fretilin supporter, UDT members T35, T36 and T37 came to capture him at his home in Manusae (Hatolia, Ermera) on 12 August. Failing to find Serafin, they took his father Besi Leto and detained him in the UDT Hatolia Headquarters in Nunsloet in Ailelo Village (Hatolia, Ermera) for two days.

86. On 13 August, the three UDT members returned and, still failing to find Serafin, verbally abused his mother and sister. On 15 August Serafin and his brother Cipriano Guterres went to Nunsloet, Aileo (Hatolia, Ermera) to speak to UDT leaders about their father's detention:

> *When we arrived, the UDT members arrested me straight away. They hit me all over with an iron bar and a piece of wood. Some of them*

hit me with a rock until my head was wounded, my right hand was broken and my knee was bleeding. Someone used a machete and cut my legs, both right and left. Then they burned me with fire and kicked and punched the rest of me. There were many people [beating me] but I only knew T38, T39, T40, T41 and T42.[60]

87. Serafin shared a cell with four other Fretilin prisoners, namely Rui Fernandes, Manuel da Silva, Damião de Oliveira and Gaspar de Oliveira, all arrested in Uruhau (Hatolia, Ermera). After a few days, the four were taken out and executed. Serafin was detained for eight days altogether and then moved to Hatolia Prison and then released by a member of the Public Security Police (Policia Segurança Publica).

88. On 25 August, UDT members arrested Serafin again and took him back to Nunsloet. This time he was not put in a cell but was forced to sleep on gravel for four days. A Segunda Linha* captain, T43, planned to kill Serafin when the UDT flag was lowered. Two other UDT supporters, Agusto Marcal Lemos and Hilario Soares, found out and alerted Serafin. He escaped and hid until Fretilin soldiers entered Raimerhei (Ermera, Ermera).[61]

Bobonaro

89. UDT arrests in Bobonaro District also began on 11 August 1975, mainly in Maliana and led by UDT commanders T1 and T44. The main UDT detention centre for people from Maliana Sub-district was a rice barn in Corluli, Ritabou Village (Maliana, Bobonaro).[62] The Commission heard that 70 Fretilin members were detained there, although several had been moved there from other detention locations around the sub-district of Maliana.[63] T45 was the warden and he carried a Mauser rifle. His treatment of prisoners was extremely harsh. Martino Lopes and João Godinho both told the Commission that prisoners received neither food nor drink and one or two prisoners died of starvation.[64]

90. João Godinho was one of the 70 Fretilin members detained in Corluli. He told the Commission that on 11 August UDT militants arrested a number of Fretilin supporters in Maliana. He was apprehended on his way to work and taken to the UDT secretariat. In the afternoon, UDT transferred the people it had captured to the public works camp (Acampamento Obras Publicas) in Maliana. There, UDT guards gave prisoners a radio to listen to the UDT broadcast. They said to the prisoners: "Listen to that! Fretilin has surrendered!" But after a few days the guards took the radio away. At every opportunity, the guards threatened to "bathe" the prisoners but the prisoners did not understand what they meant.† The prisoners were then transferred to Corluli. João Godinho told the Commission:

* Segundha Linha was the Portuguese second line or reserve military forces. They were usually traditional forces that had been allied to particular local kings (*liurai*) and which were then co-opted into the Portuguese military structure and given Portuguese military ranks.

† 'To bathe' was a euphemism for 'to kill'. The same term was used during the Indonesian occupation, i.e. 'to bathe at sea' (*mandi laut*) meant 'to kill'.

One afternoon, they told us to stand in a line and not to bring clothes and blankets. They said: "Get in the car!" Some were just thrown onto the truck. We didn't know where they were taking us [until] we got to Corluli…[UDT forces] stood in two rows armed with spears, machetes and arrows. They pushed us through them to enter the prison. From then on we no longer ate…We just stayed there until 2 September 1975.

When the gunfire started, we thought UDT was shooting. But soon the daughter of Felisberto, one of the detainees, stood up to the window and said: "Father, father, let's get away. Bobonaro is attacking!"…One detainee, António Valente, was already weak and João had died in the other cell. Soon six women – Ernestina Moniz, Florençia Maia, Flora de Jesus Moniz, Anita Amaral, Luisa da Gama and Leonita – came to look for us…They opened the prison door…We took Antonio Valente out too, but he was already too feeble to stand up and just lay there. So we put him back inside the room and closed the door and we just left. We heard that later troops from Bobonaro came and found him and they buried him.[65]

91. José Pinto Guterres was also one of the detainees in Corluli and spoke to the Commission about his experience. He was captured with other Fretilin supporters on 11 August 1975 on the orders of UDT leaders in Maliana, including T3, T47, T48, T49 and T50 from Odomau (Maliana, Bobonaro). They were taken to Corluli:

In the truck on the way to Corluli they kicked and slapped us. They beat us in the prison and they didn't give us food. Our wives brought food to the prison but they would soil it first before giving it to us. We did not eat or drink for nine days in the Corluli prison. If we asked for water, they would bring dirty water and spill it on the ground so we would have to lick it up. Some friends could no longer stand the thirst and [they] drank their own sweat and urine. There were 70 of us detained in Corluli.[66]

92. Statements provided to the Commission confirm the inhuman treatment of prisoners in Corluli. Several statements describe how the guards starved the prisoners of food and water, leading to the deaths of two or three detainees. Further, they stated that guards beat prisoners who dared to ask for permission to go to the toilet.[67] José Pinto Guterres described how the ear of his nephew, Anus Alesu, was cut off in Corluli by a UDT member.[68] António da Costa Guterres, held in Corluli for having a Fretilin card (see case above), told the Commission that he and some prisoners were forced to flee to Turiskai (a village in West Timor bordering sub-districts Suai and Maliana) with UDT on 12 September. From there he was taken with UDT to a refugee camp in Atambua in West Timor, Indonesia.[69]

93. Arrests in Bobonaro continued for several weeks. Other smaller detention centres were set up in the sub-district of Maliana including in Santa Cruz in Maliana Town, the UDT headquarters in Ritabou Village, "Secçao" Maliana detention centre or the *quartel* Maliana, Maumali and the house of local *liurai* Guilherme dos Santos, in Memo Leten. In other sub-districts, detainees were taken to the sub-district capital and detained. The

Commission heard of prisoners from the sub-district of Cailaco being held in the town of Cailaco and from the sub-district of Lolotoe being detained in Lolotoe Town.[70] Below are testimonies of the torture and inhuman treatment that prisoners experienced at a number of detention centres in the district of Bobonaro:

- Hermenegildo Fernandes described how on 11 August UDT leader T1 and his men T51 and T52 arrested Fretilin leaders, delegates and members of OPMT in Maliana. The victims were detained in the UDT office in Maliana then moved to Maumali in Ritabou Village (Maliana, Bobonaro). One detainee died of starvation.[71]
- Florindo Gonçalves, a Fretilin member at the time, told how in August 1975 (day not recalled) he and ten friends, named José Gouveia, António Valente, António Nascimento, Daniel Caldas, Avelino Moniz, João Gonçalves, Filomeno da Costa, Rosario, Moises Nunes and Guilherme Moniz, were arrested in the *aldeia* of Oecelli in Lolotoe Sub-district by a group of UDT soldiers led by T53 and T54. The victims were put in a room and held for three days, during which they received no food or water. The detainees were then moved by truck to a house in Lolotoe and held there for about one week.[72]
- Adriano João told the Commission that in 1975 he was the Fretilin representative in the sub-district of Cailaco. At around 4.30pm on Wednesday, 13 August 1975, UDT members led by T55 came and arrested him and then tied him up and beat him heavily. Adriano was detained in Cailaco for one week with other Fretilin members including José Martins, José Barros and Marcelino Borges.[73] During the period of the UDT armed movement, Adriano also suffered abuse from an Apodeti member, T56.* T56 attacked Adriano after he came home with his wife from seeing the doctor in Cailaco Town. Adriano was beaten heavily, stomped on and then his ears were slashed with a machete. As well as the physical abuse, Adriano told the Commission that he also suffered trauma after his livestock including his goats, pigs and cows were confiscated by UDT.

94. In Guda Village in Lolotoe, the Commission heard of two group arrests. Sebastião Amaral told the Commission that three young Fretilin members (himself, Amaro Moniz and Candido Daniel da Silva) were detained by UDT members on 14 August. He said that they were taken to the home of UDT leader T1 where they were beaten heavily. The UDT members threatened to kill them with arrows. After five hours, the detainees were taken to the *quartel* Maliana (the Maliana radio transmission station) and held for one week. The victims received no food while in detention.[74]

95. The community of Guda described how nearly two weeks later, on 28 August 1975, four UDT militants ranked first lieutenant (Alferes in the Segunda Linha) arrested the Fretilin delegates and 14 other young men in the village. They were taken to Lolotoe and handed over to T54 on the charge of being communists. T54 tried to force them to

* T56 was a member of Apodeti. He was the son of the *liurai* of Atsabe, one of the Apodeti leaders. He was the younger brother of a former Apodeti Partisan. It was not clear what motivated this torture by T56. [see CAVR Interview with Erminio da Costa da Silva, Jakarta, Indonesia, 9 August 2004].

accept UDT membership cards but they refused. He kept them in a toilet overnight and the next day ordered that they be tied up and taken to Maliana. The UDT soldiers then beat, kicked and stomped on the youths until their faces were almost unrecognisable.[75]

Manufahi

96. The third greatest number of detentions by UDT reported to the Commission were from the district of Manufahi. The main detention centre in Manufahi was a prison in Same Sub-district built by the Portuguese administration. Statements provided to the Commission estimate between 100 and 300 Fretilin detainees were held there during the UDT armed movement.[76] They also reveal that Fretilin prisoners in UDT detention centres in the district of Manufahi experienced torture and other forms of inhuman treatment.

97. Leonardo Paicheco, a former Fretilin delegate, was one of those held in the Same Prison. He told the Commission that on 11 August he was arrested by the Segunda Linha major, T57, and T58, the UDT leaders in Same, accompanied by a number of UDT soldiers. He was first taken to the Orema region in Hola Rua (Same, Manufahi) where Major T57 hit and slapped him and then beat him with his rifle butt. Major T57 then ordered his men to tie up Leonardo and take him to the Same Prison. There, Major T57 and T59 repeatedly hit Leonardo and others with a rifle butt. The prisoners were not allowed out of their cells for 14 days so that they had to go to the toilet in the cell and live in their own urine and faeces.[77]

98. Mateus Alves described in his statement about his arrest by UDT leader T58 and his men T68, T69 and T70 in the *aldeia* of Deunai in Hola Rua Village (Same). At the time of the arrest, T72 and another UDT member punched and kicked Mateus Alves. Then T73 tied him up and took him to see UDT leaders Major T57 and T74. Major T57 lashed Mateus with a whip (*chicote*) until he collapsed. Then they threw him into a truck with other detainees and took the group to the house of T75, another UDT leader in Fore-Udo Village (Same). After that Mateus Alves was taken to the Same Prison where he and other detainees were held for one week without food.[78]

99. Reports suggested that UDT also detained Fretilin prisoners in smaller detention centres in the district of Manufahi, where they also experienced inhuman treatment. For example, two men from a village in the sub-district of Alas were arrested by UDT and taken to Wedauberek Village in Alas. There, they were subjected to forced labour and inhuman living conditions by the UDT Commander in Alas, T60.[79]

Baucau

100. In Baucau, UDT operated two detention centres, the Pousada Baucau* and the Descascadeira† in Bairro Central Bahu, Baucau. In most cases, prisoners were held for the first few days in the Hotel Pousada, where they were interrogated by the UDT

* Hotel Pousada Baucau became known as the Flamboyan Hotel during the Indonesian occupation.

† The Descascadeira was a building used for milling rice, husking coconuts and similar processes.

leader in Baucau, and the party's vice-president, T62, before being transferred to the Descascadeira. The Commission heard that around 30 Fretilin members were held in the Descascadeira, from the districts of Baucau, Lautém and Viqueque. Former prisoners reported experiencing ill-treatment and torture including being lashed with a whip, kicked and punched.[80]

101. Liborio Maria told the Commission that on 11 August 1975, he and Faustino dos Santos, both young Fretilin members, were arrested by T61 of UDT in Bahu (Baucau, Baucau). The victims were taken to the Pousada Baucau where they were interrogated by T62, the head of UDT in Baucau. Another UDT member, T63, then took Liborio, Faustino and 30 other detainees to the Descascadeira.[81]

102. Domingos de Sousa Freitas told the Commission that he was arrested by two UDT members in the house of the *aldeia* head, T64, in Bacaiwa, Adagoa *aldeia* in Uailili Village (Baucau, Baucau). He did not provide the date of his arrest. Another UDT member then tied him up and beat him, and then took him to the wash house in Gariuai Village (Baucau, Baucau), where he was held for five days. The Uailili village head, T47, along with 20 other UDT members, then moved Domingos de Sousa Freitas to the Pousada Baucau. While in the Pousada, T62 beat him. He escaped after Fretilin launched its armed reaction.[82]

103. At 9.00am on 11 August, according to the statement of Diamantino da Costa, he and four other Fretilin members who had been charged with organising the community in Ostico Village (Vemasse, Baucau) were arrested in Ostico by UDT leader T46, his men T48 and T79 and ten other UDT members. They were taken to the Pousada Baucau. At 10.00am, T62 interrogated the detainees. During the interrogation, T62 accused them of being enslaved by Vicente Reis (Sahe). They were held in the Pousada for four days and on 16 August 1975 they were moved to the Descascadeira. They were released on 29 August after Fretilin launched its armed reaction in the area.[83]

Liquiçá

104. The district of Liquiçá was the home of the third UDT base, in the sub-district of Maubara. UDT operated two detention centres in Liquiçá District: one in the Liquiçá primary school and the other in the Maubara primary school buildings. The Commission heard that around 75 Fretilin members were held in the Liquiçá Primary School. These detainees were moved to the Maubara Primary School around 1 September.[84] They were held in Maubara for almost one month. No estimate of detainee numbers in Maubara was provided. The Commission heard that when Fretilin launched its armed insurrection, the first town it captured in the district was Liquiçá Town. This caused tensions to rise in Maubara and detainees took the opportunity to break down the prison door and escape.

105. There was no reported maltreatment of detainees in either centre and no deaths occurred in the detention centres. The Commission did find evidence, however, of detainees suffering ill-treatment outside, before they reached a detention centre. Albino da Costa Mouzinho, a former Fretilin vice-delegate in Leotela Village (Liquiçá, Liquiçá), testified:

On 12 August 1975, UDT delegate T65 and his men came and arrested me in the rice fields of Pabo in the aldeia *of Kaimegoluli, Leotela Village. Straight away I was beaten; they punched me with their fists six times across the ears until my ears were bleeding and I could not hear. After that I was ordered by another UDT delegate, T66, to go and find Maubroke and Asuloe (Fretilin members) in the* aldeia *of Paulara [Leotela Village]… so I went with T66 and his men to arrest Maubroke and Asuloe and took them to Nunloi in Fatumasi Village, to the house of the Village Chief T65. There I saw [a Fretilin member called] Maudasi lying on the ground seriously wounded and screaming. I was sent home.*[85]

106. Marcelino Soares described how in Vatuvou (Maubara, Liquiçá) on 13 August 1975, UDT supporters arrested him and five members of his family and beat them heavily. The victims' heads were also shaved and then they were tied and taken to Maubara. They were held there for 27 days until Fretilin attacked Maubara and they managed to escape.[86]

107. Daniel Pereira Martins testified in his statement that he was arrested by a UDT member in the *aldeia* of Kota Lara in Loidahar Village (Liquiçá, Liquiçá) on 14 August 1975 and taken to the Liquiçá Council building (Conselho). When they arrived, another UDT member threatened to kill Daniel Martins. He was taken instead to the Liquiçá Primary School where he was held for over two weeks. On 1 September 1975, Daniel and 67 other detainees were moved to the Maubara Primary School where they were held for nearly a month. Daniel told the Commission that in Maubara a UDT member called T66 slapped detainees whenever he gave them their food.[87]

Lautém

108. When the UDT armed movement broke out in the district of Lautém, Captain Lino da Silva, a Portuguese officer and commander of 14th Rifle Company (Companhia de Caçadores 14) came to the sub-district of Moro and placed the Segunda Linha commander, Edmundo da Conceição Silva, under house arrest. He also confiscated 150 firearms belonging to Segunda Linha, which he took to Dili and handed over to UDT.[88]

109. In addition, UDT supporters arrested a number of Fretilin members and detained them in the military barracks at 14th Rifle Company.* Prisoners held there did not suffer ill-treatment and were fed. The Commission heard of people detained at the Company headquarters for two weeks or less. Other Fretilin supporters were called to come to the headquarters for questioning by UDT and were then sent home.

110. According to José Conceição, a number of Fretilin leaders in the district of Lautém, such as Afonso Savio, Felipe Dias Quintas and others, were taken to Baucau and detained at the Pousada.[89]

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* The Indonesian occupation forces came to use C-Casa 14 as a military (TNI) base. They named it "Headquarters of Battalion 745 Company A".

Forced labour

111. As well as the physical abuse and the ill-treatment of UDT detainees, the Commission heard that many were also forced to work for UDT. The Commission received statements describing how prisoners were forced to build roads, to lift rocks and to dig gravel and to cook for the UDT forces and the detainees without compensation. For example, the Commission heard that on 15 August 1975 around 500 people were detained in Same and forced to work building roads all day without being given food.[90] Adriano João stated that prisoners in Cailaco (Bobonaro) were forced to build a road for one week, linking the town of Cailaco to Bilimau Village, on the border with Hatolia (Ermera). UDT released the prisoners on 4 September 1975 when the road was finished.[91] Similarly, in Maubara (Liquiçá) Marcelino Soares and his family (see above) were forced to carry rocks and sand to repair the road from Maubara to Mauboke.[92]

112. Women were also used as forced labour. For example, the Commission heard that when the UDT armed movement began the male Fretilin supporters in Mau Chiga (Hato Builico, Ainaro) left their families behind and fled to hide in the forest. UDT supporters captured Antonieta Corte Real and other women and took them to Lesuata (Ainaro). There they were forced to cook for UDT soldiers for one week. When Fretilin attacked the UDT base in Lesuata, Antonieta and the other women escaped.[93]

113. In the village of Ossu de Cima (Ossu, Viqueque), Seferina Freitas, her elder brother, Adelino da Silva, and the Fretilin delegate in Ossu, João da Rocha, were arrested by UDT. T71 and his men held the three prisoners for one week. During this time they forced them to carry rocks and wood to build a road as well as beating, slapping and kicking them.

Detention, torture and ill-treatment by Fretilin, August 1975–February 1976

Introduction

114. On 15 August 1975, four days after the beginning of the UDT 11 August armed movement, the Fretilin Central Committee (CCF) declared a General Armed Insurrection (Insurreição Geral Armada) from the Fretilin base in Aissirimou (Aileu). The declaration urged people to resist the armed movement and in a matter of days internal conflict broke out between UDT and Fretilin.*

115. During the internal armed conflict Fretilin replicated UDT's practice of arbitrary detention of its political opponents. Some of those detained were UDT combatants

* CAVR Interview with Lucas da Costa, Dili, 21 June 2004. Fretilin's declaration in Aileu was first made public in its statement on 13 September 1975 that "at 3.45pm on 15 August, the Fretilin Central Committee became aware that there was going to be no peaceful solution, so it urged armed resistance nation-wide." [See Helen Hill, *Stirrings of Nationalism in East Timor: Fretilin 1974–1978*, Otford Press, Sydney, 2002, p. 142].

but many others were ordinary members or supporters of UDT or members of other political parties, or their families, who were civilians due all of the protections accorded to civilians under international humanitarian law. The Commission has not differentiated in this section of the Report between combatants and civilians, because all detainees have a right to be treated humanely and not be subjected to torture or other cruel or degrading treatment. Further, in many of the statements received by the Commission, people who identified themselves as combatants were often arrested in their homes or villages, not during combat.

116. The Commission has found that Fretilin conducted widespread detention, including the arbitrary detention of civilians. The International Committee of the Red Cross (ICRC) estimated that around 2,000 prisoners were in Fretilin detention centres after its armed reaction to the UDT movement. The Commission, through its narrative statement-taking process, documented 1,369 cases of arbitrary detention by Fretilin in 1975. Of the 64.3% (880/1,369) of these cases that reported the exact month in which the violation took place, 95.2% (838/880) occurred between August and December, as can be seen in the table below. Furthermore, 58.8% (517/880) of the victims were reported to be affiliated with UDT. The arbitrary detentions attributed to Fretilin which involved UDT members were overwhelmingly concentrated in August and September of 1975, as can be seen in the following table.

Table 4: Count of reported acts of torture committed by Fretilin, by months, 1975

Month	Count	Percent
January	11	0.8
February	3	0.2
March	5	0.4
April	8	0.6
May	0	0
June	12	0.9
July	3	0.2
August	338	24.7
September	289	21.1
October	59	4.3
November	28	2.1
December	124	9.1
Unknown	489	35.7
Total	**1,369**	**100**

Source: Database of Narrative Statements Given to the CAVR

117. Qualitative evidence received by the Commission suggests that people detained by Fretilin generally received adequate food but were held in overcrowded and unsanitary conditions. Physical abuse and sometimes torture of detainees were widely reported.

118. The Commission's statistical research reveals that in 1975 the overwhelming majority of Fretilin detentions occurred in the central districts, in particular in Dili,

Aileu, Manufahi and Ermera, as is shown in the table below.* The Commission's qualitative research, through interviews and Community Profiles, suggests that Dili was also one of the main detention places during the internal armed conflict. This is consistent with the Commission's view that arbitrary detention was used as a tool of the conflict and was concentrated where the conflict was most intense.

Table 5: Count of reported acts of torture committed by Fretilin, by districts, 1975

District	Count	Percent
West	321	23.5
Central	806	58.9
East	225	16.4
Oecussi	17	1.2
Indonesia	0	0
Total	**1,369**	**100**

Source: Database of Narrative Statements Given to the CAVR

119. Fretilin continued to detain people after the Indonesian invasion in the early months of 1976 but at a much lower level – 150 cases were reported in January–February 1976. In contrast to previous months, these cases occurred mainly in the eastern districts: 64.7% (97/150).

The Fretilin armed reaction

The General Armed Insurrection

120. Rogério Lobato received a coded message from Fretilin in Aileu in Dili on the night of 15 August,† signalling the start of the Insurrection. He told the Commission:

> *On the night of 15 August, the transmission unit called me [and I heard the coded message]. I knew they had started the "counter-coup" in Aileu. Then I prepared the "counter-coup" in Dili. I called Commander João Branco, Adão Cristovão and the others. Then we made a plan at the soldiers' mess hall (*sala dos soldados*).*‡

* 58.9% (806/1,369) of detentions were reported in the central districts compared with 23.5% (321/1,369) in the western districts and 16.4% (225/1369) in the eastern districts.

† Rogério Lobato and other CCF members in Aileu agreed to use the code when Rogério came to Aissirimou, on behalf of Lemos Pires, to negotiate with CCF members in Aileu on 15 August 1975. The message read "*A minha muelher ja esta à Aileu, chegou bem*" ("My wife arrived safely in Aileu"). Rogério Lobato devised this message as he was about to leave for Dili by helicopter. He conceived the coded message when he thought about his wife in Dili, and revealed the message to Commander Gil António Gonçalves and José da Silva. [CAVR Interview with Rogério Lobato, Dili, 26 August 2003].

‡ Rogério Lobato said the *sala dos soldados* was a bar set up for Portuguese soldiers where they could order food and drink. [CAVR Interview with Rogério Lobato, 26 August 2003]

121. On 17 August, Fretilin took over the Portuguese military barracks in Aileu and detained Portuguese officers and soldiers. On the night of 17 August, 44 Fretilin members moved to encircle the Portuguese troops in Aileu. Lucas da Costa told the Commission:

> *[A]ll the troops were gathering for a meeting. We started to surround their position and hid in the drains. Nicolau Lobato, Abel Larisina and Alarico Fernandes were the first to approach the gate. When the meeting ended, the commander left through the gate and Nicolau jumped out from the drain, pointed his pistol at the commander and asked him to remain quiet. Nicolau told the captain to surrender his Aileu troops to Sergeant José da Silva.* There were 11 Portuguese soldiers, five officers and some sergeants and corporals. These soldiers became prisoners.*[96]

122. The launch of Fretilin's armed reaction in Dili also began with the detention of members of the Portuguese military. At 1.00am on 20 August. Rogério Lobato and Sergeant Hermenegildo Alves, East Timorese soldiers who had already aligned themselves with Fretilin, arrested the Portuguese deputy chief-of-staff who headed the Quartel Geral (QG) where he also lived. That same morning, East Timorese soldiers disarmed 50 to 60 Portuguese soldiers.[97]

Reasons for arbitrary detention

123. A number of the leaders of the UDT 11 August movement were arrested and held by Fretilin, including its vice-president César Mouzinho from Baucau, Francisco Oliveira and Mário Jaorez from Dili, and a number of other UDT leaders from the districts. They also detained the Portuguese chief of police, Lieutenant Colonel Maggiolo Gouveia,† The Commission was told that some Fretilin members who detained UDT members were motivated by revenge for the violence committed by UDT members during the armed movement.‡

124. As Indonesian incursions in the western districts intensified, Fretilin also turned its attention to the pro-integration Apodeti party. Filomeno Cabral explained that Apodeti members were arrested because of the escalating attacks in the border region by the Indonesian military and East Timorese exiles who had been formed into a force known as the "Partisans". Lucas da Costa stated:

* The Captain's name was Horta."My brother [Nicolau Lobato] disarmed Horta" [CAVR Interview with Rogério Lobato, Dili, 26 August 2003]

† Mario Carrascalão told the Commission that Maggiolo Gouveia was released from UDT custody shortly after the armed action of 11 August 1975 "because he had made a political declaration that he adhered to the UDT movement". Mario Carrascalão said that Maggiolo Gouveia went to talk with Fretilin members after this release, but that he was arrested by Fretilin and subsequently disappeared. [Testimony to CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003. See also: Mário Lemos Pires, *Descolonizaçâo de Timor.* Chapter: "O Golpe da UDT [The UDT Coup]".

‡ Xanana Gusmão, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.

It was a simple logic; in this war (in Timor-Leste) some people conspired with the enemy to wage war. The conspirators were of course UDT and Apodeti people…Fretilin had to resist border incursions. Our soldiers started to die [and] journalists from Australia [were also killed]…And so leading figures in UDT and Apodeti were all arrested.[99]

125. Mari Alkatiri testified to the Commission that the Apodeti leaders were arrested on his orders on 4 or 5 October 1975, after he received intelligence that they were planning an attempted coup against Fretilin. He said that when he was told that Apodeti members were planning to begin the "attempted coup" by throwing a grenade into a Fretilin Central Committee meeting:

I called Sergeant Carmo. I said: "You carry out this operation. Go catch them all." We caught a lot of Apodeti people, nearly all of them. The sergeant put the police into what is now Undil [Dili University building].[*]

126. The leaders of the KOTA and Trabalhista parties were also detained, but not their ordinary membership.[100]

127. On an individual level, victims reported being detained if they were known UDT or Apodeti leaders or supporters, were from UDT- or Apodeti-affiliated villages, if they held UDT membership cards or if they were suspected of spying for UDT or Apodeti.[101]

Places of detention

Dili

128. The Quartel Geral (QG), the Portuguese army headquarters in Taibessi, Dili, was the first building occupied by Fretilin on 20 August. Most of the UDT leaders and members captured during the armed action were detained there, including César Mouzinho, Francisco Oliveira and the former Portuguese police chief, Lieutenant Colonel Maggiolo Gouveia. João Oliveira was the Fretilin warden at the QG.[102] Rogério Lobato, the commander of the Fretilin armed forces at the time, told the Commission that about 1,000 Fretilin supporters gathered at the QG to see the arrested UDT leaders, many with guns. He said that they beat the UDT leader, César Mouzinho, and, as they lost control, another prisoner being led to the cells, Mateus Ferreira from Same, was crushed to death by the mob.[103]

129. Testimony and statements to the Commission indicate that prisoners at the QG experienced various forms of abuse, torture and other forms of cruel or inhuman treatment. Fretilin acknowledged that there were cases of unrestrained physical violence against prisoners. Rogério Lobato said that members of Fretilin began to

* Mari Alkatiri, testimony to the CAVR National Public Hearing on Internal Political Conflict 1974-76, 15–18 December 2003.

abuse their power and commit violations against prisoners. He said that Fretilin as an organisation "never gave a direct instruction to do bad things to people, but members of Fretilin as individuals sometimes abused their power and committed violations of human rights." He told the Commission:

> *Sometimes they entered the prison, called out for prisoners and beat them. Sometimes this wasn't because they had a problem with them about the [political] situation, but from an old problem. I know that sometimes it was because someone had taken their girlfriend and so now they used this as a chance to beat him. I know this. People took advantage of the war to beat others and to take justice into their own hands. But some did beat them because they were angry because of the war.*
>
> *They beat Maggiolo and others…I want to say something about Maggiolo Gouveia. Many Fretilin and Falintil colleagues entered his cell and beat him. The prison warden, Sergeant João Oliveira, came to me and told me about their unrestrained behaviour. They came just to beat Maggiolo Gouveia. [I said]: "Why don't you bring Maggiolo here?" and I met him in my office, which used to be his. I said: "My dear Lieutenant Colonel, I heard about what happened to you in this prison. I will release you from this prison and take you to hospital." So I took him to the hospital and handed him over to the International Red Cross.*[104]

130. José Ramos-Horta was one Fretilin member unimpressed with the treatment of UDT members at the QG. He was also displeased with the treatment of prisoners at the Lahane Military Hospital in Dili. Some prisoners were transferred to Lahane Hospital after suffering severe torture at the QG.

> *I visited the military hospital in Lahane. The UDT vice-president Mouzinho and other UDT members had already been transferred there, including Agapito Mariz, Fernando Luz, and Chico Oliveira. Mouzinho almost died of the severe beating [he received] when he surrendered to Fretilin soldiers in Baucau…Chico Oliveira…lost most of his vision through severe beatings.*[*]

131. The Commission received a number of reports from victims of such treatment. Francisco Gonçalves told the Commission that a Fretilin member, T80, ordered his men to torture him while he was a prisoner at QG. Francisco was aged 17 at the time and was in grade ten at Liceu Dr Francisco Machado in Dili. He had studied in

* José Ramos-Horta, *Timor Leste Amanha En Dili* , pp. 107-113. In the same book and at the same pages, Ramos-Horta wrote that when he came for lunch at Nicolau Lobato's house, he told Lobato what happened in the prisons. He told Nicolau Lobato that the practice had to end. If not, he would invite ICRC delegates as well as foreign journalists to expose the practice. Earlier, Ramos-Horta heard that a second sergeant and Fretilin deputy commander had whipped Maggiolo Gouveia and Victor Santa.

Mozambique and on his return to Timor-Leste in 1974, became a member of the UDT youth group, Lesvalt. He was not involved in the UDT armed movement, but Fretilin arrested him at the Motael Church on 27 August and took him to its headquarters. On 28 or 29 August, T80 came to the prison and found Francisco's name on the list of detainees. When Francisco was called out of his cell, he heard T80 say to a guard: "This is a playboy…from Mozambique…whip him 150 times." Gonçalves collapsed after being whipped 17 or 18 times and was put back in his cell.[105]

132. Felix Fatima Ximenes reported that on 12 September 1975 two Fretilin members, T81 and T82, arrested him and António Soares in Maubara (Liquiçá) because of their UDT membership. They were taken to Dili and detained at the QG for two months. Throughout their detention they were beaten by Fretilin member and former sergeant in the Portuguese army, T83, who acted on the orders of T84, the person responsible for beating prisoners. On 19 November, Fretilin moved them to Balide Prison.[106]

133. A member of UDT reported that in September 1975 he was arrested by commander T85 of Fretilin in Dili, and taken to the QG. He said he and two others including a police chief were whipped by Fretilin guard T84. They were then ordered to lie in the sun and beat each other.[107]

134. The Commission's research indicates that unlike UDT, Fretilin did not deprive detainees of food (see section on Detention and Torture by UDT 1975, paragraph 50-113 above). Mari Alkatiri told the Commission that Fretilin members and prisoners ate the same food:

> *As for food, I remember I ate whatever the prisoners ate. We ate the same food. After all, the food came from the same kitchen.*[108]

135. Mari Alkatiri testified to the Commission that Fretilin also held Fretilin members at the QG from about October. He said that they were detained due to the excesses that they had committed in the internal conflict and its aftermath.[109]

Comarca Balide

136. From mid-September Fretilin began to use the main Portuguese prison, in Balide (Dili), known as the Comarca.[110] Fretilin detained around 390 prisoners there, including both members of UDT and Apodeti.

137. Statements received by the Commission indicate that prisoners detained in the Comarca were brought in from a number of districts, including Dili, Liquiçá, Aileu and Ermera.[*] Lamberto Ximenes told the Commission that he and other civilians were detained by Fretilin forces in Leimea Leten (Atsabe, Ermera). They were forced

* CAVR Interview with Anselmo dos Santos, at the village of Vaviquina-Maubara, Liquiçá, 9 March 2004. Anselmo dos Santos was arrested in Maubara, detained first at QG and then moved to Balide. Anselmo dos Santos estimated that 64 of the 390 detainees at Balide were from Maubara. All of them survived and returned to Liquiçá after the Indonesian military defeated Fretilin there.

to work building a road for three days and were then sent to the Comarca in Dili where they remained until the Indonesian invasion of Dili on 7 December.[111]

138. A statement received by the Commission states that two prisoners were held for two months in the QG before they were moved to the Comarca on 19 November. There they joined senior Apodeti members who had previously been detained in Aileu, including Arnaldo dos Reis Araújo, António da Silva, Mahrus Alkatiri, José António dos Reis, José Gastão Melo Araújo, Herminio da Costa Silva, Ernesto and Frederico Almeida dos Santos.[112] Frederico Almeida dos Santos told the Commission that he was detained first in the Museum, near the Government Office (now the Palàçio do Governo) on the waterfront, before he was moved to Aileu with 12 others, and was finally sent to the Comarca in Balide on 20 October 1975 on the orders of T86.[113]

139. The Commission did not find evidence of abuse, torture or other cruel treatment directed at UDT or Apodeti prisoners at the Comarca. Anselmo dos Santos, a former prisoner in the Comarca, described the conditions:

> *At the Balide Prison we were guarded by four Fretilin guards and a commander named [Filomeno] Gomes from Atsabe. He was a good man. We were held in the Balide Prison from September to December [1975]. Each morning after breakfast we worked. We swept or did other jobs such as hoeing the land or cutting grass in Caicoli [an area of Dili behind the prison].*
>
> *In the beginning, we had breakfast of sweet potatoes, bread and coffee. We were also given lunch and dinner. But as we went into November the situation became desperate. Food supplies brought from the east dried up and the sweet potatos from Ermera ran out. We just waited to die. In the morning we could still have as much coffee as we wanted but without food. At lunch we ate only green vegetables, the same for dinner. The food supplies had run out and this situation lasted until the end of November.*[114]

Aileu

140. Aileu was the main Fretilin base. It had two main detention centres, the Companhia in Aissirimou (the military barracks taken over by Fretilin), and a large coffee warehouse. Fretilin detained leaders of opposition parties at the Companhia, and sent ordinary party members to the warehouse.[115] The two detention centres held prisoners from the district of Aileu and also from other regions. The Commission received reports of abuse and ill-treatment of detainees at these centres.

141. Amelia Mesquita told the Commission that she and eight members of her family were among the first detainees to be held in the Aileu coffee warehouse. Amelia and her family were farmers from the village of Seloi-Malere in Aileu. In August 1975 a group of Fretilin men armed with arrows and spears came to her village and arrested her, her mother Lourença da Costa and her father Carlos de Araújo, while they were

in their coffee plantation. They also arrested six of Amelia's relatives, two of whom were women. Fretilin arrested them on suspicion of hiding guns, which Amelia's father denied. They were dragged along the street and then tied up and beaten. They tied Amelia's uncle to a flag-pole and beat him until he bled.*

142. Rafael Nascimento told the Commission that Fretilin arrested him in his village in Aileu. He said that they tied him up with another detainee, Martinho, and kept them in the warehouse in Aileu. He claimed that T87 beat him in the head with a helmet causing severe injury.† He said he received no medical treatment even though his head was severely injured.[116]

143. Other places were used as smaller *ad hoc* detention centres in Aileu. In the sub-district of Laulara, the Commission heard of several people detained in the village of Unmenlau. Domingos da Silva Soares told how his friend Afonso Mesquita (a Fretilin member) was arrested in the village of Boklelo on 19 August by a Fretilin commander, T88, and his men and taken to the village of Unmenlau. He managed to escape but his father, who came looking for him, was detained and killed. According to Domingos, the whole community of Boklelo was then tied up and walked to Unmenlau because they were suspected of hiding an escaped detainee named Marcal. The community members were released after questioning.[117]

Manufahi

144. Manufahi was another district that saw intense clashes during UDT's armed movement and again during the Fretilin armed reaction. On 27 August 1975, Fretilin troops attacked and captured Same (Manufahi), forcing UDT troops to retreat to the eastern region.[118] Fretilin captured and detained several UDT and Apodeti members who failed to escape. It held them temporarily at the Same Primary School, before moving them to the Same Prison.[119] More people were arrested in Same during September 1975.

145. The Commission obtained victims' testimonies claiming that Fretilin physically abused, tortured and treated prisoners cruelly at the Sub-district prison in Same.

146. Monis da Maia was one of the detainees at this prison. He told the Commission that Fretilin arrested and detained him temporarily at the primary school when it captured Same. He said that Fretilin soldiers abused him when he was arrested, and that this continued at the prison, causing him to lose consciousness twice. He testified to the Commission:

> *When we went to the town to watch the arrival of Fretilin troops, they [the troops] said: "Look at him." Then, everyone came and beat me until I fainted. I knew one of the troops, T34, when we were in Dili. He*

* Amelia Mesquita said the six relatives were: Domingas Mendonça, Sarah de Araújo, Aleixo, Serkoli, Romaldo and António.

† Other former detainees, for example João da Costa and Assis dos Santos, confirmed that T87 often beat and tortured detainees in Aileu.

*lifted me up and took me to the school. Then other detainees started to come, including Celestino Soares.**

One day T90, a Fretilin minister, visited the prison and ordered the prisoners to come out, and he hit them one by one with a branch. We were all injured and I fainted. The next day T91, a member of the CCF [Fretilin Central Committee], *entered with a G-3 gun in his hands and told the prisoners to step outside to be beaten. I refused to come out because I still felt the pain from the previous beating. I told T91: "Why don't you shoot me? I won't come out."*

The other prisoners were then taken outside and beaten and then ordered to return to their cells. Then T91's friend, T92, came into my cell and hit me with a rice pestle and I fainted. T92 thought I was dead, so he ordered the guards to dump my body in a coffee plantation. Then he left. With God's help, I survived.

At a flag-raising ceremony the guards took 11 of us and told us to line up to be killed. But then Mau Hunu changed his mind and said: "If we kill them all, who are we going to govern once we become independent? Are we going to govern trees and stones?" So they did not kill us. Instead, they put us back in our cell…

Fretilin asked everyone in the local community to come to the Sub-district prison for a Popular Justice [Justiça Popular] *hearing. Then they ordered the prisoners to step out of their cells one by one. Fretilin took prisoners accused of serious crimes to Aileu. António Cepeda was the Fretilin leader then. When it was my turn to face popular justice, I hadn't done anything wrong, so the people were silent. But another man provoked them by saying: "Tell us that he beat you!" But people refused, except one who said: "He swore at my grandfather." I raised my hands but kept silent. So they took me to Aileu just because I swore at his grandfather.*[120]

147. The Commission received testimonies describing Fretilin arrests of UDT members who had escaped to the eastern region from Same. They were taken back to Same and detained at the Sub-district prison. On their arrest, they suffered physical abuse and torture. One victim, João da Costa, told the Commission that Fretilin troops abused him and treated him and other UDT members cruelly on the way from Venilale (Baucau), where he had been captured. João da Costa told the Commission how the prisoners were treated by Fretilin at the Sub-district prison:[121]

At the Sub-district prison, they [Fretilin] took us out in the afternoon and told us to beat each other. Prisoners beat other prisoners. First they took my two older brothers, cut branches from a coffee tree and

* Celestino Soares was the Apodeti area secretary in Same. He was shot to death by a Fretilin soldier. (See Vol. II, Part 7.2: Unlawful Killings and Forced Disappearances).

told them to beat each other. It was like a cockfight and everyone stood around watching them. The branches broke into pieces, and the guards beat us before they returned us to our cells. I had to fight my own cousin, José Tilman. I hit him until he fell to the ground. Then the guards beat us again. They beat us every day. We spent one month in Same before they took us to Aileu.

148. Those held at the Sub-district prison were taken to Aissirimou in Aileu in early October 1975.

Ermera

149. The highest number of detentions by UDT in 1975 occurred in the district of Ermera. When its forces entered Ermera, Fretilin responded in kind. The Commission received many reports of detention in the period August to September 1975, especially in the sub-districts of Railaco and Ermera. Fretilin detained members of UDT and Apodeti in buildings previously used by UDT to hold Fretilin prisoners, such as the warehouse in Aifu (see section Detention and torture by UDT, 1975 on detention centres in Ermera District, par. 77 above) Many prisoners were transferred directly to the neighbouring district of Aileu.[122] Various sources reported to the Commission that UDT and Apodeti prisoners in Ermera suffered ill-treatment by the Fretilin soldiers who arrested and detained them. The following are examples of the physical abuse and other cruel and inhuman treatment of detainees reported to the Commission:

- Pedro Madeira, a UDT member in Matata (Railaco, Ermera), said that he was detained on 20 August by Fretilin member T94 and taken to Railaco where he was held for about three months. He said that while he was in detention, he was kicked and beaten with a rifle butt. He was then moved to Aileu and held there for three days before he was released.[123]
- The Commission was told that Adão Exposto was captured by Fretilin members T95, T96 and T97 who beat him heavily, and took him to Aileu where he was interrogated by the Fretilin president before being returned to Railaco and detained.[124]
- Lamberto Ximenes told the Commission that he had been involved in the UDT armed movement in Dili and then fled to his village of Leimea Leten (Atsabe, Ermera). He said that on 20 August Fretilin arrested him with many civilians, who were UDT members, and forced them to build a road for three days. Lamberto himself was later moved to the Comarca in Dili.[125]
- Domingos da Silva, a UDT member, told of the arrest of three UDT members in Loro Hou, the village of Lisipat (Letefoho, Ermera) by Fretilin. They were taken to Tali Koto where one was killed and two, Lino and Maubere Kohe, were held in detention.[126]
- José Dofan testified that in September 1975, T99, a Fretilin sympathiser, arrested his brother-in-law Feliciano (no last name provided) and Feliciano's mother Soe Leki in Bernukera. They were held for one night in the Fretilin

headquarters where Feliciano was beaten and then tied up and dragged along the ground until he bled. His mother's back was injured. The next day they were taken to Maumeta in the village of Seloi (Aileu) where they were shot and killed.[127]

- A UDT soldier was arrested and detained by Fretilin forces on the orders of the Ermera Regional Committee. While imprisoned in Ermera he was beaten by T100 and T101.[128]
- Felisberta de Jesus told the Commission that in early September 1975 her husband, António Ximenes, who was a UDT member, surrendered to the secretary of the Ermera Regional Committee, Florentino de Jesus Martins. He surrendered in Erusa, the village of Talimoro, (Ermera, Ermera) and Fretilin then took him to the village of Humboe (Ermera, Ermera) and held him there for six days. During this time, she said, her husband was beaten, kicked and then thrown to the ground and dragged until he was bleeding by three Fretilin members T102, T103 and T104. On 17 September, António Ximenes was arrested again by Fretilin along with four other UDT members in the village and disappeared.[129]

150. António da Silva Barreto, a UDT member at the time, told the Commission of his arrest in early September 1975:

> *In 1975 I was a militant in the UDT party. When the counter-coup occurred on 20 August, UDT couldn't withstand it and the leaders all ran to Atambua…along with most of the population of Poerema, who were UDT. I didn't run. In September, the Ermera Fretilin leader Pedro Gonçalves Lemos ordered me to go to Fatubolu [Hatolia, Ermera] to pick up a weapon from Napoleão.*
>
> *When I reached the steps of the Ermera Church I was captured by T105 and Fretilin forces from Aileu and Maubisse. They tied my hands behind my back and then used a bayonet but I didn't fall. Then they punched, kicked and beat me but I didn't fall. So they took out a machete and hit me across my skull and I was bleeding heavily. They were going to take me away to kill me but then the Ermera Fretilin leaders Manuel Barreto and Commander Teky came and saved me. They took me to the hospital to treat my head. When I had recovered, I brought the population of Fatubolu to surrender in Ermera.*[130]

151. This did not protect António Barreto from further suspicion and ill-treatment however. In September 1975, when Indonesian forces infiltrated Aifu (Ermera, Ermera), António and his friends Mau Talo, Alberto da Silva and Mau Sama were arrested by Fretilin on suspicion of assisting the Indonesians. The four were taken to Fatubessi where they were interrogated by the Fretilin leaders T106, T107 and T108. During the interrogation they were beaten heavily with a short whip (*chicote*) and then held in Fatubessi for six months.[131] The Commission was told about several

other places used for detention in the district of Ermera, including prisons in Raimerhei, in Talimoro and Raimea (Ermera, Ermera). People formerly detained in these locations also reported receiving cruel treatment by their Fretilin captors.[132]

Ainaro

152. UDT and Apodeti members detained in the district of Ainaro were held in a number of locations and also reported ill-treatment, during arrest and while in detention. Detention centres included the village of Aitutu (Hato Builico), the Fretilin headquarters in Maubisse, and Aimegudo (Hato Builico).[133] Several former detainees from the district of Ainaro reported torture and ill-treatment.

153. A former UDT member told the Commission that he was captured in Ainaro Town in 1975 (month unknown), by a Fretilin member T109 and his men, on the orders of a Fretilin delegate named T110. He said that he was arrested and tortured because they suspected him of killing a Fretilin member.[134]

Baucau

154. In Baucau, Fretilin also used the buildings previously used by UDT for detention. The main prison was the Descascadeira (a building used to hull grains, coconuts, coffee and rice) in Bahu, in the centre of Baucau Town.[135] The Commission was also told that prisoners were detained by Fretilin at its headquarters in the sub-district of Vemasse.[136]

155. The Commission was told that members of Fretilin in Baucau responded to the UDT armed movement with vengeance. Fretilin attacked the Pousada, which UDT had used to detain and torture Fretilin members. Fretilin then detained the leaders of UDT and Apodeti in the Descascadeira, including UDT members Manuel Belo, Laurentino Gusmão and José Viana Freitas, the Apodeti leader Mauricio de Andrade Freitas, Clementino dos Reis Amaral and village head José Piter. The detainees were slapped and kicked heavily.[137]

156. Clementino dos Reis Amaral said that once Fretilin had taken control, they imprisoned nearly all of the village chiefs and heads of sub-districts, who, in the Baucau area, were mostly UDT supporters. He told the Commission that Fretilin imprisoned him with about 170 people:

> *I was imprisoned for more than 100 days. In the Baucau Prison there were more than 170 people, all imprisoned together. There were important Baucau people: the* liurai*, the village heads. The important people were all put in prison there because in those times the village heads in Baucau were all UDT people. Because of that we were all imprisoned. You could say that some people swore, some beat people up, all of that happened.*[138]

157. José Viana Freitas testified to the Commission about his ill-treatment by Fretilin in detention:

On 20 August 1975 in Naulale in Uatolari Village [Vemasse, Baucau] I was with my father, Pedro Viana Freitas, my mother Ana Maria da Costa, my wife Helena and my younger brothers Domingos Viana and Abel Viana [all Apodeti members]. Fretilin came and arrested us at 6.00pm. There were seven people from Fretilin…[with rifles] but I only knew one of them, T113. They came into our house with their guns, called us out and then took us to the Fretilin headquarters in Baucau.

They didn't do anything on the journey, we just walked to the Flamboyan Hotel [the Pousada] Baucau, which we reached at 11.00pm. There, a Fretilin leader just ordered us to sleep. The next morning we were taken to the Descascadeira. *There were many people detained there, 160, all men. I only knew Clementino dos Reis Amaral. The leaders did not hit us but when they left, other Fretilin members beat us with wooden batons and weapons on my back. They beat us all the same, whether we were Apodeti or UDT.*

We were held for [four] months and during this time we were beaten the whole time. But we had enough to drink and we ate three times a day, including buffalo meat and red beans.[139]

158. The Commission also heard of prisoners from the district of Viqueque being brought to Baucau and held in "a small toilet room" (see section on Viqueque paragraph 167-9 below).[140]

Lautém

159. There were relatively few detentions in the district of Lautém. Communities in the district told of varying levels of violence. For example, in the village of Mehara (Tutuala, Lautém), which was a Fretilin-affiliated village, the situation returned to normal when Fretilin took control.* Other villages reported that their people who had supported UDT were arrested, but in Dili, where they had gone to take part in the fighting.[141]

160. Fretilin took over the Companhia Caçadores 14 headquarters, which UDT had used to hold Fretilin prisoners, and held both UDT and Apodeti members there. Edmundo da Conceição Silva, the Apodeti leader in the sub-district of Moro, told the Commission that some prisoners spent six months in the Companhia headquarters.[142] Other prisoners were taken to Dili by Fretilin, including Sergeant Carçeres, Sinanis, Marão and others.[143]

161. Some detainees in Lautém were reported to have been ill-treated. The community of Bauro reported that its villagers linked to UDT, including Pedro Amaral and Serafin dos Santos Pinto, were arrested by Fretilin. They were beaten heavily and forced to work in the rice fields.[144]

* CAVR, Community Profile of Mehara Village, Tutuala Sub-district, Lautém District, 27 November 2002. The community of Barikafa also reported that their village was peaceful in 1975. CAVR, Community Profile of Barikafa Village, Luro Sub-district, Lautém District, 9 September 2003.

162. The detainees in Lospalos escaped after the Indonesian military offensive in early 1976.

Liquiçá

163. Fretilin detention centres in the district of Liquiçá included ones in the village of Leotela, in the village of Leorema (Bazartete, Liquiçá), the Fretilin main headquarters in Fatumetafu (Maubara) and in Belavista, the village of Gugleur (Maubara).[145] Several former detainees from these locations said that they suffered cruel treatement, including heavy beatings, being stripped naked and forced to sleep on the sand for five nights until they were cut and bruised.

164. Other examples include Cosme da Silva Afonso from the village of Gugleur (Maubara), who testified that he was arrested in August 1975 by a Fretilin commander and his men because he was a UDT commander. He said that they confiscated 30 of his cows as well as sacks of rice, and then took him to Nunupuroubu in the village of Gugleur where he was interrogated and then released. Soon after, two Fretilin commanders and their men arrested him again, took him to Base 2 in Kakaegoa in the village of Leotela (Liquiçá, Liquiçá) and held him for seven days. He was detained in a hole that was four metres deep, and each day received only one piece of cassava to eat. During the day he was forced to work carrying wood and collecting water. He said that after one week, he was moved to a detention centre in Cailaco (Bobonaro) and held for a further three months. Finally, he was taken to Nunulisa in the village of Gugleur and kept overnight in a hole. He did not report any physical abuse during his time in detention.[146]

165. Marcos Borges, who was a UDT member and had been fighting Fretilin in Dili, told the Commission of his detention in September 1975. He had fled from Dili to the district of Ermera with a group of UDT members, including leaders João Carrascalão and João Bosco. He said that after he was captured by Fretilin he was beaten heavily and then his captors attempted to kill him with a machete and a spear. He was held in Leorema for two nights.[147]

166. Cecilio dos Santos told the Commission that he guarded the radio at the Fretilin base, but the commanders suspected him of being a spy. They took him to the Fretilin headquarters in Fatumetafu where he was beaten heavily with a buffalo leather whip.[148]

Viqueque

167. Agusto Ximenes described how Fretilin commander Nicolau Lobato led the Fretilin armed reaction in the district of Viqueque. He said that a Fretilin Commander T115 arrested UDT leaders including Mateus Soares, António Pinto, Domingos Sousa, Domingos Lekiloik and about 20 other members of UDT in Carau-Balu (Viqueque, Viqueque).[149]

168. Some prisoners from Viqueque may have been taken to Manatuto and many prisoners were taken to the prison in Baucau.* They included leaders of the Apodeti

* HRVD Statement 6502 mentions Domingos Soares in Manatuto.

and Trabalhista parties. Paulo Freitas, the president of the Trabalhista party, was arrested in his home in Ossu. He told the Commission:

> *Suddenly we heard that there had been a counter-coup…The Fretilin forces came and grabbed us and threw us into prison…Chiquito Osório, and Jaime who is dead now, who used to be the administrator of Viqueque. Their (Apodeti) troops were from Laclubar…The two of them ran to Ossu and came to hide in my house…and then Fretilin came and arrested us. They took the three of us. They took us at night to prison.*

169. Paulo Freitas explained how the three were taken to Baucau by Fretilin troops and that five to six prisoners were held in a small toilet. He said that prisoners held in this room were brought from Ossu (Viqueque), Baucau, Quelicai and Laga (all sub-districts of Baucau).[150]

Manatuto

170. The Commission received evidence that Fretilin detained members of UDT and Apodeti throughout the district of Manatuto during its armed response to the UDT armed movement, including in the Fretilin headquarters in Manatuto, in the village of Leikala (Laclo, Manatuto), and in Welihumetan (Laclo, Manatuto), the Fretilin headquarters in Soibada, and in Konte Tatoli (Manatuto, Manatuto).[151]

171. Statements from Manatuto indicated that most detainees held in the district were not physically abused, but were commonly used for forced labour. The Fretilin headquarters were in Manatuto Town. Sebastião Almeida told the Commission that he was detained there in 1975 because he was suspected of being a member of UDT. He said that he saw many detainees there but only recognised João Batista Braz, Luis Pereira and Domingos Sousa. They were held until the Indonesian military invaded Manatuto in early 1976 and he fled with Falintil. He testified that he was not mistreated but had to work each day tilling the land.[152]

172. The sub-district of Laclo was the site of violent clashes between Fretilin and UDT in early September 1975, leading to more killings than detentions. Manuel Nunes Soares, a UDT member in Laclo, told the Commission that in late August he heard that Fretilin forces in Remexio (Aileu) were coming to capture him and Pascoal Bernardo, another member of UDT. The two ran away and while they were gone, all of their possessions including livestock were stolen by members of Fretilin. Manuel Nunes Soares said that on 5 September, after a number of killings in the area, Pascoal Bernardo reported to the Fretilin command post in Fatu Butik (Laclo, Manatuto) and was then detained. He said that two days later he was killed. Manuel Nunes Soares was captured with a Fretilin commander on 12 October and held in the wash house in Laclo until 28 October by Fretilin commander T117. He was beaten and kicked while in detention.[153]

Bobonaro

173. In some areas of Bobonaro, such as in the village of Lourba (Bobonaro, Bobonaro), the communities reported that there was no party conflict. By September, Fretilin was preoccupied defending the villages from Indonesian military attacks.[154]

174. The Commission was told, however, of a detention centre in the town of Bobonaro, where several people were detained after they were captured in various places around the district. One member of UDT reported that he was arrested by a Fretilin member, T121, in Ritabou (Maliana, Bobonaro). He said that T121 beat him with a Mauser rifle, tied him with rope and then took him to the sub-district of Bobonaro where he was held for two months. He said that he was released after the Indonesian military invaded.[155]

175. A captain in the Segunda Linha, who was also a UDT soldier, was captured by Fretilin in the sub-district of Cailaco as he tried to flee from Ermera into West Timor during September. He was taken to Bobonaro and detained for two nights, before he was returned to the district of Ermera.[156]

176. There were also arrests in the sub-district of Lolotoe. Joana Afonso reported the capture of her husband, João Pereira, when Fretilin attacked Lolotoe Town. She said that members of Fretilin took him to the village office in Lontas (Lolotoe) and that he did not return.[157] Mariano Leite gave testimony that in 1975 (month unknown) his uncle, Rafael Maria, and two of his uncle's friends, Geraldo Pereira and Mariano from Lolotoe, were arrested by Fretilin on suspicion of spying for UDT. He said that the soldiers took them to Mapeo in the village of Sibuni (Lolotoe), where they were tied up and beaten. Two Fretilin soldiers cut Rafael Maria's right ear off. He said that Fretilin kept the three detainees in the Manil Molop command post (Lolotoe, Bobonaro) and forced them to cook and serve food to Fretilin soldiers for nearly one year.[158]

177. Armania Borges told the Commission how her brother Santano Berlelo and her son Angelino Botu-Mail were arrested in their home and taken to the village of Genulai. Only Angelino returned, after he escaped from detention.[159]

178. Other Fretilin detention centres in the district of Bobonaro included the Maliana Prison, the village office of Lontas (Lolotoe), Tapp-Dirihun (Atabae) and the command post in Manil Molop (Lolotoe, Bobonaro).[160]

The period of Fretilin administration

179. From late September 1975, Fretilin had control of the territory of Timor-Leste and began to establish an administration, while seeking the return of the Portuguese colonial administration from the island of Ataúro. Many UDT leaders and supporters fled to Indonesia. Fretilin detained those UDT members it had captured in the fighting, and continued arresting opponents. By early October, members of Apodeti also became a target of Fretilin arrests in Dili. Human rights

abuses, including ill-treatment and torture, continued. Members of Fretilin who were arrested on suspicion of spying or other transgressions were also detained.

180. Mari Alkatiri, however, told the Commission that Fretilin was concerned about the welfare of its prisoners. He told the Commission that the Central Committee formed a special committee to consider the situation of those detained in Fretilin prisons. He emphasised that Fretilin gave the International Committee of the Red Cross full access to its prisons, and that Fretilin had begun to release people from prison by early October.[161]

Continuing detention of UDT supporters

181. Once in control of the territory, Fretilin continued to arrest and detain political opponents. Some examples from this period include:

- Anacleto do Nascimento told of his capture in the village of Matai (Maukatar, Covalima) on 14 October 1975 by Fretilin members T801, T802, T803, T804 and T805, because he was a member of UDT. He was tied to a piece of wood for one night and then the next morning was taken to the Fretilin office in Matai where he was pummelled in the chest with a rifle butt and stabbed. He suffered broken bones and he vomited blood. He was detained for three months.[162]
- Some former detainees of Fretilin in the district of Manatuto reported ill-treatment. For example, Saturnino Sarmento, who described himself as a (unaffiliated) civilian, told how he and his children Cristiano, Oscar and Armindo were detained in Leikala (Laclo, Manatuto) in 1975 (month unknown), by a member of Fretilin named T806 on the orders of Fretilin commander T807. They were taken to Leikala immediately after their arrest and interrogated. Their hands were tied and they were beaten with a branch from a tamarind tree. Fretilin held the family for two months and during this time their hands were tied each night, and during the day they were forced to cut sago palms and carry them back to Leikala.[163]
- The Commission heard from Rubi Metan that, in October 1975, he and his wife, Biliba, their son António and his younger brothers, Masanak and Mahare (who described themselves as unaffiliated civilians), were captured and taken to Konte Tatoli in Iliheu (Manatuto, Manatuto). During their detention Rubi Metan was beaten with wood by T808, T809, T810, T811 and T812 in turns for one hour. Eventually, Biliba, António and Masanak were sent to Remexio in Aileu and never returned. Mahare was stabbed with a knife to the solar plexus by T812, and he died. Rubi Metan was held for a further two years with other detainees who were members of Fretilin, including Sico Loi and João Manrui. They were forced to work each day, for example in rice fields or cutting sago palm.[164]

182. The Commission heard from a member of UDT who was arrested after he returned from West Timor, where he had fled during the fighting in the internal

conflict. Rafael de Araújo testified that he returned to his home in the village of Ritabou (Maliana, Bobonaro) in late 1975. He was arrested by Fretilin soldiers, including T121, and was beaten with a rifle then tied up and taken to Bobonaro Town (Bobonaro, Bobonaro) where he was held for two months. He was released when Indonesian forces entered Bobonaro.[165]

The detention of Apodeti supporters and members

183. During the period of internal armed conflict Fretilin leaders in some areas targeted members and sympathisers of the Apodeti party as well as UDT. For example, groups of Apodeti members were arrested in Baucau on 20 August,[166] in Manufahi on 27 August,[167] and in Lautém in September 1975.[168]

184. On 4 October, Indonesian operations in the western region increased. Fretilin launched mass arrests of Apodeti members and sympathisers around the territory.[169] Detainees included the party president, Arnaldo de Araújo, and Secretary-General José Osório Soares.[170] Mari Alkatiri testified to the Commission that he ordered these arrests after learning of a planned coup by Apodeti to overthrow Fretilin.[171]

185. The district of Oecussi remained relatively calm during the UDT armed movement, although witnesses describe tensions between political parties emerging in early 1975.[172] After Fretilin's armed reaction and with escalating incursions by Indonesia in the western regions, clashes began to occur between Fretilin and Apodeti. For example, in Tumin in the village of Bobometo (Oesilo) in 1975 (month unknown) Francisco Enas Tebbes, an Apodeti supporter, was arrested by a Fretilin force led by T118. He was tied up and beaten heavily, then taken to Oesilo where he was held temporarily until he was moved to Oecussi Town and detained for three days. Francisco Enas Tebbes testified that while he was in detention he was threatened by T119, a Fretilin soldier, that he was tied up at all times and not given any food and that he suffered continual physical abuse by two members of Fretilin. He managed to escape briefly but was caught and detained for several more days before he was released.[*]

186. Arnaldo Sombiko described similar tensions in the sub-district of Pante Makassar in Oecussi in 1975 (month unknown). He told of four Apodeti members named António Lalus Sila, Oki Neno, Lelan Coi and Cobo Coi who were captured in the village of Costa by Fretilin and taken to the village of Naimeko. They were held for one month, and were forced to cut grass each day.[173]

187. Other detentions of Apodeti supporters reported to the Commission include:

- Carolino Bere of Samara (Hatolia, Ermera) told how he joined Apodeti in August 1975, and was eventually detained by Fretilin in November 1975 and held for seven months with about 70 others in the Hatolia prison. He was released after his family promised to bring pigs, eggs and goats.[174]

* HRVD Statement 9058. Bobometo was the site of a massacre of Apodeti supporters by Fretilin in 1975 [see Vol. II, Part 7.2: Unlawful killings and enforced disappearances].

- José Soares testified that in December 1975, when he was a member of Apodeti, he was in Maubisse (Hato Builico, Ainaro) when Fretilin forces led by T120 attacked and detained 150 people. They were put in an empty coffee warehouse in the village of Aitule, (Maubisse, Ainaro) where they were beaten with wood and weapons and forced to build a road. He reported that they were not given food or water.[175]

188. In Dili, a small number of Apodeti detainees were held in the QG in Taibessi.[*] Many others were held in the Comarca, and Fretilin also took over the Museum on 4 October 1975, specifically to hold Apodeti prisoners. According to Luis António de Aquino Caldas, prisoners at the Museum included José Fernando Osório Soares, the secretary general of Apodeti, who was captured with seven of his men near the Areia Branca beach as he returned from a picnic.[176] Frederico Almeida Santos, also a member of Apodeti detained by Fretilin, recalled:

> *First, they took us to the Museum. The door was still locked and T83 opened it. He ordered us to go inside and then Fretilin arrested other people.*[177]

189. The Commission received testimony naming four others detained at the Museum by Fretilin, Armando Suriano, António dos Santos, José dos Santos and Assis dos Santos. The four were detained until the Indonesian invasion except for José dos Santos who became ill and was released.[†]

Movement of detainees between detention centres

190. Detainees were also moved around between detention centres in this period or were released. These movements occurred either as Fretilin brought senior UDT leaders to major detention centres in Dili or Aileu, or later, as Fretilin retreated from the invading Indonesian forces. Fretilin moved detainees from Ermera, Viqueque and Maubisse to Aileu.[‡]

191. The Commission heard that detainees held in the Sub-district prison in Same were transferred to Aileu in early October, although the reason for this move was unclear.[178] Bento Reis was a prisoner from Same who was transferred to Aileu. He told the Commission:

* For example, Abilio Amaral testified that he was a member of Apodeti and was arrested in Dili on 6 October 1975 by a Military Police van (*Unimog*) in Alfandega (Dili). He was taken to the QG and on the way one of the soldiers kicked and beat him in the stomach with a rifle, until he was covered in blood. When they arrived at the prison, Rogério Lobato ordered the soldiers to stop the beatings. [HRVD statement 3361].

† HRVD Statement 5073 testifies that after José dos Santos was released to go home by Fretilin on 8 December, one day after the Indonesian military invasion of Dili, José and two others - Manuel Febu and Duarte dos Santos - were killed by ABRI in Matadouro (Dili). Liberatu dos Reis witnessed the killing.

‡ HRVD Statement 2222, in which Eduardo Mau Leto described how Fretilin forces from Maubisse arrested civilians from Tokoluli, Labudo and Raegoa Villages in Ermera. The prisoners were tied up in pairs but then released except for seven individuals, both UDT and Apodeti members, who were detained in Aileu. The seven were eventually taken to Same with Fretilin and four never returned.

We were transferred from Same to Aileu, and as we arrived in Aileu Fretilin troops and civilians were waiting for us. We got out of the van one by one. To the left and right, people carried pieces of wood and other weapons. They beat us as we got out of the van. Some of us fell to the ground with broken skulls, wounds or other injuries. They beat us all the way from the van to the prison…We were brought directly to the warehouse. There were many people. They beat us all, but Major Lourenço [Tilman] and Senhor Monis da Maia suffered the most severe injuries. I saw it with my own eyes. The next morning, they took the injured to the hospital for treatment.[179]

192. The Commission received testimony that UDT and Apodeti detainees from Same (Manufahi) experienced physical abuse while being transferred to the Aileu detention centres. Abuses continued in Aileu. Monis da Maia, a UDT supporter from Same, testified to the Commission:

On 9 October we left for Aileu. When we arrived in Maubisse [Ainaro], we were lined up in a field and beaten one by one with a wooden stick. When everyone had been beaten we went on to Aileu. When we arrived in Aileu, we were beaten there by the local citizens.[180]

193. João da Costa was also moved from Same to Aileu and told the Commission that he suffered similar treatment on the journey:

[After] one month [in detention] in Same, [Fretilin] ordered us to go to Aileu. As we left Same, the van stopped at every Fretilin post so the guards could beat us. Arriving in Maubisse they drove into the military barracks…They climbed into the van and beat us. Some prisoners were beaten unconscious. Then someone said: "Don't beat them in the van. Take them out and beat them." They ordered the detainees to stand in three rows. One by one we entered the prison. The guards hit each detainee with a piece of wood.

Then Commander Soares arrived. He was kind. He said to us: "We are all sinners in this world. God who is innocent will forgive us. Why don't we, human beings, forgive each other?" The beating stopped. But then they continued to Aileu. On the way they ordered us to lie and not to lift our heads, because children along the way aimed their arrows at us. The guards still stopped the van at every post and beat us. In Aileu the car stopped in front of the warehouse next to the hospital. They beat us one by one as we got down from the car. I could not remember how many times they beat us either with a piece of wood or an iron bar. The most excruciating [method of beating] was when they beat us with car brake cords. I did not feel the pain anymore when they beat us with an iron bar or nails. But it was so painful when they beat us with car brake cords.

It was not just one or two people beating us. I collapsed, and after another beating I fell to the ground. Then Carlos Ferreira fell right on top of me and fainted. My oldest brother lifted us up but we gasped for air. Two people ran towards me and beat me. I just sat motionless because I had almost lost my breath. There were more than 30 of us [from Same]. That night we stayed in our prison, but every night after that they took us out. However none of us from Same died in Aileu.[181]

Life in Aissirimou

Aissirimou, in the mountainous Aileu District of central Timor-Leste, was where Fretilin set up its headquarters after UDT launched the 11 August movement and from where it put its armed insurrection in motion on 15 August 1975. It was also the location of Fretilin's largest detention centres. At first the buildings were used only to hold detainees from the Aileu area but soon other detainees, from Manufahi and Ainaro, were brought to Aissirimou. Leaders were held in former Portuguese military barracks and other detainees were held in a coffee warehouse. In early December, when Indonesia invaded Dili, Fretilin's prisoners from the QG in Taibessi were also brought to Aissirimou.

Conditions in Aissirimou

When prisoners from outside areas were brought to Aileu the detention centres started to fill up. The number of people detained in Aissirimou is hard to estimate. Clementino Araújo, a former guard at the Fretilin headquarters, said that there were 200 prisoners in August 1975.[182] A former prisoner told the Commission that by December there were around 3,000 people detained there.[183] Eufrazia de Jesus Soares visited her husband, Daniel Carvalho, the Apodeti regional secretary in Ermera, at the warehouse prison. She told the Commission:

The detention centre was a warehouse. The place was so overcrowded that prisoners could not sit. It was like sardines in a can, and everyone had to stand up. I arrived there and was not allowed to enter. The guard tried to find a way for me to speak to my husband and I managed to speak to him through a window.[184]

The warehouse was not constructed to house large numbers of people. The absence of sanitary facilities forced the guards to provide large containers for use as toilets. One former detainee, José Maukabae, spoke of the detention centre:

There were several containers in the middle of us. Prisoners defecated or urinated in them. In the morning prisoners vied to take them out so they could go out and feel the warm sun and rinse their hands or wash their faces with water.[185]

Some former detainees said that the guards gave them breakfast and lunch but not dinner. For breakfast prisoners ate rice, and for lunch they ate corn.[186] Others testified that the guards beat prisoners every time they came to get their food. One former detainee, João da Costa, told the Commission:

Every day they beat us when we wanted our food. Many did not bother to eat because they were too afraid. We had to be careful so that the food did not spill as they beat us. Many starved because they were too afraid to eat.[*]

Forced Labour

To provide food for the detainees, Fretilin forced prisoners to work in the rice fields or coffee plantations as part of a Campo de Trabalho (Labour Camp).[187] Men tended the fields and women pounded rice and cooked for Falintil soldiers.[188] Fretilin seemed to be aware that this kind of work constituted forced labour but believed that this was necessary in order to provide food for detainees. The Fretilin President, Francisco Xavier do Amaral, explained to the Commission:[189]

I think there was an element of force but we had to feed them. How else could we get food? We had to look at the situation confronting us: no logistics, no assistance. How else could we feed them? In the end they were prisoners and they worked for themselves and for us. That was the rule and it was justified…Campo de Trabalho was a policy, or an emergency measure, implemented by Fretilin to feed people.

Food was still scarce however. António Serpa, who had been brought by Fretilin to Aileu after the 7 December invasion of Dili, told the Commission:

Because of the situation we suffered a lot in terms of food. When we would go to get food we could be taken away and killed. In the end

* CAVR Interview with João da Costa, Letefoho-Same, Manufahi, 24 June 2003. João da Costa was a detainee at the Same Sub-district prison. In October 1975, he and other prisoners were transferred to Aileu. On 27 December 1975, when ABRI approached Aileu, Fretilin moved João and the other prisoners to Maubisse and then to Same. On 27 January 1976, as ABRI entered Betano, Fretilin moved João and the other prisoners to Holarua. Fretilin executed some prisoners in Holarua and then moved João and around 40 other prisoners to Same and kept them at the primary school, where many prisoners were massacred. João and three other prisoners survived the massacre [see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances].

those who were really hungry went to get food but we were scared…On 15 December I was selected to be taken and killed. I was placed with the Aileu group. There were more than 60 people in one small room… They didn't give us any food. While we were kept in the warehouse they fed us but in this room they didn't give us anything to eat.[190]

He was eventually let out of the storeroom and survived.

Torture and ill-treatment in Aissirimou

The Commission also heard of people being tortured and suffering other forms of cruel and inhuman treatment in Aissirimou. João da Costa described the torture of Major Lourenço Tilman, a former major in the Seghunda Linha and the UDT commander in Same (Manufahi):

Major Lourenço was the most severely beaten in Aileu because he was a commander. They put him on the roof of a van and drove him around Aileu and screamed: "Viva Fretilin". Someone stabbed him and he bled. His face was swollen and he could no longer speak.[191]

Fretilin members and citizens of Aileu participated in this ill-treatment of prisoners. Monis da Maia told the Commission that "it was not the soldiers but the community who beat us."[192]

Trials of Fretilin detainees*

194. As Fretilin leaders became aware of the arbitrary nature of the detention and the overcrowding in the Fretilin detention centres they acted to create a way to acquit and release innocent people. The Portuguese colonial administration showed no signs of returning from Ataúro and so was not in a position to deal with the situation. On 30 September, Fretilin announced a commission to investigate detainees' backgrounds. In many areas this commission began its work too late, well after human rights abuses against detainees had begun to be committed. It was not active in all areas of the territory. Indeed, statements received by the Commission indicate that numbers of detainees continued to rise and that individual members of Fretilin in the districts began to make decisions and take action against detainees on their own initiative.

195. One example of such action was the emergence of "trials" of detainees in some areas. These trials were a form of people's justice called popular justice (*justiça popular*). It involved bringing a prisoner before the assembled community, who would decide by popular verdict whether he should be punished.

* The Commission notes that the justice processes described in this Report did not amount to a formal justice system, but were a number of practices used by Fretilin members in this period to achieve some level of justice for detainees and perpetrators.

196. Popular justice neither followed procedural norms nor respected the human rights of the accused. Decisions were arbitrary and often based on sentiment and anger. The danger of violation of the rights of the accused in this process was heightened in the climate of ongoing tension and widespread anger among victims of the civil war. People innocent of any involvement in the armed movement were punished and sentenced to beatings and imprisonment.

197. Luis Godinho, a UDT member from Lospalos (Lautém), was condemned after a popular justice hearing to be publicly beaten to death with a whip fitted with sharp spikes.[193] A fellow detainee of Luis Godinho, Edmundo da Conceição, told the Commission about the"trial" which led to Luis Godinho's death:

> *The popular justice (ceremony) took place in two locations. First, they held it at Companhia Caçadores 14 headquarters, and after beating [the prisoners], they took them to the Lospalos administrative office. They took us there. After a flag-raising ceremony, they beat us so severely that Luis Godinho died near the flagpole. They beat him to death. In front of the Secretariat office, they held the popular justice hearing and beat him to death. They beat him with a barbed whip (*rusan pahano*) until he dropped dead in front of our eyes.*
>
> *So many people beat Luis Godinho that it was difficult to identify him. Fretilin member T122 started it, followed by Fretilin member T123 and then the rest of them. So I could not tell who was involved. Everyone beat him.*
>
> *Satisfied that Luis was dead, they loaded his body into a tractor, drove off and buried it. Everything happened right in front of our eyes.*[194]

198. Two statements given to the Commission described a popular justice "trial" in Poetete (Ermera) on 25 September 1975. According to Filomena dos Santos, two Fretilin soldiers went to the Ermera prison and called out her father, Captain Miguel Martins of the Segunda Linha and a UDT soldier, who had been held in the prison for one week. Miguel Martins was taken out to face the public and be tried. T124 said to the assembled people of the village: "If you answer go to Aileu, it means he lives, if you say stay in Ermera it means he dies." The majority of the people cried: "Stay in Ermera!". Filomena noted that in the crowd were women whose husbands had been killed six weeks earlier by UDT. Miguel Martins was shot and killed.[195]

199. Another example of popular justice in Ermera was described to the Commission. Angelina Barros told the Commission how in Fatubessi (Hatolia, Ermera), in September 1975, a Fretilin commander from Aileu, José Soares, and his men chased a group of UDT members to Bobonaro. There they captured the UDT commander, Serafin dos Santos, and 11 of his men and took them back to Fatubessi. The 12 UDT members were brought before a people's court. The people were asked whether the

* *Rusan pahano* is a word from the Fataluko language of the region around the district of Lautém. It is difficult to find an equivalent word either in Tetum or Indonesian, but the instrument has spikes.

12 UDT members should live or die. The answer from the people was that the 12 members should die. The 12 were then taken to the Fretilin command in Fatubessi and detained. She did not tell the Commission the fate of the 12 men.[196]

Following the full-scale Indonesian invasion

200. The Commission heard that in most districts of Timor-Leste, including Bobonaro, Covalima, Baucau, Lautém and Manatuto, Fretilin prisoners were released after the Indonesian military entered those areas. João Viena Freitas told the Commission that in Baucau the 160 prisoners held at the Descascadeira in Baucau Town were evacuated to Venilale (Baucau) when Indonesia invaded. They spent one night in the Venilale school and were then told to look after themselves. Many surrendered to the Indonesian marines in Baucau.[197]

201. Some of the prisoners in Baucau had already been taken back to their home sub-districts by Fretilin before Indonesian forces attacked Baucau, and were released from there. Paul Freitas, the president of Trabalhista at the time and a Fretilin prisoner, had been taken from Baucau to Uatolari (Viqueque):

> *When Indonesia invaded, I thought they [Fretilin] were really going to kill me, that now we were in big trouble and the situation would be worse. The invasion was broadcast by radio and the children who brought our food told us that Indonesia was about to attack. It happened very quickly. Then they [Fretilin] said to us: "Now you can go because we are fleeing into the forest." They said that the people in the town will be killed [by ABRI] but the people in the forest would be fine. So it was better for me to flee to the forest.*[198]

202. Prisoners in Dili and Aileu, the major centres for detention, were moved with the Fretilin leadership as it fled south.

203. In mid-October, ABRI and its East Timorese auxiliaries occupied Maliana and the frontlines moved further east. On 3 or 4 December, Fretilin moved Apodeti members detained in the Museum in Dili to the QG in Taibessi to join the UDT prisoners.* When the Indonesian military invaded Dili on 7 December, Fretilin took its prisoners held at the QG in Dili to Aileu.[199] Xanana Gusmão explained in his testimony:

> *The UDT and Apodeti prisoners were taken up into the hills not with the intention to kill them…but the paratroops were already landing…The Indonesian troops were occupying Dili, [they were] coming up, coming up.*[200]

* CAVR Interview with Luis António de Aquino Caldas, Palapaço, Dili, 21 May 2004. Filomeno Pedro Cabral Fernandes testified that on 4 or 5 December, Fretilin moved prisoners at the Museum to QG, Taibessi, and detained them until 7 December.

204. Fretilin forced the prisoners to carry boxes of ammunition with them on the march. A member of UDT, José Maukabae, told the Commission:

> *On 7 December, we ate nothing. Only those who had food could eat. At noon Nicolau Lobato came to the QG. He stood in front [of the room we were detained in] and told us in Portuguese: "Comrades, do you want to live or die? So we said: "We, commander, want to live."*
>
> *[He replied] "[If] it is a fact that you want to live, you have three minutes to line up and help carry this equipment to the mountains and then you must return here. Do not carry your belongings. Your belongings stay here. You will only go to the ammunitions' depot and help take the equipment to the mountains and then return. If you do not help, everyone will die. The law of war dictates this. While the forces are facing difficulties, prisoners have to assist the forces. If you do not help the forces, everyone dies."*
>
> *And we said: "Commander, we want to help…until we die." Then, in three minutes we all went out to help take the equipment to the mountains.*[201]

205. Others recounted that as the Indonesian military attacked Dili Fretilin leaders had a heated debate about the fate of prisoners at QG. António Ximenes Serpa told the Commission:

> *On 7 December, birds [paratroopers] descended from the sky. We were in serious trouble. There was a big debate among the leaders about whether the prisoners were to be killed, left alive, or released and left to save themselves. They had a serious discussion. Then Nicolau Lobato said: "If you want to kill them, you will have to carry the ammunition boxes in the arsenal yourselves." His words finally dampened their emotions. They took us out at one o'clock to get the boxes of ammunition and go to Aileu.*[202]

206. The prisoners in the Comarca managed to escape and walk to the Indonesian Consulate in Lecidere, Dili.

Escaping the Balide Comarca, 7 December 1975: Anselmo dos Santos and Frederico Almeida Santos[203]

Anselmo dos Santos

One day we approached Arnaldo [Araújo, the President of Apodeti], and he whispered to us: "Comrades, don't despair. It will not be long before we get out of here." On Sunday morning around 4.00am, 7 December, we

heard the sound of airplanes and saw that Indonesia had landed soldiers by parachute. They had not yet reached the ground when guns started firing from below. The prison doors were all shut and nobody went out.

Frederico Almeida Santos

We saw parachutes. We were watching closely for what would happen. We did not know whether to run out or just stay inside. I called Filomeno Gomes [the prison warden] and said: "Comrade, usually when war rages and houses are burned down, people in cells can't get out. You must free us so that we can find a way out."

Anselmo dos Santos

At first, [the guards] were still on the roof firing their guns, but President Arnaldo advised them: "Comrades, it would be better that you take off your military uniforms and hide your weapons. If someone comes and asks, we will say that all of us are prisoners." So the five Fretilin people followed his advice, hid their weapons and took off their uniforms.

Frederico Almeida Santos

People were shooting at each other and we piled up the mattreses so that we could reach the window and see outside. João Branco [a Falintil commander] and three others passed in front of us as they were in a shoot-out with ABRI. By the middle of the day they passed back again and saw us all at the window. João said: "What are you waiting for? Now it's a big war. We don't care about you anymore." Then he left.

Anselmo dos Santos

After Fretilin troops [next to Balide prison] had begun to retreat to the QG, we began to get ready to leave. Just as we were about to go out of the prison, Arnaldo took out a white pillowcase and tied it to an iron pole and placed it in front of the prison. Not one of us was hit by a bullet. We all went out.

As we were about to leave, an ABRI soldier and his parachute fell right in front of the prison kitchen. He was already dead. Arnaldo told us to lift the body of the soldier and put it on a table. Arnaldo examined the body and took an ID card and a rosary out of the soldier's pocket - maybe he was Catholic. The ID card and the rosary were then placed beside the body. His gun and mortar were leant against the wall near the head of the soldier. After that we left. President Arnaldo, the malae *Albano and an Arab – the three of them led the way waving a white cloth...We followed behind them to the Indonesian Consulate in Lecidere.*

The movement of prisoners from Dili to Aileu and then Same

207. As the Indonesian military advanced on Aileu and planes attacked the town on 27 December 1975,[204] Fretilin again evacuated prisoners, first to Maubisse (Maubisse, Ainaro) and then to Same (Manufahi). The Commission has found that massacres of prisoners occurred in both Aileu before the forced march began, and in Maubisse on the way (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). The remaining prisoners reached Same on 31 December. The former President of Fretilin, Francisco Xavier do Amaral, described the reason for the move:

> *We were in the middle of war, in this war, when we ran from our enemies… We took those we had imprisoned, our enemies whom we had imprisoned, with us. Before we even had a chance to catch our breath, we said: "What do we do now? We must keep running. We don't have too many choices. There's no transport, no food, not much medicine, none of this." Some of those we imprisoned were already seriously sick, many were very weak.*
>
> *So we had to look at this. Do we leave them here alive? Do we run alone and leave them? Or do we kill them and then run? I see danger in all these...If we abandon them, for example a member of UDT or Apodeti, [they could] fall into the Indonesian enemy's hands. The Indonesian military can come and he can fall into their hands. Indonesia can put pressure on him and they could find us. They could trick him or he might confess.*[205]

208. José Maukabae recalled the move from Aileu:

> *The planes started dropping bombs over Aileu very early in the morning. ABRI may have known where the prisoners were held so they dropped bombs around them. We heard gun shots outside the prison. We did not know what to do because the prison doors were shut and we could not escape. Then one of the planes dropped a bomb right on the house across the street. Water splashed. They took us out and evacuated us.*[*]

209. António Serpa, another prisoner from Aissirimou, described the difficult journey to Same through Maubisse:

> *When we left Aileu for Maubisse it was raining. We hadn't eaten for three or four days. Our arms were tired. We were unsteady on our legs. We walked slowly to Daisoli where we spent the night. Those who were planning to escape couldn't escape because they didn't have enough energy.*

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* CAVR Interview with José Maukabae, Maubara, Liquiçá, 9 March 2004.José Maukabae mentioned two groups of prisoners in Same, the first group or *primeiro grupo* and second group or *segundo grupo*. He was in the second group known as the Maubere group. Other reports referred to three groups in Same: *Grupos de Maubere*, *Grupos de Semi Perigoso*, and *Grupos de Perigosisimo* [CAVR Interviews with Filomeno Pedro Cabral Fernandes, Dili, 5 May 2004 and Assis dos Santos, Dili, 17 July 2003, Monis da Maia, Dili, 5 December 2003; Bento Reis, Same, 2004].

Then on the morning of 28 December we continued on our way to Maubisse. On the evening of 28 December we slept in Maubisse. On the morning of 29 December we left Maubisse to get more ammunition and take it to Same. There was one person who couldn't carry it. He just threw it away. Then the late Nicolau Lobato said: "Now I'm losing my patience. Who threw away the ammunition? You all have to stay here."

We felt embarrassed. Those who had the most strength picked up the ammunition and carried it. As we left Maubisse it was also raining. Before we got to Fleixa my friend João Damas, who was exhausted, collapsed. To this day I don't know if he died then or not. We walked slowly carrying the ammunition to Fleixa. We all stopped there. It was raining hard.

And so we went on. We were hungry. We sat under a house on stilts. I asked the comrades "Who is ready to die?" I felt I couldn't go on anymore. I suggested we wait for the Prime Minister [Nicolau Lobato] to ask if we could stop and stay there. They could kill us there. I couldn't bear it anymore. So we all waited…The Prime Minster arrived with his bodyguards. I said to him that we had come from Aileu and hadn't eaten all this time and had no strength left to carry the ammunition. I said we just cannot do it and if he didn't believe us he could just kill us.

And so all the ammunition was stored in Fleixa. Three cars came to take the ammunition to Maubisse and those three cars came back bringing sweet potatos. We slept in a place called Fahi Teen. Then in the morning of 30 December we left that place and went to Same.[206]

210. The prisoners arrived in Same around 31 December 1975 and spent New Year's Eve there. According to António Serpa, on 10 January they saw lights out to sea and Fretilin suspected the prisoners signalling to the Indonesian military. Fretilin ordered the prisoners to gather in three large rooms in the Same Primary School. José Maukabae described what happened:

The primary school had three halls. José Osório and I went to the middle room. He sat in the middle. He said: "I can no longer speak because I am in an impossible position. Arnaldo is in Dili. I do not know what he is doing. My party does not want war. I want integration with Indonesia but without war. Now, Indonesia came for war. Let them find their enemy wherever they are, but my men will not collaborate with them. I can no longer speak. I do not know what Arnaldo says to the Indonesians."[207]

211. On 12 January 1976, Fretilin divided prisoners into three groups: *Grupo Maubere* (Maubere Group), *Grupo Semi Perigoso* (Less Dangerous Group), and *Grupo Perigosissimo* (Dangerous Group).[208] *Grupo Maubere* comprised sympathisers of opposition parties who had no political clout. Fretilin held them in Mateus Ferreira's house.* *Grupo de Semi Perigoso* was for opposition party members and supporters

* Mateus Ferreira was a UDT leader in Same.

who had minor influence. Fretilin put them in the Same Primary School. *Grupo Perigosissimo* comprised opposition party leaders and administrators whom Fretilin considered dangerous. Fretilin held them in the Sub-district prison.[209]

Hola Rua (Same, Manufahi)

212. When ABRI entered the village of Betano (Same Sub-district, on the south coast of Manufahi), Fretilin was struggling to maintain control. It was difficult for the party leadership to manage the prisoners. On 27 January 1976, it evacuated prisoners from the town of Same to the village of Hola Rua (Same, Manufahi).[210] There Fretilin held most prisoners in another primary school building but some, including José Fernando Osório Soares, the Apodeti Secretary General, were detained in the Segunda Linha Major Lourenço's house.[211] Prisoners in Hola Rua included those from the *Perigosissimo* (Dangerous Group) and *Semi Perigoso* (Less Dangerous Group). The Commission heard testimony about two groups of prisoners who were executed by Fretilin. Monis da Maia told the Commission of the first group, which included Apodeti Secretary General José Osório Soares, at Hat Nipah near Hola Rua on 27 January 1976.[212]

213. The Commission was told of a second, larger group execution of prisoners at the Same Primary School, where Fretilin executed 44 UDT prisoners on 29 January 1976 (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

214. Most of the prisoners from the *Grupo Maubere* (Maubere Group), except for members of Apodeti, were released on 31 January 1976. José Maukabae described what happened to the prisoners:

> *Fretilin released most of the prisoners except for a few, whom it executed. About 20 Apodeti and UDT prisoners were freed by the Fretilin commanders Paulino Gama and Guido Soares in Hola Rua at the end of January 1976. Also at the end of January 1976, César Mau Laka released the second group of prisoners, which included UDT, Fretilin and non-political prisoners in Hola Rua, but held Apodeti prisoners.*[213] *The Apodeti members were separated and put into an elementary school building in Hola Rua. They were then brought at night to Mota Karau Ulun, Hola Rua, and executed with spears.*[214]

215. Filomeno Pedro Cabral Fernandes and Assis dos Santos confirmed the first release by Fretilin of 20 UDT and Apodeti prisoners.[215] Filomeno Cabral stated that Fretilin commanders Guido Soares, Paulino Gama (Mauk Moruk), Antonio Pinto (Kalohan) and Moises Quina requested that the prisoners be taken out of Hola Rua. They signed an agreement with them and were taken towards the east by Falintil troops and were released from there. Assis dos Santos told of an agreement signed with the 20 prisoners in Kiras (Same, Manufahi) before their release:

> *We signed an agreement with Fretilin. Many survived. The agreement insisted that we had to draw blood and promise to join and strengthen Fretilin forces. Failure to keep the agreement meant death.*[216]

216. José Maukabae described in detail what occurred when César Mau Laka decided the fate of the second group of detainees in Hola Rua:

> *[César Mau Laka] said: "You are prisoners here. Many are UDT people. Fretilin people are also detained for brawls and theft. Apodeti people and even civilians who are not involved in politics are detained. I will count in one minute who belongs to UDT, Apodeti or Fretilin and who did not belong to any party. Form lines here according to your group." Each of us prisoners examined our consciences* (exame de conciênçia). *Soon there were four groups…I joined UDT. Four other friends [colleagues from Maubara] went to other groups. Then the commander, César Mau Laka, said: "You militia take these Apodeti comrades to the school building down there, and tomorrow after their trial, they can go home." As they took the Apodeti prisoners, César Mau Laka said: "You UDT and Fretilin people, and all of you who do not belong to any party, whoever has a friend in Same can stay with them, and when this country is safe, you can go home. Those who do not have friends here can go home." All were happy and cried out. That happened at 6.00 or 7.00pm.*[217]

Detention, torture and ill-treatment by Fretilin/Falintil 1976–1979

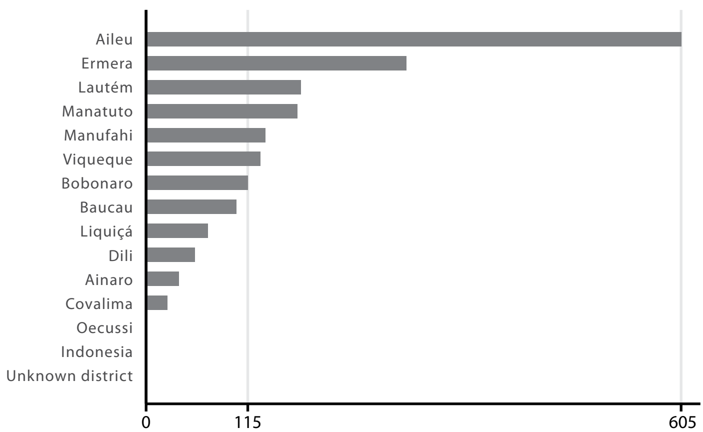
217. After the Indonesian invasion and before the destruction of the Resistance bases in late 1978, Fretilin/Falintil continued to hold people in detention in the areas it controlled (liberated zones, or *zonas libertadas*), based on its own form of justice. Unlike in 1975 however, the victims of detention, torture and ill-treatment were the party's own members or civilians living in these areas.

218. For serious offences or repeat offenders, prisoners were placed either in ordinary detention centres or in National Rehabilitation Camps (Campos de Reabilitação Nacional, or Renals). The difference between a Renal and an ordinary Fretilin detention centre was very clear in theory. Renals were for the discipline of Fretilin members or civilians "who need to be brought back to the right path" through the teaching of the principles of Fretilin ideology. As well as involving people in the process of production through farmwork on cooperative farms, they also provided political education and sometimes literacy training. In practice the difference was not always that clear. Renals became synonymous with detention in the minds of civilians and indeed many Renals effectively became prisons. Further, the Commission has heard of widespread torture and ill-treatment of detainees in Renals.

219. During the Soibada Conference, held between 15 May and 2 June 1976, Fretilin organisers decided that territories controlled by Fretilin would be divided into six

sectors controlled by the military command, as well as political administration territories under the control of Fretilin administrators. They were: East Point (Ponta Leste), which included Lautém District; Central East (Centro Leste), which included Baucau and Viqueque Districts; Central North (Centro Norte), which included Manatuto, Aileu and Dili Districts; Central South (Centro Sul) which included Manufahi and Ainaro; North Frontier (Fronteira Norte) which included Liquiçá, Ermera and parts of Bobonaro; and South Frontier (Fronteira Sul), which included Covalima and parts of Bobonaro. The Commission heard that detention centres including Renals were opened in every Fretilin sector of the territory. The Commission's statistical data record, however, that detentions occurred with by far the greatest frequency in the district of Ermera, from which the largest number of reports came by a significant margin, followed by Manufahi, Aileu and Viqueque. The districts of Bobonaro, Oecussi and Ainaro reported no such detentions and in Dili, Lautém and Covalima Districts the numbers were low. These results do not reflect in all respects the findings of the Commission's qualitative research, which, for example, suggests that the number of detentions in Lautém was among the highest.

Count of reported acts of detention commited by Fretilin/Falintil against Fretilin/Falintil members, by district, 1974–1979



Source: Database of Narrative Statements Given to the CAVR

220. Significantly the correlation between torture and detention is extremely high. For the 49 cases of detention of Fretilin/Falintil members by Fretilin/Falintil reported to have occurred in Ermera District, for example, there are also 49 reported counts of torture, indicating that torture may have been a routine aspect of detention of members by Fretilin/Falintil in this period.

221. This section looks at practices that Fretilin adopted to achieve some level of justice and the reasons for detention of civilians and Fretilin/Falintil members between 1976 and 1978, and the treatment of Fretilin detainees in general. All types of detention centre

are described in the statements and testimonies set out below, but particular attention is given to the Renals because they were unique to this period and were an essential part of Fretilin's strategy of social and political revolution. The Commission notes that the treatment of detainees differed from place to place.

Justice under the Fretilin administration

222. The justice practices adopted by Fretilin are set out in detail in Vol. I, Part 5: Resistance: Structure and Strategy. In summary, they created a distinction between what were regarded as minor offences, such as a commander's mistake that caused the deaths of his men,[218] the harassment of women (*book feto*), or the theft of chickens, and serious offences, such as being a traitor to the "political line", the nation or the revolution.[219]

223. For the less serious offences, the accused would be called by the Political Commissar* to undergo criticism and self-criticism in a public meeting. This involved a Fretilin leader pointing out the person's mistakes (criticism) and then the person expressing understanding and remorse, and promising not to reoffend (self-criticism). Sometimes the person would also be required to undertake an appropriate "corrective act" (*justo correctivo*), such as collecting water or firewood for a certain period of time. This was considered a form of rehabilitation of the offender.[220]

224. For more serious offences the accused went through a process of popular justice (*justiça popular*) where the people decided on the accused's fate. In *justiça popular* there were no judges or prosecutors. The commander who was making the accusation would bring the accused before the public and put the accusations and the reasons for the charges to the people. The political commissar, alone or with the sector commander, would decide on a sentence.[221] João Vienas explained:

> *The justice section was like a judge who decided cases based on Fretilin rules. Through the process, the accused would answer questions about why he was arrested and who reported him. It also called leaders such as the [political] commissar. I was asked: "Do you know what wrong you committed?" I answered: "I have no idea". They said: "We are telling you that what you did wrong was that your younger brother, José dos Santos, was a traitor. And the one who us gave this information is a friend of yours."*[222]

225. Not all serious cases were investigated and there was no presumption of innocence or even, in many cases, right of reply. There were cases where people suspected of having planned to surrender [to ABRI] were simply accused by the local commander, and a decision was made. Although the people had the right to decide, they usually followed the commander's line. For these reasons, the Commission finds that even where practices were applied correctly the resulting detention was arbitrary. A former Fretilin political assistant to the commissariat (*assistente*) told the Commission:

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* The political commissar (*Comissário Política*) was the highest leader in the sector for all political, administration or military matters [see Vol. I, Part 5: Resistance: Structure and Strategy].

Popular justice was formal. The form it took was: say that I was a person who was accused and I was taken before the public. When I came before them, many people would say that I was guilty; nobody would challenge that decision, even if I had done the right thing. There was no judge to defend us and it was not a judge or a prosecutor that brought the accused person before the public. I witnessed around three cases, of people who were suspects and were captured in the guerrilla [war] zone and the case of a man arrested by the commander on a charge of spying. [At the justiça popular*] the commander said: "This man we captured in the guerrilla zone is a spy." Then people said, "If he is a spy, he must die." A Falintil commander usually handled cases like these and people just went along with what he said.*[223]

226. If a person had already undergone criticism and self-criticism and completed *justo correctivo* but then reoffended, he or she was detained in a Renal or other prison. Alternatively, the *adjunto*[*] could decide to send an offender to a Renal through a *justiça popular* hearing. In other cases, as the quote above suggests, offenders were killed.

227. Like guilt, the length of the sentence of imprisonment was decided by the political commissar or other person with authority. Several criteria were used to decide if a person should be released including the detainee's conduct while in detention. In some cases, a quasi-judicial process was used, run by the Fretilin justice section.

Reasons for detention

228. Renals were established to hold Fretilin and Falintil members and civilians who had violated (or were accused of violating) the principles and ideology of Fretilin and betrayed the struggle. Some of the most common reasons for detention were:

- Treason by planning to surrender to ABRI or making contact with people in ABRI-controlled areas, evidenced by going beyond the boundaries delineated by Fretilin[224]
- As a result of internal political divisions
- To enforce discipline.

Treason by planning to surrender or contacting people in ABRI areas

229. The most common reason for being detained in a Renal or Fretilin detention centre was for treason by being in contact with, or working with, the enemy, the Indonesian military (or people "in the towns"), or for planning to surrender to the enemy. Both civilians and members of Fretilin/Falintil were arrested for committing, or being

* The *Commissario Politica* provided political leadership in the Freitlin structure at the sector level. An *adjunto* represented the *Commissario Politica* at the *zona* level. (see Vol. I, Part 5: Resistance: Structure and Strategy).

suspected of committing, these offences. When caught they were taken to a Fretilin base for interrogation, detention and trial.

230. A finding that a person had ventured beyond the boundaries of the Zona or of crossing the *linha de fogo* (the outer line of the Fretilin resistance base), where armed troops were stationed, was enough to support a charge of making contact with the enemy.[225] A commander could also be accused of cooperating with the enemy if enemy soldiers succeeded in entering a Fretilin area and killing people. In these circumstances, the commander was considered to have committed a grave mistake,[226] and when a commander was found to have committed a mistake his men were also arrested for the same offence.[227]

231. Pedro Faria, commander of the Fretilin militia in 1975 and secretary of the Sakalu Zone, told the Commission that he was detained in a Renal called Belta Trés in Irara (Fuiloro, Lospalos, Lautém):

> *I was detained in the Renal because I was planning to surrender and the political commissar heard of my plan. I was arrested and interrogated, and I confessed to the plan. I was detained for one and a half months. I was not alone in detention, there were many people detained with me.*[228]

232. Sometimes being in contact with someone who was suspected of being a traitor was reason enough to be detained by Fretilin. This happened to João Vienas in November 1977. He was arrested, bound and detained for a week. During this time he was abused, denied regular food and urinated on, although he was not told why he was arrested. After a week he was called to see the head of the Zona Secretariat.

> *Then it was my turn to be called and interrogated. I was asked: "What is your relationship with José dos Santos?" José dos Santos was my younger brother and the Fretilin commander of the region and he had been killed by Fretilin. I did not do anything wrong but I was arrested because of the death of my younger brother José dos Santos. They suspected that I might react by running away to the town and report to ABRI. I was sure that I had not done anything wrong.*[229]

233. As João Vienas's statement demonstrates, if one or more members of a family were arrested on suspicion of collaborating with Indonesia or for seeking to surrender, other members of the family were liable to be arrested as well. This was particularly so if one or more members of the family were Fretilin leaders.

234. Domingos Soares Martins told the Commission that, even though he was an active member of Falintil, he was accused of being a spy in 1978 by Fretilin Commander T131 in Leubasa (Ermera), because his mother had just surrendered to ABRI.[230]

235. Modesto de Jesus Almeida Sanches told the Commission:

> *In November 1977, my father Salvador Almeida, Adelino Freitas and I were arrested by a platoon of Falintil soldiers at the* aldeia *Haksolok in Iliomar [Lautém], because we were relatives of Pedro Sanches, Gil*

Sanches, Bendito Savio and Adão Amaral who had been arrested recently and imprisoned in central Ponte Leste sector.

After we had been arrested we were put in a pig-pen for three days and three nights. * *My arms were tied behind my back and I was forced to walk from Iliomar to the Besi Manas [Hot Iron] prison in Luro. At Luro, [Fretilin] adjunto T125 said to the 49 detainees, including myself, that we were traitors to the country. Then, with our arms still tied behind our backs at our fingers and elbows [and our legs tied at the] knees and toes, we were put in a house that had a floor of small sharp stones. We were tied up day and night…*

Only after three months was I interrogated by T126, the secretary of Luro Zone. He accused me of planning to surrender, but I answered that I was only arrested because he had arrested all of my brothers. I did not think that I had done anything wrong.[231]

236. When the Indonesian military attacked an area and the leaders of that area decided to retreat, detainees were not released because it was considered that they would certainly surrender and thus enable the enemy to control that area. Orlando Silva Correia Belo (Fernando So), the former village secretary of the Sakalu Zone and later the person in charge of the Marabia Renal in Iliomar (Lautém) described his detention in a pig-pen in 1976:

In October 1976, Pedro Nunes (alias Sabalae), Julio Alegria, Vitor Gandara, Caetano Vilanova, Manuel Gandara and I, together with civilians, attended a large gathering in Paição. At the meeting, Fretilin leaders including T127, T128 and T129 explained the Indonesian military infiltration into Sacalo, Tutuala. We were told that we were irresponsible and we were ordered to put down all of our things and hold up our arms. Then our waists were tied with ropes linking one another and we were taken to a pig-pen…

Only after we had been held in the pig-pen for nine months were we interrogated by adjunto *T125 about the infiltration of ABRI and the capture of the Tutuala area. I answered that I knew nothing about these things. After that 27 of us were released and I was appointed the person in charge of the Renal at Marabia, Iliomar, to replace Tito Cristovão da Costa (Lere Anan Timor).*[232]

237. Having a relationship, in whatever form, with people in the towns was regarded with suspicion by Fretilin. Miguel da Silva told the Commission that in 1976 he was arrested because he was accused of bringing food to his family in the village of Laritame (Ossu, Viqueque).[233]

* The "pig-pen" prisons were not structures formerly used to hold pigs. Rather they were usually improvised detention structures, sometimes similar in shape and size to a pig-pen, to hold detainees. The name "pig-pen" was adopted to refer to the fact that the detainees ate, slept and toileted in the cell like a pig in a pen.

238. Luis da Costa was a parish priest when Fretilin arrested him in May 1976 and again in November 1976. He was accused of contacting people in towns, and also of not supporting Fretilin ideology because of his role as a Catholic priest.

Detention of Father Luis da Costa

Luis da Costa became a priest in April 1974 and was stationed in Ossu (Viqueque). As a priest he was not a member of any political party. In 1976, when ABRI entered the Ossu region, Father Luis fled to the forest but kept up his pastoral work. He performed mass every Sunday, gave baptismal sacraments and taught the people about Catholicism. Father Locatelli in Quelicai was his contact for obtaining materials needed for the mass. However, his religious work was criticised by some in Fretilin and he was first arrested in April 1976:

Around Easter in April 1976…they took me to the Sagadate Command in a village in Laga. The Commander then was Paulino Gama (Mauk Moruk)…Abel Ximenes Larisina conducted the interrogation… He asked why we didn't sing revolutionary songs? I said: "There is a time to sing revolutionary songs and a time to sing church songs; we shouldn't mix them?"…Then after five days they left me to continue my activities.

Father Luis da Costa continued his pastoral work in Uatolari (Viqueque) and then Ossu (Viqueque). In May 1976, he was approached after the Easter mass by the secretary of Laga Zone (Baucau), João Maubere, who accused him of contacting Catholics in the town and of only teaching religion, not political ideology. It was not until December 1976, however, that Father Luis was arrested a second time, as part of the internal conflict between the Fretilin Central Committee and Aquiles Freitas*:

On 1 November 1976, we left our work because ABRI had entered the area from Quelicai [Baucau]. We ran with the community to Mount Kaebukaekami. We lived there and I performed mass as usual…Then they said there was to be a meeting between [Nicolau] Lobato and Aquiles Freitas on 2 December but it never happened. Instead they arrested everyone in Uabitae on the peak of Mount Matebian including me [and Aquiles Freitas, as part of an internal conflict in the eastern

* Aquiles Freitas was arrested by Fretilin with Ponciano Gomes in December 1976 and reportedly executed in January 1977 (see box on Luis da Costa above). According to Xanana Gusmão, Aquiles Freitas was a former Portuguese soldier and Fretilin commander who had his own loyal company in the border region of Timor-Leste. Although he was a supporter of independence, he did not support all of Fretilin's ideology. The CCF saw him as a threat and had him arrested and killed for being a reactionary. [Xanana Gusmão, *To Resist is to Win*, at p. 45].

*region]. We were arrested on the orders of the CCF [Comite Central da Fretilin, Fretilin Central Committee]. They took us first to Baguia where we were forced to work, cutting grass by hand for one week. Then they took us to Nahareka where they split us into two groups. Some went to Mount Girai, but my group of 14 people went to Cascol.**

There I saw violations connected to the politics and the war that was going on around us. I saw that most of the people there were not leaders like Nicolau Lobato and Vicente Reis but little people. Most of them did not understand politics and demanded that people do things that weren't outlined in the political education. People were also often too scared to speak out because the soldiers with their weapons had the power…They didn't give us food because at that time there was no food. From a political point of view, their actions were called political rehabilitation for people who did not follow Fretilin's ideology…I often saw violations of human rights. Towards me they conducted interrogations but they didn't beat me, they just asked questions. They accused me of teaching people that Fretilin was communist.

On 23 December 1976, T132 read the detainees' sentences. Father Luis was not accused of any serious violation and was allowed to leave but with "conditional freedom". Others were accused of being traitors to the nation and were sentenced to death. Aquiles Freitas was sentenced to death for being a traitor and Father Luis heard that he was executed in January 1977. Following his release, Luis continued to perform his duties as a parish priest until he surrendered to ABRI in November 1977.[234]

239. Cooperating with the Indonesian military was considered a more serious violation by Fretilin leaders than contacting the military or planning to surrender. It therefore attracted a more severe punishment. Torture during interrogation and lengthy periods of detention were common when a person was accused of this offence.

240. António da Silva told the Commission about his arrest early in the Fretilin administration period. He was not tortured but was held in difficult conditions and for a long time:

In April 1976, my colleagues and I were captured in Ailemi Lohono in Uatolari Sub-district [Viqueque]. The names of my colleagues were Mausela, Mário Nascimento, Ernesto da Cruz, Alfredo da Cruz, João

* According to Xanana Gusmão, Cascol (Centre East Sector Commisariat) Naroman was the command set up by Vicente dos Reis (Sahe) the Political Commissar of Centre East Sector, west of Venilale (Baucau). [*To Resist is to Win*, pp. 29 and 44].

da Silva, Teotónio Sarmento da Silva, José de Araújo and Raguiel da Silva. We were arrested because…we were suspected of collaborating with the government and the Indonesian military. The CCF ordered the armed forces (Falintil) to come to my house and arrest me and my son Teotónio Sarmento da Silva. My son was about 14 or 15 years old then.

My son, our friends and I were arrested, tied up individually and then tied together in pairs. Then we were told to walk to the Zona [Sub-district] town, guarded closely until we arrived. I didn't recognise the Falintil soldiers…

The arrest was made on the orders of the Political Commissar T133… When we arrived at the Zona, we were interrogated one by one. Not all of us were interrogated in the same way; there were those who were tortured during interrogation, there were those who were interrogated but not tortured, and there were some who were interrogated and then killed, namely Francisco Xavier from Uatolari [Viqueque] and another from Mondelo, the village of Uaibobo [Ossu, Viqueque]. Both were civilians.[235]

241. Conduct on the battlefield could also be a test of loyalty to Fretilin. Gaspar Luis was wounded in the chest during a shoot-out with ABRI in August 1976, so he left the battlefield and went back to the headquarters. He was denounced as a traitor and put in a hole for two months in Nundamar Renal (Remexio, Aileu) on the orders of a senior member of Fretilin, T136, and a member of the CCF, T135. The political commissar, Mau Lear, ordered his release.[236]

Internal armed conflicts

242. Under increasing pressure from the encroaching Indonesian military, a number of splits developed in the Fretilin leadership. As a result many people were arrested and tortured for criticising one or other of the leaders. The Commission also heard of people being branded as reactionaries or traitors for criticising the leadership or for supporting a leader who was considered a reactionary or traitor. In several cases these people were executed (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

Conflict between Helio Pina and José da Silva, October 1976

243. An early internal dispute within the Fretilin leadership occurred between the political commissar of the Northern Front Sector, Helio Pina, and the Falintil chief-of-staff José da Silva in 1976 in Fatubessi (Ermera). Celestino de Carvalho Alves was detained as part of the dispute. He told the Commission that the conflict arose because Helio Pina and Commander Sebastião Sarmento sought to demote José da Silva to deputy chief-of-staff. According to Celestino, on 6 October 1976, company commander, José Soares, on the orders of José da Silva, brought Helio Pina by force

to Fatubessi where they could resolve the dispute. However that night a group of men led by Commander Pedro Lemos from Leorema (Bazartete, Liquiçá) who supported Helio Pina, attacked Fatubessi. They succeeded in rescuing Helio Pina but several people died in the attack.[237] Celestino Alves, who was a Fretilin security officer in Fatubessi, ran with José Soares and 60 of his men to hide in Leorema. Before they reached their hiding place, they were captured by T137, a Falintil commander. They were held briefly in Leorema, and were then taken to Poerema (Ermera, Ermera) and imprisoned in an empty house:

> *In Poerema we really experienced torture that was unusual. We were beaten, burned, tied so tightly that we could feel our blood stop flowing. And there were some who were taken out and killed. Also, some of us were tortured like Jesus Christ on a wooden cross. We were ordered to sleep in a place full of mud, or our bed was splashed with water to make it wet. They beat us with wood, a whip, bamboo and…they beat our bodies with pipes and iron. Until eventually we weren't aware of what was happening to us in detention…The sadism was extraordinary… We received no food during this time.*[238]

244. Over the next year, they were moved between several different detention centres including Cailaco (Bobonaro) and Saugata (Maubara, Liquiçá). They moved as the Indonesian forces advanced. Some were killed, others died from the terrible conditions in which they were kept, including severe food shortages and lack of medicines. After one year only three people out of the 62 who had been captured were still alive. They were Celestino, José da Silva and another man named Jerónimo Albino da Silva. Then, one day in November 1977, they were called to Fatubessi to be interrogated by the commissar of the Northern Front Sector, T139. Celestino Alves told the Commission that during the interrogation T139 threatened him with a pistol, another weapon and a rope (for hanging him). They were detained in an Estufa (see below: Fretilin detention centres, Ermera par. 272-275) and from there, T139 at last released him.[239]

245. Jerónimo Albino da Silva also spoke to the Commission about his arrest in relation to the conflict between José da Silva and Helio Pina in the Northern Front Sector. He said there were many others detained with him, including: Celestino Alves (alias Sei Moris), José Soares, José da Silva, José Carvalho, Cornelio Soares, Alberto Babo, Afonso Araújo, Manuel Alves, Aparicio, Belarmino Alves, Bosco Araújo and Domingas Madeira. He described how he was arrested in Asulau/Sare (Hatolia, Ermera) for his association with José da Silva. Jerónimo da Silva confirmed that the detainees were heavily beaten, kicked and punched both at the time of arrest and in Poerema.[240] He was finally sent to the Saugata Renal where he stayed until ABRI attacked in February 1979.

246. Eduardo de Jesus Barreto told the Commission that about 40 detainees were executed as a result of the internal conflict between José da Silva and Helio Pina in October 1976.[241]

Disputes in Iliomar, Lautém, November 1976

247. The Commission was also told of the conflict between Francisco Hornay, who was a Falintil commander and an associate of Aquiles Freitas, and the Fretilin leaders in Iliomar Sub-district. According to Francisco Hornay's adopted son, Constantino, Francisco formed a group that was deemed "reactionary" in Iliomar because he did not agree with Fretilin's political ideology. The community of the village of Tirilolo (Iliomar, Lautém) told the story of these events.

Fretilin internal conflict in Iliomar, November 1976

In 1976 there was an internal conflict within Fretilin in Iliomar. The secretary of Iliomar Zone, Tomás Pinto (Lesamau), and the Falintil leader, Afonso Henrique, issued an order to arrest Francisco Ruas Hornay because one of his men, Mateus Oliveira, displayed indiscipline by shooting a coconut in Cacaven (Lospalos, Lautém) while coming back from Lospalos. Francisco Hornay made a self-criticism before the political commissar, Juvenal Inácio (Sera Key), in Akara (Iliomar, Lautém) and then followed Sera Key to Belta Trés to undergo *justo correctivo* for 14 days, while at the same time cleansing his mind of thoughts contrary to Fretilin ideology.

When he returned from Belta Trés, Francisco Hornay gave military training to the former Segunda Linha forces and youths at Larisoru-Mumu. Members of the CCF decided that the training had negative effects so closed it down. Then members of the CCF announced that all civilians must gather in one place to receive political education, which Hornay in turn disagreed with. Hornay was invited by the CCF to attend a meeting in Istasi, Fuat. He didn't go because he heard rumours that he was going to be arrested at the meeting. He also stopped people from two villages, Iliomar II and Tiriloro, from going. He sent 45 people to represent him led by Celestino Barreto and Bernardo Soares. Feeling unsafe, Hornay went to Uaibitae (Quelicai, Baucau) to ask for help from Aquiles Freitas. When he came back he had G-3 rifles, grenades and ammunition but, needing more ammunition, he told 12 of his men to take some from Uaritin, an ammunition depot in Iliomar.

Then Hornay sent two of his men, Celestino Barreto and Afonso Barreto, to meet with leaders from Iliomar such as Jeremias dos Reis and Gregório Pinto to try to resolve the conflict. The leaders were not there and Celestino and Afonso were arrested and Celestino was taken to Borutau (Iliomar). Hornay then sent his younger brothers Afonso Pinto and Silvino Ximenes to try to resolve the conflict. Both returned because the situation had become more tense and they had not been able to meet the leaders in Iliomar. Finally, Hornay himself went with

his men to meet the leaders of Iliomar to discuss the misunderstanding that had developed. As the group reached Larisoru-Mumu (Lospalos, Lautém), Serafin Jeronimo shot at Hornay and Hornay returned fire. Hornay captured two of Serafin's men.

One week later, Hornay led an attack on both Sera Key's group and Fernando Txay, wounding a Falintil member and a civilian. Sera Key and Fernando Txay organised Falintil soldiers and civilians to form a barrier and pursue Hornay and his men on Mount Paitah (Iliomar). Hornay and 49 men with one G-3 weapon had escaped to Uato Carbau. Some of the civilians on Mount Paitah surrendered to the Sera Key and Fernando Txay groups. Nine people were detained and tortured by Sera Key's men. Another civilian, Orlando da Costa, was distressed at the treatment of the detainees and went to see Fernando Txay to tell the commander that he must go as soon as possible or all the detainees would be killed.

About a week after meeting Orlando, Fernando Txay led people from four villages to Uato Carbau to capture Hornay and his men. Before reaching the Hornay group, they heard that Paulo Hornay had been captured and killed by T155, commander of Fade (*Forca da Defesa*, also known as *Armas Brancas* [see Vol. I, Part 5: Resistance: Structure and Strategy]. Then commanders including Fernando Txay, Tito Cristovão da Costa (Lere Anan Timor), Tomás Pinto (Lesamau) and others entered Kulaldere (Uato Carbau) and captured 75 people from the Hornay group. All were bound and taken to Tailoi-Caentau (Iliomar).

In Iliomar the detainees were tortured and hung from house poles. They screamed out in pain until the Fretilin leaders T813, T143 and T814, and their Falintil counterparts T815, T144, T816 and T817 decided that if the detainees were not going to be interrogated they might as well be killed. However, if they were to go through some kind of interrogation process they should not be tortured.

On 17 November 1976, it was decided that eight people would be executed in Kakinatar, Loré (Lautém): among these were António Oliveira, Oscar Ferreira, Angelo Pinto, António Soares, Silvino Ximenes, Julio Ximenes, Libertino Bastos, and Bernardo Soares. Those accused of less serious violations were required to undergo *justo correctivo* for two months in Cacaven. There they had to make salt, cut sago trees and make sago flour. Children who had not done anything wrong were told to go home but their freedom was restricted.

Then Francisco Hornay, together with Duarte Ximenes Pinto, José Nunes, Dinis de Castro, Manuel Sarmento and Marcos Pinto, were captured in Quelicai and taken to Iliomar. The six prisoners were not interrogated but were executed immediately in Muapepeh (Iliomar, Lautém).[242]

248. Francisco Hornay's son Constantino was around 11 years old when he and other members of his family were among those arrested by a Fretilin commander T142 and Fretilin member T143 in Uato Carbau in November 1976. He told the Commission:

> *We were captured at dawn. We were taken back to Iliomar and tied up in a place called Sailari and then put into a pig-pen…after that we were investigated. First the leaders and then the little people. So they interrogated me at the end, after about four or five days. They kept us tied up and each day we received one meal. They tied us with black rope and ordinary rope, in three layers and then put us in bamboo stocks. Then in turn we were interrogated by a Falintil member called T144, the operational commander. He interrogated me that morning. Senior Falintil commanders T145 and T146 also interrogated me. After that I was released on the condition that I work in the kitchen, draw water…look for firewood and look after the buffalo.*[243]

Dispute between Francisco Xavier do Amaral and the CCF, September 1977

249. The most well-known and serious dispute within the Fretilin leadership occurred when the founding president of Fretilin, Francisco Xavier do Amaral, was accused of treason towards the Resistance struggle and deposed. The conflict occurred in the context of a mounting food, health and security crisis, which was causing increasing civilian deaths in the Resistance bases, and with the Indonesian military drawing nearer. Francisco Xavier do Amaral was of the opinion that the people should be allowed to surrender and continue the struggle from the towns and villages, but the majority of the members of the CCF opposed this course.[244] The conflict created an atmosphere of mutual distrust within the Fretilin leadership and resulted in the arbitrary detention, torture and ill-treatment of many of Amaral's associates and supporters.

The detention and torture of Francisco Xavier do Amaral

Francisco Xavier do Amaral spoke to the Commission about his arrest and detention for his views on the future of the struggle:

> *There began to be divergence within Fretilin. We had begun to divide between ourselves. Some said that the doctrine [of Fretilin] was not right. Some said that the doctrine was right but people weren't following it properly. Some said it was good. We began to lose our trust in each other… From this they arrested me, put me in prison and accused me…that I had sent the people to surrender so that in the future when I surrendered to*

Indonesia they would give me a position as a general or a minister. This was the argument of those who were against me.[245]

Xavier do Amaral described to the Commission his arrest in September 1977 and his subsequent detention:

All the members of the CCF decided on the arrest. I was asleep in Mindelo near Orsanako [Turiscai, Manufahi]. I woke up to Alarico [Fernandes] yelling and holding a pistol to my ear. He was saying: "Traitor, you are arrested!" It was Alarico's idea, he was the one who reported me as having anti-revolutionary ideas. This had been a problem since I had returned from Mozambique [in 1975]…I had offered to hand the position to Alarico…[but] they [the members of the CCF] knew that if I stood down they would lose the trust of the masses in the bases. Maybe that problem had gone on until finally I was arrested…

Apart from pointing a pistol at me, no other physical abuse was done to me then. They took me to Aikurus [Remexio, Aileu], but first we went around through Soibada [Manatuto], the village of Fatu Makerek in the village of Laclubar [Manatuto] and then back to Turiscai [Manufahi]…I wasn't tortured on the journey, just abused with words such as "Speak, you traitor to the nation, reactionary!" The journey took about a month.

When I arrived at Aikurus, I was tried by the CCF. They accused me of being a traitor to the nation and surrendering the people. Alarico was the one who accused me…[But] everyone was there, like Nicolau [Lobato], Vicente Reis [Sahe], Juvenal Inácio [Sera Key]. They all accused me, but through Alarico because he was the minister for the interior and security. Their decision was that I be sent to the Central-East Sector. I was sent with 20 others, including Diogo Moniz.

As to the torture I experienced while I was in detention, I was burned with hot metal by T90. All of the CCF…were there watching.

No one paid attention to [things like food, water and clothing]. If you were going to die, you were hungry, it was your business. I got food from the guards but it was because they pitied me, not because the CCF ordered them to. Many prisoners died, maybe 75%. When I was detained about 50 people were detained with me but every day four or five people died. If they couldn't walk they were killed. In the end only about five survived.

Amaral was moved continually to escape the Indonesian military:

In Uaimori [Viqueque] I was held in a hole. When we arrived in a place, the prisoners would be ordered to dig their own holes…Sometimes we'd stay one week, sometimes two weeks in one place, because we were always being chased by ABRI.

In October 1978, when the group was on the south coast of Viqueque, the camp was surrounded by ABRI and although he tried to escape, Amaral was captured by Infantry Battalion 744.[246]

250. As well as Xavier do Amaral suffering torture, many of his friends and supporters were arrested and tortured for their association with him. In his autobiography Xanana Gusmão describes the torture suffered by Adão Amaral, José dos Santos, Pedro Sanches, Gil Fernandes, Raul dos Santos, Victor Gandara, José da Conceição, Dinis Carvalho and Andrade Sarmento, and how he intervened to put an end to it. He described the effect of the torture on Pedro Sanches: "His body had been burnt, and his breath smelt nauseating. We feared for his life."[247]

251. Several witness statements were received by the Commission about the arrests of suspected supporters of Xavier do Amaral. Domingos Maria de Andrade gave a statement to the Commission describing his arrest and ill-treatment, when he was beaten, kicked and threatened with a bayonet by Fretilin soldiers, T151 and T152 in 1978 in Mindelo (Turiscai, Manufahi). He said that he was humiliated in front of many people and accused of being a traitor. He was detained for one month and during that time received only sweet potato skins and food-scraps to eat.[248]

252. Domingas Araújo Sarmento told the Commission about the arrest and torture of her husband, Alberto Viteho, in the village of Fatisi (Laulara, Aileu):

> *I met my husband Alberto who was a courier for Xavier [do Amaral]. Not long after, Fretilin forces appeared and immediately arrested my husband and took his clothes off. Then they ordered him to wear a sarong and they took us to Trassu where they hung him from a coconut tree and hit him and tortured him until he was bleeding. They [Falintil] threatened me that if I told people about this they would kill me.*[249]

253. Thomás Araújo, a senior commander of the Turiscai Zone between 1975 and 1977, was arrested in a meeting of the CCF in Tutuluru (Same, Manufahi) in September 1977 in connection with the case of Francisco Xavier do Amaral. He was arrested with several others and was detained for 27 days in Aikurus (Remexio, Aileu) and for three months in Fatubessi (Hatolia, Ermera) together with eight of his friends. Of the nine people detained in Fatubessi, two were executed, Domingos and Mário Bonifacio.[250]

254. Feliciano Soares, a former Fretilin member, told the Commission that he was arrested in December 1977 on suspicion of meeting the Nothern Front commander, Martinho Soares, who was loyal to Xavier do Amaral, and telling people to surrender.* He was taken to Abat (Fatubessi, Ermera) on the orders of the Northern Front Commissariat. There he was interrogated by T153 and Assistente T154 but was not tortured. He was detained for two months.[251]

* The Fretilin commander Martinho Soares was detained at the same time as Feliciano Soares and also held in Abat. He disappeared [see CAVR, Case Summary 902: Martinho Soares, 2003].

255. Januario Faria told the Commission that he was arrested in Caicasa (Fatuberliu, Manufahi) by Fretilin and interrogated about having contacted Xavier do Amaral with a view to surrendering. He was not tortured but was detained in Caicasa with other prisoners including Father Mariano (see par. 293, below).[252]

256. Grasindo Mariano was arrested by Fretilin commander T155 and Fretilin member T157 in Tutuluro (Same, Manufahi) on 11 September 1976 and accused of being a supporter of Xavier do Amaral. He was detained in the Bubulau Church, Tutuluro (Same, Manufahi) for two months, and then moved to Fahinehan (Fatuberliu, Manufahi) where he worked in the gardens for eight months.[253]

Enforcing discipline

257. Fretilin detained people to discipline or to punish breaches of Fretilin rules within the Fretilin Resistance bases. The Commission also heard of torture and ill-treatment of those detainees, particularly later in the period.

258. Ijaias da Costa told the Commission that he was forcibly recruited to Falintil. One night in 1976 in Remexio (Aileu), he was assigned night duty but because he was not used to operating a weapon he accidentally fired his gun. He was punished by being detained for two days without food by Samarusa Company.[254]

259. In 1977, Natalino de Andrade, a Fretilin soldier, did not report for work in Remexio (Aileu) for two days. The platoon commander ordered the zone secretary, T147 and two other Fretilin members, T148 and another person, to arrest him. They tied him up and then beat and kicked him for about one hour. He was detained for four months.[255]

260. Other people were detained if they looked for food outside the Fretilin delineated zones. Henrique Pinto stated that in Dilor (Viqueque) Fretilin allowed civilians to live and work the land in certain zones, while other zones were marked with red lines to denote war zones. Civilians who wanted to enter those zones had to get permission. However, many civilians were caught in the forbidden zones when they were looking for food. The Fretilin troops tolerated these violations once or twice, but if civilians were caught repeatedly they could be arrested and detained. Because of the critical condition of food supplies and the prevalence of sickness and disease at that time many detainees died in Dilor. Pinto stated there was no logistical section to look after the basic needs of the detainees.[256]

261. Mariano Meneses was arrested three times because he did not want to be a member of Falintil. He told the Commission that he was interrogated and made to work in the gardens but was not tortured.[257] Horacio Mendonça told the Commission that he was detained for ten days in 1977 by a senior CCF member, T40, in a horse stable because he criticised Falintil troops who were taking cassava belonging to civilians. He said that he was not tortured while in detention.[258]

262. On 19 June 1977 a regional commander, T149, assigned Jaime da Costa, a section commander, to guard detainees in Laclo (Manatuto). One night Jaime da Costa fell asleep and a prisoner escaped. The regional commander ordered that he be taken to Aikurus (Remexio, Aileu). At night he was put in a hole and in the

morning he was taken out and given food. He was detained for one year and four months. Jaime da Costa told the Commission that he was not tortured in detention, but that he was forced to work the land, planting cassava and vegetables; with the produce given to the Fretilin command.[259]

263. Not following the order of a commander was also grounds for punishment. For example, Silveiro Trindade told the Commission that in April 1978 he and his friend Alarico Trindade, both Fretilin members in the village of Matata (Railaco, Ermera), were called to the hiding place of Falintil commanders Mau Brani and Mau Buti. When they did not attend the meeting, a platoon of Falintil soldiers was sent for them. T141, one of the soldiers in the platoon, tied the victims with bamboo ropes, submerged them under water and then detained them for two weeks in a "chicken coop". While they were in detention, T155 beat them with a stick of wood.[260]

Renals and other Fretilin detention centres

264. Statements provided to the Commission describe detention in both ordinary detention centres and in Renals, although in many cases the line between the two is unclear. There were several types of detention places in Renals. The Commission identified at least two types. First, a hole in the ground covered with wooden bars or by a wooden plank with a large rock on top of it, or covered over with dirt. These holes varied in size. Some were only 80 centimetres in height, forcing prisoners to sit on the floor, and some four metres deep, such as the holes in Nundamar Renal in Remexio.[261] Second, a detention centre above the ground surrounded by a wall of stones stacked two to three metres high.[262]

265. Marito Reis told the Commission that during 1976-77, Vicente Reis (Sahe) travelled through sub-districts in the Centro Leste sector to explain to Falintil commanders that prisoners were not to be killed but should be rehabilitated. Detainees were at that time being held in extreme conditions. In Laleia (Manatuto) for example, Marito Reis said that he saw people detained in a hole in the ground covered in bamboo and soil with only a tiny bamboo pipe for people to breathe through. He said that Renals were established around July–August 1977.* The first Renal was built in Centro Leste sector in a place called Ai-Manas Rai near Lacluta (Viqueque). The land was fertile there and Fretilin did not have to flee, for the time being, from the Indonesian forces.[263] The Commission was told that the Renals were established in Fretilin Resistance bases in each sector as part of the revolutionary strategy:[264]

> *The principles behind the establishment of the Renals were that education should continue even in time of revolution and that people who did not follow the party line or breached disciplinary rules could be "rehabilitated".*

* Compare António Amado de Jesus Ramos Guterres, who said that Renals were established in 1976 after the Soibada Conference in May of that year. The first Renal, according to Antonio Guterres, was the Nundamar Renal in Remexio, Aileu (see box par. 288 below). [CAVR Interview with António Amado de Jesus Ramos Guterres, Laclo, Manatuto, 11 December 2003].

266. The stated principles behind Renals were "*Lutar, Aprender e Produzir*" or "Struggle, Study and Produce". Detainees were formed into farming cooperatives, supposedly operated in an ethos of equality, social support and cooperation. As well as providing education on literacy and political ideology, it was thought that detainees with thoughts or opinions that were not in accord with the concepts and strategy of Fretilin and its ideology or the ideology of struggle would be "rehabilitated" to support the revolution.

267. During the day detainees would work in the fields and in the evenings they heard lectures on politics. The produce from Renals was divided between Falintil and civilians. A typical timetable in a Renal was work between 8.00am and 4.00pm with a one-hour break for lunch; then at 4.00pm detainees would bathe and listen to political education given by the *adjunto* or the political commissar.[265]

268. In theory, therefore, Renals were quite different to ordinary prisons, but in practice the difference was not so great. People were deprived of their liberty and often for an indefinite period, until they were deemed "rehabilitated" and supportive of Fretilin and the revolution.[266] The Commission also heard numerous reports of torture and ill-treatment of detainees in Renals, as well as of executions. In addition, the encroachment of Indonesian forces meant that the population could not grow crops, and food was scarce. Many people died in Fretilin detention, both in Renals and in ordinary prisons, of hunger and illness. António Amado de Jesus Ramos Guterres, who attended the Soibada Conference in 1976, explained:

> *When a person came under suspicion, he had to go to a Renal to undergo rehabilitation. They received political education on revolutionary politics. Many people did not like revolutionary politics with its communist ideology [but] Fretilin…implemented it by force. Fretilin leaders often said that reactionaries were taken to a Renal to be educated. But many were tortured or killed in the Renals. Some who were detained in a Renal were released. Some died of hunger.*[267]

269. Also, because Renals were overseen by the political commissars in charge of the particular sector, and the military situation was different in different sectors, conditions varied between Renals.[268] In some Renals conditions were quite good, whereas in others the Commission heard of regular torture and ill-treatment of prisoners and of many deaths due to hunger and disease.

270. The Commission identified several reasons for the release of detainees from Renals or from other Fretilin/Falintil detention centres. Detainees could escape, or be freed following intervention from a leader. It could also happen that when the Indonesian military attacked a Fretilin/Falintil stronghold, which also housed detainees, the detainees could free themselves when their gaolers fled. Sometimes detainees were captured by ABRI during such an attack and then freed.

271. The following are witness statements received by the Commission about detention in both detention centres and Renals in the districts of Lautém, Viqueque, Manufahi, Aileu and Ermera.

Ermera

272. The Commission received 49 reports of Fretilin/Falintil members detained by Fretilin in the district of Ermera, the highest number in the territory. It also heard of civilians detained by Fretilin/Falintil. Not all of these detentions were in detention centres or Renals, some people were simply deprived of their liberty and held in any convenient place. António Malibere, for example, told the Commission that he was held in a cave in Lauana (Letefoho, Ermera) for four days by a Falintil commander, T121.[269]

273. In 1977, there was a Renal constructed in Fatubessi. Adriano João, former Fretilin political assistant in Cailaco (Bobonaro) told the Commission about the treatment of detainees:

> *Some were beaten, both hands tied then put in the underground prison, given food once a day, sometimes no food for a day. Some died of sickness and hunger.*[270]

274. One of the prisons in Ermera was unique, the Estufa in Abat (Fatubessi, Ermera). The Estufa, according to Celestino Alves, was built by the Portuguese to burn rubber sap. It was very dark, narrow and had no holes for fresh air to enter. Only three people could be held in the Estufa at one time and even then they had to sit with their legs "interleaved like crosses". They could not stretch their legs out, stand up or move. Celestino was held in the Estufa with Commander José Soares and Jeronimo Albino by Political Commissar T139 in November 1977 (see section on Conflict between Helio Pina and José da Silva, October 1976, par. 243-246, above).

275. The three men were held in the Estufa day and night and were allowed out only once a day at most. They received food only once a day and in very small amounts, such as a small piece of cassava each or a plate of boiled corn between three people. Celestino told the Commission that they did not know if they were going to live or die. They were held in the Estufa for about one month when Helio Pina released them.[271]

Viqueque

276. The headquarters of the Central East Sector was in Viqueque. Fretilin's Political Commisariat, Cascol, was the most ideologically innovative of all of the sectoral commissariats. The Commission heard of a number of prisons and Renals in the district.

277. Clementino da Silva told the Commission that he was arrested, tied and taken to Nahareka (Ossu, Viqueque) because he was accused of making contact with his family in the town. He was held in Nahareka for six weeks and then Uailaba for six weeks. While in detention he was given instruction in Fretilin ideology in the Centro de Formação Politica (Ceforpol).[272]

278. António da Silva told the Commission that he was accused of collaborating with the Indonesian military in order to surrender. He was arrested in April 1976 and

taken to Zona 15 de Augusto at Ailemimi (Lohono, Uatolari, Viqueque) and placed in a pig-pen. He said that the pens were made of stones piled two to three metres high, and that ten people were held in each pen. He also said that prisoners received only one meal a day, but that he was forced to cook and take food to Falintil on the battlefield. Antonio also told of how he was forced to attend political education classes at the Centro de Formação Politica. António was detained until November 1978, and surrendered when the Resistance base was destroyed.[273]

279. Paulo da Costa told the Commission that there was a large Fretilin prison in Uaimori (Viqueque) which was operated between 1976 and mid-1979, before ABRI attacked and occupied the area. Large holes were dug in the ground and the space divided into a number of holding cells. "Three-month" cells were for people accused of being "two-faced" (pretending to be loyal to Fretilin but actually working for the Indonesians). In these cells detainees received only one meal a day but were released after three months. Paulo da Costa told the Commission that a third group, whose violations were "too serious", were killed, either by being fed salty water or by being shot. The Commission has not been able to confirm this practice of a tiered system of cells.[274] According to other sources, Uaimori was a Renal that was known for successfully rehabilitating people. For that reason, Francisco Xavier do Amaral was held there.[275]

280. The community of Baulale in Irabin de Baixo Village (Uato Carbau, Viqueque) said that Fretilin/Falintil frequently arrested people on suspicion of being Indonesian spies and held them in pig-pens. Detainees were then interrogated while tied with horse ropes. Informants told the Commission that one detainee named Paulo Fernandes died because he was tied too tightly, that three others were executed, but that Xanana Gusmão freed the remaining detainees when he visited Baulale.[276]

281. Xanana Gusmão told the Commission that the Renal in Ulusu (Uatolari, Viqueque) operated on the principle that it should provide education in literacy and politics and allow detainees to grow food crops. Xanana Gusmão said that the Renal under his charge even produced abundant crops, but when the enemy attacked the area, they destroyed them all. People accused of being reactionaries or traitors were arrested and put in the Ulusu Renal. Detainees had relative freedom and could get permission to visit their homes or have their families visit them in the Renal.[277]

282. Cipriano da Cruz described being arrested and tied-up by Fretilin with seven members of his family in 1977 and taken to a Renal in Uatolari (Viqueque), probably the Ulusu Renal. They were kept in a hole for six months before Xanana ordered the release of all 280 people held in the Renal.[278]

Lautém

283. Fretilin also maintained several detention centres in the district of Lautém, used for holding people suspected of treason, of being reactionary, of associating with leaders who were under suspicion or of other offences. They include Belta Trés in Irara (Fuiloro, Lospalos), a pig-pen prison in the sub-district of Loré, Besi

Manas (Hot Iron) Prison in the sub-district of Luro, and another pig-pen prison that became the Marabia Renal in Iliomar. Statements from former detainees in these prisons and Renals provide a detailed description of life as a Fretilin prisoner in this period.

284. Orlando Silva Correia Belo (Fernando So) told the Commission about conditions in three different pig-pen prisons in the district of Lautém in 1976, before the establishment of the Renals:

> *We were not beaten, but we had to…keep our arms up because the rope was still around our waists and necks. After one month of imprisonment in the pig-pen at Belta Trés, Irara, we were moved to a pig-pen at Loré. While we were detained we were given food once a day …Sometimes we washed once in two weeks. After two months we were moved to Iliomar.*
>
> *In Iliomar, detainees were divided into three groups. Each pig-pen had nine people. Our food was similar to Belta Trés and Loré. We ate sago, tips of palm leaves, maize and cassava.*[279]

285. Gaspar Seixas, the former zone vice-secretary of Iliomar from 1975 to 1977 told the Commission that he saw many people detained in Renals. He said:

> *Activities in the Renal usually involved working in the rice-fields or gardens during the day and being taken back to the prison at night under heavy guard by Falintil soldiers. The produce was given to Falintil…and also to people who did not have enough food. As well as work, detainees were given political education on Fretilin ideology and the principles of the struggle. Adjunto Lere Anan Timor gave these lessons in the Iliomar camp.*[280]

286. Modesto de Jesus Sanches told the Commission about his time in the Besi Manas Prison in 1978:

> *If we were lucky, we had between nine and twelve corn kernels per day per person and we drank only water. Because we [received so little] we were very happy when it was our turn to fetch firewood because we could eat leaves that we found on the way. Usually five people were sent to fetch firewood at a time, with a rope connecting their waists one to another…two metres apart, and the Falintil soldier who guarded us held the end of the rope. If…one of us saw a candlenut in the river, he ran to get [it], forcing everyone tied to him to be dragged along and fall on top of each other. We secretly wanted to laugh but, because we were hungry, we just did everything we could to eat.*
>
> *One day our place was bombed by the enemy's warplanes. Adjunto T125 came to us and said that all of us were traitors. He ordered one of*

his men to get a big stick and then he approached Cristovão Lopes and hit Cristovão across the head several times, killing him on the spot. I saw with my own eyes how the guard hit him [until he was] dead then dragged him off to be buried. Another victim was Julião, who dropped dead next to me of starvation. He was given no food because he was suspected of being an enemy spy.

In June 1978, when Adjunto Xanana visited Luro he ordered his members to undo the ties that bound our hands and legs. We were told to sit outside in the sun. Then we were told to have a wash and a haircut. Our bodies were infested with dog fleas and lice, because for six weeks we had not been allowed to wash. Xanana himself took us and brought us over to our families in Iliomar. While I was imprisoned in Besi Manas, my wife, my four children, my nephew, and my mother were put in the Marabia Renal in Iliomar to work.[281]

287. Horacio de Conceição Savio was part of the same group of detainees as Modesto Sanches, and he told the Commission a similar story:

In 1978, I was arrested together with João Vienas, Alcino Savio, Cristovão Lopes, Julião Cacavei, Mário Amaral, Felix da Conceição, and Bernardino...Commander T156 and his men arrested us in Iliomar and we were taken to the Besi Manas Prison in Luro. There…we were hit on the face and beaten across the head with their guns until our bodies were swollen, cut and bleeding.

The Fade troops kept beating and kicking us and we were hung up on a pole in the heat of the day for nine days, from 8.00am until 4.00pm, when they took us down and put us into the prison cells again. But our hands were tied behind our backs. While we were hanging, they kept beating us. The people who beat us included Commander T156, Adjunto T156 [sic, ed.], T125 and T159. We were given food but very little and only once a day. If we wanted to go to the toilet we had to get permission, but were still guarded by the Fade troops. We were told to work in the rice-fields. When Adjunto Xanana visited the Besi Manas Prison, after about a month of detention, we were released.[282]

Aileu

288. The main Renal in Timor-Leste, Nundamar, was in the sub-district of Remexio in Aileu. Nundamar was Fretilin's model rehabilitation camp for implementing Fretilin ideology, but it was also the Renal most notorious for serious human rights violations. Xanana Gusmão told the Commission that there were cases of inhuman treatment of detainees including beatings and burnings using red-hot wood, and that this was witnessed by Political Commissar Sera-Key.[283]

The Nundamar Renal in Remexio, Aileu

The Nundamar National Rehabilitation Camp was the first Renal established by the CCF. Set up in Remexio (Aileu),[284] it was the largest and most important of the Renals. The CCF built Nundamar as a model for putting CCF political ideology into practice. It had literacy programmes, political awareness lectures and economic development programmes for its detainees, who included ordinary civilians, Fretilin members and Falintil forces.[285] Xanana Gusmão told the Commission that the Political Commissioner Sera-Key visited Nundamar to study the methods applied in the Nundamar Renal before he established Renals in the Central East Sector.

Adjunto Sebastião Montalbão (Lais) was appointed by the CCF as the main person responsible for the Nundamar Renal. "Lais" is the abbreviation of "Localização da Administraçâo e Informação Serviços Secretos".[286] José Manuel dos Santos told the Commission that about 300 people were imprisoned in the Nundamar Renal between 1977 and 1978. Nundamar was closed on 28 May 1978 when it came under Indonesian military attack. José Manuel dos Santos was a detainee in Nundamar, and told the Commission:

I was arrested by a Falintil platoon under the command of the sector commander, T160, because I refused to become a company commander in the Central Northern Sector. Originally my position was the Assistant Company Commander for the Central East Sector (Colaborador Comandante Compania Sektor Centro Leste). After being arrested I was taken to see Sector Commander T160, who said that I was a reactionary because I refused to accept their decision. I was detained in the Nundamar Renal. At Nundamar I was beaten by hand…and lashed with a whip (chicote da liberdade)…*I did not count how many times I was whipped, but it lasted a long time.*

Then those of us who were detained, including Zacarias, Mário Mesquita, Marcelino, Gaspar, Alexio, António and Maurubi from Laclubar, were forced to cut large pieces of wood and bring them back to the Nundamar Renal. I was told to make salt on the beach at Metinaro [Dili] for two weeks. After the wife of Political Commissar Mau Lear saw me, I was ordered to become a nurse and to treat civilians and Falintil soldiers. I treated detainees in Nundamar Renal, but on my own initiative…I was held as a prisoner until the Nundamar Renal was attacked by the Indonesian military.[287]

Killing and torture of detainees

Some detainees were beaten to death. José Manuel dos Santos told the Commission of the deaths of a number of prisoners, including:

Martino Mesquita who was beaten first by hand and then beaten to death by T162 with a rice pestle on 5 December 1977; Afonso Araújo and Leki Mau, both from Metinaro (Dili); Mauloco from Ailok (East Dili); Beremau from Daralau (East Dili); and a young man (unidentified) from Hera (Dili).[288] He also gave evidence that Domingos Dulas, from Maubisse (Hato Builico, Ainaro), was shot dead on 17 February 1977 in Nundamar.[289]

Some detainees in Nundamar were taken outside and executed: Zacarias and Maria Fatima were reportedly both executed in Aldeia 8, in the village of Liurai, on 8 March 1977. José Manuel dos Santos told the Commission that a hole was dug and then the two prisoners were tied together with a rope around their necks and waists and shot, their bodies falling into the hole.[290]

José Manuel dos Santos also told the Commission that torture and ill-treatment of detainees was a common occurrence in Nundamar. He said that detainees were beaten with sticks, iron bars, lengths of bamboo, or with a whip known as the *chicote da liberdade* (whip of freedom). These whips were made of plaited buffalo skin, similar to whips commonly used on horses and buffaloes, and were about 80 centimetres long.[291] José Manuel dos Santos told the Commission that a number of people commonly used the whips on prisoners, including: Commander T163, T162, Company Commander T165, T166, T167, T168, T169, T170, T171, T174, T175, T176, and Secretary T177. This group of people were the chief agents of T136 (a senior member of the CCF).

Other forms of torture and ill-treatment included burning prisoners' bodies with cigarette butts or with iron rods heated in fire or putting them in a hole in the ground. In the Nundamar Renal there were two such holes, one in the shape of the letter "E" and the other like the letter "U". They were about three metres deep. The holes were covered in layers – first big logs were laid crosswise, then split bamboo and finally dirt was shovelled on top. There was one door to each hole with a ladder that detainees used to climb in and out.

Conditions in the Renal

During the day the prison leaders' time was filled by work such as political education for the people or meetings, and the evenings were filled with entertainment, such as dances. José Manuel dos Santos told the Commission that T136 and his men would get drunk at the dances on palm wine and then quite arbitrarily decide to arrest and beat people with the *chicote da liberdade* and throw them into the hole.[292] He said that on one occasion, when there was a party, he saw T136 and his men get drunk and without any

clear reason beat Luis Barros so hard that his head was seriously wounded.

Prisoners' movements were severely restricted. José Manuel Monteiro, the man in charge of the Nundamar Renal, acknowledged to the Commission that detainees could not lie down in the holes, they could only sit or stand up and that even then they had to cross their legs due to the confined space. Detainees who were going to be executed were not let out of the underground holes.[293]

Reasons for detention in Nundamar

Those held by Fretilin in the Nundamar Renal were considered traitors. However, José Manuel dos Santos told the Commission that there was no clear investigative process to prove such allegations. There was also no process of self-criticism or *justo correctivo* in Nundamar because of the seriousness of the allegations. Conditions for prisoners considered traitors were especially harsh. The Commission received statements suggesting that medical treatment for those who were ill was withheld due to their political status, and that the sick were forced to continue working in communal farms. As the detainees were considered traitors, there was also no room for terms such as illness or other excuses. Everyone had to work in the gardens or rice-fields even when they were sick.

When working in the fields detainees who were categorised as having committed serious offences were tied by the waist to one another, two to three metres apart and guarded by Fretilin/Falintil soldiers. José Manuel dos Santos said that in the first months of his detention the workers received water from the guards when they were thirsty.[294] However after Xavier do Amaral was detained, detainees were not given water unless the Falintil member who guarded them was kind-hearted. Both José Manuel dos Santos and José Monteiro told the Commission that this deprivation caused many detainees to become sick and die.[295]

The guards at Nundamar treated women no differently to men, especially in relation to work. For example Lucia Osório Soares, the wife of Xavier do Amaral, had her head shaved and was forced to work in the Renal.

Food and drink

Food consisted of the skin of buffalo, horse or goat cut into small pieces and mixed with cassava or jackfruit and vegetables such as the leaves of wild taro. This mixture was cooked and each detainee received two large spoonfuls. If boiled cassava was given to the

prisoners, each detainee received one piece. The meat from the slaughtered animals was given to the man in charge of the Renal and his men, or sent to other members of the CCF who lived in the Central Northern Sector.[296] José Manuel dos Santos said that the food was not sufficient and many people died of hunger and disease. One group of civilians brought from Ilimanu (Laclo, Manatuto) including men, women and children, almost all died of hunger or illness, or were killed.[297]

Movement of detainees between Renals

According to José Manuel dos Santos, prisoners were moved frequently between Renals. Detainees were brought to Nundamar from the prisons in Laclo and Laclubar (Manatuto), Laulara (Aileu) and other sectors. Most of the civilians brought by force from Ilimanu (Laclo) including men women and children died of hunger and disease. Most died of hunger but some were executed. The Commission also heard from José Manuel dos Santos that goods belonging to detainees, such as gold jewellery, clothing and other articles, were seized by T136 and given to the men close to him, and that T136 said: "*Fogo aos Traidores, Abaixo aos traidores!*" (Shoot all traitors, down with all traitors!).[298]

289. Maria Fatima Pinto also told the Commission:

> *At that time we were attending a party. About 3.00am, they [Fretilin members of the Central Northern Sector Base B, Laulara Zona, Aileu] said the party had to end because "there are traitors among us". That morning they…arrested me and several others.*
>
> *We were taken to the Nundamar Renal, Remexio. I was interrogated about things that Maria Goreti sent such as oil, medicines and clothes. I had received those things and I handed them over to João da Silva Godinho, who handed them over to Nicolau Lobato. Because there was no clear information, I was held in the Renal hole for two days with a friend, Maria Antonia of Laclo. I was released by Nicolau Lobato, because there was no proof of my wrongdoing.*
>
> *I continued to be punished in the Renal for three months. While in detention we were told to work in the gardens and in the rice-fields. In 1978 Fretilin members killed many detainees by throwing grenades into the holes.*[299]

290. In the Nundamar Renal in 1978 Fretilin set up a place for holding children known as the *crèche*. Children kept in the *crèche* were children of Fretilin detainees

aged between two and five years old and at times numbered more than 50 children.[300] According to Maria Antónia, one of the detainees charged with caring for the children in the *crèche*, all of the children in the *crèche* died, including the two children of Francisco Xavier do Amaral. She said that they suffered malnutrition from the poor quality food they received and that they washed only with water, not soap.[301]

291. Raul da Costa witnessed the mistreatment and killing of detainees kept in the Nundamar Renal and Erluli and other killings committed by Fretilin because at that time he was deputy commander of the Remexio Zone. He gave evidence of torture meted out by Fretilin on detainees in the Renal, including on Francisco Xavier do Amaral, who according to him was tortured by having burning embers put on his chest.[302]

The detention of Ambulan

Domingos Maria Alves (Ambulan) was a Fretilin zone secretary arrested in Liquidoe (Aileu). He was taken to Erluli (Remexio, Aileu) because he was accused of being a member of Xavier do Amaral's group. Ambulan was called a traitor and then tortured by the Fretilin *adjunto*, T187, and a CCF member, T90, including being hung up and beaten. Almost all parts of his body were beaten by hand or with wood, and he was also kicked. Ambulan told the Commission that T90 interrogated him in front of several ministers in the Fretilin administration including Mau Lear, Hata, Mau Kruma, Sahe, Nicolau Lobato and Afonso Rendentor. T90 asked whether Ambulan was a bodyguard of Xavier. Ambulan answered that he was. Ambulan was tortured again by T187 and T90. T187 hit Ambulan with a piece of wood until the wood broke in his hand. T187 took another piece of wood. He beat Ambulan until he had broken three pieces of wood. Then he took a last piece of wood, which had a burning tip, and he used it to burn Ambulan's skin. Ambulan says that many people were executed in public and T90 said that this was to warn the public and other detainees not to do the same thing.

Ambulan says that one day in 1977, T90 showed a letter which, according to T90, had been sent by the people of Liquidoe. The content of the letter was that Ambulan was not allowed to return to Liquidoe. It was thought that the letter was written by T90 and T132. However in the letter there were names such as Gaspar, Mateus, Lequiboe, António, Mau João, Berleke and Bernardo. Based on that letter Ambulan was placed in an underground hole. In that hole Ambulan stayed with João Bosco, his friend. Ambulan was imprisoned there for one and a half months. Ambulan was detained with Xavier do Amaral for one week before he was moved to

Fatubessi (Ermera). Ambulan was taken to Fatubessi together with nine other detainees: Luis Koto from Uatolari (Viqueque), Mário Bonifacio from Laclo (Manatuto), Hermenegildo from Maubisse (Hato Builico, Ainaro), José Sabere and Diego from Fahinehan (Fatuberliu, Manufahi), and Thomás, Domingos, Unkoli and Nuno from Turiscai (Manufahi).

Ambulan says that of the ten, five were put in a special cell then killed after the Indonesian military carried out a massive attack. The five detainees who were killed were Luis Koto, Mário Bonifacio, Domingos, Martinho and a woman from Suai (Covalima). Ambulan and his four friends were released.[303]

292. The Commission also heard of several incidents of torture in Liquidoe (Aileu). Guilherme Brito was arrested in Fatukaimauk in Faturilau (Liquidoe, Aileu) in 1977. He was tied-up and forced by T196 to stay in the river at a depth of one and a half metres for three days and three nights.[304] Daniel de Andrade told the Commission that his father (also Daniel de Andrade) was arrested in 1977 by Falintil commanders T197 and T187 in Liquidoe. They hit him with a block of wood and then tied him to a cross for one week. Then he was taken down and put in a hole in the ground for another week, before they took him out and beat him to death with a piece of wood.[305]

Manufahi

293. In Manufahi, the Commission heard of at least one Renal in Dotik (Alas, Manufahi), which had similar conditions to the nearby prison of Uitame in Viqueque, described above.[306] Tomé da Costa Magalhães told the Commission about prisons in Rameliak and in Lakeruhun, both in Caicasa Village (Fatuberliu, Manufahi).

The detention of Tomé da Costa Magalhães

On 9 February 1976, when ABRI started to attack the Fahinehan area (Manufahi), a Fretilin commander named Matias ordered all people including Tomé Magalhães to run away to the forest. In the forest Tomé hid in his gardens in Ailora, Fahinehan. It turned out that Francisco Xavier do Amaral and Father Mariano were also hiding there. They grouped together but then Xavier do Amaral moved to another location and Father Mariano stayed with Tomé in Ailora.

On 9 September 1976, on orders from Political Commissar T199, Commander T200 with four of his men, carrying two G-3 rifles and two

Mausers, came to Ailora to arrest Tomé and Father Mariano. Tomé and Father Mariano were allowed to go home first to collect their things and then went on horseback to Rameliak (Fatuberliu, Manufahi).

When they arrived in Rameliak, Fretilin members came up to Father Mariano and pulled him so that he fell from his horse. Tomé and Father Mariano were interrogated and then put in separate cells with only a bamboo wall between them. Tomé described the cell as very narrow and not allowing a person to move freely. They were guarded closely day and night, and if they needed to go to the toilet they were escorted by two armed Falintil members. In the morning, T199 called Father Mariano for interrogation and when he arrived T199 ordered two of his men to take off the priest's clothes. Then T199 whipped Father Mariano until he was unconscious and then put him back in his cell. Father Mariano was repeatedly interrogated about his connection to Xavier do Amaral and tortured during interrogation.

Tomé said that they received no food from Fretilin while in detention. His family brought food to the prison. The food was always inspected by Fretilin and sometimes it was confiscated. Tomé says that he was never interrogated and tortured, but that T199 and his men took turns beating the priest for three days. T199 then tried to force Tomé to fight Father Mariano, but the priest's body was so bruised and swollen and his legs so stiff that he could not stand up. Tomé and Father Mariano were imprisoned for three months in the Remeliak prison and were then moved to Caicasa prison in Fatuberliu.

In Caicasa they were put in a house on stilts that had dozens of sharpened bamboo poles underneath. They were held there in terrible conditions for one month. Their legs were put in a wooden hole and tied tightly so that they could not escape, and their hands were tied behind their backs. When it was time to eat, the guard had to lift their heads and put food in their mouths. They were fed only once a day with a piece of cassava and water. There was no way the prisoners could go to the toilet, so they had to relieve themselves where they lay and the room reeked of excrement and urine. It was very cold in that area, but they were given no blanket to sleep under.

Tomé says that on 19 September 1977, ABRI entered Fahinehan. The Fretilin guards took him and Father Mariano from the bamboo house and forced all of the prisoners to walk, tied together, from Caicasa to Lakeruhun (Fatuberliu, Manufahi). There they were put with detainees from Fatuberliu under Commander T206. Many detainees were tortured and ill-treated, including having their bodies jabbed by bayonets or being burned with lit cigarettes. Then the prisoners were moved again to Rameliak except for the priest who was taken to Liquidoe.

Later Tomé asked T199 why he had been detained for so long without any explanation of what he had done wrong. T199 answered: "Because you worked with Francisco Xavier do Amaral and Father Mariano. That was why I punished you. But believe me, soon you will be free." Then Tomé was put in the Rameliak Renal to work in the gardens and plant vegetables. On 8 August 1978, after nearly two years in detention, Tomé was released and he returned to his family.[307]

294. Valentino da Costa Noronha also told the Commission about torture and execution of members of his family:

> *Because there was no food, my family, numbering 51 people, and I decided to go to Aileu to get cassava and sweet potatoes from someone's garden. On the way back to Laututo, Tutuluro [Same, Manufahi] we were hungry and decided to roast the sweet potatoes and cassava to eat them. Suddenly we were surrounded by a group of Falintil people who arrested us. All of my family had their hands tied and we were bound to one another by a rope around our waists. We were told to walk from Laututo to Ailora [Fahinehan, Fatuberliu, Manufahi]. On the way the Falintil soldiers tortured my family by beating us with their hands, with thorny lime branches, with bamboo and wooden branches on our stomachs and backs, and by burning us with lit cigarettes. When we arrived in Ailora everyone in my family was tied and hung from house poles. In the evening Falintil executed 45 members of my family. Seven of us were saved because one of my uncles was a political assistant.*[308]

Liquiçá

295. The main Renal in the district of Liquiçá, according to the Commission's research, was Saugata in the sub-district of Maubara. There were at least 120 people held here during the time it was in operation. Celestino Alves, who had been arrested on 15 October 1976 with José da Silva and 60 of José da Silva's supporters in Leorema (Bazartete, Liquiçá), was eventually taken to the Saugata Renal (see box on the Conflict between Helio Pina and José da Silva, October 1976, par. 243-246, above).

296. Alexandrino de Jesus told the Commission that he was detained with 48 other Fretilin activists in the Saugata Renal from October 1977 to early January 1978. Alexandrino de Jesus had been accused of planning to surrender to the Indonesian military and of being in contact with Commander Martinho Soares. Fretilin detained the group for three months. The detainees were required to perform work such as pulling out grass by hand over an area of about 1.5 hectares so that it could be planted with corn. They were not given any food so Alexandrino and his friends had to find food for themselves.[309]

297. The Commission also received statements indicating that there was a Renal in Maukuruslema, in Berdois in Maubara, and a detention and torture centre in Sedoze

Camp in Kailima, in the village of Laculai (Liquiçá). For example, Agapito dos Santos was arrested by Falintil along with four others in Berdois (Maubara, Liquiçá) in 1977. They were tied with bamboo ropes, hit with a piece of wood, kicked with military boots and detained for seven and a half months in the Maukuruslema Renal (Maubara) before Falintil Commander José Soares released them.[310]

298. Some people were not detained in a building or other space but were tortured where they were arrested. Jorgé Pereira Pinto told the Commission that he was accused of treason in March 1976 in Pukemanaru (Manati Village, Liquiçá) for allegedly taking civilians to surrender to ABRI. He was arrested by two Fretilin members called T209 and T210. They hit and kicked him until he fell down and then beat him with a Mauser rifle, leaving his face bloody and his body bruised and swollen. After the beating he was tied to a tree for one day before being released.[311]

Violence in the Fretilin zones

Torture and other forms of cruel, inhuman and degrading treatment were perpetrated in many of the Fretilin-controlled zones, not just in the Renals and prisons discussed above. Violence was used routinely as a way of punishing any real or suspected misdemeanour and asserting one person's power over another. Some examples include:

Valenti de Sousa Guterres told the Commission how on 3 January 1976, in Baguia (Baucau), he was beaten by Fretilin members with a belt, injuring his right eye. Then he was kicked until he fell unconscious.[312] Fretilin Commanders T211 and member T212 interrogated him and were about to kill him when Aurelia, the mother of commander Mau Hudu, intervened. He was released soon after.[313]

Geraldo Pereira told the Commission that in Molop (Bobonaro) in 1976, he and two others were arrested and abused, and beaten with weapons and hands by Falintil. Another victim was hit on the head with a machete three times causing heavy bleeding from his head, so that he finally lost consciousness. Another victim had his ears cut off. They were detained for three weeks and then released by Commander Agustino Espirito Santo.[314]

António Soares told the Commission that he was arrested in Modok Zone in Iliheu (Laclo, Manatuto) in March 1977 by Fretilin members T213, T214 and T215. They took António Soares to Modok Zone where he found five other Fretilin members detained (António Demetrio, João Carceres, Caetano Gusmão, João Harek and António Amado) whose bodies were swollen because they had been burned with hot iron rods.[315]

Arbitrary detention, torture and ill-treatment by the Indonesian occupation authorities, 1975–1979

Introduction

299. The years 1975 to 1979 recorded the highest numbers of East Timorese people arbitrarily detained, tortured or who suffered cruel, inhuman and degrading treatment of any years during the Commission's mandate period. These violations occurred in the context of chaos and violence as the Indonesian military invaded and then gradually occupied the territory and the civilian population fled to the mountains only later to be captured or to surrender. From early on arbitrary detention was a military strategy for gaining control of the population and obtaining information about the strength and the leadership of Fretilin/Falintil. Intelligence was often used to target particular individuals. Local divisions were exploited to identify and detain possible Resistance members or supporters.

300. This section examines the nature and extent of arbitrary detention, ill-treatment and torture under the following headings:

- Statistical profile of violations
- Invasion of Dili
- Takeover of other areas
- Securing the territory, 1976 to 1979
- Surrenders, both early in the period and in the mass surrenders and captures in 1978 to 1979.

Profile of violations: 1975 to 1979

301. The Commission recorded 6,494 detentions, tortures and ill-treatments in this period at the hands of the Indonesian military and its auxiliaries, 43.45% (6,494/14,491) of the total for the years 1975-79.* Females comprised 11.32% of all victims from this period, a relatively high figure given that women rarely played an active role in the hostilities.

302. As the graphs below demonstrate, there was a major peak for detentions, torture, and ill-treatment at the beginning of the period in 1975 to 1976 and a higher peak at the end of the period in 1979. Between these peaks the figures remain consistently high relative to other periods of the Indonesian occupation.

* Note that in 11.19% (1,622/14,491) of cases the perpetrator was unknown.

Number of reported acts of torture, 1974–1979



Source: Database of Narrative Statements Given to the CAVR

Number of reported acts of detention, 1974–1979



Source: Database of Narrative Statements Given to the CAVR

Number of reported acts of ill-treatment, 1974–1979

RELEVANT GRAPH NOT AVAILABLE [ed.]

303. The peaks in 1975 to 1976 and 1979 coincide with major military operations: the first being the invasion of the territory (the beginning of Operation Seroja) which was most intensive in late 1975 and early 1976. This was followed by the bombings and marine attacks in the eastern region in late 1978 and mopping up operations in the central region in 1979, which led to the mass surrenders and detentions of civilians in these years.

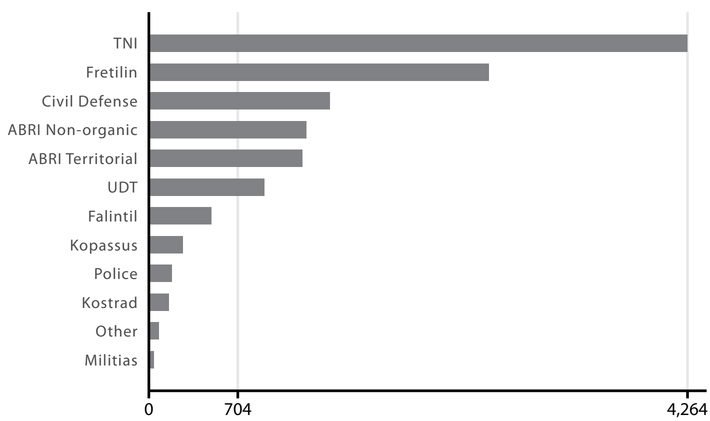
304. Even in the intervening period between these major operations, a high number of people were detained relative to other years in the occupation (see graph in the Introduction to this Part par. 23). These detentions occurred as the Indonesian military continued to fight Fretilin/Falintil to gain control of the territory, and to force out members of the Resistance in areas where the military had established control, and then destroy them.

305. The patterns of detention, torture and ill-treatment violations, like other fatal and non-fatal violations during this first phase of the conflict, varied from region to region. While the initial violence around the time of the Indonesian invasion in 1975 was most intense in the western and central regions, after 1976 the focus of non-fatal violations shifted to the eastern region. It was in 1976 that the Resistance began to be concentrated in the eastern regions of Timor-Leste and therefore these areas were targeted by Indonesian security forces.

Perpetrators

306. The Commission's analysis of perpetrators attributed with responsibility for detentions in this period is indicated in the following graph:

Count of detention by perpetrator, 1974–1979

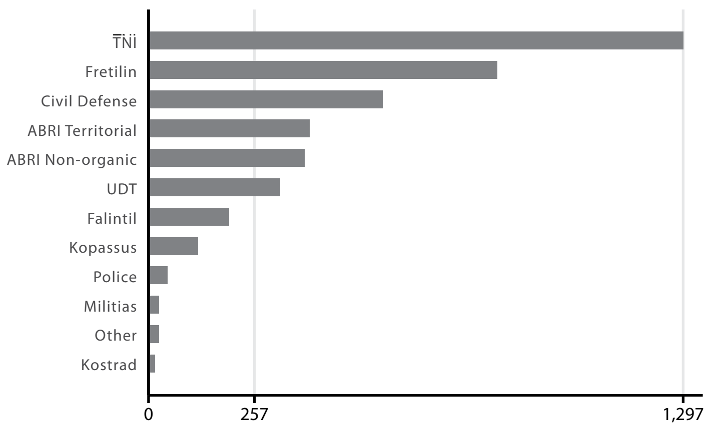


Source: Database of narrative statements given to the CAVR
Note: Some violations may be counted more than once because responsibility may be shared among perpetrators.

307. The graph indicates that the Indonesian military forces perpetrated a large majority of the detentions. Although the civil war in 1975 took a heavy toll on East Timorese society, more people suffered non-fatal violations at the hands of the Indonesian military than either of the political parties in 1975. The Indonesian military was named in 49.17% (4,393/8,934) of all documented detentions in the invasion period, 42.55% (1,328/3,079) of torture cases and 31.19% (773/2,478) of ill-treatments. In most cases, the victim identified only ABRI/TNI and did not specify the unit or section of the military responsible. In this early stage of the occupation, the various elements of the military, including battalion names and numbers, were not yet known by the majority of East Timorese people. Many of these early detentions occurred in a climate of upheaval and chaos as the military attacked villages or groups of civilians, unlike later periods where battalions were resident in a particular area and were identifiable by the community.

308. Nevertheless, it is clear that territorial units including organic and non-organic units were involved in the detention of suspects.* Special Forces (Kopassandha/ Kopassus) also detained people. Aside from the military itself, East Timorese working for civil defence organisations established by the Indonesian military were involved in a significant number of detentions in this period; qualitative evidence suggests that many of these violations were conducted in conjunction with the military. These patterns are virtually identical with reported incidents of torture in this same period.

Count of torture by perpetrator, 1974–1979



Source: Database of narrative statements given to the CAVR

* Territorial units are non-combat units responsible for a particular geographical area and fall within the territorial structure from sub-district to national levels of command. Organic territorial units primarily comprise locally recruited soldiers whereas non-organic units comprise territorial battalions from Indonesian provinces. Combat units are not geographically defined and fall outside the territorial command structure. For more information, see Vol. I, Part 4: The Regime of Occupation.

Detentions during the invasion

309. The Indonesian military began its incursion into towns close to the border with West Timor in September 1975 and then launched its invasion of Dili on 7 December 1975. The invasion of Dili marked the beginning of Operation Seroja (Lotus), (see Vol. I, Part 3: The History of the Conflict). After taking control of the capital, and Baucau two days later, forces moved to capture strategic areas.

310. Each time the military moved into a new area the general patterns of detention were the same. Military forces detained civilians and combatants, who had either been captured or who had surrendered. In some places mass detentions occurred as the military sought to gain control of the local population and to identify Fretilin/Falintil members or supporters connected to the Resistance. In other places it arrested family groups or individuals who had not managed to flee in time or who were caught returning to find food. Detention served several purposes:

- It separated members of the Resistance from the general population
- It was a way of obtaining strategic information about the Resistance
- It served as punishment for membership in, or support of, the Resistance.

August–November, 1975

311. Between August and November 1975, Indonesian Special Forces units together with East Timorese Partisans conducted incursions into the western region beginning in Atsabe (Ermera), Bobonaro (Bobonaro) and Suai (Covalima) on 14 September, Batugade (Bobonaro) on 8 October, Balibó (Bobonaro) on 15 October and Atabae (Bobonaro) on 20 November. Fretilin combatants were captured and detained in battles with the Indonesian forces. Alberto Tavares recalled:

> *In 1975, a Commander of Segunda Linha, T216, forced us to carry out an attack in Balibó against Indonesian soldiers. Other friends and I were involved in a shoot-out with Indonesian forces in Balibó from morning until evening. Because we were not as strong as ABRI, we retreated to our base in Damalaran [Balibó]. When we reached there, Indonesian forces attacked us with tanks and my younger brother Talo Bere was killed. After his death, Commander T216 surrendered to ABRI and then he and the Indonesian forces came and arrested us in Atabae. Then we were arrested and detained in Rairobo [Atabae]. We weren't given any food or medicine and so we only ate leaves. My son Januario Tavares died there from hunger.*[316]

312. Cases of detention of civilians from this period are sparse, suggesting that it was not a part of the incursion strategy. In one case from the sub-district of Atsabe, Marciana da Graça described how four civilians, Mau Butar, Berleki, Beremau and Mausiso, were captured by Battalion 403 in Coileki in Babo Leten Village (Atsabe) and taken to the town of Atsabe. The soldiers, along with a Partisan commander, T217, then took the victims to Malabe Village (Atsabe) and killed them.[317]

313. Similarly, in another case from Atabae (Bobonaro), Guilhermina Gusmão told the Commission:

> *In 1975 [I forget the month], Indonesia came and attacked the village of Kolibau [Atabae] with tanks and shot at us indiscriminately. I don't know which unit because I was just a little person. Because we were afraid we would die I ran with my mother and father…Then planes started attacking us from Aidabaleten [Atabae], so we hid in a cave then we ran to Lou-Mate [Atabae], and then hid near the Aidabalete River. When we were there, they came to our hiding place and arrested my older brother Mateus Maubere. The people who arrested my brother were a mixture of ABRI soldiers and Partisans, East Timorese people. They took him to Aipusrah [Atabae], where they tied him to an orange tree and shot him. We watched from afar.*[318]

Dili

The invasion

314. On the day of the invasion of Dili the military captured and detained both combatants and civilians who had not fled the city. Some were taken to the pier at Dili harbour and executed (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). Some members of the Resistance surrendered to the invading forces after realising that they could no longer hold out. Marcelo da Costa Pereira, the Fretilin operations commander for Sector A, told the Commission that he and four others, Luis, Sebastião, Celestino and Simão, surrendered after their ammunition ran out. The group was arrested then taken to the harbour and other detention centres where they were tortured by their captors:

> *We were taken to the command headquarters and after that to the harbour in an ABRI tank. Once we arrived we were stripped of our clothes down to our underwear for 15 days. Then we were taken to the Tropical [detention centre] and [later to] the Balide Prison [the Comarca]. When we arrived at the prison, we were interrogated, beaten across the head with iron, burned with cigarettes, electrocuted and our feet were pinned under the legs of chairs.*[319]

315. Some Fretilin/Falintil fighters were captured after fleeing from the fighting. Luis Sarmento and 30 others, whom Rogério Lobato had armed to defend the Palapaço area in Motael (Dili), realised that they were too few to fight off the Indonesian military and so ran to hide at the airport. A week later, Kopassandha troops arrested them after an informer, T218, had told the military where they were hiding. The treatment of Luis Sarmento and colleagues was similar to that suffered by Marcelo da Costa Pereira:

Our hands were tied behind our backs and [we were tied] to each other. Then we were taken to the harbour. On our arrival we were slammed to the ground and then we were run over by two motorcycles, twice. Then they moved us to the Tropical [detention centre] where we were beaten, hot water was poured over us, we were burnt with cigarettes and they gave us rotten boiled corn for food. I was detained in the Tropical for one year. In 1977, I was moved to the Balide Prison.[320]

316. Although most of Dili's residents had fled the city when the invasion began, those who remained were vulnerable to being arbitrarily detained by the military. Marcus Valadares of Beto, an area of Dili behind the Comoro Airport, told the Commission how his family was detained in their home:

When the Indonesian military arrived by plane, I saw many people fall from the planes. Around dawn…at the Comoro airport my family and I did not have the chance to run before we were surrounded by the military. At 6.00am we were arrested. I don't know by which unit. For three months we were prevented from leaving the house except to go to the toilet. If we left the house we would be shot.[321]

317. Those who fled to the mountains were chased by the military, and many were captured around Dare, in the hills above Dili. Some of those captured were detained and suffered ill-treatment and torture. Elda Guterres described the capture of her son, a former soldier with the Portuguese military in Timor-Leste:

On 7 December 1975, many people fled to the mountains and the bush because of the ABRI invasion. My son Armindo hid in Dare. ABRI attacked from many directions at once and many people were captured… including my son Armindo. They were taken to Dili and put in a cell in the Balide Prison. While in prison, Armindo was beaten, electrocuted and tortured in many other ways. After that a [Partisan] soldier called Marcelino Ximenes, my nephew, asked ABRI that Armindo be sent to hospital. [ABRI] agreed and he was sent to the Wira Husada hospital [Dili], but he died on 24 July 1976.[322]

The days following the invasion

318. The Commission's research suggests that after the effective occupation of Dili the Indonesian military began identifying members of Fretilin and then detaining, interrogating and/or punishing them. In this process ABRI detained civilians or restricted their freedom of movement. Civilians were told to gather in several locations, the most important of which included the Intendência building (formerly the Dili Kodim and at the time of writing this building was the Uma Fukun cultural centre) and the Sota (Sociedade Orientale do Transportes e Armazens, a Portuguese trading company) building.

319. On 7 December, the Indonesian military ordered hundreds of civilians to sleep on the ground at the Intendência building, located to the east of the Governor's Office building (called the Paláçio do Governo at the time of writing). On the morning of 8 December, these civilians were ordered to walk along the waterfront to the harbour area where they were told to wait in front of the Hotel Timor. That afternoon these and other civilians were taken to the Pantai Kelapa/Kampung Alor area. Late that afternoon 127 ethnic Chinese were allowed to return to their homes, but a large number of East Timorese civilians were told to stay in the area.[323]

320. On 8 December, the Indonesian military began the process of registering the population of Dili and issuing registration cards. They called on the people to report to a building formerly owned by the Portuguese wholesale and retail company Sota in the suburb of Bidau Lecidere (at the time of writing the Dili Trade Centre). At the Sota building, every person was required to fill out a form registering personal details, including his or her political affiliation, in order to receive a card. People who identified themselves as Fretilin were immediately arrested. António Caleres Junior explained the process:

> *On 12 December, we all had to go to Sota to get a safety [registration] card. Through the microphone [on top of a car which drove around Dili], [they] said that everyone must go or face the consequences. Everyone went to get the card and then carried it home because the card was checked on the way. We had to fill out a form before we could get the card, and in that form there were things we had to reveal, such as which party we were from. There were also a number of checks. If they weren't convinced they would arrest us [and take us] somewhere, but we didn't know where.*[324]

321. Francisco Calçona was arrested at the Sota building because of his Fretilin membership. He was detained first in the Sota and then moved to the Tropical detention centre on 19 December. From the Tropical he was taken to the Sang Tai Hoo building (a shop in Colmera, Dili) for interrogation. During the interrogation, he was forced to squat with a wooden stick squashed behind his knees and lit cigarettes were pushed into his nostrils. His interrogators told him to hold his ears out and they wrote on his forehead with paint "*hau Fretilin*" (I am Fretilin). He was also ordered to put on a helmet and they hit him over the head with an iron bar.[325]

322. António Caleres, to save himself, wrote down that he belonged to the Apodeti party:

> *We saw that Apodeti people stood out and that they were organising things with the military. They were also arresting people. But there were also good Apodeti people, who told us what the situation was and that we should all write down Apodeti on the form. So we all did. It was not so bad to write down KOTA or Trabalhista, but if you wrote Fretilin they would surely arrest you and take you somewhere. I wrote down Apodeti so I could get a card. The screening process at the Sota building*

was overseen by Apodeti party leaders * *who had reported to the Sota the previous day.*[326]

323. Filomeno Gomes described how he and other Apodeti leaders, including party leader Arnaldo dos Reis Araújo, escaped from Fretilin detention on the day of the invasion and went to the Sota building. The next day, 8 December 1975, "[Colonel] Kalbuadi and [Major General] LB Moerdani came to the Sota building and met with us". Several of the group were then appointed to oversee the screening of the population, as they were considered more able to identify likely Fretilin supporters than the Indonesian soldiers.

324. A clear pattern in victim's testimony to the Commission was the role that members of the Apodeti and UDT parties played in providing the military with background information on other East Timorese people in this early period of the occupation.

325. Sometimes this could work in an individual's favour. Maria Olandina Isabel Caiero Alves told the Commission:

> *I was arrested by the red beret troops on 13 December 1975 and taken to Sota, which was used by people from the Apodeti party. There I met with [soon to be] Governor Arnaldo and Sergeant Vicente Tilman [and] the two of them said to ABRI: "She is not a bad person, she is not a communist. Watch her, interrogate her, but don't hurt her."*[327]

326. In many other cases, members of Apodeti or UDT pointed out members of Fretilin to the Indonesian military, accompanied soldiers during the arrest of Fretilin members, or even arrested people themselves.[328]

327. For example, Lino Soares told the Commission about how on 10 December 1975 four members of Special Forces (Kopassandha) with T219 (an Apodeti member and the village head of Bidau Santana) arrested his father, Jeferino Soares, and his friend, Francisco da Silva, in Bidau Santana (East Dili, Dili). They had heard that Jeferino was hiding a Timor-Leste flag. When they had tied the hands of the two victims, the military beat them and then took them to the command post where Jeferino was beaten more heavily. They were held overnight and released the next day.[329]

328. Francisco Soares Henrique, a member of Fretilin who had resisted the invading forces on the day of the invasion, was also arrested at his home in Bidau Santana on 10 December 1975. Again, T219 came to the victim's home with members of the military. They interrogated Francisco, his younger brother and their father about weapons found in the house. They were then accused of being communists and were arrested and taken first to a shop in Colmera and then to the military command in Dili until 17 December when they were moved to the Comarca.[330]

* Labut Melo, another senior member of Apodeti, said that he reported to Hotel Timor on 8 December rather than the Sota building, where he received the weapons of Fretilin fighters who had surrendered.

329. Acaçio Tau Pelo was a member of Fretilin also living in the suburb of Bidau Santana at the time of the invasion. He told the Commission:

> *On 12 January 1976, three members of Apodeti, T220, T221 and T222, arrested me in my house and took me to the Dili District Military Command [Kodim]. At the Kodim I was interrogated from 9.00am to 12.00pm. The person who interrogated me was T223. I was arrested because I was a member of Fretilin. After the interrogation I was moved from the Kodim to the Tropical, where I was interrogated again by intelligence and I was tortured by being beaten with a belt. On 15 April 1976, I was released and I went to find my family, and then I joined the Fretilin Central North Zone Committee under Alarico Fernandes.*[331]

Detention centres in Dili

Within a few days of the Indonesian invasion of Dili, forces had commandeered the buildings at the Dili Port[332] and the Sota building. They also took over the former Portuguese prison in Balide (Dili) known as the Comarca,[*] the private buildings Sang Tai Hoo[†] and the Tropical,[‡] and a number of private houses in the suburb of Farol (Motael, Dili). Ill-treatment and torture were widely reported by former detainees in all of these places, but statements suggest that different locations had different purposes. Two of the main detention locations in the early years of the occupation were the Comarca in Balide and Sang Tai Hoo building in Colmera. The Comarca was used until the end of the occupation in 1999.

The Comarca

One of the most notorious detention centres for political detainees during the Indonesian occupation was the Comarca, the Balide prison. The Comarca was built as the official prison by the Portuguese colonial administration in 1963,[§] and was used during the internal

* Also referred to by deponents as the Balide Prison because it is in the suburb of Balide, Dili.

† Sang Tai Hoo was reportedly used from the day of the invasion until 1980, although it was possibly still used in 1981.

‡ Tropical detention centre [See HRVD Statements: 5092; 4881; 5730; 7011; 5725; 3742; 3734; 3607; 5683]. Statements provided to CAVR indicated that the Tropical was used only in 1975-76; it was reoccupied by the Aitarak militia in 1999 and used to detain pro-independence supporters.

§ *Plano de Fomento*, an official document of the Portuguese administration, 1963. It refers to the construction phase of the Dili Comarca, a public service installation.

armed conflict by Fretilin to hold UDT and Apodeti prisoners.* By January 1976, the Indonesian military was using the prison as a long-term detention centre and the official prison in Timor-Leste. It held both ordinary criminals and political detainees,† many of whom, in the 1970s, were held for several years without charge or trial.‡

The Comarca consisted of six cell-blocks and eight individual steel-door cells, known to prisoners as the "dark cells".§ The dark cells were just 2.02 metres long x 2.72 metres wide x 3.1 metres high and had very little ventilation. Prisoners were held in their underwear without light or fresh air, often crowded with other prisoners until there was only standing room. Another cell, also known as the "Maubutar cell", was used to hold prisoners in solitary confinement. Saturnino Belo, a detainee in the 1990s, describes his experience in the dark cell:

That cell was not like usual cells…When you were in that cell you got very stressed because you couldn't wear clothes, you didn't wear trousers. You just wore underwear. But you sweated constantly. Even though we slept only on the ground we still sweated…It also stank. The toilet was broken, and in that cell, when you first entered, you would get a headache and fever [paludismo]....

I slept at night but when the night was over you didn't even know. You only knew it was morning because the rooster crowed and because they brought rice. In the morning they brought rice, at noon they brought rice and in the afternoon they brought rice…But when they shut the door you couldn't tell whether it was night or day. It was always dark. At night you prayed. When you felt sleepy you slept. But you couldn't follow the light.[333]

* International Committee of the Red Cross, *East Timor Relief Operation, 16 September 1975*. E-mail from Noel Barrow, archivist of Australian Red Cross, National Office, Melbourne to CAVR, 8 October 2004. Due to the confidential nature of ICRC records regarding the organisation's visits to prisons, no specific details are available.

† Interview with Justino Mota, Lisbon, 3 and 4 July 1984. One of the first prisoners held in the prison who reported to the Commission was Venancio Gomes. He was arrested immediately after the invasion, and held first at the Tropical detention centre, before being moved to the Comarca in 1976. He was detained there until 1979. [Amnesty International, *Statement of Amnesty International's Concerns in East Timor*, ASA 21/09/83, London, p. 7]

‡ Amnesty International, *Statement of Amnesty International's Concerns in East Timor*, ASA 21/09/83, London, p. 61. By the mid-1980s most prisoners were charged and tried at some point, even if they were held for an initial period of detention without charge [see Vol. III, Part 7.6: Political Trials].

§ "*Sel gelap*", "*cela escura*" or "*sel nakunun*", which all mean dark cell in Indonesian, Portuguese and Tetum respectively.

In the early years of the occupation, until the mid-1980s, conditions of detention were extremely poor.* The prison was chronically overcrowded due to the numbers of people arrested in military operations in these years.† This in turn led to chronic food shortages and poor sanitation. When the ICRC began weighing prisoners around 1983-84, it recorded prisoner body-weights as low as 30kg.[334] Manuel Fernando Oliveira Neves, sent with 16 others to the Comarca on 12 June 1980, after the Marabia attack, described the conditions:

The 17 of us were put in one cramped cell, which stank and the toilet stank and human filth overflowed. We slept in human filth that had already dried, and also our own filth as we had no mats to lie on.[335]

Torture and ill-treatment during detention in the Comarca was repeatedly reported by victims in their statements to the Commission, particularly during the early years of the occupation. Interrogation was also conducted at the Comarca, but more often detainees were taken to special interrogation (and torture) centres such as Sang Tai Hoo. Disappearances of prisoners held in the Comarca also occurred frequently, mainly at night.

Sang Tai Hoo

Sang Tai Hoo was a Chinese shop during the Portuguese era in Colmera, the central business district of Dili. The building had two storeys; the ground floor comprised two rooms and a garage, and the first floor had only two very small rooms with very poor ventilation. The downstairs rooms each held about 20 prisoners[336] and when these rooms were full, detainees were held upstairs, three prisoners to a room. According to Antonio Caleres Junior, at times up to 200 people were held at Sang Tai Hoo.[337] Conditions were very unhygienic and one had to go to the toilet inside the room.[338] The detainees cleaned the toilet themselves. Maria Fatima Maia, detained at Sang Tai Hoo recalled:

* In 1983, the International Committee of the Red Cross began visiting detainees in the Comarca and advocating for improved prison conditions. Another official prison was also built in Becora (Dili) around 1986, followed by the construction of prisons in Baucau (Baucau), Gleno (Ermera) and Maliana (Bobonaro) in the late 1980s and early 1990s The Commission has been unable to determine the precise years these prisons were completed due to the destruction of Indonesian government records in 1999.

† The official capacity of the prison was 200 prisoners. [Statement of an Indonesian civil servant to the UN Commission on Human Rights, Sub-commission on the Prevention of Discrimination and Protection of Minorities, cited in Amnesty International, *Statement of Amnesty International's Concerns in East Timor*, ASA 21/09/83, London p. 62.] In mid-1977 the estimated number of detainees in the Comarca was 500 [Interview, Justino Mota, Lisbon, 3–4 July 1984] and, according to Amnesty, this number rose to 700 by 1979. [Amnesty International, p. 61] The prison governor between 1980 and 1986 speaks of "upwards of 500 prisoners being crammed into the gaol in the aftermath of military campaigns" [Peter Carey, interview with Ian Dion, West Java, 3 January 2004].

They moved me to another cell in very bad condition – the water was clogged with lots of phlegm and human faeces…I couldn't see the sun, I could only see through the ventilation, but they also covered the ventilation.[339]

Sang Tai Hoo was, however, primarily an interrogation and torture centre rather than a place for holding detainees. Prisoners from other detention centres such as the Comarca were brought to Sang Tai Hoo for interrogation. For example, Moises Mesquita de Almeida, a member of Falintil, and his older brother Manuel Soares were arrested in November 1976 and held in the Comarca but they were taken to Sang Tai Hoo for interrogation. Moises told the Commission that on 12 November 1976, during three days of interrogation by an Indonesian colonel, T224, he was subjected to torture and ill-treatment including "being beaten, having my toes pinned under a chair that two ABRI members were sitting on, being kicked in the face which made my teeth almost fall out, having my ears hit until they bled and I became deaf, and other forms of torture."[340]

Francisco Soares Henrique told the Commission:

After one month in the Tropical we were moved to Balide prison. From there, every Monday, we were taken to Sang Tai Hoo for interrogation. In Sang Tai Hoo we were treated very cruelly. We were forced to drink ABRI soldiers' urine and beaten until we bled. Then we were forced to dance with the female prisoners (Maria Goreti, Maria Soares, Maria Pereira, Elda Saldanha and Merita Alves), who were only wearing bras and underpants. I was detained for three years and was released in 1978.[341]

Torture practices at the Sang Tai Hoo were particularly cruel and humiliating. Most interrogations were held in the corner of a corridor so there was no opportunity to run away. On the same floor was an administration office also used sometimes for interrogation.[342] The guards would intentionally not lock cell doors to make it easier to take away prisoners. Maria Fatima Maia (1981) told the Commission:

I was always suddenly called for interrogation at nights, from 7.00pm until midnight. After I was interrogated I was taken to another cell which had a toilet in it. In the morning they took me out and put me in a storage room that only had one hole in the door. Every morning they would give food through that hole in the door.[343]

The Sang Tai Hoo is not reported in statements after 1981, indicating possibly that the centre was no longer used for interrogation and/or torture after this time.

Early patterns of detention

330. Even in this early period, clear patterns of detention practice began to emerge. Two patterns, discussed in the box above, were the use of both official and non-official detention locations, and using different locations for broadly different purposes, such as the Comarca for long-term detention and Sang Tai Hoo or the Tropical for interrogation and torture. Military commands and bases also were used frequently to hold detainees, sometimes for up to several years. This pattern continued throughout the occupation.

331. Another pattern to emerge, and which was also seen in later periods, was the frequent movement of detainees between different detention locations. Sometimes detainees were moved around to several places in one night. This pattern, beginning early in the occupation period, was repeated in statements received by the Commission up to end of the mandate period.

332. One explanation for this treatment of detainees may be because different locations were used for different purposes.[344] Also, different interrogators sought different information or the same information in different ways. One former detainee explains that if one interrogator did not get the desired information, the detainee would be sent to an interrogator who used even harsher techniques.* A common pattern was taking detainees first to informal detention centres such as the Tropical[345] and Sang Tai Hoo, which were used primarily for interrogation and torture, before sending them to the Comarca.† Another likely explanation is that continual movement of a detainee, especially during the night, was a way of intimidating and disorientating the victim and of instilling fear.

333. Francisco Soares Henrique's experience is an example of this pattern. He told the Commission that after his arrest by ABRI on 10 December 1975 he was taken first to a former shop premises, the Toko Lay, until 12 December. He was then taken to the Dili military headquarters until 17 December and subsequently he was moved to the Tropical, where he spent around one month. Only then was he moved to the Comarca, where he was held for three years (see box: Detention centres in Dili par. 329, above).[346]

334. Maria Olandina Isabel Caiero Alves was a broadcaster for Radio Maubere and the wife of a member of Falintil at the time of the invasion. She told the Commission that on 13 December 1975, soldiers arrested her at the home of Bishop Dom José Joaquim Ribeiro and took her to the Sota building. That same night she was taken to

* Chiquito Guterres was detained in 1996 and moved between several detention locations. He explained: "The reasons they moved me…first was because they didn't get clear enough proof to take me to Court to be tried, second they thought that SGI Colmera, because they were harsher, could torture me in a way to get the concrete evidence, third so they could torture me more heavily so that I would say the names of other clandestine members and fighters in the forest." These reasons–to obtain more concrete proof of involvement and also to obtain the names of others involved in the Resistance–applied equally in the 1970s. [CAVR, Interview with Chiquito da Costa Guterres, Dili, 14 June 2004].

† See for example HRVD Statements 0175; 0113; 3752; 4881; 3780; 5050. The Indonesian military used detainees to renovate the Comarca building in early 1976.

several places in Farol where she was held with others where she was interrogated and tortured:[347]

> *Then they took me to Farol [Senopati 1] at night. They put a Fretilin flag and a Portuguese flag on the ground and I was made to lie on top of them and step on them…I was there for around 2 to 3 hours.*
>
> *Then I was moved to another house in Farol. In the house they detained me in the kitchen and sat me down for interrogation. It was already 2.00am. Because I couldn't understand Indonesian, they had to find an interpreter for me.*
>
> *That night they moved me again to another house in Farol [RT Pan]. They detained me in the bathroom…They moved me again to Dili harbour at around 4:00 in the morning. There I met VM and WM. They detained the three of us together. ABRI members insulted us and said vile things to us.*
>
> *I was tortured all day, Even though I was pregnant, I was still tortured all day. I was forced to be naked, then they grabbed and burned me. While we are naked, they forced us to stand facing each other and we looked at each other and we cried. Then they touched my abdomen and said that my child was a communist child. And, using a ruler, they poked VM's and WM's genitals. Then I was moved to the Tropical to be interrogated for a few hours.*[348]

335. Maria Olandina Isabel Caiero Alves was taken to Kupang (West Timor, Indonesia) on 19 December 1975 where she was detained until 3 March 1979 in a military-owned house under the control of an Indonesian colonel, T225. Although she was not restricted to a cell, she was not allowed to leave the area around the house.

336. Martinho da Costa Jesus was also held in a variety of other detention centres, before finding himself in the Comarca. He had decided to stay in his house in Aitarak Laran (Kampung Alor, Dili) during the invasion instead of fleeing with his neighbours. A week after the invasion, an ABRI soldier arrested Martinho da Costa Jesus and three friends, Sico Brito, Sung Hai and Francisco dos Santos, all civilians, and took them to a military post in Marconi (Kampung Alor, Dili). Martinho da Costa Jesus told the Commission:

> *When we got there, our thumbs were tied and we were told to stand against the wall. They frightened us by shooting warning shots [in the air]. They took us to Farol, where we were detained separately. A commander, I don't know his name, kicked me while saying that I was a communist. On 16 December 1975, we were taken to Dili harbour, where we were stripped naked and ordered to lie down on the ground. Then motorcycles ran over us a number of times; I can still feel the pain. At the harbour I saw T226, a senior member of Apodeti. We were detained in the harbour for one day and one night, and then we were taken to the Tropical. The next day, on 17 December 1975, I was hit by an Indonesian*

ABRI colonel, T227. He hit my forehead with a piece of wood causing it to bleed. We were detained in the Tropical for four months and then we were taken to Balide Prison. I was detained for three years and released in August 1978.[349]

Victims targeted for detention

337. The Commission's research suggests that in these early years, the military had a clear strategy of identifying and capturing party members of Fretilin and members of the armed Resistance, Falintil. It also detained anyone it suspected could provide information about the Resistance. This included:

- Suspected members or supporters of Fretilin or related organisations
- Family members of Fretilin members
- Individuals connected to the former Portuguese administration
- UDT members who had been detained by Fretilin and were treated with suspicion because of such contact.

338. Even young children were interrogated. Maria José Conceição Franco Pereira described at a Commission public hearing how, when she was four years old, she was arrested with her mother by two members of ABRI and detained between 1976 and 1979. She told the Commission of their treatment at Sang Tai Hoo:

My mother was arrested with several other women and their children in Becora [Dili] because my older brother was a member of Fretilin and my whole family had fled to the forest except my mother, who was a nurse. My mother and I were taken to Sang Tai Hoo…That same night my mother was interrogated. She was slapped, whipped, spat on, given electric shocks, burned with cigarettes and threatened with a pistol. All I could do was watch…

The next day, ABRI arrested a man who was very old and his son who was maybe two or three years older than I was. ABRI began to interrogate them but the old man was just silent. Then his son answered because he knew about Fretilin using weapons in Marabia [Lahane, Dili]…After that ABRI said that children don't lie and they began to torture me. Each time they tortured me my mother would scream and ask that they just torture her…Once a soldier lifted me by the tops of my ears and held me outside the [first floor] window above the street below.[350]

339. In some cases the reason for arrest was unclear, even to the victim. Daniel da Costa Oliveira told the Commission that he was arrested on 26 February 1976 by an Indonesian interpreter T228 and two members of Koramil. He was arrested at home but was not told the reason. The soldiers took him to the beach at Kampung Alor, then the harbour, then to the Sota building and finally to the Tropical where he was interrogated and beaten.[351]

Allegiance to Indonesia

Many former detainees describe having to perform symbolic actions demonstrating allegiance to Indonesia, the invader and soon to be occupier of the territory, as well as the rejection of Portugal and Fretilin. Testimonies to this effect were given to the Commission for the entire period of occupation.

One common method of demanding allegiance was through rituals involving the Indonesian national flag. Maria de Fatima describes having to drink water in which the Indonesian flag had been soaked.[352] Others were tied to flagpoles in front of government offices or military installations.[353] Filomeno Soares who was late arriving to work as a Ratih (*rakyat terlatih*, trained civilian) in Liquidoe, Aileu, was forced to stand to attention before the flag for one hour, while standing on one leg.[354]

Ownership of a Fretilin flag was a cause for severe punishment.[355] António Alves was arrested with a Fretilin flag on 20 November 1990 at his home in Luculai (Liquiçá, Liquiçá) and was heavily punched, kicked and beaten unconscious at the Liquiçá Koramil.[356] Valenti Martins was beaten for his Fretilin membership with a wooden baton wrapped in a Fretilin flag in 1991 in Manetu (Maubisse, Ainaro).[357] Other detainees were forced to disrespect the flags of Portugal and or Timor-Leste. Maria Olandina Isabel Caeiro Alves, as mentioned earlier in this chapter, was forced to sit on the Portuguese flag and put her feet on the Fretilin flag for several hours in December 1975.[358] In another case, Almeida Seguera told the Commission how his brother Dasbere, a member of Fretilin, was captured in May 1976 by ABRI Battalion 403 in Ermera District. He was photographed with a Portuguese flag before he was taken away and killed.[359]

As well as the flag, the Fretilin anthem Foho Ramelau (Mount Ramelau) was used during interrogation. Detainees report being forced to sing the anthem to their captors.[360] Other detainees report being forced to read out the text of Pancasila (the Indonesian code of five nationalist principles). Francisco da Conceição told the Commission that if he refused to read out the text he would be submerged into a tank of water for 30 minutes, in Maubisse (Ainaro) in 1991.[361]

Interrogation, torture and other cruel and inhuman treatment

340. Interrogations, often using torture, were carried out to ascertain the strength and weaknesses of the Resistance. Julio Alfaro, a former East Timorese sergeant

in the Portuguese military, was interrogated about Fretilin after military police and intelligence arrested him on 12 December 1975. He told the Commission that after spending two months in a building behind the Tropical, he was moved to the solitary confinement cell in the Comarca and from then on was taken out only for interrogation. He said that he was questioned not only about his connection with Fretilin and whether he was a military commander, but also about Fretilin's military capacities:

> *Their other objective was to obtain as much information as possible on Timor-Leste's military strength both its weapons and personnel and its logistical strength. They also asked me how long Fretilin could last in the bush and I replied at least for two years. I was not tortured but they put me back in the 'Maubutar Cell'. After being interrogated I was not given anything and just slept on the concrete floor.*[362]

341. Torture and other cruel treatment was used on members of Fretilin from the beginning of the occupation although, as Julio Alfaro stated, it was not used uniformly. The forms of torture recorded in the testimonies of victims from this early period were repeated throughout the occupation. These methods included:

- Beatings using fists, weapons, pieces of wood, metal bars or other heavy items
- Kicking, often with heavy military boots
- Electric shocks
- Burning a victim's flesh with a cigarette
- Placing a victim's toes underneath the legs of a chair or table and then one or more people sitting on the chair or table to crush the toes
- Threatening the victim with a knife or a gun
- Using water in various ways such as pouring hot or very cold water over the victim, or submerging the victim in a tank of water for a period of time.

342. Prisoners were also kept in inhuman conditions. Many reported being stripped of their clothes and held naked for weeks at a time. Others reported being denied food and drink.

Interrogation in Dili

FN was a member of the Fretilin student group Unetim (União Nacional dos Estudantes de Timor), which had activities in Baucau and Aileu, and later a member of the Fretilin women's group OPMT (Organização Popular da Mulher Timor) in Dili. In January 1976, when she was around 16 years old, her friend Filomena Aniceto came

to her house and said that the military had called the two of them to Sang Tai Hoo for interrogation. FN told the Commission:

Filomena and I sat together and listened to the questions asked by the translator, T229, an East Timorese woman. The soldier asked: "Are you Unetim students? Tell us what the activities or mission of Unetim have been up until now, because we have heard that the two of you were in Aileu (Aissirimou) [where the Fretilin base was located during the internal conflict]. You lived like animals there – is that true or not?" Both of us answered that it was not true but they kept interrogating us and twisting our words…until evening.

After [the interrogation] they made my friend Filomena Aniceto stay at Sang Tai Hoo, but they told me to go home. The next day I was called back for interrogation…They told me that my friends, who had been interrogated before me, had said that my friends [the Unetim students in Aileu] had all done the same things in Aileu. That we lived there like animals. They came up to me and started groping me from head to toe. My body felt cold like a corpse, but in my heart I kept praying for Mother Mary to protect me from everything they did. I was screaming and crying, but they just got angry and called me a female dog. They pulled on my hair and said: "Now try to persuade the leaders of Unetim and Fretilin to come and save you." They questioned me, twisting my words around, until evening.

On the fifth [day of] interrogation, soldiers came to my house on a Monday in a big truck...Everyone saw the military truck parked in front of my house. I wasn't surprised…but my parents were upset that I was being taken for interrogation repeatedly. This time my mother came with me. They took me to the Tropical but when we got there they wouldn't let my mother come in…As I walked up the stairs, soldiers swarmed all over me and pushed me with a rifle to my back. They yelled so that I would move quickly. There were many other prisoners there. My interrogation was conducted by an Indonesian soldier, T230, and an Indonesian interpreter, T231. He asked me: "When are the international forces coming to Timor-Leste to fight the Indonesian troops?" With words like that and accusations they tried to start arguments with people they were interrogating. So they accused me of having been forced to join Unetim and Fretilin. Then they washed the red and white [Indonesian] flag and ordered me to drink the water. They covered my face with black cloth, put a helmet on my head and hit me with a piece of wood, the kind usually used by the police. They hit me until I passed out…They took off the helmet and black cloth, then they hit me in the head with the end of the wood until I was bruised and bleeding.

After their interrogations ended, FN and Filomena were ordered to work at the commander-in-chief's house every day, to tend his flowers. They were picked up each morning by a military truck until, according to FN, they were simply forgotten about. FN describes the impact her contact with the military had on her life:

*Rumours started going around about us. Other friends suspected us of having had sexual relationships with the ABRI soldiers, and they told us that our lives were like rotten potatoes [*fehuk ropa dodok*]. That rumour surfaced because we were always moved to different places for interrogation. It was all because we were ordered to go to the commander-in-chief's house [Brigadier Dading Kalbuadi's house] in Farol to plant flowers in pots. Every day we would be picked up by a military car to go to his house to look after the flowers.*[363]

Takeover of other areas

343. Following the capture of the towns of Dili on 7 December and Baucau two days later, Indonesian forces moved through the central, western and eastern regions almost simultaneously. Indonesia had gained control of most major towns and routes by June 1976 (see Vol. I, Part 3: History of the Conflict, section on Operation Seroja, 1976–1979).

344. As in the invasion of Dili, combatants were detained when they were caught or surrendered to the invading forces. Salvador Martins told the Commission:

*In 1975, I was captured with two friends [José Guterres and Francisco, both Fretilin/Falintil members] by ABRI in Fatubessi [Hatolia, Ermera]. We were punished by being made to dig holes and cut down and carry wood to build the ABRI post. When we were captured we had weapons like G-3s, metralhadora [*machine gun*] and Mausers with us. ABRI took these and gave them to the military headquarters in Ermera. We were detained in Fatubessi for one month and then taken to the military headquarters in Ermera for one month…then we went home to our families.*[364]

345. Also like Dili, most of the population fled as they heard of Indonesian forces approaching. In the few places where the population was unable to flee in time, it was reported to the Commission that mass arrests took place. João Freitas da Silva described what he saw occur when ABRI entered the neighbourhood of Kaibuti-Maimi (Ossorua, Ossu, Viqueque):

In January 1976, ABRI attacked and entered the town of Ossu. I was living in Kaibuti-Maimi in Ossurua. Because I was afraid, I fled with

my family to Ahabu in the village of Uabubu [Ossu, Viqueque]. In February, ABRI attacked us and other civilians and a friend and I, Gilberto, ran to hide and watch what went on.

[We saw] many people arrested, including Francisco da Silva, who the soldiers took along with them to carry their things…ABRI also burned down people's homes and took their animals.[365]

346. For example, José Freitas told the Commission that he and 166 others were detained in Maubisse (Hato Builico, Ainaro) by Battalion 405 for two days after the military entered the town in December 1975.[366] Similarly, an East Timorese man described to the commission how he had been a village security officer who was giving food to Falintil when ABRI attacked Liquidoe (Aileu). Around 190 people including his family were captured and taken to a private house in the town of Aileu where they were tortured by unknown East Timorese.[367]

347. Civilians were also detained. The cases reported to the Commission indicate that many people were detained randomly as the military sought to separate members of Fretilin from the general population. Patterns of arbitrary detention and use of torture and ill-treatment of detainees were similar to those in Dili: detainees were held in various buildings occupied by the military,* and were interrogated and frequently tortured. Two examples of detention of individuals include:

348. An East Timorese man was arrested with his family when the military, including Partisans, entered his village in Viqueque in 1976. They were put in a cell in the town and interrogated. He told the Commission that he was not beaten but others in the cell were beaten heavily.[368]

349. GN described how the military stormed the OPMT headquarters in Aileu, Fretilin's base during the internal armed conflict, when they invaded the town in 1975, and arrested the women working there. The women were kicked and beaten with weapons at the time of arrest and were then held in the Caserna (Portuguese military barracks) Aileu for three months. She and other women were raped under threat of death.[369]

Community divisions

350. UDT and Apodeti members were instrumental in identifying members of Fretilin to the military. In the district of Ainaro, for example, José da Costa told the Commission that members of ABRI and four members of UDT arrested his uncle Mau-Kei in 1976 together with Abak, Manuel Araújo, Bento and José Mau-Kiak, in Akadiroto, in the

* Domingos dos Reis told the Commission that he and his family were held in a building on the main road of their village, Caicasa Hoo (Bucoli, Baucau), for four days after his arrest by Indonesian paratroopers when they landed in his village on 10 December 1975. Abrão da Costa Freitas reported that after marines invaded Baucau Town, he was arrested on 18 December 1975 and placed in the marines' post in Uma Lima (Baucau Town, Baucau) for eight hours, where he was interrogated, beaten and kicked. [HRVD Statements 8040 and 7680]

village of Suro-Kraik (Ainaro, Ainaro) because all were identified as members of Fretilin.[370] Albino do Carmo Pereira reported that in July 1976 he, Alfredo Bianco and Domingos Maumera were forced by T232, who was both a *liurai* in Cassa (Ainaro) and an Apodeti commander, along with his son T233, to become kitchen assistants for Battalion 327 at their post in Mau Mali Lau, Soru Lau Village (Ainaro, Ainaro). In order to save themselves, they did this work for six months.[371]

351. Bemvinda Belo told the Commission:

> *In January 1976 after we surrendered, my husband, Cipriano Magno Ximenes, was arrested by three [people] from Apodeti on the orders of T234. After the arrest he was handed over to the Indonesian Marines and detained for several days. After two days, my daughter Ana and I joined him in detention, along with a Chinese person. In detention, we were beaten with a piece of wood by T235 and T236 [the wives of leaders of the UDT party]. Five days later, [my husband] Cipriano was tortured until he died.*[372]

352. Luis Pereira from the sub-district of Laclubar (Manatuto) explained that in 1976 he was a member of UDT. He left Laclubar to meet the Indonesian forces entering Manatuto from Baucau and surrendered to them in September 1976. He asked ABRI if they would go to Laclubar to protect members of UDT from Fretilin, because he was sure that Fretilin would come from their base in Aileu to kill supporters of UDT and Apodeti. Luis Pereira said that when the military entered Laclubar it only arrested people who were armed and that the soldiers were friendly towards the community.[373] Soon, however, they started targeting ordinary civilians.

Detention outside Dili

353. Some of those detained in other areas were sent to Dili for further interrogation because, at this time, most of the intelligence apparatus was based in the capital.[374] Marcus Ais, for example, was taken from Oecussi to the Comarca in Dili. Kopassandha* troops arrested Marcus and other Fretilin supporters, including Fretilin leader Alfredo Ramos, when they entered Oecussi. The prisoners were held first in the Companhia Oecussi (later to become the Oecussi Kodim) before they were moved to Dili. In both places, Marcus reported that he was tortured, in Oecussi by the Red Berets and in Balide by four Partisans.[375]

354. Others were held in the numerous informal detention centres established when the military moved into an area, or in military commands. The following box provides a case study of detention centres established in the sub-district of Baucau (Baucau), the centre for the eastern region.

* Kopassandha (an acronym of Komando Pasukan Sandi Yudha) were the Indonesian Special Forces. They had both an intelligence and a combat arm. They were also known by the nickname "Red Berets" because of the red berets that they wore.

Case study: detention centres in the city of Baucau[376]

From the moment the Indonesian military entered Baucau on 9 December 1975 it appropriated a wide range of buildings that became notorious as centres of detention and torture. Detainees were moved frequently from one centre to another. For example, when interrogators in one centre got frustrated by detainees' answers, they often sent them to other centres. Based on interviews carried out by the Commission, the most brutal period of interrogation and torture in Baucau occurred between 1975 and 1980. The detention and torture centres used in this period, and sometimes into later years, included:

Flamboyan Hotel

The hotel in Bahu, Baucau Old Town is a compound comprising three buildings. Built on sacred land during the Portuguese occupation, it was purchased in 1959 from the landowner, Venancio Boavida, by a Portuguese businessman, José Ricardo, for about US$100,000. In 1960, José Ricardo built a soap factory and the Baucau Hotel on the land. Ownership of the hotel changed several times prior to the Indonesian occupation. On the day ABRI invaded Baucau, it appropriated and then used the hotel as an army barracks, renaming it Flamboyan Hotel after its recently completed Flamboyan Military Campaign. ABRI transformed the soap factory into an ammunition depot and a prison that held about 80 prisoners, including pregnant women and children, from 1975 to 1979. Many prisoners disappeared from the Flamboyan, especially between 1975 and 1976. ABRI used the swimming pool near the soap factory to submerge prisoners. Different forms of torture using water were used. The prison was relocated to Rumah Merah (Red House) in 1989, but ABRI continued to use the hotel until 1999 as a barracks, to accommodate army families and guests who visited Baucau, and as a venue for official functions.[377]

Military District Command (Kodim) 1628/Military Sub-district Command (Koramil) 1628-01

ABRI took over the Portuguese military headquarters after the invasion for both Military District Command 1628 (Kodim) and Sub-district Military Command 1628-01 (Koramil) and used the buildings until Indonesia's departure from Timor-Leste. Throughout the occupation the two command structures had separate interrogation and torture chambers and used separate buildings to hold detainees.

Uma Lima (Tetum: Five Houses)

In 1976, ABRI extended detention sites to include Uma Lima. ABRI used these five houses as soldiers' dormitories and for the detention,

interrogation, and torture (including rape) of prisoners. In 1989, the Indonesian National Family Planning Board temporarily occupied the middle house. ABRI kept the remaining four houses as dormitory and interrogation chambers until it abandoned Uma Lima in 1999.

Rumah Merah (Indonesian: Red House)

Rumah Merah was likely named after the red berets worn by members of the Special Forces Unit (Kopassandha) who built the house on vacant land in 1977 without permission from or compensation to the owner, Joaquim Belo. From 1979 until 1999, Battalion 330, Bukit Barisan, from Sumatra occupied Rumah Merah as a dormitory and detention centre. Of all detention centres, Rumah Merah was one of the most feared for rape, torture and disappearances, second only to the RTP barracks (see below). To be sent to Rumah Merah meant detention at the hands of the notoriously cruel Special Forces Unit.

Clubo Municipal (Portuguese: Town Club)

The Portuguese colonial administration built the Clubo Municipal as a sporting venue and a place to hold big events like New Year's Eve celebrations. The Indonesian army used the Clubo Municipal as a detention centre for East Timorese who had surrendered. ABRI, who occupied this venue from the moment it entered Baucau until the 1980s, assigned to it not only members of the Special Forces Unit, but also of the District and Sub-district Military Commands, and Civil Defence.

RTP-12, -15 and –18 (Resimen Tim Pertempuran, Regimental Combat Team)

RTP-12, -15 and -18 were Portuguese barracks that ABRI soldiers took over for its combat units when they entered Baucau. RTP-12 was in Buruma, RTP-15 in Teulale and RTP-18 in Baucau New Town. ABRI used the buildings for barracks as well as for detention, interrogation and torture. These three detention centres were reputed to be the worst interrogation and detention centres in Baucau until Indonesia left in 1999, despite turnovers in ABRI personnel. They were feared because of the sheer brutality suffered by detainees held there, particularly from 1975 to 1979. Detainees believed that once they were transferred to an RTP site they were at the final stage of interrogation, soon to die. Infantry Battalion 745 (Lospalos, Lautém) and Field Artillery 13 were both assigned to RTP-12. RTP-15 and RTP-18 were guarded solely by members of Field Artillery 13. Armed 13 was from Sukabumi, West Java and served in the Quelicai area under the command of RTP-18. One of the officers in Armed 13 was an Indonesian First Lieutenant T237 who was a feared interrogator. In 1979 he sent 16 detainees from RTP-18 to Lacudala Cave in Quelicai (Baucau), where they joined detainees from Lautém and Viqueque, before he ordered their massacre.

355. As mentioned above, much of the population fled to the interior as the military approached, and so avoided immediate arrest. In the days and weeks following the military invasion, people began to come back to their homes to find food and if they were caught they were arrested. For example, Sahe-Dara reported to the Commission:

> *In 1976, the Indonesian troops entered Uatolari [Viqueque]. Falintil troops took me and some of my friends including Veronica, Maria Lopes, Ereleto, Palmira, Pedro, Acaçio, Ventura and Bobu to the forest around Mau Boru-Babulu [Uatolari, Viqueque]. We stayed there for three weeks…Then we ran out of food, so we went to find food around Boru-Lalu. Two Falintil soldiers, my older brother Manuel and his friend Luis, guarded us and we spent the night there. But around midnight we were captured by ABRI and three members of Hansip, [the commander] T238 and [his men] T239 and T240. Manuel and Luis were immediately tied up and [we were all] taken to Uatolari.*[378]

356. Sahe-Dara explained that Manuel and Luis were taken away by Hansip members and never returned. The rest of the group was held in Uatolari (Viqueque) for one week. One day the Hansip commander, Hermenegildo, ordered Sahe-Dara to take a letter to Xanana Gusmão in the forest but he turned back before delivering the letter and was then held in Uatolari for nine months. The people arrested with him were taken to Beaço where four died and the others were detained for nine months.

Securing the territory: 1976–1979

357. In July 1976, Timor-Leste was purportedly formally incorporated into Indonesia (see Vol. I, Part 3: The History of the Conflict), which changed the security structures and the patterns of detention and interrogation. Changes included:

- The deployment of military police in Dili and the major towns; they began to play a role in establishing detention centres*
- The establishment of territorial military commands at the levels of district (Komando Distrik Militer, referred to in this report as Kodim) and Sub-district (Komando Rayon Militer, referred to in this report as Koramil)†
- The establishment of provincial, district and sub-district police stations.

358. From this time, detainees from regional areas were moved to Dili less frequently, and instead were held in local Kodims and Koramils. The territorial units directed their attention to capturing Resistance fighters and identifying members of clandestine networks within their areas of control.

359. The clandestine movement had developed as soon as Fretilin moved into the interior following the Indonesian invasion on 7 December 1975. Organised in small groups, supporters of the Resistance helped the guerrillas in the mountains

* For example, military police were in charge of the Comarca in Balide (Dili).

† These military commands were under the command of the East Timor Sub-Regional Military Command (Korem, Komando Resort Militer) 164 Wira Dharma, which was based in Dili.

by providing food, medicines, clothing and information on the situation in Dili. These small groups developed spontaneously without a common strategy, worked independently and made their own contacts with the Falintil commanders in the mountains.[379] These networks strengthened after the fall of the "liberated zones" (*zonas libertadas*) in 1978-79.

360. Combat operations were continuing at the same time as the military kept up its advances into Fretilin areas. Combatants and civilians captured in these operations were often detained and interrogated. Intelligence networks established in all communities down to the neighbourhood level assisted the Indonesian military. This led to the capture of members of the armed Resistance who had not surrendered and of civilians already living under Indonesian control who were connected to the Resistance in any way.

Development of intelligence networks

361. From mid-1976, after the initial period of chaos and mass displacement subsided, arrests reported to the Commission appeared to be more targeted. This is likely to be a result of the complex web of intelligence informants that the Indonesian military established down to the local community level (often referred to as Intel). Intelligence sections in Kodims and Koramils gathered information from members of political parties opposed to Fretilin. East Timorese recruited en masse into Hansip, the military or as TBOs, civilians who had surrendered and were detained and interrogated about their time in the forest with Fretilin, and community intelligence networks, whereby neighbours could inform on neighbours if they suspected them of doing clandestine work, all contributed to the process of information gathering. These methods led to an atmosphere of suspicion and heightened division at the community level. For example, Palmira da Costa de Ornai of Dili told the Commission:

> *In August 1976, my Apodeti neighbours named T241 and T242 reported to ABRI that my son-in law, Horacio Faria, had assisted Falintil in the forest. So my son-in-law was arrested and taken to the Balide Prison. When they arrived, Horacio was tortured, including beatings and electrocution. Horacio was detained in Balide for a few months. When he was released he was sick and he eventually died from the injuries he received during his detention in Balide Prison.*[380]

362. Luis Vasconcelos Babo testified that, on 5 May 1976, an East Timorese military informant T243 and an East Timorese civilian T244 gave Infantry Battalion (Batalyon Infantri, Yonif) 512 false information about his father. The military arrested Luis and his family on 6 May 1976 and held them at the Infantry Battalion 512 post in Ermera Town:

> *[ABRI] captured most of my family, my father and a number of my relatives, José Ricardo, José Ximenes, Mário Babo, Abel Babo, Rogério Babo, Rosalina Babo and Rosa Madeira. We were all detained and*

interrogated about the party we had joined. After the interrogation we were ordered to return home, except for my father José Babo and Rosalina Babo, who were taken to the Ermera Kodim. They were both detained for one night. [In the morning] my mother was ordered to return home, while my father, José Babo, remained at the Ermera Kodim. He was stripped of his clothes down to his underwear and tortured in that condition, until he was black and blue.[381]

363. The day after he was released, a member of Hansip T799 re-arrested Luis Vasconselos Babo and took him to the Ermera Kodim to face T245, the Indonesian head of intelligence, and the Indonesian Kodim commander, T246. He told the Commission that he was beaten, stepped on and choked and then held in the Kodim for three years. His father, José Babo, was taken out to Titlala in Poetete Village (Ermera) and killed by an East Timorese member of Intel, T247, with Hansip members T248, T249, T250, T251, T252, T253, T254 and T255 in attendance.[382]

Detention of Resistance fighters

364. The military's prime targets were obviously Falintil fighters.[383] It was not uncommon for a whole range of different institutions to work together to arrest such people. Daniel da Silva was a member of Falintil under the command of Americo Ximenes (Sabica) and Jacob Reis (Daya). He told the Commission that he and two other members of Falintil, Alberto Naha Loi and Rodolfo Riba Naha, were arrested in 1977 through the combined efforts of:

- Infantry Battalion 408
- Members of Viqueque Kodim 1630 and an East Timorese commander T255
- T256, an East Timorese military commander from Uatolari
- T257, a Hansip
- T258 and T259, both civilians.

365. The detainees were taken to the Viqueque Kodim 1630 with their hands tied behind their backs, while Commander T255, Commander T256 and T260 confiscated Daniel da Silva's livestock and horses. Daniel da Silva told the Commission how the prisoners were interrogated:

After one night in Viqueque Kodim 1630, at around 8.00am, the three of us were interrogated by ABRI members T261, T255, T256. During the investigation T256 said: "You, as Falintil troops, are creating communism in East Timor." Because I was emotional I answered that as Falintil, we didn't follow communism. So T256 stripped my clothes then T261 electrocuted me. I was put in a room and detained with another prisoner named Anibal, who was a former Sub-district administrator in Uatolari [during Portuguese times].[384]

366. Both Daniel da Silva and Anibal were detained for five days, after which Infantry Battalion 408 took Anibal away by helicopter to an unknown place. Daniel da Silva was detained in the Infantry Battalion 408 headquarters for six months.[385]

367. Raul, a Falintil commander in the Remexio (Aileu) region, told the Commission that on 15 January 1979 he was captured by one Indonesian and four East Timorese members of the Koramil – T284, T262, T264 and T265 – on the orders of the Indonesian Koramil commander, Captain T266. Raul was detained in the Timor Klaran building in Aileu Town. When he arrived at the building, a member of Combat Engineers (Zeni Tempur, Zipur) Battalion 14 ill-treated and tortured him by tying his hands and legs, pressing a large iron bar against his chest, and then beating and electrocuting him.

368. Raul said he was interrogated about the names of Fretilin/Falintil commanders in the forest for two hours. Because he did not answer, the Zipur member put ashes mixed with bird's faeces and petroleum in his mouth. A member of Zipur stripped Raul, then hit, kicked and punched him until one of his teeth fell out. Then the Zipur member took Raul and put him in a tank full of water. Not long after that, another Zipur member brought urine and ordered Raul to drink it. He refused at first, but soon drank it because he could no longer stand the beating. After Raul had been detained for nine days his condition was so bad that the District Administrator of Aileu, Abel dos Santos Fatima, met with the Kodim commander to request Raul's release. Raul said that he was released soon after this meeting.[386]

Detention for being part of a Falintil attack

369. The Commission received information on some cases of people detained for involvement in Falintil attacks on military targets. In 1977 the Sub-district administrator of Fatululik (Covalima), T267, called Pedro de Jesus to come to his office. When he arrived in T267's office he was immediately beaten and interrogated for supposedly trying to surround the Koramil and capture weapons. Pedro de Jesus told the Commission:

> *[He] said that I was a fool and put me in a room, where he beat me with a rifle, and stamped on my foot with his military boots until all of the skin of my foot was torn. [They said] "Just admit it, is it true or not that you were going to attack the Koramil?" But I answered, "I am a dato [a member of the traditional elite], but I am just an ordinary person. How could I attack the Koramil and confiscate weapons?" I told them that it was true that I was a fool.*
>
> *After that I was sent home, but the next morning I returned to the Sub-district office, because of a message from the Sub-district administrator. I was treated the same as the first day. I was beaten and kicked until my face was swollen…When the Sub-district administrator T267 beat me, the captain of the Sub-district police and the Koramil commander just sat there watching without saying a word.*[387]

370. Similarly, members of ABRI arrested SN and her family in July 1977 on suspicion of having information about a Fretilin attack on an army tank in the village of Guruça (Quelicai, Baucau). She described the incident:

> *Around 7.00pm, eight members of ABRI came to my house and captured my husband Bale-Coo and my father Naito. They were taken to the Marines [Pasukan Marinir, Pasmar] 9 post in Abafala [Quelicai, Baucau]. There, my husband's and my father's hands were tied behind their backs. They were beaten, kicked with military boots and hit with a rifle butt until morning. The next day, my husband and father were taken to the ABRI base in Laga [Baucau].*
>
> *Two days later three soldiers and one TBO came to arrest me, my sister Nacorica, my two children Co`o Kita and Dara Co`o, and my nephew Evaristo. We were also taken to the Pasmar 9 post in Abafala. We were all tied up and…they took off our clothes. After the interrogation, in the afternoon, we were taken to the Pasmar 9 headquarters set up in SDN I [the primary school] in Soba [Laga, Baucau]. As soon as we arrived we were interrogated.*
>
> *I was electrocuted and stripped naked, and my genitals were burned with a gas lighter. I was dealt that treatment on the orders of the Pasmar 9 Commander T268. I was detained in the Pasmar 9 headquarters for one week. When I was released I was required to report for six months.*[388]

Released but not free

Even when the Indonesian military released political detainees from its detention centres, it had a number of strategies for monitoring their movements after their release. Among these strategies were the following:

"Outside detention"

Some detainees were released from formal detention but only into what was known as "outside detention" (*tahanan luar*). These detainees were allowed to live at home but were still considered under the control of their captors. Some had to do forced labour, while others were required to report regularly. Some examples include:

- In 1979 a group of men named Apolinario, Antero, João Brito, Filomeno, Januario Mendonça, Januario Corte Real, Orlando, Pedro, João da Silva, Marcos Lisboa, and Mário Uca Bere surrendered to Airborne Infantry Battalion (Yonif Linud) 700 in

the area of Bubulau (Same, Manufahi). Airborne Infantry Battalion 700 handed the ten men to a group of Hansip. The members of Hansip beat them heavily and then made them "outside detainees". Apolinario, José da Silva and Marcos Lisboa were required to plant a vegetable garden and build a house for one of the members of Hansip, T269.[389]

- In 1980, according to Alcino dos Santos Vinhos, the military detained 14 people around Lospalos (Lautém) and held them in the Lospalos Kodim for nine months. After release they were given "outside detainee" status and were required to report to the Kodim three times each week for three months.[390]
- In 1994, militias detained 16 people around Babulu Village (Same, Manufahi). They were interrogated and tortured by Kopassandha at the Kopassandha headquarters in Same for three days before being released as "outside detainees" for three months. During this time they had to carry building materials and tidy the grass outside the traditional house.

Reporting requirements

Reporting requirements (*wajib lapor*) did not apply only to "outside detainees". Many political detainees were required to report to their local Koramil or Kodim on a regular basis. The Commission found no consistency or clear pattern in how this system was applied. Some former detainees were required to report only weekly for several months, some every day for several years.

Forced labour

Another way of monitoring a former detainee was to use them as forced labour. Thousands of young men were forced to work as TBOs particularly during the late 1970s and early 1980s. Others were recruited into Hansip or as Ratih. Many others were used to build roads, village buildings or to maintain gardens.*

Forced recruitment

The military also forcefully recruited many detainees instead of releasing them. The Commission received statements describing how detainees were used as TBOs to carry out tasks for the Indonesian military,[391] forced to accompany the military and members of Hansip into the mountains to find people who had not surrendered[392] or were turned into informers.

* For example, Bernardino dos Reis was detained for one year after surrendering in Manufahi in 1979 and was then forced to help build a road from the Turiscai border to Turiscai with 200 other forced workers [HRVD Statement 6626].

Detention of clandestine members

371. Besides targeting individuals in the armed Resistance, the Commission received many reports of the military arresting and detaining members of clandestine networks or individuals in areas already controlled by Indonesia who were supporting the armed Resistance with food, medical supplies or a place to hide.[393]

372. Gervaio Yosep was arrested in 1977 for this reason:

> *I was captured by the head of the neighbourhood association [rukun tetangga, RT] T271 and six members of Battalion 511, for the reason that I had hidden Falintil in my house in Foholulik (Tilomar, Covalima). After being captured, I was taken to the Battalion 511 Tilomar headquarters. I was immediately detained. I was interrogated and beaten and hit with a piece of wood and kicked until I was bruised and bleeding. I was tortured for 12 hours, from 2.00am until 2.00pm. I was forced to eat and drink medicine but I refused, and they told me to go home.*[394]

The breaking of a clandestine network

António Junior Caleres told the Commission about his role in a Dili-based clandestine network that gave support, in the form of food, medicine, letters and other assistance, to the armed Resistance. António did this mainly through his work in a community health centre, but he was also able to send larger amounts of medicines through his work with the Red Cross.* In March 1977, the Red Cross employed him to go to Mount Kablaki, near Same, to provide medicine to thousands of people surrendering to the Indonesian military. António attended to those surrendering and needing medical assistance but he also managed to send two boxes of medicine to Falintil. During similar work in Suai a month later, he was able to send a further five boxes to the Resistance.

The network was eventually exposed after the military captured a Resistance fighter who was carrying clandestine documents including lists of names. Those named in the lists were arrested and tortured and then they named others, who were also arrested.

According to António, about 200 people were eventually arrested and taken to Sang Tai Hoo and Tropical. Not all of these people, however, were part of the network:

* The International Committee of the Red Cross was not in Timor-Leste in 1977, so the Commission assumes that the informant was working with the Indonesian Red Cross.

"[T]here were names that were not [on the list] but because people were beaten and heavily tortured, they just started to name people randomly. That was why there were many people who were not clandestine, who were innocent, that were captured."

On 16 July 1977, António was arrested and taken to Sang Tai Hoo:

I was told to go in and strip down to my underwear. Then I sat for a few minutes before six people came in and beat me until I was unconscious. When I woke up I was in a room and I saw a Chinese person called Francisco Li, and two East Timorese who I didn't know. I saw that their faces were swollen.

After three days I was called for interrogation and they just read out from a document what they already knew. They said I had delivered medicine. "Yes", I confessed, "I delivered medicine so that those in the forest are healthy and can come, because you soldiers were supposed to come here to lead us but you are useless, you come here only for war." Then they flipped my chair so I was lying upside down and they put two lit Gudang Garam cigarettes in my nostrils. They threatened me with a knife and said: "You have to be honest, and now you must sing Foho Ramelau." So I was forced to sing Foho Ramelau, but if I inhaled the cigarette smoke I coughed. When they were tired of the interrogation they took a helmet and covered my head, then hit my body with their hands. When I couldn't stand it anymore I collapsed.

António Caleres explained that sometimes the military took prisoners from the place where they were detained to scare them. Because political prisoners were aware that many detainees had been taken out at night and never returned, the experience was especially traumatic:

One night I was taken to Tacitolu. When we arrived I got out of the car and walked. The four soldiers who brought me there said, "Sit here, we are going to rest first." But a few minutes later one came and covered my eyes with black cloth and said: "Pray!" I prayed and just waited for them to shoot me. But they didn't. I waited like that for two hours and then I became sleepy. Mosquitoes were everywhere. They came back and said, "Walk, we are good to you." We drove back to Sang Tai Hoo, and arrived at 4.00am. Something like this also took place when I was taken to the Areia Branca and I was told to sit on the beach. Then my eyes were covered and my clothes were taken off and I sat there for about two hours before I was ordered to get back into the car. They just left me alone, maybe to test me. If I ran they would have shot me dead.[395]

373. Faustino Amaral reported to the Commission that in September 1977 he began to do clandestine work, even though he was a member of ABRI at the time.

> *One day the Koramil commander in Tutuala [Lautém], Deni Rohani, found secret documents in a cave called Oi [Mehara, Tutuala, Lautém]. With that, Deni Rohani discovered my involvement in clandestine organisations. A few days later I was called to face Lieutenant Colonel Fransiskus Sumaryono at the Lautém Kodim. After I met him, I was ordered to go to the Korem [in Dili] to face [Colonel] Sahala Radjagukguk. I was immediately picked up in a jeep and taken to the Balide Prison. Two Korem members stripped off my clothes down to my underwear and put me in a dark cell for one week. In the dark cell I was interrogated and tortured by having my toes pinned under a table leg for an hour and threatened by two members of ABRI, one Indonesian T272 and another (name unknown), while they held a bayonet to me.*[396]

374. One day a prisoner named Alexandre escaped from detention in the Comarca, Balide in Dili. Because of this, Faustino Amaral and 300 other prisoners received beatings by an Indonesian army member T273. They were ordered to gather at the volleyball field inside the prison and run laps around the court.[397]

375. António Vieira told the Commission that he was arrested on 3 July 1977 by an East Timorese member of Intel, T274, because of information that he had been assisting Fretilin in the forest. He was taken to Sang Tai Hoo in a taxi:

> *The reason for my capture was because there was information from someone, I don't know his name, that I often helped Fretilin in the forest. After I arrived in Sang Tai Hoo I was interrogated by a [Kopassandha] commander while being tortured. The torture included: my toes were pinned under a chair and then two members of [Kopassandha] sat on the chair, my head was kicked with their military boots, my ear was punched and I was made to stand against the wall while they hit me with an iron pipe. I was detained in Sang Tai Hoo for six days. Then I was moved back to Balide Prison and detained there for four months and two days. I was released in December 1977. Even though I was free, I still had the status of an "outside prisoner" and was obliged to report for one year.*[398]

376. Members of Hansip were also sometimes part of clandestine networks and were punished if discovered. Eduardo da Silva told the Commission that he was ordered to become a member of Hansip in 1976 but kept up his clandestine work, distributing goods to Falintil, through a person called Guilherme. When military intelligence caught and interrogated Guilherme in 1977, he gave them information about his network. Eduardo da Silva continued:

> *Because of that I was arrested by the Koramil commander and taken to Sang Tai Hoo where I was beaten with a cane and the deputy head of*

intelligence kicked me in the chest. I was there for three days and then they moved me to the Comarca. But I was taken straight back to Sang Tai Hoo for interrogation by two members of the Joint Intelligence Unit [Satuan Gabungan Intelijen, SGI], *and in the evenings I was taken back to the Comarca. Each week for three weeks I went to Sang Tai Hoo for interrogation. My case was processed through a court and I was sentenced to one year in prison. While serving my time, I had to cut grass twice a week.*[399]

Interrogation of a clandestine member

JN was part of a clandestine network, made up of mainly women that used *estafetas* (couriers) to send food and other materials from the villages to Fretilin in the forest. The village head of Akadiruhun (Dili), one of the villages that the network operated from, started to suspect JN and her friends and informed military intelligence. On 29 January 1977, the military and an Indonesian member of Intelligence, T800, arrested her and took her to the Koramil in Culuhun (Dili) and to Sang Tai Hoo, where she was interrogated by an Indonesian ABRI Commander T275 and a sergeant. Francisco Benevides, a prisoner who could speak Indonesian, translated. She described the interrogation:

I was interrogated about a list of names, whether I knew them. I answered yes! I knew [the estafetas*]. I couldn't lie because I had given them their orders. So my friends were released, and I remained in detention. [The* estafetas*] had told them that I was in charge and I accepted responsibility…In Sang Tai Hoo they told me to draw the organisation's structure with the names of the people who occupied each position. I mentioned all of their names, like KN and others. I was hit with an iron belt buckle. I was beaten so that I would tell them everything…[The interrogators] took turns. After one person was finished, another one came…They took a picture of me during the interrogation, wearing only my underwear.*

After about a week in Sang Tai Hoo, JN was moved to the Comarca:

On 9 February 1977, I was moved to the Comarca...I was in the "Maubutar cell" and at night I slept on the floor with no mats. They pulled my hair and kicked me until my face was all bruised. They also poured water on me…The next morning, I was taken back to Sang Tai Hoo and…interrogated again and in the afternoon they returned me to the Comarca. For three nights I slept in the "Maubutar cell." If you spent one week in the "Maubutar cell" they would surely kill you. Then I was taken to an iron cell room…

Every day I was interrogated. They came from Sang Tai Hoo to pick me up and take me back with them to interrogate me. In the Comarca I was interrogated and beaten by military police, Red Berets [Kopassandha]. In the iron cell I was beaten at night. I was detained in the iron cell for three months…and never went out in that time [except for interrogation]. LN and KN were detained with me in the iron cell…[The three of us] were ordered to strip naked and bathe like little children so [the soldiers] could watch…T276, an East Timorese man, came and put nails in our underwear. After that we were raped until morning. He and the army were close, so the army didn't do anything…After that I was separated from KN and LN...In May I was moved to a normal room…[After] 16 months in the Comarca I was released on 6 July 1978, but I was still required to report. *

Detention due to family members in the forest

377. Relatives of people still in the forest, whether as part of the armed Resistance or simply hiding from the military, were also targeted for detention. The military hoped that these family members could provide information about where their relatives were hiding and what they were doing. Also, members of Fretilin/Falintil received food and other supplies from their families and the military sought to break these connections. It was also a form of proxy violence. The family members became a substitute for punishment when the prime target of violence could not be captured.

378. Luis de Jesus told the Commission that on 30 August 1977 two soldiers captured him in Camea (Dili) and took him to Sang Tai Hoo, because he was suspected of giving things to his family members in the forest:

> *[We were] interrogated by a member of ABRI from Nanggala (Kopassandha). Besides being interrogated, we were also beaten and kicked. Then in the morning we were taken to Balide Prison. All of our clothes were removed and we were left naked. Then the prison guards and military police beat us using wooden bars, iron rods and chains. After that we were put in a dark cell, still naked. The cell was cramped and smelly. For three days we were in that cell without any food. We were given only hot water in the morning, afternoon and evening. After three days we were taken out of the dark cell. They returned our clothes to us and ordered us to put them back on. Then we were put back in a cell for six months. We were released on 15 March 1978.*[400]

* CAVR Interview with JN Dili, 4 October 2004. See also CAVR Interview with Bernarda dos Martires Carvalho Correia, Dili, 22 January 2003. Bernarda dos Martires Carvalho Correia worked as an *estafeta* in the same network and was also captured around the same time as JN. She was interrogated in Sang Tai Hoo and detained in the Comarca in Balide for three months. She was not tortured: "According to ABRI I didn't have to be tortured because I only gave things to my children in the forest, so my punishment was lighter compared to my friends and some young men who were captured at that time. They were tortured heavily by ABRI because, according to the information ABRI received, they were planning to flee to the forest."

379. HN told the Commission that in 1979, when her husband was still in the forest as a Falintil commander, she was arrested and taken to the Uatolari Koramil (Viqueque). There, a member of Hansip, T277, pulled off her clothes and another Hansip member, T278, interrogated her. She was ordered to sit holding a branch from a cassava plant that was covered in thorns, slapped, beaten and burned with lit cigarettes. The Koramil then released her but re-arrested her two weeks later with her one-year old child. They were taken back to the Koramil and she was raped in front of her crying child.[401]

380. IN was arrested in Ossu (Viqueque) in 1979 because some of his family members were active in the Resistance and still remained in the forest. ABRI soldiers T279, T280, T281 and Hansip member T282 and intelligence T283 and T255 took him to a house and interrogated him:

> *In the interrogation T255 asked me the names of my family members who were still in the forest and how we contacted them. I answered by telling them: "I don't know them! How could we have met when I live in the city and they live in the forest?" That answer made them angry and they demanded that I tell them the truth. Then T285 took a wooden bar and knife, pointed it at me and said: "If you don't confess, you will die today." Not long after that, six Hansip members took turns torturing me. They used their rifles to strike, beat and kick me...I was also struck on the forehead and my body was cut with a knife by T285. Then I was moved to the Koramil and detained there for three months.*[402]

381. After his interrogation, IN's wife was taken from their house and detained in the same place as him. While he was being interrogated, his wife was raped in the room next door by an East Timorese platoon commander, T286. IN told the Commission how he could hear his wife scream out for help but he could do nothing to help her.[403]

382. The Commission received information about a man who decided to remain in the forest when the rest of the family surrendered in August 1977. After the rest of the family arrived in the village of Mehara (Tutuala, Lautém) a member of the Sub-district level parliament (DPR), T287, came and told his parents to go to the military post in central Mehara for interrogation about his whereabouts. The interrogation lasted all night and only at 4.00am were they released on the condition that they report for two weeks and that they bring information about their son.[404]

383. Even family members of people already detained lived in fear of violence from the military. António Vieira told the Commission:

> *[While I was in detention in Dili] my wife named Elsa Soares Gomes, who was at home, also received threats from Kopassandha members, saying that I had been killed and they were going to take her and kill her as well. As a result of that threat, my wife was shocked and fell ill and finally died on 7 December 1977. When my wife died, Leandro Isaac asked ABRI for permission for me to attend my wife's funeral.*[405]

Detentions after surrender or capture*

384. The people of Timor-Leste began surrendering to the Indonesian military from the time of the invasion. Those who did not feel capable of fleeing to the mountains, such as nursing mothers or the elderly stayed in their homes and were among the first to surrender. Many others who did flee to the mountains returned and surrendered because they could not sustain the difficult lifestyle in the forest. The Commission received statements of people surrendering after fleeing in 1976 and 1977. The overwhelming majority of people surrendered, however, during the years 1978 to 1979, when surrenders took place en masse with the support of the Fretilin leadership.

385. A large peak in detentions can be discerned in 1978 when the mass surrenders to the Indonesian military took place. The military was faced with waves of thousands of people, many of whom arrived in places that were not their home and who were suffering from illness and malnourishment.† Most people were placed in large transit camps where they could be processed and registered. The military forces also screened those who surrendered to identify any members of Fretilin/Falintil. Those who were known were immediately arrested and detained separately from the group. Many others were interrogated about what they did in the forest. They were then further detained, kept in the transit camp, recruited as TBOs or Hansip, or released to return home to their villages (see Vol. II, Part 7.3: Forced Displacement and Famine).

Early surrenders

386. An East Timorese woman reported that she and her family surrendered in 1977 after two years hiding in the mountains, because the lack of food and medicine had led to the deaths of five of her younger brothers and sisters. Soon after they surrendered the whole family was arrested.[406] During the arrest her father was killed and his ears cut off and adorned as trophies. The rest of the family was taken to the town of Soibada (Manatuto), where they were detained for some days.[407]

387. In 1977, José da Conçeição Carvalho, a Falintil member, surrendered to two intelligence agents named T292 and T293 in Dili. He was immediately handed over to a soldier nick-named T294 to be interrogated in Palapaço (Dili) and was detained for 12 days. He told the Commission:

* The term "surrender" is usually used to refer to combatants rather than civilians. But in this Report it is used to describe an act of a civilian, because "surrender" is the word civilians themselves use to describe the act, and because what took place was essentially a political act of moving out of Fretilin/Falintil control and into the control of the Indonesian military. In a practical sense, surrendering involved reporting to the local military command and being registered. Often people were held in a temporary holding camp to be processed before being released to go home [see Vol. II, Part 7.3: Forced Displacement and Famine].

† For instance, in Uato Carbau (Viqueque) many people from Ossu (Viqueque), Uatolari (Viqueque) and Baguia (Baucau) surrendered to the Indonesian military and were held in places such as the Uato Carbau Koramil. [CAVR Interview with Xisto Fernandes (alias Helio Espiritu Santo), Uato Carbau, Viqueque, November 2003]

In the investigation I was forced to tell them the hiding place for the weapons. So an ABRI member, T294, ordered two of his men (T292 and T293) to go and find the weapons. Then they released me, but not straight to my house, rather I had to live with T294 until 1979. * *Only then was I allowed to go back to my own house.*[408]

388. As well as voluntary surrenders, civilians also surrendered or were sometimes arrested when the military captured them during an operation. José Rosa de Araújo, a member of Fretilin, told the Commission that he fought as a guerrilla in the Mount Kablaki region of Ainaro after the Indonesian invasion. In 1977, Infantry Battalion 125 attacked the Mount Kablaki region, resulting in the arrest of about 80 Fretilin members, including José Rosa de Araújo. He recalled:

At the location of our capture, a member of Hansip named T295 abused me by punching and kicking me and hitting me with a rifle butt. Then 20 members of Hansip joined in, abusing me and also the other Fretilin troops. At that time Hansip and Infantry Battalion 125 troops had built [five] posts on Mount Kablaki. They detained me and the other Fretilin troops there for one year. We were forced to become TBOs, responsible for picking up rice or corn in Dare [Ainaro]. Every two people had to carry 100 kg from Dare to Kablaki. During my time in detention and as a TBO, my friends and I were given only vegetables to eat, while the members of Hansip and Infantry Battalion 125 ate good food.[409]

389. Both civilians and members of Falintil were arrested during such operations. But after capture the Falintil members would be picked out of the group for further detention. On 22 February 1977, three members of Falintil ran out of ammunition, and were captured together with the people of Casohan in Barique (Manatuto) by members from Infantry Battalion 631. They were interrogated by Infantry Battalion 631 and their weapons were confiscated. The civilians were given permission to go home but the members of Falintil were detained in Casohan for one month, and further interrogated and tortured.[410]

Story of an East Timorese translator during interrogations

António Peloy was a member of Hansip, and an interpreter for the Indonesian military during their interrogation of detainees in the district of Baucau. He told the Commission about interrogation methods including his efforts to protect those being interrogated:

* The reason for this is unclear but it is likely to have been in the capacity of a TBO.

I became a Hansip around 1976 in Laga, Baucau. First I was a regular Hansip and helped do night watch duty at posts. I only began to handle detainees in 1978. The Marines commander asked which Hansip understood the Indonesian language. It didn't matter if you were fluent, as long as you could understand the words. I had learnt Indonesian before the Indonesians came to Timor…because I lived near the beach and I became acquainted with the Indonesian traders that came by boat.

I became an interpreter for Pasmar 9 (Marines). [During an interrogation] only one military person and I were present. The Marines wrote the questions and I interpreted them, and I also interpreted [the detainee's] answers for the Marines. Everyone that the Indonesian army captured was handed over to me. I was responsible for a room of 110 detainees. The prisoners were from Ossu [Viqueque], Baucau, Venilale, Quelicai [all in Baucau] and from Maina II Village [Lautém]. Among them were Fretilin members and also ordinary people who had surrendered. They were surrendering but still they were interrogated and beaten!

The Marines treated female and male prisoners differently. They interrogated men from 8.00am until noon, and women from 7.00pm until 2.00am. [Women] were asked: "Do you have a husband?", [they replied] "I have a husband", "Where is your husband now?", "Now he still lives in the forest", "What does he do there?" Then they would say that the person lied: "You have a Fretilin/GPK husband in the forest!" or "We heard that you had a picture of the Fretilin flag on your breast!" Then they made them take their clothes off or lift their shirts so they could be examined from bottom to top. They examined for a while, then they said it was on the stomach: "Lower your sarong, lower it here, if it's not on the breast, it's probably on the stomach." After examining the stomach, they said it was below the belly button.

Men were asked: "Are you GPK? Are you armed? Since what date? When was the last time you held a weapon? What date?" They were again asked about the events on Matebian. They defecated and urinated. They were beaten and electrocuted on the ear and fingers. One man was a teacher in Lospalos named José Lima. He received harsh [treatment] because he was suspected of being involved in the bombing of the Marines' tank in Quelicai. He was put in a barrel with his head in the bottom and his legs up, which made him defecate while his legs were tied to a big rock and pulled up. But he didn't die.

Even though I was in the Indonesian army, I saved my friends from the forest…During the interrogation they were asked what they did in the forest, did they hold weapons or kill Indonesian soldiers? Because

they were being electrocuted, they sometimes admitted that they held weapons or killed soldiers in the forest, but I helped to cover it up for them. Before 8.00am I opened the door a little and I gave them instructions: "They will interrogate you one by one but if you say something wrong…I will step on your foot and you must stop talking. I will speak to the soldier first, but if you do something wrong I will stand up and hit you."

For instance, if they admitted killing a soldier, I would change the words so they would not be killed and immediately tell the victim in Tetum or Makasai [languages]: "Don't say that, or they will kill you." I immediately hit my friends, so they would not be suspected and I also would not be suspected as an enemy in disguise. The army/marines asked why I hit them, and I said because they didn't admit to the killings. After I hit them and put them back in detention, I apologised for hitting them, I said: "Don't take it personally, but I helped you from getting killed by the Indonesian army."[411]

Mass surrenders: 1978–1979

390. Following the destruction of the last *zona libertada* on Mount Matebian, mass surrenders occurred across the eastern region of Timor-Leste (see Vol. II, Part 7.3: Forced Displacement and Famine). Other groups also began to surrender in the central and western regions. Again, a selection process separated individuals known to be Fretilin leaders, who were arrested immediately. Others were subjected to intense interrogation to ascertain what their role had been or whether they could provide useful information.

391. In addition to members of the military, members of the civilian government, civilian defence and, sometimes, ordinary citizens assisted in carrying out the arrests and in identifying those to be interrogated further. For instance, after surrendering in the town of Uato Carbau (Viqueque) in 1978, an East Timorese civilian, T297, reported Xisto Fernandes to a Hansip, T298, after which Xisto was arrested and detained in the Uato Carbau Koramil.[412] Celestino Manuel Pinto told the Commission that he was arrested on 23 November 1978 in a joint effort between local government officers, Hansip, police and military after he came down from Mount Matebian near Uato Carbau (Viqueque) and surrendered in the village of Bahatata (Uato Carbau, Viqueque):

At that time, the Sub-district administrator [of Uato Carbau] T299 and his deputy T300 coordinated with Hansip Commander T301 [deceased] and his staff T302, and the Police and Koramil Commanders, to capture me and two of my friends named Alfredo Pires and Caetano Quintão. They put the three of us in detention because I was a member of Falintil when I was in the forest. I was detained on 1 January 1979

in Afaloicai [Uato Carbau]. There were 130 other people who had also been detained by ABRI from six villages, Irabin de Baixo, Irabin de Cima, Uani-Uma, Lo-Ulu, Afaloicai and Bahatata, in the sub-district of Uato Carbau. While in detention we were forced to work, such as taking a Jeep car from Uatolari to the village of Afaloicai…carrying bamboo and building a road from Ringgit Baru to Afaloicai and searching for rocks and wood to build T299's house. We were detained until 1980. When we were released we had to report for one and a half years. After that we were totally free.*[413]

392. The Commission conducted meetings in villages all over Timor-Leste and documented the experience of communities. The following Community Profiles tell the stories of some of the mass surrenders and arrests in 1978 and 1979 and the different experiences of communities who surrendered:

Table 6: Different experiences of communities mass surrenders and arrests, 1978–1979

Community	Date	Surrender	Detained	Interrogation/Torture
Remexio (Aileu)[414]	1979	Community surrendered	All men arrested by members of ABRI, Hansip and Partisans. 20 more people (men and women) were later arrested. A total of about 100 people detained.	Detained and interrogated for two weeks, then sent home.
Uma-Kiik (Viqueque)[415]	1978	Some people surrendered to Battalion 202, others to Infantry Battalion 745.	Battalion 202 arrested everyone on suspicion of being Falintil. Infantry Battalion 745 took everyone to the town.	Battalion 202 tortured people, used the women as sexual slaves and made the men TBOs. Infantry Battalion 745 used people to cut the grass every day.
Caisido (Baucau)[416]	1978	Caisido community and people from other villages surrendered in Baucau Town and in the villages of Trilolo, Triloka, Bucoli, Vemasse (Baucau).	Eight Fretilin leaders detained in Flamboyan Hotel in Baucau for six months.	Tortured but not interrogated.
Molop (Bobonaro)[417]	17 Apr. 1978	370 people surrendered to Battalion 612.	20 people arrested on suspicion of being a Falintil.	Detained for 3 months in military police building without food. Burned with cigarettes, hit with a hammer and a weapon, fingernails pulled out with pliers, stripped naked and put in water for 24 hours.

* The name of a village that was founded or re-named during the Indonesian occupation.

Marobo (Bobonaro) [418]	1978	Community surrendered to Battalion 612 troops.	All detained, including Fretilin commander of Bobonaro Company, João de Jesus.	Submerged in a pool during a period of two months. Some of the prisoners then released and around 90 civilians made TBOs.
Bahatata (Uato Carbau, Viqueque)[419]	22-23 Nov. 1978	Many people surrendered to Battalion 328 near Samalari (Uato Carbau, Viqueque), Later, 1 Falintil platoon and 19 others surrendered to Battalion 328 and Hansip near Samalari.	Battalion 328 examined people's belongings and took a man suspected of being the leader to the Koramil. Falintil platoon and 19 others all detained.	Suspected leader interrogated and then released. Falintil members and 19 others beaten, kicked and burned with cigarettes by a Hansip member T329. All made TBOs.
Desa Dato (Liquiçá) [420]	1979	Most people from Dato surrendered to Kodim 1638 in Liquiçá.	18 platoon commanders arrested.	Detained by T284 in Koni, Liquiçá. Tortured by beating and forced to build an "entertainment house".
Hatura, Nasolan, Isolada (Aileu)[421]	1979	280 people surrendered in Damata to Battalion 712, Air force 100, Air force 700, and Air force 721.	Nobody detained. People's belongings searched then all taken to Malere, (Aileu) fed and sent home.	-
Uato-Haco (Venilale, Baucau)[422]	Sept. 1979	Uatu-Haco and Uahilalha communities surrendered to ABRI in Venilale.	Leaders and suspected leaders in the forest were arrested.	Two people detained and interrogated in the Flamboyan Hotel, Baucau. 11 people held in Venilale military post and forced to build houses.

393. Francisco da Costa was picked out from the group when he and his family surrendered in Uatolari (Viqueque) in 1978, after living for two years on Mount Matebian. He told the Commission of his experience:

> *When I surrendered, I was immediately arrested by an East Timorese man, T305, and members of Kopassandha intelligence. I was punched, kicked and hit on the head with a piece of wood until I became unconscious and couldn't stand. They dragged me into the prison. I was arrested because I cooperated with a Fretilin delegate named Lequimau and I had forbidden people to surrender to ABRI.*
>
> *The next day a Hansip named T306 came with three East Timorese female soldiers: T307, T308 and T309. Hansip T306 ordered them to hit me with a piece of wood until I bled. Then they [T306 and the three soldiers] submerged us in water for 24 hours. The next day we were handed over to the Koramil and the Afaloicai village head*

Agustinho Ribeiro, who had to take responsibility for and care for the four of us.[423]

394. The conditions in which detainees were held in this period were often appalling. One example of this is provided in the testimony of Mário Maubuti. He told the Commission that he and two of his brothers-in-law, Maubuti and Beremau, came down from the mountains and surrendered to the army in Leimea Kraik (Hatolia, Ermera) in 1978. They were immediately brought to the town of Atsabe (Atsabe, Ermera) and arrested there along with several other people:

> *After we arrived in Atsabe, we were all put in a hole in the ground and were only fed once a day. We also had to fight each other for the food. There were some who didn't get any food because we were starving and the food given wasn't enough for the number of prisoners. In the hole we crowded each other and during the rainy season we slept on mud and in pools of water for eight days. Then we were released.*[424]

395. Conditions in transit camps were also extremely difficult and many died (see Vol. II, Part 7.3: Forced Displacement and Famine).

Detention in Uma Metan Camp, Alas, Manufahi

Uma Metan (Tetum: Black House) was an Indonesian military camp set up just before August 1978 near Alas (Manufahi) as a base for conducting operations against the Resistance in the mountains around the district of Manufahi. Airborne Infantry Battalion 700, Infantry Battalions 744 and 745, 310, Nanggala (Kopassandha) and the Alas Koramil were stationed at Uma Metan. The camp was also used as a transit camp for holding people who surrendered from nearby areas and for holding suspected members of the Resistance.

The Commission interviewed several former inmates of the Uma Metan Camp. Tomé da Costa Magalhães, detained there in 1978, described Uma Metan as a hill about 300 metres high. Mateus da Conceição, arrested on 8 May 1979 and detained in Uma Metan for three months, estimated that there were about 8,000 people in the camp from various places including Aileu, Maubisse, Same, Ainaro, Manatuto, Dili, Liquiçá and Viqueque. Both Tomé and Mateus described life in Uma Metan as extremely difficult. Many people died every day from hunger and illnesses such as diarrhoea, tuberculosis and beriberi. They also told of a school built in Uma Metan, supposedly for the people to learn the Indonesian language,

but also used at night by members of Nanggala, Airborne Infantry Battalion 700 and the Koramil to rape women.[425] The camp was closed around January 1982.

Unlike some other transit camps, Uma Metan was also used as a prison for people found to be working for the Resistance. These people were sometimes found among those who surrendered, and sometimes caught in the forest and brought to the camp for interrogation.[426] Many members of the Resistance were killed and executed (see Vol. II, Part 7.2 on Unlawful Killings and Enforced Disappearances). Others were used as forced labour or to find other members of the Resistance. Some residents of the camp, after spending several months in Uma Metan, were moved to another place, such as the Same Koramil (Manufahi), for further interrogation.[427] Others were forced to work for the military or become TBOs.[428]

Saturnino Tilman, arrested by Infantry Battalion 745 on 28 February 1979 in Fatukuak, Betano (Same, Manufahi), was taken with his friend Ijidoro to Uma Metan by helicopter. The soldiers then handed him over to Airborne Infantry Battalion 700. He was interrogated, with the assistance of a Hansip acting as a translator. Airborne Infantry Battalion 700 members questioned him about Falintil's strength and the types of weapons Falintil used. He was not beaten during the interrogation but afterwards was ordered to take off his clothes and sleep in the field facing the sun for several hours. Saturnino was then held in a house for ten days and received only one meal a day. His friend Ijidoro was tied to a tree outside. Saturnino also told the Commission how the military lined up individuals before him and asked him to identify them, but he always said that he did not know them. After his interrogation, he was handed over to the Alas Koramil from Uma Metan and then sent to the Same Koramil at Betano, where he was ordered him to build a road with 200 other prisoners.[429]

Tomé da Costa Magalhães told of 77 civilians (none of whom were Falintil) who surrendered after a military operation in Fahinehan (Fatuberliu, Manufahi), who were then arrested by Infantry Battalion 745 and Airborne Infantry Battalion 100. The detainees were taken to Uma Metan where they were forced to build houses, a school building and a general meeting room.

Mateus Pereira reported to the Commission that he was sent to Uma Metan two months after surrendering in Betano (Same, Manufahi). He and 12 others were ordered to walk to the camp guarded by Hansip members on 5 March 1979. When they arrived, a

> Kopassandha commander told them that their purpose in the camp was to attend school and to help in the search for Fretilin/Falintil leaders in the forest, including José Maria (Mausiri) and Eduardo dos Anjos (Kakuk). They were interrogated individually about what they did in the forest and were then given a map and travel papers and told to look for the fighters in certain areas. As it happened, they came across Mausiri, Kakuk and Ermelita Coelho (Sirilau) in Kolokou in Dotik Village (Alas, Manufahi). The fighters told Mateus and his group that they were ready to surrender and handed over two of their weapons to take back as evidence. When Mateus reported this at Uma Metan, a Nanggala company went to pick up the surrendering Resistance fighters and Mateus and his friends were given travel papers to return to their village.[430]

Capture of communities: 1978–1979

396. Communities that were captured by the military before they surrendered told the Commission about being treated even more harshly than those who surrendered. The community of Uamoritula, Uaimori (Viqueque, Viqueque) told the Commission that in 1979 Battalion 745 captured around 20 people from Uamoritula and detained them in Laleia (Manatuto) on suspicion of collaborating with the Resistance. Some of those captured were killed and some were raped on the journey to Laleia.[431] Another community, that of Manetu (Maubisse, Ainaro), described how in 1979 people wanted to surrender in their village but were afraid of the military there. Before they could decide, soldiers captured them in Turiscai (Manufahi), immediately proceeded to beat them and then raped two girls in the group. They were then taken to Maubisse where they were beaten ruthlessly and then interrogated for three months about the whereabouts of Falintil in the forest.[432]

397. Jacinto Alves told the Commission about his capture with 40,000 civilians in the region of Ilimano (Laclo, Manatuto). Of this group, only about 26 were taken away for interrogation:

> Movimento Torneante *was a circling movement. For almost three months we circled around the area at Fatubutik, Aikurus, then Hatukonan [all in Laclo, Manatuto] and then we returned to the place where we began. We were attacked from the air, and from the ground with mortars…There were really no logistics, no aid whatsoever…On 27 July 1978 we, around 40,000 people, were captured in the area of Ilimano. The whole population was told to go down to Metinaro [Dili], but they came and arrested me, as they had the company commander, Vicente Alin, and took me to the post of Company B, Battalion 315.*[433]
>
> *Twenty-six others and I, among them my parents, my uncle and others, were put together but only I was taken for interrogation. After*

that, 26 of us were taken to Metinaro to stay in a camp with the local population, I myself was taken to the command post for Battalion 315. I was struck with a rifle...Other people were released and I was imprisoned alone in a temporary house made from melaleuca (a type of eucalyptus) branches.

Two or three days later they brought Micato (my wife) and an older sibling, along with my mother-in-law and my mother for interrogation to the place where I was imprisoned. We looked at each other but we were not allowed to exchange words.[434]

398. Francisco Xavier do Amaral, the first President of Fretilin and the RDTL, was arrested on the south coast in the district of Viqueque in October 1978. He had been a Fretilin prisoner for the previous 13 months. As Fretilin fled from the Indonesian forces, its prisoners had to flee with them. By the time Infantry Battalion 744 had surrounded the Fretilin camp, Xavier do Amaral was too weak to run and fell down in the grass. He was captured and flown to Dili to meet Colonel Dading Kalbuadi.[435]

Detentions after returning home

399. Not everybody was arrested immediately after surrendering. Some were arrested after they had settled back into their homes. Sometimes this was because the military and its auxiliaries discovered some information about the person through the intelligence systems of community control. Americo da Costa told the Commission that in 1979 he and his family came down from Mount Matebian and surrendered in the sub-district of Moro (Lautém). Because of the difficulties he experienced in finding food, Americo da Costa started a vegetable garden at Soru-Uaku in the village of Maina I (Moro, Lautém). One day while working in his garden he met a relative who had not yet surrendered:

While I was gardening, my in-law (Sere) and his friend Lourenço suddenly came to Serelau [Moro, Lautém]. They were still members of Falintil who lived in the forest and hadn't surrendered. When we met we swapped stories about my life in the town and vice-versa.

But our meeting was discovered by the Moro Sub-district Administrator T310, who ordered someone to call me and my sister Jacinta Marques to meet him at his house. We were interrogated and during the interrogation I was hit over the head, slapped across the face six times and kicked in the stomach until I fell. Then he slapped my sister. We were told that if someday we met Falintil again, we must bring them to surrender in the town. Then we were sent home.[436]

400. Luis Maria da Silva (Maukiak) was arrested a month after he surrendered to Pasmar 9 because his work with Fretilin while in the forest had been discovered:

[O]ne month [after I surrendered] ABRI began an operation in Quelicai [Baucau] searching for people who had just come down from

the forest, who had cooperated with Fretilin. Pasmar 9 managed to capture Raimundo and he was interrogated…about the names of people who joined Fretilin…[and] admitted that I had been involved in Resistance activities against the Indonesian military.

On 2 January 1979, I was arrested by members of Pasmar 9. They took me to the Quelicai post [Baucau] and brought me to meet the Pasmar 9 commander for interrogation about what we did. After two days I was released.[437]

Framing of a former Fretilin leader

José da Silva Amaral's testimony reveals the atmosphere of suspicion and division within local communities in Timor-Leste at this time. Any person with a grudge could report his or her enemy to the local military command for supporting the Resistance and that person would then be vulnerable to long-term detention, ill-treatment and torture. The Commission heard many cases in which individuals were punished before any investigation was carried out, in violation of their rights to a fair trial, including the presumption of innocence.

José Amaral was a Fretilin leader in Viqueque in 1975. After the invasion, he became the assistant political commissar and a Fretilin delegate in Ossu (Viqueque). At the end of October 1978, José Amaral and a number of people fled to Mount Matebian, but they surrendered when the *bases de apoio* were destroyed and many civilians were killed.

Around January 1979, José Amaral was working as a farmer in his rice field in the village of Ossuroa (Ossu, Viqueque) but he was known by the community as having been a Fretilin delegate. A Hansip commander, Joaquim Monteiro, worked in a rice field close to José Amaral's. One night someone stole all of Joaquim Monteiro's cows and the next day Joaquim Monteiro accused José Amaral of committing the crime and sending the cows to Falintil. José Amaral proclaimed his innocence and believed that the crime had been committed by a local traditional leader on the orders of a Quelicai Koramil member.

A few days later, three members of Hansip, T311, T312 and T313, arrested José Amaral. They took him first to the Viqueque Koramil and then to a Portuguese house that at the time was used as the Tactical Command (Komando Taktis, Kotis). Battalion 202 used the house as a dormitory and a place for interrogating and torturing detainees. A member of Battalion 202 interrogated José Amaral about the shootings of some soldiers from Battalion 202, which the Indonesian military

assumed Fretilin had committed. The Battalion 202 member showed his wounds to José Amaral, saying: "This, this! Who did it?"

José Amaral answered "*Bapak*, I don't know.* It wasn't me that shot you!" Then the soldier ordered Hansip member T311 to slap José Amaral across the face until he fell to the floor. But the interrogation continued. After 15 minutes three more soldiers started hitting him with their belts and kicking him in the face.

Amaral was then moved back to Battalion 202 headquarters, where around 50 other people were already being detained. He was held for six months between January and July 1979. During this time the interrogations continued and, if he didn't say what his interrogators wanted, he was heavily beaten by Battalion 202 soldiers. In July 1979, Amaral was released.[438]

401. Some Falintil members who remained in the mountains and did not surrender were sent by their commanders to observe the situation in the towns. Some were arrested on arrival in the towns. João Amaral, a member of Falintil at the time, told the Commission about his arrest when he and a friend were sent to monitor the situation in the town of Suai in 1979 :

> *When we arrived in Suai, we were captured by soldiers from Battalion 507, in the area of Ahinarae in the village of Debos (Suai, Covalima). Around 100 soldiers captured us. We were immediately detained in a building, a former Chinese store called Cina Odamatan Tolu [Three Chinese Doors], used as ABRI Headquarters. We were both detained there for two weeks…[Then] ABRI ordered my friend Mali Raket to return to the forest to try to persuade our friends to come down and surrender to ABRI in Suai. But after a few days Mali Raket didn't return, and so ABRI took me from Suai to Dili. I was taken to Balide Prison and I was detained there for two years. During my detention I was hit with a piece of wood and an iron bar from head to toe until I was black and blue. As a result of the torture, I still feel pain in my intestines.*[439]

Conclusion

402. By the end of 1979, the Indonesian military had established systems of control over the East Timorese population that included arbitrary detention, torture and

* *Bapak* is an Indonesian term of respect used when addressing senior males, meaning both "father" and "mister".

other forms of cruel and inhuman treatment. The patterns that emerged in this early period were repeated throughout the occupation period. They included:

- Using detention to stifle political dissent
- Interrogating anyone suspected of association with Fretilin/Falintil, including by family relationship, to discover information about the Resistance
- Using torture and ill-treatment as a regular part of the interrogation process, with particular forms of torture and ill-treatment adopted by authority figures throughout the territory
- Ignoring rights of due process, including presenting an arrest warrant and explaining the reasons for arrest, allowing access to a lawyer or to appear before a court of law
- Using the military to conduct arrests, contrary to human rights law and Indonesia's own domestic law
- Using East Timorese, including military, paramilitary, civilian defence and civil servants, to perpetrate, or to be involved in perpetrating, violations against fellow East Timorese
- Establishing systems of community control in which neighbours reported on each other.

Detentions by the Indonesian occupation authorities, 1980–1984

Introduction

403. Although Indonesia had gained control of most of the territory and the population by the end of the 1970s, Falintil continued to conduct raids and attacks on military posts. The clandestine networks strengthened and became better organised. The Indonesian military responded to this resistance with massive numbers of detentions and the torture and ill-treatment of civilians.* It sought to isolate Resistance members from the civilian population and treated political detainees very harshly so that civilians would realise that association with the Resistance would bring great suffering.[440] After a five-month ceasefire broke down in 1983, ABRI conducted a large-scale military offensive.

404. The pattern of detentions and torture in the early 1980s largely reflects specific events and phenomena, namely:

* See Military Instruction Manual No. JUKNIS/05/I/1982, which identifies attacks by the GPK (Resistance) as "threats and disturbances" and lays out preventive measures to counter them. [Instruction Manual No. JUKNIS/05/I/1982, *System of Security in Towns and Resettlement Areas*, translation in Carmel Budiardjo and Liem Soei Liong, *The War against East Timor*, Zed Books, London, 1984, p. 184].

- The Marabia attack, 1980
- Operation Security (Operasi Keamanan), June 1981
- The Mount Kablaki uprisings, 1982
- Detentions during the ceasefire, March to August 1983
- The breakdown of the ceasefire, August 1983
- Operation Unity (Operasi Persatuan), August 1983 to June 1984
- Detention, torture and ill-treatment in 1984.

Profile of violations

405. Detention, torture and ill-treatment occurred throughout this four-year period, although there was a slight decrease from the figures seen during the invasion and occupation of the territory. The incidence of detention and torture increased over the period, however, and peaked around 1983. This can be seen in figures below. The pattern of detentions, torture and ill-treatment between 1980 and 1984 is positively correlated.*

Number of reported acts of detention, 1980–1989



Source: Database of narrative statements given to the CAVR

* The correlation coefficient between documented detentions and torture is 0.65 and the correlation coefficient between documented detentions and ill-treatment is 1.0.

Number of reported acts of torture, 1980–1989



Source: Database of narrative statements given to the CAVR

Number of reported acts of ill-treatment, 1980–1989



Source: Database of narrative statements given to the CAVR

406. The peak in violations that occurred in 1983 is likely related to the breakdown of the ceasefire, which was followed by Operation Unity (Operasi Persatuan), a conscious effort by the Indonesian military to target individuals allegedly involved with Falintil forces.* Persatuan was led by Special Forces (Kopassandha) backed up by air power,

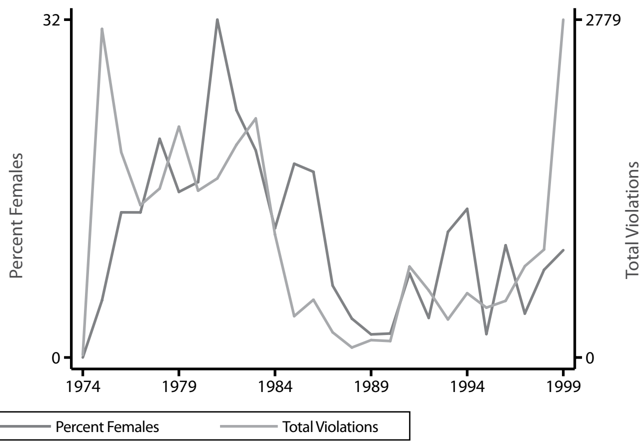
* Operasi Persatuan was launched by Major-General Benny Moerdani to finally crush the Resistance. In a letter to Commander Xanana Gusmão in June 1983 Moerdani said: "Our own army is prepared to destroy you if you are not willing to be cooperative with our republic. We are preparing an operation – Operasi Persatuan – which will come into force in August." Cited in Budiardjo and Liem, *The War against East Timor,* pp. 139 and 47.

perhaps because of Hansip's role in the uprising, which would have caused deep mistrust of East Timorese soldiers (see Vol. I, Part 3: The History of the Conflict).

407. The areas in which the violence was most concentrated also shifted from the West, where it had been during the invasion years, to the eastern and central regions: 94.7% (7,173/7,574) of documented detentions, 92.8% (2,229/2,403) of documented tortures and 93.3% of instances of ill-treatment (1,455/1,560) in this period occurred in the central and eastern regions. These regions covered Dili and Ataúro, where the major detention centres were located, and the eastern districts, where the Resistance was based at that time. Around half of all detentions and ill-treatments occurred in the districts of Dili and Lautém.*

408. This period is also notable because females suffered higher than the average share of detentions, tortures and ill-treatments compared to other years. Between 1980 and 1984, 21.4% (1,601/7,574) of documented detentions, 10.8% (259/2,403) of documented tortures and 18.7% (292/1,560) of documented ill-treatments were suffered by women.† The relative increase in the share of detentions, tortures and ill treatments for females can be seen below:

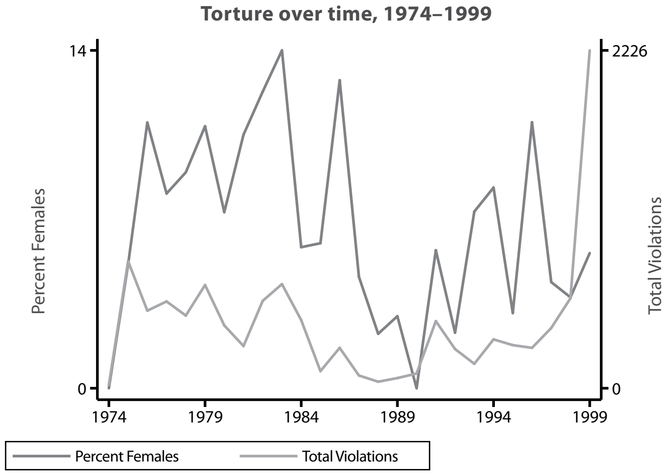
Detentions over time, 1974–1999



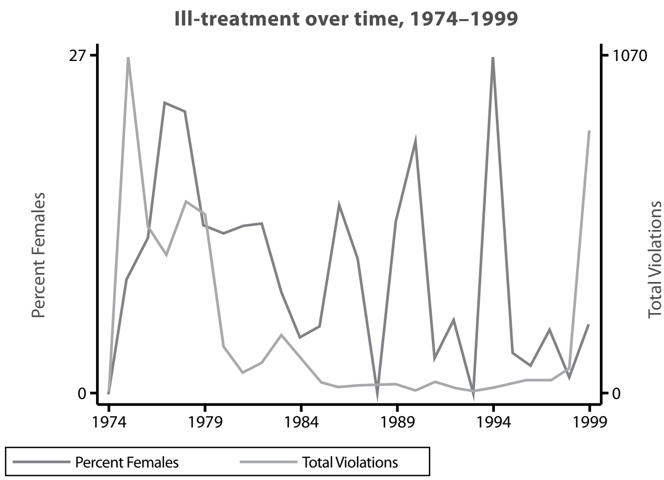
Source: Database of narrative statements given to the CAVR

* Lautém District reported 23.7% (1,797/7,574) of detentions, 23.3% (559/2,403) of tortures and of 22.0% (343/1,560) ill-treaments. Dili District reported 27.3% (2,066/7,574) of detentions, 13.4% (322/2,403) of tortures and 23.5% (366/1,560) of ill-treatments.

† Over the course of the Commission's mandate period, 13.9% (3,512/25,383) of documented detentions, 7.7% (857/11,135) of documented tortures and 12.3% (1,041/8,443) of documented ill-treatments were suffered by females.



Source: Database of narrative statements given to the CAVR



Source: Database of narrative statements given to the CAVR

409. This may partly be explained by the mass arrest and transfer of families, including women, to Ataúro, which many victims described to the Commission as detention rather than displacement. However, women also appear to have suffered higher than their average share of these violations during large-scale military operations than at other times. Clearly during its major offensives, the Indonesian military and their auxiliaries did not take adequate measures to ensure that non-combatants (and in particular, females) were protected from detention, torture and ill-treatment.

410. Analysis of perpetrators shows that members of civilian defence organisations were responsible for many of the detentions and torture cases from this period. During the peak year for detentions in 1983, Hansip were named in 32.8% (644/1,966) cases of detention. Kopassandha was also highly active in this period. Its involvement in arbitrarily detaining civilians, throughout the whole occupation period, peaked in 1983 with 20.2% (398/1,966) cases of detention attributed to it. This was a result of Operasi Persatuan and the reaction to the uprisings by civil defence organisations.

The Marabia uprising (*levantamento*), Dili, 10 June 1980

411. The first wave of large-scale arrests and arbitrary detention in the period 1980-84 occurred after members of Falintil and clandestine groups attacked the Marabia broadcasting station in Dare (in the hills south of Dili) and the Infantry Battalion 744 barracks in Becora (eastern Dili) on 10 June 1980.

412. The military was reportedly surprised by the attack and responded by detaining hundreds of known and suspected independence supporters in Dili and in the surrounding districts to find the attackers.* It arrested individuals that it had reason to suspect had direct involvement in the attack,[441] members of the clandestine movement it was hoped could provide information,[442] and the "usual suspects", individuals who were regularly arrested because of their previous connection with Resistance activity.[443]

413. The crackdown was a joint effort between numerous agencies within the Indonesian military, including members of the Kodim and Koramils, Infantry Battalion 744 and the Quick Reaction Force Command (Komando Pasukan Gerak Cepat, Kopasgat).[444] Lieutenant T314 (Indonesian), the section head of intelligence from the East Timor Provincial Military Command (Komando Resort Militer, Korem) both ordered and personally carried out many of the arrests. Members of the military were sometimes accompanied or helped by a member of military intelligence, Hansip, the mobile police brigade (Brigade Mobil, Brimob), a Babinsa or a village head.[445] For example, Maria Immaculada, a member of an organisation that gave logistical support to the armed resistance, was called to the house of East Timorese village head T315, who then identified her to Lieutenant T314. The lieutenant arrested her and took her to the Korem in Dili.[446] Members of the Aileu Kodim also arrested suspects and handed them over to authorities in Dili.[447]

Arbitrary detention

414. The joint nature of the effort is also indicated by the variety of places in which detainees were held. Formal detention centres included the Provincial Military Command (Korem) in Dili, the Dili District Military Command 1627 (Kodim), Koramils and the Balide Prison.[448] Continuing the pattern of detention from the

* Amnesty estimated 400 civilians were detained after the attack [Amnesty International, Annual Report 1981].

1970s, detainees were moved around frequently and were taken to informal detention centres specifically for interrogation and torture. These included the Sub-regional military command soldiers' compound (Mes Korem), the maternity clinic run by the Military Wives Unit (Persatuan Istri Tentara, Persit) called Kartika Candra Kirana (Kartika Sari)* in Colmera (Dili) and the Joint Intelligence Unit (Satuan Gabungan Intelijen, SGI) headquarters, also in Colmera.[449] Periods of detention in these centres ranged from between one day and two or three weeks, after which detainees were either released or moved to the Comarca or to the island of Ataúro.

Torture and ill-treatment

415. The treatment of detainees was extremely harsh. David Dias Ximenes, who was arrested after several detainees named him as masterminding the attack, was taken to the Mes Korem. He received electric shocks, was submerged in a tank filled with water and saw a fellow detainee stabbed to death in front of him. His interrogators threatened that he would suffer the same fate if he did not talk.[450] José Gomes Guterres, also held in the Mes Korem, described his experience:

> *There were five people present during my interrogation: one to ask questions, and four to beat me when the replies were not clear enough. Whether the answer was true or not didn't make any difference – it had to be the answer they wanted. I was beaten with rifle butts and kicked all over. My feet and hands were bound and they pushed me into a water-tank and held me under for two minutes. Then they'd question me again. If I did not confess the process was repeated. They put two lizards* (lafaek rai maran) *with sharp teeth on my body, and would pull their tails to make them bite and scratch me. After a month in the Mes Korem, they put me in the Comarca Prison, in the isolation cell, and in September they sent me to Ataúro.*[451]

416. Maria de Fatima Pinto, who was part of the Resistance Organisation Base together with David Dias Ximenes and Pedro Manek, fled to the forest after the attack. She told the Commission that she was arrested after a former clandestine member told the authorities of her whereabouts. After three days of interrogation in the Mes Korem, she was moved to the Korem Headquarters for one month. She was stripped naked, beaten, given electric shocks, burned, her feet were crushed with a chair and she was submerged under water.[452]

417. Several statements mention the use of a sharp-toothed lizards during torture and in various places of detention.[453] Agapito da Conceição Rocha reported that police, Hansip and ABRI arrested him in Aileu one week after the Marabia attack. He was detained in the Aileu Kodim and interrogated before being sent to Dili. He told the Commission:

* Sometimes referred to as Mandarin, the neighbourhood in which it is located.

I was brought by helicopter to the Dili airfield then taken immediately to the Tactical Command [Komando Taktis, Kotis] in Mandarin, where all of my clothes were removed and I was put into a water tank for three days and three nights. The perpetrators then released a sharp-toothed lizard into the tank and it bit my ears, face, lips and genitals. Then they took me out of the tank and I was beaten, kicked and taken to a room to sing the song Foho Ramelau. They recorded me. I was detained in Mandarin for more than two weeks.[454]

418. Amadeo da Silva Carvalho described to the Commission how soldiers at the Becora Koramil forced his father, Luis Fatima Carvalho, to sit up in a tree like a monkey for a full day.[455]

419. Those detained after the Marabia attack were held in deplorable conditions. In the Dili Kodim both women and men were forced to strip naked. If a detainee needed to use the toilet, he or she was ordered to go to the toilet naked in front of all other prisoners.[456] Agapito da Conceição Rocha described day-to-day conditions in the Comarca:

I was detained in the Comarca Balide with 14 other prisoners in a small and narrow cell. In the cell you couldn't sleep, you could only stand. Each day we received one meal and drank dirty water. As a result I suffered from diarrhoea that smelt [so bad] that other prisoners couldn't stand it.[457]

420. Some detainees were imprisoned in the Comarca for more than a year without any information about how long they would be detained or if they could have family visits.[458]

The detention and torture of Bernardino Ximenes Villanova

Bernadino Ximenes Villanova was arrested, detained and tortured after the Resistance attack on the broadcasting station in Marabia near Dili in 1980. The Commission interviewed Bernadino, and he also testified at the CAVR National Public Hearing on Political Imprisonment:

On 10 June 1980, we went to Marabia. Our aim was to meet a delegation that [we heard was] coming to Timor and to prove to the world that Fretilin still existed. We also decided to attack the broadcasting station in Marabia. At 2.00am we launched the attack. Some people were killed during the fighting, which lasted until 10.00am. Then some people, including me, surrendered and the Indonesian military took us away.

We were taken to the Koramil in Becora, then transferred and held in the Kodim. The same night we were taken to the Comarca and the next day they released us saying: "Those who are close to the fire will feel the heat. Those who are far, will not." I was living with Father Alberto [Ricardo] in Becora then, working as his driver. When I arrived at the house two Hansip who I didn't know came to arrest me just as I was about to drive a nun and a doctor to Farol. Before they could take me away I told them that I wouldn't run away and that after driving to Farol I would walk to the Becora Koramil. But Father Ricardo followed me in a taxi and took me to Bishop Dom Martinho's residence in Lecidere.

At 6.00am on 12 June 1980 Lieutenant T314, the Korem intelligence officer, his driver and someone else came to the Bishop's house and arrested me. They took me to the Mes Korem. When I got to the stairs an East Timorese member of the military called T316 greeted me by punching, kicking and beating me. Inside, ABRI interrogated me about the events and about my work with the Church. They wanted to know who exactly was involved in the attack at Marabia and what the relation was between my work with the Church and the attack. Because I refused to give any information, the soldiers covered their faces with black cloth like ninjas so that I didn't know who beat me. They punched and kicked me and burned me with cigarettes and matches. Then they hit me with a rifle until they knocked me out.

When I came to, they sat me on the chair again and ordered me to put the big toe of each foot under the legs of the chair. At first I just sat on the chair but soon Lieutenant T314 sat on the chair, crushing my toes. Then a soldier I didn't know kicked me from behind until I fell. Both of my toenails were split but they continued to beat me until I couldn't take it anymore and I told them the name of the second commander, Luis Silva, the ex-village chief of Hera [Dili]. ABRI went straight away and captured Luis Silva and at 12.00 midday brought us together. We sat together at a table and they interrogated us and also beat us with a metal rod until we were bleeding. I was wearing a crucifix around my neck and they snapped it off and threw it away. The interrogation and beating started at midday and continued until midnight.

On 13 June they tried to get me to tell them about the Church's involvement. I refused to tell them anything. They began to give me electric shocks and burn me with cigarettes and kept asking about Father Ricardo's involvement. I just told them that I didn't know anything else. They put me back in the room at 9.00pm. At 9.00 the next morning, they put me in a tank and then put a sharp-toothed lizard in with me. They poked the lizard until it bit my face and broke the skin. Then they placed a bucket over my head and asked me "Was the Church also involved?" When I didn't answer, they beat me around

the head with metal pipe. After this I was taken back to the room where I stayed for a week.

During this time, ABRI had arrested another man, José Soares, a community leader from Bidau (Dili). He was beaten and during the beating he did not keep quiet. He told them that I was a leader of the attack. I was placed face to face with José Soares. The soldier told him to punch me three times and I fell to the ground. Then the military told me to punch José Soares three times. He didn't fall. I was sent back inside and José Soares was set free. One day later I was placed in a cell where I stayed until 28 July.

On 29 July, the military took me outside again. They took off my clothes and put me back in the tank, this time with another East Timorese man. I didn't know him and I didn't know why he had been put in the tank with me. We were tied up and then they tied our genitals together. Then they began beating the other man. This made the rope attaching our genitals pull, which hurt me. I had to sit next to the other man waiting for him to wake up, because we were still tied together. After this, in the hot part of the day, we were tied together again and put on a rock in the sunny part of the Korem and left for almost an hour before they took us back inside.

On 30 July, they took me to the Comarca in Balide and put me in one of the dark steel cells, notorious for the all the people who had died in them. We were kept there for ten days and I wasn't sure when it was day or night.[459]

Transfer of political detainees to the island of Ataúro

421. Many people detained after the Marabia attack were sent to Ataúro. This was the first group of political prisoners to be sent to the island; some arrived in July and more followed in September 1980. Others were sent over the next four years. This form of detention not only punished those involved in the attack, it also broke up the clandestine networks by separating active members from their support networks and families.[*]

422. After the Marabia attack, Amnesty International estimated that 120 people had been sent to the island,[460] while the Commission's own figures put the number of people interned on Ataúro at around 500 in mid-1980. Some detainees were

* The Korem military manual on how to break up GPK support networks suggests transferring to Ataúro all members of the GPK support network and relatives of GPK who have not yet been sent away: "In this way we can cut ties between the support networks in the settlement and the Nureps [Resistance Nuclei]." [Military Resort Command (Korem) 164, Intelligence Section, Instruction Manual: The way for Babinsa or Team Pembina Desa to expose/break up GPK support networks, 30 August 1982, translation set out in Budiardjo and Liem, *The War against East Timor,* p. 180.]

sent by helicopter but most were sent by ship in large groups.* Both Bernardino Villanova and Agapito da Conceicão Rocha were sent by boat on 3 September 1980. Bernardino related:

> *We were taken from the Comarca on 3 September to the beach to wait for a small boat. At 3.00 that morning I was transported on that boat to the island of Ataúro. When we arrived people were preparing a place in a house on Ataúro. We were given two cans of maize. A lot of it had already spoiled but we had to eat it. On Ataúro we lived freely but we couldn't make contact with our families in Dili. We endured this until we were freed in 1984.*[461]

423. Guilherme da Costa (Bie Ki Ruby), a commander of Fretilin, was also sent to Ataúro after the Marabia attack. He was detained on 2 December 1980, some six months after the attack, in Ostico (Vemasse, Baucau), because he had been named by a Fretilin/Falintil colleague under interrogation. Guilherme was held for three weeks in the RTP 12 in Baucau, two weeks in the Flamboyan Hotel in Baucau, one week in the Tactical Command (Kotis) Venilale (Baucau), two weeks in the SGI headquarters in Colmera (Dili) and more than one month in the Balide Comarca Prison. While in the Comarca, Guilherme was interrogated and tortured. Finally, he was sent to Ataúro. Guilherme's wife and child had also been arrested in Ostico soon after Guilherme's arrest and were transported directly to Ataúro by boat from Baucau. Once on Ataúro, they found Guilherme, and the family spent two and a half years on the island.

424. Guilherme explained that in 1983 some detainees were sent home but the authorities decided that Guilherme and about 700 hundred others, most from Bucoli, Vemasse, Venilale, Uatolari, Uato Carbau and Manatuto (in the east), would still pose a threat if they were released. These people were resettled in Cailaco, Bobonaro (in the west). In Cailaco the family lived in a small makeshift shelter with a roof of zinc and walls of canvas. Every morning and evening they had to stand in line and be counted. During the day they were allowed to look for food but they could not go out at night. They were also forced to work, doing such things as building a road, constructing a school building and a football field and cleaning. Members of Hansip, Babinsa and Bimpolda guarded them.

425. Guilherme da Costa and his family spent four and a half years in Cailaco before they could go home. In a public ceremony, the detainees were told that Timor-Leste had become a safe place, as there were only 50 members of the Resistance left in the whole country. Most went home after this but Guilherme da Costa stayed until 1994 to continue clandestine activities that he had become involved in around Cailaco.[462]

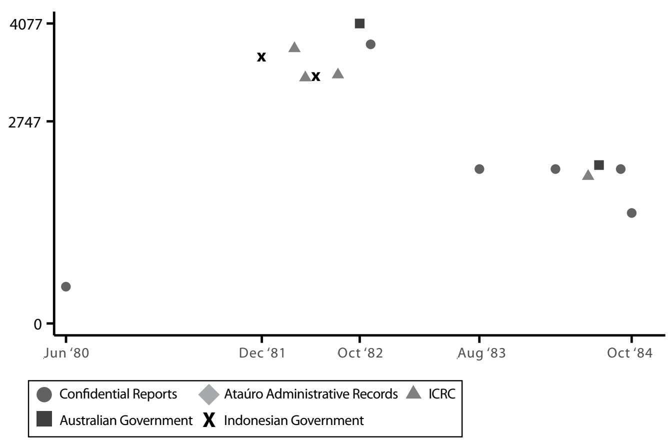
* For example, José Carvalho described how his father-in-law, Abilio de Sousa, and another man, Felisberto da Conceição, were arrested and flown immediately to Ataúro following the Marabia Attack. HRVD Statement 2165.

Ataúro

Ataúro, the arid island off the north coast of Dili, was first used in 1937 by the Portuguese for exiled political prisoners from Portugal and the Portuguese colonies. According to Vasco Lopes da Silva, the former village head of Vila (Ataúro, Dili), notable prisoners included the father of Manuel Carrascalão and Mário Lopes, the father of Maria do Ceu Lopes da Silva Federer, who were exiled from San Tomé. In one year, 1959, the Portuguese Government sent more than 3,000 people to Ataúro. During the internal armed conflict in 1975, the governor of Portuguese Timor and other members of the Portuguese administration fled from Dili to Ataúro and then to Darwin. They were eventually picked up by a ship that took them to Macau and Lisbon (see Vol. I, Part 3: The History of the Conflict).[463]

Indonesia used Ataúro as a place for arbitrary detention of East Timorese people between 1980 and 1986, but numbers peaked in 1982 at around 4,000. This is consistent with information collected by the Commission directly through its statement-taking process and in the secondary source reports from Amnesty International; both data confirm that large groups of people were detained on the island of Ataúro in the early 1980s. These figures are shown below.*

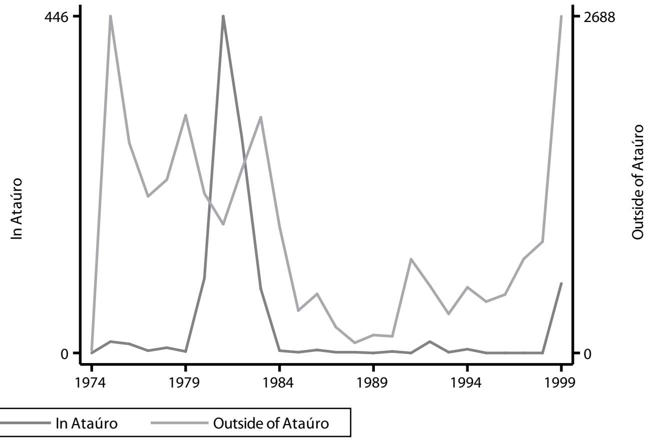
Reported number of detainees on Ataúro, June 1980–October 1984



Reference: Amnesty International, East Timor: Violations of Human Rights *(1985)*

* The Commission received evidence from a wide variety of sources on the number of people held on Ataúro at different times. Various sources have put the figure much higher than 4,000 and cumulatively the number of people transported to Ataúro between 1980 and 1984 may well have exceeded 6,000. Ceu Lopes Federer told the Commission that she kept a list of detainees' names during her period as a volunteer with the ICRC, which contained over 6,000 names [Testimony to the CAVR National Public Hearing on Political Imprisonment, 17–18 February 2003].

Count of reported detentions, in and out of Ataúro, 1974–1999



Source: Database of narrative statements given to the CAVR

The island was used to hold political prisoners as well as ordinary civilians, including children and the elderly, who had relatives in the Resistance. Detainees were sent to the island in large groups, the first in July 1980 after the Marabia attack. Most people sent to Ataúro went by boat, although some were taken by helicopter. Few were told where they were headed until they had embarked on the journey. On arrival detainees were lined up, counted and registered.[464] The authorities then appointed a person (heads of neighbourhood associations) to represent a group of internees, often from the same village, who was responsible for the behaviour of the people in that group.[465]

Although people sent to Ataúro were prisoners in the sense that they could not leave the island, they were not held in a prison building. The first group of detainees were housed in the primary school building in the main town of Vila.[466] Subsequently, makeshift homes, housing 20 to 40 families, were built near Vila by either the authorities on Ataúro or the detainees themselves. The homes had corrugated metal roofs and sheets of black plastic or tarpaulin as walls. They did not have beds or running water.[467]

In the beginning living conditions were extremely hard. The military distributed inadequate amounts of rotten maize.[468] Ceu Lopes Federer, a former International Committee of the Red Cross (ICRC) volunteer on Ataúro, said that when people asked for more food the military sent a helicopter load but there was never enough. Many suffered from malnourishment and starvation. People ate leaves from trees,[469] seaweed from the sea and sometimes stole from the gardens of the local

population to stay alive.[470] Clean water was scarce.[471] Some, including children and older people, were forced to work under the guard of police or Hansip in exchange for food or a small amount of pay.[472] Some detainees arrived with only the clothes they were wearing because they had been forced to leave their belongings behind.[473] The local population gave food and clothes but many still died due to starvation, especially children and the elderly.[474] Assistance from the ICRC from February 1982 greatly improved the daily living conditions, including providing them with medicines, rice, milk, sardines, mung beans, tea and sugar, tinned food and other foodstuffs.[475] A doctor also made visits to the island to attend to the sick.

Members of the Koramil, the police and local Hansip were in charge of guarding the internees on Ataúro. Detainees were sometimes permitted to leave Vila to find food, but they had to first seek a travel permit from the Koramil to go outside the camp, and had to report back to the Koramil on their return.[476] Breaches of the rules were severely punished.[477] Ceu Lopes Federer explained, however, that the travel permit rule was more strictly enforced during an internee's first three months on the island, and was then applied more leniently so that people could go further from the main town without permission. Similarly, the evening curfew implemented by the Koramil was set first at 6.00pm, then extended to 8.00pm and then extended again to 10.00pm.[478] Internees were able to organise entertainment, such as dancing *tebe licurai* and *tebe dahur* (forms of traditional dance) later in the period.[479]

Family members were not allowed to visit detainees and most detainees had no way of informing their loved ones of their whereabouts. From 1982[*] the ICRC began recording detainees' names and home villages and then informing their families.[480] For example, Maria Fatima da Costa of Same (Manufahi) told the Commission that six months after her husband disappeared, the ICRC came to tell her that her husband was on Ataúro. She was able to write a letter to him and send it through the ICRC.[481]

Although most detainees on Ataúro were not interrogated once they reached the island, some interrogations were still conducted. Guilherme da Costa described how, usually within the first three months of their arrival, certain individuals were called to the Koramil or the police station, and interrogated. The interrogations were conducted by, among others, First Lieutenant T317 and T318, (both Indonesian) a Pasmar (Pasukan Maritim, Marine Troops) and a second lieutenant (marine unit).[482]

* Witnesses reported to the Commission that the ICRC began visits in 1981. However the ICRC's Annual Reports suggest that the first visits were in early 1982.

From 1983 onwards the authorities began sending people home or to other places in Timor-Leste. The people arrested and sent to Ataúro in connection with Mau Chiga were first sent to Bonuk (Hato Udo, Ainaro) for a few weeks before being allowed to go home. A large group of people believed to still be a threat were sent to Cailaco (Bobonaro).

According to Ceu Lopes Federer, compared with the conditions of prisons in Dili they were better off because they were not beaten every day. However, they lived in appalling conditions, away from home and many died of hunger and disease. Adelina Soares said it was like a prison. It was isolated. A few people did try to escape, but they were unsuccessful. She described their life in Ataúro as consisting of a lack of food, hunger, illness, loss of contact with family, mental depression and trauma.[483] (For more detail on conditions on Ataúro see Vol. II, Part 7.3: Forced Displacement and Famine.)

Operation Security (Operasi Keamanan), 1981

426. Operation Security (Operasi Keamanan) was a response to the resurgence and revival of Fretilin/Falintil in early 1981.[*] The operation was launched in June 1981 to clear the Resistance out of rural areas and to break the clandestine networks that ensured Falintil's survival in the forest.[†] Although the operation is best known for its staging, on a massive scale, of "fence-of-legs" operations (*operasi pagar betis*, also known as *operasi kikis*) around the territory to flush out Falintil fighters, it also involved the detention and transportation to Ataúro of large numbers of civilians connected to the Resistance.[‡] The Commission's quantitative analysis shows a clear increase in numbers of detentions on Ataúro from June 1981, with a peak in August at the height of Operation Security.

427. Mário (Marito) Nicolau dos Reis described this aspect of the operation as follows:

> *The military was beginning to realise that the guerrilla fighters were continuing to win the support of the people. This was apparent through the*

* At the Fretilin/Falintil national conference in March 1981, Xanana Gusmão was elected as both the head of the newly formed Revolutionary Council of National Resistance (Concelho Revolucionário da Resistência Nacional, CRRN) and the commander-in-chief of Falintil. Under his leadership, Fretilin/Falintil began to rely more heavily on clandestine networks, particularly because the *bases de apoio* were no longer in operation. Falintil also became more localised, using smaller units to attack Indonesian targets [see Vol. I, Part 5: Resistance: Structure and strategy].

† Pasmar 11 operated in Timor between 1 April and 24 November 1981 to assist ABRI in carrying out Operation Security. Their anti-guerilla activities included: detection of civilian areas suspected of being sympathetic to the Resistance.; destruction of the spy networks through interrogation of detainees and from documents recovered; breaking connections between Resistance forces and their families by sending their families to Ataúro.

‡ See Vol. II, Part 7.3: Forced Displacement and Famine, par. 293 ff; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.7: Violations of the Laws of War and Part 7.8: Violations of the Rights of the Child, for further details about this Operation Security aspect.

continuing flow of logistical support, clothing, ammunition, and other… equipment to the guerrilla fighters. They [the Indonesian Military] decided on a plan that anyone who still had family in the forest would be exiled to Ataúro. This included us, who ran the clandestine organisation.[484]

428. The Commission considers some cases of the mass transfer of civilians to Ataúro to be forced displacements; and they are discussed in Vol. II, Part 7.3: Forced Displacement and Famine. These are cases where the individual had not done anything "wrong", but was moved to the island because they were related to a person still in the forest (and so assumed to be Fretilin/Falintil) or they were from an area where Fretilin/Falintil was active. Statements received by the Commission suggest that such detainees were usually not interrogated or detained in other places before being sent to the island, and so did not report ill-treatment or torture. Civilians in the eastern region of Timor-Leste, where Fretilin/Falintil was most active, were particularly vulnerable to suffering forced displacement to Ataúro.[*] In one case in July 1981, a group of 300 relatives of members of Fretilin/Falintil from the district of Baucau were called together by their village heads. The military then shipped them to Ataúro.[†]

429. In other cases however, the Commission considers the transfer to Ataúro of political detainees during Operation Security to be a form of arbitrary detention. Victims were moved because they had engaged in some act of resistance, anything from giving food to a family member still in hiding, to involvement in one of the emerging structures for support of the armed Resistance known as a Popular Resistance Nucleus (Nucleos Resistência Popular, Nurep).[485] The Commission also received reports of men arrested because they refused to join an Operation Kikis, or on their return from such an operation.[486] These cases include:

- Celestino Verdial told about his arrest in Ainaro in mid-September 1981 following his return from an Operasi Kikis. The operation had found neither Xanana Gusmão nor Venancio Ferraz and the local military command began to suspect him of hiding the Falintil leaders. A member of the military arrested him and took him to the Hato Udo (Ainaro) Koramil, then to the Ainaro Kodim where he was interrogated, beaten and threatened with death until he admitted giving food to Venancio Ferraz. He then spent one week in the Koramil. Next he was sent to the army barracks in Taibessi (Dili). Celestino said that he was sent by helicopter to Ataúro with 11 others in 1981.[487]

* HRVD Statements which indicate arbitrary arrests in the eastern districts of Timor-Leste: 7786; 7096; 3959; 7608; 4367; 5383; 0206; 4383; 5346; 8759; 8795; 3052; 6081; 6145 and 8744. According to Ernest Chamberlain, 24 families from Iliomar (Lautém) were exiled to Ataúro in 1981, all of which had Falintil relatives in the forest. Most were exiled for 15 months after which some were moved to Maliana (Bobonaro) for another four years before returning to Iliomar in 1986 [Ernest Chamberlain, *The Struggle in Iliomar, Resistance in Rural East Timor*, Point Lonsdale, Australia, 2003, p. 25].

† For example, Ricardina Ximenes told the Commission that on 12 June 1981 the village head of Tequinomata (Laga, Baucau), T319, told her that she should gather her things to go to Ataúro, because a family member, Teotónio, was still in the forest. He ordered Ricardina, her two children, her husband, her mother and another family member to assemble in the office of a Babinsa along with many other Tequinomata citizens. The group was then taken by trucks to the harbour in Laga to leave for Ataúro [HRVD 7786].

- Aquiles da Costa was arrested with his five uncles (Armando Soares, Jacinto Soares, Cipriano Soares, Pedro Soares and Izidio Soares) in Vemasse (Vemasse, Baucau) on 1 October 1981 on suspicion of giving eight bags of rice and one buffalo to Falintil. Two ABRI intelligence officers made the arrest and took the detainees to the Laga ABRI Post. Aquiles da Costa's uncles were beaten with metal batons and then all six detainees were tied up and submerged in water. They were detained for two days in Laga before being sent by boat to Dili and then to Ataúro for five years.[488]
- Fernando da Costa Lopes of Haurobo (Baucau) described how his father, José Lopes, was picked up and sent to Ataúro in late 1981. He had earlier been arrested twice for giving goods to Falintil. Somebody called T320 [an East Timorese town official] held José Lopes for one day and beat him.[489]
- Domingos Madeira was suspected of being a Falintil spy and of involvement in Falintil's attack in Hariana (Uato Haco, Baucau). On 15 June 1981, he was arrested by Hansip Commander T321, two members of Hansip called T322 and T323 and an ABRI soldier. His captors took him to the Venilale Koramil where he was interrogated by East Timorese member of the regional parliament, T324, Hansip Commander T325 and Commander T326. While they interrogated Domingos Madeira they beat him with a rifle butt, kicked him and punched him. He says he was beaten regularly until August 1981 when he was sent to the Balide Prison for several days before being shipped to Ataúro for two years.[490]

430. Most of those arrested through Operation Security came from the eastern region.[491] This corresponds with information in secondary sources, which suggest that this "scouring operation" concentrated on the eastern districts and that "the Hotel Flamboyan in Baucau was the central military command in 1981 for the 'fence of legs' operation [*operasi pagar betis*]".[*]

431. Some arrests were also made in central and western regions during Operation Security but the strategy of detaining large groups of family members and displacing them to Ataúro was not used as extensively. Where it was used, family members were often detained and interrogated before being sent to the island. For example, an East Timorese women told the Commission that in 1981 the East Timorese village head of Rotuto (Hato Builico, Ainaro), T327, and an East Timorese person called T328, both acting on the orders of ABRI, forced her to be part of a scheme to make her husband return from the forest:

> *Village Head T327 brought me some letters persuading my husband and other Falintil members to surrender. At that time I had a young child but*

* Cristiano da Costa in Michele Turner, *Telling East Timor: Personal Testimonies 1942–1992*, Sydney, New South Wales University Press, 1992, p. 185; See also Constâncio Pinto and Matthew Jardine, *East Timor's Unfinished Struggle, Inside the Timorese Resistance*, Boston, South End Press, pp. 84-86; A military instruction manual also states that "It is in the eastern sector that people's support is the most militant and most difficult to expose. This is because of the very strong, close family ties and also because it has been possible for the GPK to consolidate its political leadership in this region for several years." [Military Regional Command (Kodam) XVI, Established Procedure (PROTAP) on Intelligence No. 01/IV/1982: Instructions for Territorial Intelligence Activities in East Timor, translation in Budiardjo and Liem, *The War against East Timor,* pp. 193-210].

I [still] had to take the letters to the forest and stick them to trees on every path so that my husband…and other Falintil members would see them. Then ABRI imprisoned me in the Manufahi Kodim 1634 for seven months because at the time they were carrying out a cleansing operation in Aitana. The commander of the Manufahi Kodim [then] ordered me and my child (6 years) and my younger brother (4 years) to Ataúro. We were imprisoned on Ataúro for four years, seven months and seven days.[492]

432. Marçal Lourenço Ribeiro described his arrest in August 1981 on suspicion of providing food to Falintil:

*I was arrested by ABRI in a garden in Ormahei, Letefoho [Manufahi] because I was suspected of making my garden close to the forest so that I could give food to Falintil. I was taken to the Manufahi Kodim 1634 where I was beaten by the Section Head of Intelligence [*Kepala Seksi Intelligence, Kasi I*] using a sandal four times on the head. Then the Head of Intelligence told a Hansip to put me into a water tank for one hour, after which I was taken out and kept in a secret cell for around three days before I was taken out again to the general detention room. During my detention I was told by the Head of Intelligence to work in his rice field and also to tidy the grass around Same for three months.*[493]

433. The incidence of torture also varied between the regions at this time for similar reasons. In the eastern region, there was a lower correlation between detention or ill-treatment and torture compared with the central and western regions. A likely reason for this difference is the higher proportion of targeted arrests of clandestine members in the western and central regions.[494] Statements suggest that the military detained members of clandestine networks for periods of time on the mainland, where they were interrogated and often tortured, before sending them to Ataúro. Most families arrested, however, were shipped directly to Ataúro without interrogation. Because the eastern regions saw a higher proportion of family members arrested and sent directly to Ataúro, the proportion of detainees who also experienced torture or ill-treatment in these areas is less compared with the western and central regions. In the years mentioned, people from the 12 districts were sent to Ataúro.

After Operation Security

434. Operation Security ended at the end of 1981 without having captured a single senior Resistance figure.* In 1982 the military continued to detain members of the

* Some witnesses who had been part of Operasi Keamanan told the Commission that the group they were with did not engage in armed conflict with Falintil, did not make any arrests and did not kill anyone during the entire operation. Nevertheless, the Commission received information about several fatal violations during the operation, culminating in a confrontation between ABRI and Falintil on Mount Aitana which reportedly led to the deaths of a number of Falintil members and a mass arrest [see Vol. II, Part 7.2 on Unlawful Killings and Enforced Disappearances for more information on this incident].

armed Resistance and clandestine networks and to move them to Ataúro. The military made many targeted arrests based on information about the civilian population given by Hansip, Ratihs and other civil defence groups.

435. Adelino Soares told the Commission of his arrest for clandestine membership in Uatolari (Viqueque) because of information a Ratih had given to the local military. Ratih T277 found documents belonging to the clandestine network, which named Adelino, on the body of an *estafeta* whom T277 had shot and killed. He immediately informed the Uatolari Koramil of Adelino's involvement in the clandestine network. The Koramil commander ordered T330, T91 (an East Timorese translator) and a Koramil member to arrest Adelino at his home on 26 March 1982. On his arrest, Adelino described how he was threatened with a weapon and taken to the Uatolari Koramil. The Koramil commander interrogated and beat him and the Koramil deputy commander beat him with a gun and kicked him wearing his military boots. After spending a month at the Koramil, Adelino and nine other detainees were taken to Ataúro by helicopter. He did not return home until 7 February 1986.[495]

436. The military also continued the practice of keeping suspected members of the clandestine movement close at hand so that it could monitor their activities. This may also have been a way for military intelligence to discover more about the clandestine networks. Marito Reis, a senior clandestine member, stated that he was called back from detention on Ataúro to become the driver of the Head of the Intelligence Section at the Korem, Willem da Costa. Marito Reis believes that this was a tactic "so that…I would give pieces of information about the organisations, or the problems there were in Timor-Leste". While working for Willem da Costa, Marito Reis led the clandestine network in Dili. He was arrested again in 1982 after the military discovered clandestine news clippings.[496]

437. Alexandrina Amaral described how she was detained in 1982 by members of the Ainaro Koramil after the Koramil Head of Intelligence accused her of being the wife of Falintil commander Venancio Ferraz. She was held in a special cell in the Ainaro Koramil where she was not given any food and, except for using the toilet, was not allowed to wash during the two days she was held there. She was then taken to Dili and held in the Comarca for nine days before she was transported by boat to Ataúro. In 1986, Alexandrina Amaral was released but decided to stay on Ataúro as she had already married and built a house.[497]

Late 1982 – Falintil *levantamento* around Mount Kablaki

438. The Kablaki uprisings occurred on 20 August 1982 around Mount Kablaki in the villages of Mau Chiga, Dare and Mulo (Hato Builico, Ainaro), Aitutu (Maubisse, Ainaro) and Rotuto (Same, Manufahi). The Commission conducted extensive research in the Mau Chiga region about the events in August 1982 and much of the following is drawn from this research.[498] For cases of the arbitrary detention of civilians from Rotuto and Aitutu, the Commission has relied on narrative statements and the Commission's Community Profiles.

Early arrests

439. On 6 July 1982, three Falintil members held a meeting with 36 men from Mau Chiga in Nailemali (Mau Chiga) to plan an attack on the Hato Builico Koramil. The Indonesian military received information about the meeting and on 10 July 1982 the military and members of Hansip from Hato Builico began a house-to-house operation in the villages of Gulora, Mau Chiga and Hatuquero.[499] They arrested around 30 people, 16 of whom had attended the meeting. All detainees were taken directly to the Ainaro Kodim.[500] Abilio dos Santos Belo, one of the detainees, described to the Commission:

> *When we arrived at the Kodim they put us into a special detention place. The head of intelligence from the Koramil conducted the investigation and tortured us one-by-one. It wasn't just me who was beaten by members of the Koramil and the head of intelligence; other friends were beaten until they bled heavily and some died in detention.*[501]

440. The military held the prisoners in Ainaro for more than one month before transferring them to the Comarca. They became the first people from the Mount Kablaki area to be sent to Ataúro.[502]

Following the *levantamento*

441. Despite these arrests in July of civilians from Mau Chiga, the Falintil attacks went ahead on 20 August 1982.* Falintil soldiers under the command of Venancio Ferraz and Mau Hunu attacked several military and police posts including the Dare Koramil, the police station in Hato Builico and the Hansip posts in Aitutu, Raimerhei and Rotuto.[503] Immediately after the attacks, military forces from Ainaro, Same, Aileu, Dili and Lospalos converged on the region, including Infantry Battalions 744 and 745. These battalions were reinforced by members of Kodim 1633, the police and Hansip.[504] Military forces burned down houses in Dare, shut down the schools and forced women and children to act as guards at military posts.[505] After burning down the houses, the army put up posts in every *aldeia* in the area and added about eight "community posts" around Dare.[506] Falintil fighters and much of the population fled the area, some up Mount Kablaki. A group of about 30 from Mau Chiga who hid in the Nonai Cave were captured and taken to Dare. Another group from Mau Chiga hid in Tisimai, close to Same, but eventually surrendered to the Same Koramil.[507]

Arrest

442. Those who did not have an opportunity to flee the villages of Mau Chiga, Dare or Mulo were caught by the military. In Mau Chiga, the entire village population

* Word spread in Mau Chiga that on 20 August, the anniversary of the founding of Falintil, there would be a general uprising throughout the entire territory. [See CAVR and Fokupers, Women's Research Team Report, Appendix I.0. Abuse of Women's Human Rights from a Community Perspective: Mau Chiga 1982–1987, Mau Chiga, Ainaro, 2003, p. 2].

was arbitrarily detained and taken to Dare. In other villages, the evidence suggests that the military targeted individuals suspected of involvement in the attack or of having useful information. The evidence on which the military based its arrests was often scant. Mariano de Araújo from Mulo for example, told the Commission that he was arrested because Hansip ordered him to do security work at the Hato Builico Koramil. When he didn't go they arrested him on suspicion of involvement in the uprisings.[508]

443. In Rotuto, some members of Hansip were arrested.[509] Luis da Costa Soares told the Commission that he was arrested with 18 others who were suspected of being part of the uprising in Rotuto. They were taken first to the Manufahi Kodim, then to the Nanggala post in Aissirimou (Aileu), the Dili Korem and finally to the Balide Prison (Comarca). They were held in the Comarca until October 1982 when they were sent to Ataúro.

444. Family members of known Falintil or of people who fled from their villages were also targeted. Luis Nunes told the Commission that he fled to the forest after the attacks but the military arrested his family on suspicion of being Fretilin, including his wife Beatris da Costa and five other family members: Alzira da Silva, Olandina da Costa, Talvina Freitas, Rosantina Seizas and Luisa Xavier. They were taken to the Rotuto military post for one night then to Same Command Post at the Koramil for nine days. They were then sent to Ataúro for three years.[510]

445. Most arrests in the area around Mau Chiga were made by Hansip, often accompanied by an ABRI officer, such as the Kodim Head of Intelligence, or a government official, such as East Timorese Sub-district Secretary T331.[511] Members of Hansip mentioned most frequently to the Commission were T332, T333, T334 and T335.* In Rotuto, the commander of the Manufahi Kodim, the commander of the Same Koramil and the district administrator conducted arrests.[512]

446. Some people were arrested at different times by different agencies. Mário Amaral was arrested by the Koramil before the Mau Chiga attack and then again a few months later by the Kodim. According to his relative, Domingos Amaral, the two institutions did not share information with each other:

> *Whether the Koramil or the Kodim, the police or other military institutions, [all] had their own lists of names for arrests of civilians. Because people imprisoned in the Kodim were unknown to the Koramil or other military institutions, and vice-versa. People detained in the Koramil were unknown to the Kodim and other military institutions in charge of Ainaro at the time. [ABRI] sometimes didn't work together in detaining civilians. It seemed as if the people had become objects in [ABRI's] contest to rise up the ranks.*[513]

* Other Hansips named were: T336, T337, T338, T339, T340, T341, T342, T343, T344, T345, T346, T347, T348, T349, T350, T351, T352, T353, T354, T355, T356 and T357.

Detention and interrogation

447. Civilians detained immediately after the attacks were interrogated for several hours. Those captured in the towns of Mau Chiga, Dare or Mulo were taken to the Koramil in Hato Builico, the Ainaro Koramil or the Dare Koramil. Those from Aitutu were taken to the Ainaro Kodim and military posts in Same.* In Rotuto most detainees were taken to the Manufahi Kodim and held for between one day and three months.

448. Some detainees were released after interrogation while others were kept for further investigation. Detainees from Mau Chiga and Mulo who were not released were taken to the Ainaro Kodim.[514] People from Mulo describe how ten detainees were held in the Ainaro Kodim in a room so small that they were not able to sit.[515] Others were taken to the ABRI post in Lesu Hati and held there for periods ranging from a few days to a few weeks.[516] After a week, 12 Hino trucks stopped in Lesu Hati to drive detainees to Dili so that they could be sent to Ataúro. The trucks were already so full of detainees from Same and Ainaro that only a few could fit onto the trucks. The village head of Aitutu, T358, took it on himself to take those who were left in Lesu Hati to the Dare Koramil by foot.[517]

Torture and other cruel, inhuman and degrading treatment

449. Treatment of detainees was extremely harsh and many were tortured. In Ainaro interrogations and torture were carried out by Indonesian Ainaro Kodim members such as Commander T359,[518] the Koramil Commander T360,[519] Koramil Commander Sergeant T361,[520] Sergeant T362[521] as well as members of Infantry Battalion 744 in the Mantuto post[522] and Combat Engineer Battalion (Yon Zipur) 5 troops who were located in Dare from 5 September until December.[523] The sub-district administrator of Hato Builico, T363, was also mentioned in one statement.[524] In the Manufahi Kodim, Indonesian Head of Intelligence T364, the Kodim Commander and Babinsa T365 [East Timorese] interrogated and beat people. Details from these cases include those of:

- Domingos Melo, who told the Commission that he was knocked out when he was hit on the head with a piece of wood. When he regained consciousness, he found that a stab wound had pierced his knee and he was in a detention cell.[525]
- An East Timorese woman from Mau Chiga described how on the day of the military attack, soldiers were firing at civilians. She tried to run but was caught and the soldiers kicked her and stabbed her with a weapon. One of those she was with at the time of the attack, João Tilman, was killed in the shooting. The soldiers cut off his head and forced her to carry it all the way to Dare. When they reached the village of Dare, the head was buried and she

* HRVD Statement 2050; Domingas Pacheco was arrested by Infantry Battalion 745 in Aitutu and taken to the Ainaro Kodim for interrogation [HRVD Statement 4910].

was taken to the Ainaro Kodim where she was held for three months. During this time she was given electric shocks to the face. She was also forced to become a Muslim. When she refused, she was beaten unconscious. She was forced with another detainee to search out Falintil in the forest for one and a half months. When they returned empty handed, she was forced to "marry" a soldier for more than one year.[526]

- Rui Soares de Araújo was a member of Hansip who was detained and tortured in the Ainaro Koramil for giving vital information to Falintil before the attack. He had told Falintil Commander Venancio Ferraz about the number of soldiers and weapons in the Dare Koramil as well as the soldiers' patrol schedule and the times that the Koramil office would be empty. He told the Commission:

> *After the Mau Chiga incident, the Hato Builico Koramil Commander suspected me of cooperating with Falintil in the attack on the Dare Koramil…A week later, on 26 August 1982, I was arrested in the market by police officer T366 and taken to the Ainaro Koramil. I was interrogated there by the Head of the Intelligence Section and T366. Then T366 hit me with an electric cable, slapped and kicked my whole body over and over again, until I fell to the floor unconscious. After that I was taken to the Ainaro Kodim and a month later I was moved…to Balide Prison. Then on 11 October 1982, I was taken to Dili harbour, and boarded the Seiçal ferry to be exiled to Ataúro with 11 other people from Ainaro.*[527]

450. Sexual violence against detainees was perpetrated on many women detainees following the uprisings (see Vol. III, Part 7.7: Sexual Violence.) For example, six women who were taken to the ABRI post in Manatuto were tortured and raped. Some were raped in Lesuhati itself. An East Timorese woman told the Commission:

> *Every night I was always followed by ABRI and Hansip because at the time I was about 14 years old. Before I was raped, I was tortured in many different ways. I was beaten with a weapon, burned, water was poured over me, and I was stripped naked. They took me out [to the middle of the long grass] until something happened that I'd never imagined. On the first night, I was raped by T367 [East Timorese] from Infantry Battalion 744, a corporal. On the second night I was raped by T368 [East Timorese], a soldier from 744, also ranked Corporal. On the third night by I was raped by T369 [East Timorese] from Infantry Battalion 744, a Corporal. After that…my body was soaked with blood.*[528]

Village detention

451. As well as holding victims in military commands, the military also used a tactic of "village detention". This involved concentrating civilians from around the region

within the boundaries of certain villages and keeping them in public and private buildings or areas.

452. For example, the Commission heard of many people from Mau Chiga taken to Dare after arrest. First they were registered with the Hato Builico Koramil (Sub-district military command) and then they were divided into groups. Some were taken to the market and some to the primary school behind the Koramil. When the market and school were full, detainees were taken to private houses in Dare. Detention in this manner continued for several months.

453. Detainees held in the market built homes for themselves from wood and long grass. They were carefully guarded and could search for food or firewood only in groups and after seeking permission from the Koramil. A Koramil member would then accompany the group and it had to report back to the Koramil on its return. If someone wandered off alone or returned late, he or she was put into one of three fish tanks in front of the Koramil Dare. Detainees held in the school were held in three of the school's four large rooms and detainees in one room were prohibited from talking to those in the other rooms.

454. Apart from the poor conditions in which these detainees were held, their experience was made all the worse by the ruthlessness of their captors and the impunity with which the military and its auxiliaries acted. The Commission has recorded numerous serious human rights violations perpetrated against civilians while their freedom of movement in their village was restricted in this way, including sadistic killings, sometimes committed publicly in order to terrorise the population.[*] Widespread rape and other forms of sexual violence by members of both the military and Hansip were also reported.[†]

455. Torture and ill-treatment were committed not only to punish the individual but also to instill fear in the community. Victims were tortured before a crowd or were told to inform others of their maltreatment. For example, Leonel Cardoso Pereira from Aitutu told about how his older brother Fernão was tortured from the house all the way along the road until he reached the house of Hau Teo, used as a Hansip post. Fernão was tied to a pole for a day and a night without food and each time a member of Hansip entered or left the post he would hit or kick Fernão.[529] Adelino de Araújo, who was 14 years old and a TBO at the time, was detained along with his father and older brother on Kablaki and experienced similar humiliation:

* In just one example, Bernardino dos Reis Tilman witnessed Zipur 5 Commander T370 decapitate a man called Tomás with his axe before the local population. He then ordered the head of Tomás cooked at the Koramil headquarters in Dare. He forced two members of his battalion to eat the head while he took pictures. He also bit off the dead man's penis and ordered some members to take photographs of it, which he later showed to the local population, announcing "all of you, later I will eat you like this. Your head I will cut off, I will eat [it] like this". [CAVR Interview with Ana Britos who received information about her husband's fate from Bernardino dos Reis Tilman, Mau Chiga, Ainaro, 29 May 2003].

† The Commission has also received reports that members of the military and Hansip raped five women behind the market, two of whom were pregnant at the time of the rape. CAVR and Fokupers, Women's Research Team Report, Appendix I.0. Abuse of Women's Human Rights from a Community Perspective: Mau Chiga 1982–1987, Mau Chiga, Ainaro, 2003, pp. 8-9].

After about two days with them [soldiers at the Zipur post] I started seeing genitals and ears hanging from one of the pine trees at their Post. After a week or more, they took me to the Koramil Post again. I was tied to the flagpole at around 8.00 in the morning. My clothes were removed until I was naked and they gave me their underpants to wear while I was tied up. After that, I was let off of the flagpole and told to carry an empty box on my shoulders, walking towards the Zipur post. Along the way I was told to scream out to the people nearby and say: "Don't follow Falintil's ass! If you follow Falintil, you'll be the same as me!" When I arrived at the Zipur post, they took my picture. I asked for my clothes before they took the photo but they didn't give them to me. It wasn't until late in the afternoon that they gave me my clothes back.[530]

Forced displacement after the attacks

456. After the uprisings, large groups from the affected areas were moved from their mountain homes to areas by the coast. Although, technically, this was forced displacement of civilians, in the minds of many of those moved it was "imprisonment". For example, when Dare had no more capacity to take detainees from Mau Chiga, the Koramil commander asked the village head of Nunu Mogue (Hato Builico, Ainaro) for assistance. The village head agreed to take some detainees in Nunu Mogue and a simple shelter was constructed to house them. They were restricted to the area of Nunu Mogue but were given no food at all and had to depend on the generosity of the people of Nunu Mogue, who gave them land to start a garden. After two years living in these conditions, the Dare Koramil commander called the detainees back to Dare.[531]

457. Another group of 431 people, 202 men and 229 women, from Mau Chiga and Dare were sent to Ataúro.* A further group of more than 100 people from the area was sent to Dotik (Manufahi) on the southern coast on 7 January 1983. They were joined by 50 people who had been held in the Same Kodim, including some members of Fretilin.[532] Luis Sarmenti Lin told the Commission that he was involved in the attack in Rotuto and was part of the group sent to Dotik after his arrest. He describes how detainees in Dotik were ordered by a platoon of ABRI soldiers to stand, with hands bound, looking into the sun from 7.00am to 12.00 midday.[533] He received only one meal a day. After three years in Dotik, Luis spent the next two years guarding the Hato Builico Koramil on the orders of the Koramil commander. Only then was he permitted to return home to Rotuto.[534] Others who had been detained in the Same Kodim were forced to relocate to Raifusa (Manufahi) or to the island of Ataúro.

* CAVR Interview with Abilio dos Santos Belo, Secretary of Mau Chiga Village from 1991, Mau Chiga, Ainaro, 4 June 2003. Abilio dos Santos took the initiative to gather quantitative data about the fate of each person in the Mau Chiga community including a list of all names of detainees after the Mau Chiga uprising [see also Abilio dos Santos Belo, testimony to the CAVR National Public Hearing on Forced Displacement and Famine, Dili, 28–29 July 2003; see also Vol. I, Part 6: Profile of Human Rights Violations].

Detention during the ceasefire: March to August 1983

458. On 23 March 1983, a ceasefire agreement was signed between ABRI and Falintil following several months of village level meetings (known as "peaceful contacts") and local level peace agreements with communities in the eastern districts. The ceasefire held until early August 1983. Despite the formal cessation of hostilities for this five-month period, however, the Commission has received evidence that the military continued arbitrarily to detain and to torture suspected clandestine members. The transfer of civilians to Ataúro also continued during the ceasefire.

459. Cases of arbitrary detention and/or torture reported to have occurred during the ceasefire indicate that the military's programme of identifying clandestine members or members of Fretilin/Falintil continued during this period and that these arrests were conducted jointly between Hansip and Ratih and military units, particularly Special Forces. Some of these cases include those of:

- Abilio Soares, who told the Commission that on 15 April 1983 a Ratih named T371 and Hansip T372 arrested 20 men from Caicua Village (Vemasse, Baucau).* They were separated into groups and Abilio's group was taken to the river, blindfolded and then beaten. Two weeks later, on 1 May 1983, Infantry Battalion 745 and Hansip arrested the same men and took them to Tacitolu (Dom Aleixo, Dili) and then to the Infantry Battalion 745 unit in Dili. Two of the detainees, Domingos and Nahe Dasi were reportedly slapped and their feet stomped on. On 18 May 1983, the military released 11 of the detainees and sent nine to Ataúro.[535]
- Daniel "Bernabe" Pereira, who described his arrest in May 1983 in Laga (Baucau) by Infantry Battalion 144 Company Commander T373. He was suspected of being a member of Falintil. He was held for three days and three nights, beaten and burned with cigarettes.[536]
- Two deponents from Vessoru (Uatolari, Viqueque) testified to being detained on 4 June 1983 on suspicion of working with Falintil. Gilbeiro Pinto Fernandes was taken to the Kopassandha post by Kopassandha Deputy Commander T374, on the orders of Kopassandha Commander T375. There he was held with Manuel Lopes, Lourenço Lopes, Valenti and Baltazar Mascareinhas. T374 then called him into the interrogation room where Gilbeiro Fernandes says that he was beaten, kicked and hit with a weapon causing two teeth to be knocked out. He was then hung from the roof for 15 minutes before the interrogation continued.[537]
- The Commission received a statement from an East Timorese man who stated that he was arrested in July 1983 in Urahou (Ponilala, Ermera) by ABRI soldiers. He was held in the Ermera Kodim for 15 days where he was

* The names of the men detained and their reported ages at the time were: Abilio Soares (48), Biana (20), Jaime (33), Alfredo (22), Delfin (42), Arnaldo (28), Feliciano (45), Cai Dasi (41), Aquilis (30), Jeremias (40), Mário Correia (20), Naha Dasi (34), Rubi Dasi (32), Domingos Guterres (50), Naha Hare (46), Bosi Hari (38), Sina Ono (37), Domingos Pinto (44), José Sina Du (28) and Julião (39).

interrogated while being beaten, kicked and burned with cigarettes. He was then moved to the Comarca in Dili until September 1983.[538]

The breakdown of the ceasefire and Operation Unity, August 1983

460. The ceasefire completely broke down in early August 1983 with a series of uprisings (*levantamentos*) in the districts of Viqueque and Lautém, almost exactly one year after the *levantamento* around Mount Kablaki. Again, the military responded with widespread detention of civilians, ill-treatment and torture, together with other serious human rights violations. The ceasefire had given Fretilin an opportunity to approach communities and explain the importance of the struggle.[539] Consequently, the clandestine network had expanded, particularly in the eastern districts where Fretilin/Falintil was most active and where it had strengthened.* The Commission heard of the following incidents on or around 8 August 1983:

- A Falintil attack on a military base in Buicaren in the Kraras region resulting in the death of 14 members of Battalion Zipur (engineers).[540]
- A group of Hansip deserted to join Falintil in the forest. Several subsequent attacks in other parts of Viqueque including in Uato Carbau on 19 August 1983† and Uatolari were also reported to have occurred at this time.
- Hundreds of members of civil defence organisations Wanra and Hansip as well as other able-bodied men fled the villages of Mehara (Tutuala, Lautém) Lore and Luro (Lospalos, Lautém) and Serelau (Moro, Lautém) to join Falintil.[542]
- In Mehara, a group of Hansip under the command of Raja Miguel dos Santos (Kuba) seized weapons from the police and the Koramil, including a Metrahadora automatic weapon,[543] and then joined Falintil.[544] This is sometimes referred to as the armed uprising (*levantamento armada*).[545]
- In the sub-district of Iliomar (Lautém), four East Timorese Hansip, T338, T339, T440 and T394, reported to the Koramil that two Falintil members had asked them to participate in an attack on the military in Iliomar the following evening. The Hansip, afraid of the repercussions of such an attack, killed the two Falintil fighters.[546]

461. In response to these attacks or foiled attacks, Operation Unity (Operasi Persatuan) was launched on 17 August 1983. On 9 September, the Indonesian government declared a state of emergency and five days later President Soeharto ordered a "clean sweep" of the armed Resistance.[547]

* According to Father Domingos Soares (Father Maubere) the peace had been a tactic by Xanana Gusmão to buy time for the restructuring of the Resistance. Father Maubere arrived from Portugal in May 1980, and was sent as a new priest to Ossu in June 1980. His parish also covered Viqueque and Lacluta. [CAVR Interview with Father Maubere (Domingos Soares), Dili, 22 September 2003.]

† Attacks in Uato Carbau were reported in a number of villages including Dara Gata on 19 August 1983. [HRVD Statement 7340.]

462. Accordingly, the military conducted a massive crackdown in the districts of Viqueque and Lautém which also reached into other areas of the territory including Baucau, Aileu and Dili. Bombing raids were conducted between August 1983 and June 1984. The intensity of the operations is reflected in the Commission's quantitative research. This indicates an increase in human rights violations in late 1983, especially in the eastern districts of Lautém, Viqueque and Baucau. Major violations of human rights included the massacre of civilians, the forced displacement of the civilian population to other areas, and the rape and use for sexual slavery of women from the region (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances and Part 7.3: Forced Displacement and Famine; also Vol. III, Part 7.7: Sexual Violence). In addition, the Commission recorded a sharp increase in incidences of arbitrary detention, torture and ill-treatment.

463. As in other operations, suspected members of the clandestine networks, particularly members of Hansip and Ratih which had been heavily represented in the attacks, were targeted for arbitrary detention, torture and ill-treatment. Because so many members of the Resistance had fled their homes to join Falintil, however, the brunt of the ABRI attack was borne by ordinary civilians, particularly the families of those who had fled.

Kraras

464. The population of Kraras (Viqueque, Viqueque) had largely fled up Mount Bibileo after the attacks. An operation was launched to find the villagers and was led by Infantry Battalion 745 and Chandraca 7 (Kopassandha), under the command of Major (Lieutenant Colonel) T364, Captain T377 and the Viqueque Kodim Commander T378.* They carried out an intense attack on the mountain, bombing it from airplanes and encircling the mountain.[548] Much of the population was forced to surrender.[549]

465. José Andrade dos Santos told the Commission that in the aftermath of the killings in Kraras the entire region was plunged into fear. He explains that many from the area were arbitrarily arrested, held and tortured for around one to two weeks.[550] Thomás Guterres from Uatolari described how, in the months after Kraras, three or four military personnel would arrive at a house in the middle of the day or night and call from outside. When the door was opened they would storm in and take the suspect. If they did not get who they were looking for, often they would arrest members of the person's family, including women.[551]

466. Arrests were widespread and victims were arrested in the forest and in neighbouring villages.[552] Mariano Soares, speaking at the CAVR National Public Hearing on Political Imprisonment in relation to Kraras, explained:

> *After the massacre of August 1983, many people suspected of supporting the attack were arrested. [Viqueque] Kodim 1630 looked for people involved in the clandestine movement, and…also…started to arrest ordinary Viqueque people to transport them to Ataúro.*[553]

* Chandraca 7 (Kopassandha), comprising 120 members of Special Forces, landed in Viqueque on 28 August 1983.

467. The Commission heard of a mass arrest following the *levantamentos*. In Uma-Uain (Viqueque, Viqueque) João Ximenes de Araújo described how Battalions 744 and 745 worked together to detain 100 civilians from the area and then held them in the Viqueque Kodim. They were then taken to Laga (Baucau, Baucau) and from there sent to Ataúro.[554]

468. In all other cases of arbitrary detention, however, the victims were targeted and arrested individually or in groups fewer than 15. As in other similar actions, the military targeted suspected perpetrators of the uprising, suspected members of the clandestine movement and civilians who may have had relevant information.

469. Matias Miguel was arrested by the village secretary T379, sent to the Viqueque Kodim for three days and then sent to the Comarca in Dili for three years.[555] In Viqueque District, the statements received by the Commission suggest that clandestine members were targeted. Mário de Jesus Sarmento, a Fretilin member from Carau-Balu (Viqueque, Viqueque) was arrested by his uncle, East Timorese ABRI member T380. Civilians Pedro Soares, Inácio Pinto and Paul Gomes were also arrested. East Timorese Sub-district administrator T256 and the Sub-district head of intelligence then interrogated the four clandestine members for three nights in Carau-Balu before they were taken to the Viqueque Kodim.

470. Ernesto Freitas, also from Carau-Balu, described how T256 and Head of Intelligence T382 approached him at his local government office and accused him of meeting with Falintil member Roque. That night, when he returned home from work, he was ordered to go to the Viqueque Kodim. At the Kodim he was interrogated, then sent to a house owned by the head of intelligence in Monumento Village (Viqueque Town, Viqueque). Finally he was held for three months at the house of T383, the Sub-district secretary, where soldiers from Infantry Battalion 745 beat him.[556]

471. These arrests also occurred outside of the area. António Tomás Amaral da Costa (Aitahan Matak) was arrested in Dili by SGI when they found out he was holding money to give to the Resistance. He was held in the Korem, the Military Police Headquarters in Balide and then sent to Kupang with another 68 detainees.[557]

472. Carlos Alfredo da Costa Soares told the Commission of an entire division detained and interrogated. He recounted how he and 159 other members of Hansip were arrested after the Kraras uprising and taken to the Viqueque Kodim. After several weeks they were moved to the Baucau Kodim by truck, where the Kodim Commander interrogated them one by one. He was hit with the barrel of a rifle three times by a member of the Kodim. The same night they were put onto a boat and taken to Ataúro where they stayed until 1986, when the Koramil let them return home.[*]

473. The military crackdown in Viqueque lasted for around three months but arbitrary arrests and torture continued into 1984.[558] Reports received by the Commission mention that in February 1984, members of Chandraca (Kopassandha) were still calling people to the Kodim in connection with the events in Kraras.[559]

* CAVR Interview with Carlos Alfredo da Costa Soares, Ataúro, Dili, 26 October 2003. See also HRVD 9014, which states that 99 Hansip were forcibly moved by ABRI, because of their suspected involvement in the Kraras uprising.

Others, such as José Gomes, had fled to the forest with Falintil after the uprising and were arrested on their return. José Gomes was detained for about six months after the Kraras uprising by Chandraca 7, group 2, and subsequently was interrogated and tortured for two weeks in the Viqueque Kodim.

474. Territorial military commands were the main place used for holding detainees. In the sub-district of Viqueque, most detainees were taken to the Viqueque Kodim 1630.[560] There, the Sub-district administrator, Martinho Fernandes, and Head of Intelligence, Amo Sani, conducted interrogations.[561] People from regions that neighboured Kraras such as Beaço and Ossu were also brought to the Viqueque Kodim by members of Kopassandha or the local Koramils.[562] The Infantry Battalion 745 base in Olo Bai was also used to hold detainees. According to Father Domingos Soares (Father Maubere), it became notorious for the extra-judicial killings and for the torture of detainees that occurred there. Detention at the 745 base usually lasted between one week and six months.[563]

475. Public buildings were also taken over and used to hold detainees. In Kraras the local parliament building, also known as the PIDE Portuguese* building, was taken over.[564] Mariano Soares told the Commission that he was held in a toilet in the "PIDE Portuguese" for ten days after he had been interrogated at the Kodim. Detention in the "PIDE Portuguese" building usually lasted between a week and six months.

Uato Carbau

476. In the the sub-district of Uato Carbau (Viqueque), local village officials and Kopassandha were named as responsible for most arbitrary detentions.[565] The Commission heard from Aderito de Carvalho that 12 men were arrested on 15 August on suspicion of involvement in the Kraras uprising. They were held in an empty house.[566] Following the attack in Uato Carbau on 19 August, another eight men were reportedly detained and held in the Uato Carbau Koramil. Lindolfo de Jesus Fernandes, a clandestine member, told the Commission that he was arrested after returning from working in his fields on suspicion of helping Falintil. He was ordered to see the Uato Carbau Sub-district administrator, T299, an East Timorese, and was then detained in the Koramil with seven others.†

477. Detainees from Uato Carbau were almost all taken to the Uato Carbau Koramil. Some remained at the Koramil for the duration of their detention, while others were moved to the Infantry Battalion 511 headquarters in Viqueque.

Iliomar

478. In the district of Lautém Infantry Battalion 641, Infantry Battalion 520 and Airborne Infantry Battalion 100, worked together with the Kodim and Nanggala

* A Portuguese government building used as the district headquarters for the secret police (PIDE).

† He was joined by Chiquito, Manuel de Conceição and his brother Hermenegildo de Conceição (Fretilin members), Armando Guterres da Silva Freitas, Jeremias Xavier, Afonso da Silva and Gaspar de Carvalho (a clandestine member). [HRVD Statements 7344; 7340; 7522 and 7523.]

units 2 and 4.[567] In Iliomar, according to Ernest Chamberlain, Hansip who were also members of the clandestine network were the main target of the military, which used other "pro-integration" Hansip to detain, torture or kill them.[568] Most detainees were taken to the Iliomar Koramil, where interrogations and torture took place.[569] Members of Hansip would assist in translating for Danramil T385.[570] Marcos Fernandes testified that the Ratih members arrested in October were all taken to the Lautém Kodim.[571]

479. The Commission's research suggests that the main targets of arrests in Iliomar were local Hansip and Ratihs with clandestine connections.[572] Indonesian Koramil Commander T385, T386, (Chandraca Kopassandha), the Sub-district administrator of Iliomar T387 (East Timorese) and District Assembly member T255 were named in reports of arrests.* Most of the arrests in this area were conducted by pro-integration Hansip members, however, including the four who had refused to take part in the Koramil attack. T389, an East Timorese, was named in 15 cases of arbitrary arrest reported to the Commission, and also ordered other Hansip members to participate.[573]

480. Erminio Pinto described how Kopassandha senior officer T386 and Koramil Commander T385 found out about the Hansip clandestine network in the area through Filomeno da Gama, who was then killed. Soon after, they arrested four Hansip members: Erminio Pinto, Ernesto Madeira, Carlos da Costa and Luis Lopes. On 30 September, T386 and T387, along with Hansip Commander T389 and member T390, arrested five more men from Iliomar: Carlos da Costa, Luis Lopes, Carlos Correia (civilian), António Geronimo (civilian) and Belmonte Geronimo.

481. Hansip arrests in Iliomar continued into October as more clandestine members became known. Marcos Fernandes, a member of Ratih, told the Commission that a Ratih/Hansip member called Lourenço Marques who had run to the forest immediately after the incident in Iliomar surrendered on 3 October. He was arrested by ABRI Commander of Group 3, Major T391 from Indonesia and tortured for a week before he admitted the names of other members of Ratih who helped Falintil. Between 10 and 13 October 1983, ABRI arrested 15 members of Ratih from the Iliomar area.† All were taken to the Lautém Kodim.

Mehara

482. In the village of Mehara (Tutuala, Lautém), the military ordered combat battalions Infantry Battalion Territoral Units. 515, 641, Airborne Infantry Battalion

* Commander T385 [Koramil] was mentioned in HRVD Statements: 2113; 3930; 3938; 4399; 4407; 3925; 3949; 4384; 4393; 4397; 4436 and 4445. T386 [Senior Kopassandha], the senior member of the Chandraca (Kopassandha) team in Iliomar was mentioned in HRVD Statements: 4371; 3951; 4436; 3947; 4376 and 3952. T387 [sub-district administrator, Iliomar] was mentioned in HRVD Statements: 4408; 3949; 4002; 2113; 3947 and 3927. T255 was mentioned in HRVD Statements: 2113; 3918; 3930; 3972; 4399; 4408 and 3951.

† On 10 October ABRI arrested nine members of Ratih: Marcos Fernandes, Manuel Victor, Joaquim Fernandes, Joaquim Manuel, José da Costa, Domingos Cunha, Telu-Lara, Januario Monteiro and Leopoldo Fernandes. On 13 October it arrested António de Oliveira, Pedro dos Santos, Mário Pinto, Orlando Mendes, José Eurico and António da Silva.

100 and Commando groups 1, 2 and 4, under the command of Second Lieutenant T392, to conduct widespread arrests of the residents.[574] Battalions 541 and 641 arrested civilians in Mehara and from the *aldeias* of Loikere and Porlamanu, Mehara (Tutuala, Lautém).

483. Most statements received were from women from the village of Mehara. Wives of the Hansip members who had fled were arrested and interrogated about their husbands' whereabouts or ordered to go and search for their husbands in the forest. Domingas Alves Fernandes told the Commission:

> *That day [8 August 1983] every mother whose husband or family had run off, including my husband, were told to go to the ABRI post where we were interrogated. We were told to look for [our] husbands or families in the forest and to shout using a megaphone. Some of us ten or more people, went to the forest behind [Mount] Paicão to find those who had run off…After we came back, we reported to them that we hadn't found anything. Every day after that, for several weeks, we had to report to the village office.*[575]

484. Women were also left in a vulnerable position when men in the village went on forced searches looking for members of the Resistance in the forest. An East Timorese man was forced by the Task Force (Satuan Tugas, Satgas) commander of Tutuala to participate in a month-long search for the members of Hansip who had fled. His wife was ordered to go to the Infantry Battalion 641 post in Laluna Lopo, Poros, Mehara, (Tutuala, Lautém) where she was interrogated about her husband's clandestine work and whether she had ever met any members of Fretilin. She was held for three nights. On one night, she was kissed and touched but she was not raped. Her husband was taken to the Kodim 1629 in Lospalos (Lautém) and was never seen again.[576]

485. The community of Porlamano in the village of Mehara told the Commission that some family members of fugitive Hansip members were brought to the Infantry Battalion 641 military post and tortured, while members of Battalion 641 and Airborne Infantry Battalion 100 destroyed their possessions.[577] Detainees were also held in public buildings in the town including the primary school building and the Church.[578] Members of Airborne Infantry Battalion 100 arrested many wives of the members of Hansip and held them in an empty traditional house (*uma lulik*).[579] They then moved them to the Porlameno village square where the East Timorese Sub-district administrator of Tutuala, T393, and commander T392 conducted interrogations.[580]

486. The intensive arrests around Mehara continued until the end of 1983.[581] The community of Herana in Mehara, for example, told the Commission that in November Infantry Battalion 641 arrested ten people in the *aldeia* and handed them over to Airborne Infantry Battalion 100 and Infantry Battalion 745, to be killed.[582]

Maria's* story

Maria's story illustrates the devastating impact of the crackdown following the *levantamento* on the lives of family members of those involved. Maria's husband joined Hansip and civilians in the village of Mehara in the flight into the forest on 8 August. ABRI arrested Maria on 10 August 1983 in Mehara, two days after the *levantamento*. She was taken directly to the Lospalos Kodim 1629 (Lautém).

While at the Kodim, she was interrogated by the Indonesian military on the whereabouts of her husband, again and again. She was kept in a dark cell. Her parents were also imprisoned and interrogated for 15 days in the Tutuala Koramil. Her youngest child, just seven months old, was brought to the Lospalos Kodim, and hung upside down by the feet for several hours. This child was targeted because it was the child of her current husband. (Maria's other three children were from her first husband.) During the three years she was imprisoned at the Kodim, she said she was raped repeatedly and miscarried three times. She did not want the children to be born because each baby in her womb was the result of ABRI rape and she did not know who the fathers were. In 1986 they released her from the Kodim, but she was still not completely free. She had to report once a week to the military. The Commission heard that in 1988 she was forced to search for her husband in the forest with members of Infantry Battalion 745 behind her. When she found her husband, he was shot dead by the soldiers. Her reporting conditions then ended. Maria died before the writing of this report.[583]

Torture and ill-treatment

487. The mistreatment of detainees in the districts of Viqueque and Lautém was particularly harsh.[584] Many were killed or disappeared, as set out in Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances. As in the aftermath of the Marabia attack and the Kablaki *levantamentos*, the increased reports of torture and of ill-treatment after Kraras appears closely to match the increased number of detentions, suggesting that a high proportion of individuals arbitrarily detained were also tortured.

488. Almost all detainees from both Viqueque and Lautém reported being badly beaten.[585] Several also reported being burned with cigarettes and electrocuted, forms of torture in use since the beginning of the Indonesian occupation.

* "Maria" is a pseudonym subsituted in order to protect the identity of the victim.

489. Isabel da Silva from Beaço, Maluru (Viqueque, Viqueque) described how her husband Jeremias, head of the primary school, and his brother, Caetano, were taken by a member of the Special forces (Nanggala) to the Viqueque Kodim where they were tortured before they disappeared. The Sub-district administrator, T256, had found out that Jeremias had given books, a ball and net to an old school friend, Rosito, who at that time was a member of Falintil. Isabela told to the Commission:

> *My husband was interrogated and tortured by being burned with cigarettes. His foot was crushed under a chair leg when someone sat on it. My husband was accused over and over again of being "a spy, and two-faced". Then he said, "It is better that I am just killed rather than suffer like this."*
>
> *On 28 March, Jeremias was told to get into a tank and that he was going on an operation. My husband, Jeremias, and I already knew that he would be killed…[He] was taken by an Ambonese Nanggala and the Viqueque head of intelligence...in the direction of Kraras.*
>
> *After a week, I went back again to the Viqueque Kodim to ask where he was. They just laughed and said, "that prisoner is still on an operation."*[586]

490. Others described particular forms of ill-treatment. Mário de Jesus Sarmento told the Commission that he was interrogated in Carau-Balu by Sub-district administrator, T256, and the head of intelligence, T382 [East Timorese]. If he did not answer their questions, he was punched, kicked and burned with cigarettes. After three days he was taken to the Viqueque Kodim by four Kodim members and, while on the road, they cut off his ear and forced him to eat it.[587] This was witnessed by Pedro da Costa Amaral who had been arrested on 19 August by eight Kodim members. Pedro himself was taken to the Flamboyan Hotel in Baucau where he was tortured by members of Kopassandha.[588] Villanova Caetano, after being badly beaten with victims Domingos Rodrigues and Alberto da Incarnação, was forced by members of Airborne Infantry Battalion 100 to eat an entire packet of tobacco and a pair of socks.[589]

Aftermath of the *levantamento*

Transfer of detainees out of the area

491. Many of those detained after the Kraras uprising were sent to Ataúro.[590] Others were sent to prisons in Indonesia, including to Cipinang in Jakarta and to Bali.* The Commission heard that about 69 people were sent to a prison in Kupang (West Timor, Indonesia).[591] [For more information on the use of prisons in Indonesia, see the box below after paragraph 503.]

* Marito Reis, a clandestine leader in Dili in 1983, told the Commission that this policy was intended to break up the Resistance. [CAVR Interview with Marito Reis, Baucau, 27 May 2004.]

Village detention in Lalerek Mutin, Viqueque

492. The detention and persecution of the local populations in 1983 did not end with the immediate crackdowns following the uprisings in August. The remaining civilian population of Kraras was moved to the village of Lalerek Mutin (Viqueque, Viqueque) and placed under tight surveillance so that their physical freedom was highly restricted. José Gomes* described how in the mornings the military would carry out a roll call and at night men and women were separated. Posts were constructed around the village in three rings, ostensibly to prevent the villagers from having contact with Resistance fighters. Residents of the village were deployed to guard all three levels. Nanggala manned the innermost layer. A giant human shield, therefore, surrounded the village. José Gomes said that "Lalerek Mutin was like a military barracks."[592]

Mass detentions in Lautém

493. In Mehara (Tutuala, Lautém) and the sub-district of Iliomar (Lautém), the Commission heard of the communities being detained *en masse* in December 1983, four months after the uprisings.

494. In Iliomar, four deponents described how on 5 December 1983 residents of Iliomar were forced to attend a flag-raising ceremony, where they received a "lecture" and were then arrested.[593] Gabriel da Costa described:

> *On Monday 5 December 1983, I participated in a flag-raising ceremony. After it ended, T255, the District Assembly member for Iliomar, T387 and T213, Hansip members, told six friends and me to go to a meeting in the Sub-district administration office. We went in and an hour passed before Hansip members closed the door and said to us: "It was God who created us to live in this world and God is the one who gave you up. You are arrested because you are two-faced, and you have opposed the Indonesian Government." Three hours later the Hansip members brought six of us to our place of detention, which at that time was the school building. The building next to it was made into a prison.*[594]

495. On 12 December 1983, one week after the arrest of the civilians at the flag-raising ceremony, José da Costa told the Commission that all village and *aldeia* heads in Iliomar were asked to come to the primary school building to attend a meeting. After they arrived, the doors were closed and they were asked: "Are you the ones who want Timor-Leste to be independent?" José named 20 people who were detained at this time. They were beaten, kicked, and interrogated one by one. After ten days Commander T385 and T255 took nine of the detainees out of the building and they were killed.† The remaining detainees were moved to a small building next to the school for a further three months where they endured daily interrogations. After their release they were required to report

* At the time of writing, José Gomes was the village head of Lalerek-Mutin.

† They were António, Jerónimo, José Anunciacão, Pelomonte, Joaquim, Martinho Monteiro, Carlos Coreia, Venáncio, Americo and Cipriano.

daily at the Koramil.* Many other civilians, who had been arrested individually after the two Falintil members were killed in Iliomar, were held in the building adjacent to the school.[595] Americo de Sousa Jeronimo described how some detainees had to sleep in the toilet, which was full of faeces and urine.†

496. Another mass arrest took place in Mehara around 16–17 December 1983. The Sub-district administrator of Tutuala (Lautém), T393, together with Infantry Battalion 641 and Airborne Infantry Battalion 100, ordered the whole population of Mehara and the surrounding villages, such as Loikere, to gather in front of the Mehara village office.[596] A list of names was read out and those on the list were first put into the Mehara clinic. Then they were transported by truck or helicopter to the Kodim 1629 in Lospalos. At the Kodim, many were interrogated about the *levantamento* in Mehara, detained in harsh conditions and tortured. One witness described how he and others were tied together and taken to Lautém Kodim 1629 where they were interrogated and tortured. The methods of torture included beatings and electrocution.[597]

497. On 22 December 1983, four of Gabriel da Costa's friends were taken out of the school and killed in the Trilolo area (Iliomar, Lautém) under orders of Koramil commander T385, Kopassandha senior member T386 [both Indonesian], T255 and the Sub-district administrator of Iliomar, T387 [both East Timorese]. He and two friends were detained there for another year. They were released on an Indonesian national holiday on 28 October, "Youth Oath Day" (Hari Sumpah Pemuda) in 1984.[598]

498. Most of those detained after the mass arrest in Mehara in December were reportedly held for between four and seven months, after which they were returned to their villages. Some were still required to report to the local military command. The Commission received a statement indicating that the Lautém Kodim Commander issued a "an order" (*surat perintah*) to release prisoners.[599]

Operation Security (Operasi Keamanan) in other districts of Timor-Leste

499. The Commission's research suggests that Operation Keamanan, which followed the uprisings in Viqueque and Lautém, concentrated on the eastern districts of Timor-Leste but also reached into other districts.‡ Among such cases were the following:

* HRVD Statement 9171 says that the detainees were held at the Toko Cina (a shop).

† Americo da Sousa Jerónimo was a Fretilin member who had been detained on 17 October 1983 [see HRVD Statement 3985].

‡ The Commission received no statements from the period August to December 1983 from the districts of Oecussi, Ermera, Bobonaro or Covalima. One statement without a month attributed to it was received from Liquiçá which, like Aileu and Ainaro, involved Nanggala 55 [HRVD Statement 0205]. Nine statements were received from the district of Manufahi from the year 1983 but the deponents did not specify the month that the violation occurred. Two cases described the arbitrary detention and torture of clandestine members [HRVD Statements 5442 and 5467]. Two referred to families detained for harbouring Falintil Commander Mau-Hunu [HRVD Statements 5483 and 5484].

- In the only statement from the district of Ainaro from late 1983, Manuel Agostinho Freitas told the Commission that he was arrested in Ainaro Town on 10 October by the Zumalai Koramil Commander and the East Timorese Sub-district administrator. He was taken to the Ainaro Kodim where he was beaten, kicked and given electric shocks by Commander T377, the commander named in the torture of victims following the Mau Chiga uprising. He was held in the Kodim for one month and then handed over to the Nanggala Kopassandha 55 unit, which held him for three days. He said that his arrest was in response to the killing of an ABRI soldier by Falintil in Nagidal (Zumalai, Covalima).[600]
- The Commission received 11 statements concerning cases of detention in the district of Baucau during August and September 1983.[601] Four statements described a group's detention and disappearance in Uma Ana-Iku, Osso-Ala (Vemasse, Baucau). Six Team Lorico members led by T397 called ten men from the village to the house of the village head of Osso-Ala.[602] There, the Team Lorico members beat and kicked them and tied their hands behind their backs.[603] Alice Andre Gusmão, the wife of one of the detainees, Alexandre Gusmão, said that the ten were detained because they had met Xanana Gusmão in Diuk, a place in Osso-Ala. She was told they were to be taken to the Ostico Post but they never returned (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).[604]
- Five incidents of arbitrary detention were reported from Laleia (Manatuto), though only one statement gave the month in which the violation occurred. Agapito Viegas from Laleia, Manatuto, told the Commission:

  > *On 11 November 1983, I was watching my child while my wife was at the market, when suddenly a member of Milsas called T398 turned up. He arrested me and took me to the Laleia Koramil where I met my friend Pascoal who had also been arrested. We were told to wait for a public bus to Manatuto. On arriving there, we were then to report to the Manatuto Kodim. Two Milsas came with us whom I didn't know.*
  >
  > *When we got there two members of ABRI interrogated me. They asked me what I had done wrong to get arrested. I said that I didn't know so they hit me twice in the back with a stingray and then hit me with a piece of sandalwood, a pretty big piece…Then another member of ABRI called T399 came and said: "Are you strong enough to handle the torture?" I said: "Whether I'm strong enough or not, I have to take it." He didn't like this answer so he hit and kicked me until I fell.*[605]

500. Agapito Viegas told the Commission that he was subsequently sent to the Korem in Dili and then to the Kopassandha command where he was so afraid he lied. He said he had given food to Falintil. The torture then ended but he was detained for five months in Dili and made to tidy the grass at public buildings and schools.[606]

Aileu, 1983

501. The ceasefire provided an opportunity for Fretilin/Falintil to approach communities for support, but it also exposed members of the clandestine networks during the "peace contacts" (Kontak Damai) between Fretilin/Falintil and ABRI. The community of Fatisi (Laulara, Aileu) told the Commission that a "peace contact" was held in the village. After the ceasefire broke down, ABRI, Special Forces and various village officers cracked down on the clandestine members in Fatisi.[607] Narrative statements indicated that 19 people were arbitrarily detained in Fatisi in August–September 1983.[*] The victims were suspected of clandestine work,[608] particularly of having helped Falintil commander Sakudi and two others who had been recently captured by Marine Battalion 303 and Nanggala-55.[609]

502. Most arrests were made in an early morning raid on 2 September 1983, although some occurred in late August. The group detained was taken first to a military post in an *aldeia* in Fatisi, where Luis Mouzinho was beaten and then killed. They were then taken to the clinic in Besilau and handed over to the village head who tied them up with wire. Francisco Pinto de Deus described walking there escorted by Hansip and the Indonesian Babinsa T400, still bloody from being beaten when he was arrested. On 3 September, two soldiers from the Aileu Kodim came and collected the detainees. They were tied up by their hands and feet and driven to the Kodim, then thrown off the trucks like bags of rice. East Timorese soldier T401 and other Kodim members ripped off their clothes with a knife, leaving them naked. From 10.00pm the detainees were taken out one by one for interrogation, during which time they were beaten with a block of wood.

503. The experiences of the detainees from this point were highly varied and attest to a lack of coordination, oversight and discipline within the military. The experiences of the victims included the following:

- According to the statement of Graciano Pinto, his brother, Moises Sarmento, was taken away on 30 August 1983 by Babinsa T400 of Besilau [from Sumatra], an East Timorese ABRI intelligence officer T402, the Laulara Koramil commander and the Sub-district administrator of Laulara. He was not seen again. Graciano Pinto himself reported that he was detained for three years and was released only after the ICRC intervened.[610]
- Alfredo Carvalho was also taken separately to Besilau and then, after several days, was taken to a cemetery by a Kopassandha member to be killed. He said that instead he was taken to Dili by helicopter. That night he was again taken out and told that he would be killed but instead he was taken to the military police and detained. He did not tell the Commission how long he was detained for.[611]

* The victims named to the Commission, compiled from various victims' statements were: Alfredo Carvalho, Romaldo Pereira, Joaquim Henrique, Luis Mouzinho, Mariano de Deus, Agustinho Pereira (also known as Agustinho Martins), Caetano Soares (also known as Caetano José Alves), Crispin dos Santos, Paul Soares, Moises Sarmento, Graciano Pinto, António de Deus, Bernardino Santos, Victor Araújo de Deus, Afonso, Ananias, Serafin and Francisco Pinto de Deus.

- An East Timorese man was beaten heavily then interrogated in Besilau for two days before being taken to the Laulara Koramil (Laulara, Aileu) and interrogated by the commander. The Koramil released him after finding nothing.[612]
- At least five of the prisoners – Crispin Maria dos Santos, João Soares Pereira, Caetano Soares, António de Deus and Afonso – were taken from the Aileu Kodim to Aissirimou where they were kept under close watch by Hansip and not allowed to look for food.[613] António de Deus and Afonso died of hunger.
- The Commission received a statement from an East Timorese man that T801, a Babinsa, forced him to work for a company in Aileu for two months and took his earnings. He was then sent to work with Infantry Battalion 412.[614]

Prisons in Indonesia, 1983 to the late 1990s

From late 1983, the Indonesian administration began to send groups of political detainees to official prisons in Indonesia, often after trials and sentencing. These prisons included:

Cipinang Prison in Jakarta, Java

Two waves of detainees were sent to Cipinang. The first was sent in 1984 in two groups. It included David Dias Ximenes, Mariano Bonaparte Soares, Aquilino Fraga Guterres, Cosme Cabral, Albino de Lourdes, Domingos Seixas, António Mesquita, José Simões, Roberto Seixas, Agapito Rocha, Miguel da Costa, João da Costa, Martinho Pereira, Caetano Guterres and Marito Reis.[615] Domingas da Costa was sent to Tangerang women's prison in West Java.[616] This first group was sent in March–April 1984, and the second, comprising 42 prisoners, in November–December 1984. By 1991, only four prisoners remained. In 1992, they were joined by Domingos Barreto, Virgílio Guterres, João Freitas da Camara, Fernando Araújo (La Sama) and then Xanana Gusmão.[617]

Kedung Pane Semarang Prison in Semarang, Central Java

On 10 June 1994, the six people sentenced in Dili following the Santa Cruz demonstration were moved from Becora Prison to Semarang. They were Filomeno da Silva Ferreira, Jacinto das Neves Raimundo Alves, Francisco Miranda Branco, Saturnino Belo da Costa, Juvencio de Jesus Martins and Gregório da Cunha Saldanha.

Lowok Waru Prison in Malang, East Java

The only prisoner known by the Commission to have been detained in Malang was José Neves. He was studying in Malang at the time that he was arrested for clandestine activities in 1994.[618]

Kalisosok Prison in Surabaya, East Java

On 27 March 1997, 16 prisoners were transferred from the Buruma Prison outside the town of Baucau (Lembaga Pemasyarakatan) to Kalisosok Prison. They were: João Bosco, Mário Filipe, Marcus Ximenes Belo, Domingos Sarmento, Fortuna Ximenes, Filomeno Freitas, Justino Graciano Freitas, Virgilio Martins, Domingos de Jesus, Domingos de Jesus Freitas, João Freitas, Alexandre Freitas, Muhammad Amin Dagal, Ventura Belo, Marcus Ximenes and Albino Freitas.

Conditions in Indonesia

Penfui Prison, near Kupang, West Timor

António Tomás Amaral da Costa (Aitahan Matak) told the Commission that 69 detainees, including himself, were the first group of prisoners to be sent to a prison outside of the territory of Timor-Leste. They were sent to Penfui Prison in Kupang in August 1983, flown there in a Hercules plane in the aftermath of the Kraras uprising. They were held there, without trial, until August 1984 when the ICRC visited the prison and complained about their situation to the authorities. The prisoners were held in appalling conditions. He recalled:

For 14 months we ate only leaves and rice; they gave us one spoonful a day. The grains of rice that fell to the ground we picked up and ate. There were leaves outside. We tore our trousers and made a rope and threw it out to people and said to them in Indonesian, "Please, wherever there are leaves like goats eat, we need them all. Any leftovers that you want to throw away, give to us." They brought us their leftovers in a drum and threw them to us. We used the rope we had made from our trousers to haul papaya leaves inside.[619]

According to António Tomás Amaral da Costa, only 14 of the 69 East Timorese prisoners detained in Kupang survived the ordeal. He names one victim, Duarte Ximenes, who starved to death but he says that the remaining 54 were handcuffed and taken away by military vehicle and they never returned.[620] The 14 who survived were returned to Timor-Leste in 1985.* They were then tried at Benfica[621] and served their sentences in the Comarca and then Becora until they were released in 1987.[622]

Prisons in Java

Later, groups of prisoners who had been tried and sentenced were sent to Indonesia. Former detainees of the Javanese prisons generally

* According to António Tomás Amaral da Costa (Aitahan Matak), the 14 who survived were: himself, Fernando da Costa, Rogério Pinto, Paul Amaral, Paul Buikarin, José Gularte, Francisco Ximenes, João Bosco, Ernesto Pinto, Henrique Belmeiro, Mariano Soares, Alfredo da Costa, Agusto da Silva and Arthur Kaibada-Waimua. [CAVR Interview with António Tomás Amaral da Costa (Aitahan Matak), Dili, 28 April 2004].

reported that conditions were much better there than in the prisons in Timor-Leste. One former detainee was astonished to be given a bed and mattress after he was moved to a prison in Java. That was when he realised that despite the rhetoric he had heard in Timor-Leste about being "one nation", Indonesians "considered [us] second-class citizens… [and] treated us like animals".[623] At Semarang Prison in 1994 there were reportedly no interrogations and the prisoners' sentences were reduced, sometimes by several months each year.

Reason for sending prisoners to Indonesia

It is not known why prisoners were transferred out of Timor-Leste but one former inmate mentions that it was because Indonesia needed more space to hold East Timorese detainees.[624] It is also likely that it was a deliberate strategy to separate clandestine leaders from their networks. If this was the case, then the policy was unsuccessful.

Resistance activities in Indonesian prisons

Many East Timorese political prisoners detained in Indonesia were able to continue their activities of resistance to the Indonesian occupation. In some cases imprisonment may even have helped the Resistance to broaden its communication networks. In Cipinang Prison, prisoners were able to rebuild the structures of their clandestine network.[625] Xanana Gusmão explained:

I used João Camara's network, which was already established. Because I had knowledge of the forest and the city networks, I wrote to those inside Timor-Leste that I was still in control of…the struggle…[I was able] to maintain contact with the outside. At the time Ramos-Horta and his special deputy who worked at an NGO and who is now my wife [Kirsty Sword Gusmão] helped…[T]here was internet and e-mail which enabled us to build relations outside through all the existing networks.[626]

According to João Freitas da Camara, it was not difficult for the East Timorese in Cipinang to continue their resistance activities since they had support for their cause from some of the guards. Many of the guards took a liking to Xanana Gusmão and respected him. The prisoners also received help from outside in the form of a typewriter, a laptop computer, a mobile telephone and a video recorder. They paid the guards who would pick up the items and secretly hand them over. In this way they were able to continue producing documents.[627]

Arrests of members of the urban clandestine movement

504. During Operation Clean Sweep there were many arrests in the capital, especially of clandestine leaders. The Commission received at least 35 statements relating to arbitrary detention in Dili between 9 August and the end of December 1983. A further 15

reports did not specify the month of detention. Some leading figures in the clandestine movement were taking considerable risks during this time by approaching foreign visitors and delegations and by trying to inform them about the East Timorese people's predicament. Others were arrested while trying to send information abroad. Some of the cases the Commission identified included:

- Câncio Gama and 17 other members of Falintil were arrested and sent to Kupang (West Timor, Indonesia) after they tried to speak to an Australian parliamentary delegation led by Bill Morrison. Most died from starvation in Kupang.[628]
- Justo dos Santos was arrested in Dili on 25 July 1983, before the end of the ceasefire. He was taken to the Korem commander's house in Farol (Dili). He was kept in a hole, with only his neck outside. He was given a pack of candles that he "lit to shine a light in the hole day and night". After three months in the hole he was taken to the Korem, where he was accused of leading the clandestine movement in Baucau. For several Saturday nights in a row, from October to December 1983, the military took Justo dos Santos to Tacitolu on the outskirts of Dili. He was buried up to his neck in Tacitolu three times over the course of these visits.[629]
- Caetano Guterres was a clandestine member arrested in Dili in September 1983 by Kopassandha, after another detained clandestine member gave the military his name. He was kept incommunicado at the SGI Colmera (Dili) headquarters for three months. He told the Commission that he was interrogated every night, specifically about the plans and activities of the Fretilin Central Committee. The interrogations lasted between four and eight hours a day, closer to ten hours between 7.00pm and 5.00am for the first month.[630] He was then taken to the Comarca and tried. Sentenced to eight years imprisonment, Caetano Guterres was moved to Cipinang where he was held until 1989.[631]
- Marito Reis, a clandestine leader, described how in August 1983 Kopassandha sent him and ten other members of the Dili clandestine network to Bali for interrogation. They were not tortured but received only one meal a day. When they returned in November 1983 they were held in the Comarca where they were given electric shocks during interrogation. Marito Reis was then detained in the SGI headquarters for four months and then in the Kodim for one month before being returned to the Comarca. He was not tortured in either the SGI headquarters or the Kodim. Indeed in the SGI headquarters a captain stopped his men from hitting him saying: "This is a person; this is not an animal." In 1984, Marito Reis was tried and convicted. He was part of a group of political prisoners sent to Cipinang Prison in Jakarta to serve their sentences.
- On another occasion Marito Reis and five other clandestine members were called to the Korem where they were forced to sign a document which stated: "If you continue to do clandestine activities all of you will be shot where you stand."[632]

505. Clearly, the Indonesian military was beginning to recognise the importance of the urban clandestine movement, which was becoming increasingly organised, to the Resistance struggle. Detaining suspected clandestine leaders for long periods of time

(and in some cases killing them) was the main strategy used by the military in response to this development. Apart from those people detained after the Marabia attack in 1980, very few members of the urban clandestine network were sent to the island of Ataúro. Instead, they were tried and sentenced to long periods of imprisonment, often in parts of Indonesia. Their experiences suggest the military had more detailed intelligence and a coordinated and graduated system for dealing with political detainees in Timor-Leste during this period.

506. Caetano Guterres, whom Xanana Gusmão made responsible for smuggling information about Timor-Leste overseas, told the Commission about documents that he had managed to send from Timor-Leste with a journalist who was covering the visit of the Australian parliamentary delegation in July 1983.[633] Among the documents was a counter-insurgency manual prepared by the Indonesian army for its soldiers marked "Secret". Falintil had captured the manual from an Indonesian barracks. The Commission has obtained a document signed by Col. A. Sahala Radjagukguk, then the commanding military officer in East Timor, stating:

> Hopefully, interrogation accompanied by the use of violence will not take place except in certain circumstances when the person being interrogated is having difficulty telling the truth [is evasive]…If it proves necessary to use violence, make sure that there are no people around [TBO, Hansip, Ratih, people]...Avoid taking photographs showing torture in progress [while being given electric shocks, stripped naked, etc].[634]

Arrest and interrogation in Dili late 1983

Aquilino Fraga Guterres (Etu Uko) was a clandestine member involved in sending information about the situation in Timor-Leste abroad. In October 1983, the Dili Kodim found out about his activities and ordered two intelligence officers, Domingos and Carlos, to investigate him. At the time, Aquilino was working as a driver at the Regional Development Bank (Bank Pembangunan Daerah, BPD).

I had no idea that the members of SGI and the director of BPD were about to trap me…[One day] the director told me to bring the car to a service station near the Social Affairs office. After I arrived at the service station it wasn't long before several unidentified members of SGI appeared and said…to me: "The director wants you and us [SGI] to pick up a guest at the airport...." [W]hen I was in their car I was taken around Balide, [to the] Korem until we reached the SGI [headquarters in] Colmera.

At the SGI headquarters Kopassus members interrogated Aquilino. He was detained for one year and during his time in detention suffered beatings and electrocution:

First they destroyed me physically. For example in the matter of food, it wasn't a usual [amount] but was small portions for one year. I underwent a difficult time. I was also interrogated: "How many times did you meet with Falintil? What kind of support did you give to Falintil?" During the interrogation I was beaten with weapons, my feet were pinned under a chair, I was electrocuted. I felt like I was dying. They tied my body with ropes and my eyes were blindfolded with a cloth. Then I was thrown into a car and I didn't know where I was taken. I could only feel [where I was] and listen. For four hours I was taken around the city of Dili. After they were satisfied and tired, I was brought back to SGI Colmera.

After this, he was moved to the Comarca in Balide, where he was left without clothes. He was detained along with about 20 to 30 people in one cell. When they wanted to interrogate him, he was taken back to the SGI Colmera headquarters and then returned to the Comarca after the interrogation. Aquilino explains that during interrogation, officers simply wanted a confession:

During interrogation they didn't want to know about what I had done wrong. Instead Kopassus invented mistakes and forced us to admit to them. For example, that we sent ammunition, supermi [instant noodles], batteries [to the Resistance fighters]. They said: "If you admit it then you will be tried and then soon you will get out." That was against my conscience so I didn't do what they wanted. They were using the system: whoever succeeded in killing or torturing people would get a promotion in rank or a bonus.[635]

Arbitrary detention, torture and ill-treatment in 1984

507. The Commission's research suggests that 1984 was the beginning of a decline in arbitrary detentions, torture and ill-treatment, marking the beginning of the period of relative "normalisation" or "consolidation" (1985–1998).

508. Nevertheless, the year started with a military operation in the sub-district of Zumalai (Covalima). A number of people were arrested and some died in detention. After a deadly attack by Falintil on Indonesian military personnel in the sub-district of Zumalai in late 1983,* Indonesian military personnel from the district of Bobonaro

* Olandino Guterres told the Commission that the attack occurred on 7 December 1983 (the anniversary of the Indonesian invasion of Dili) and that Falintil killed seven members of Infantry Battalion 407 in Pelet, Lour (Bobonaro, Bobonaro). Infantry Battalion 407 was on patrol, when it was ambushed by Falintil. The Commission has not been able to confirm this account but notes that the three statements received from victims of arbitrary detention around Pelet give dates of their arrests between March and July 1984. Two of these statements were from the wives of victims who had been killed at the Koramil Zumalai. The reason they gave for the arrests was that their husbands had hidden a Fretilin flag.

arrested people in both Bobonaro Sub-district and the neighbouring sub-district of Zumalai (Covalima) and possibly as far as the district of Ainaro. Some detainees were held at the Bobonaro Koramil,[636] some at the Zumalai Koramil.[637] Both men and women were arrested arbitrarily, sometimes merely because their names were similar to the names of people whom the military suspected of aiding the Resistance.[638]

509. Armando dos Santos, one of those detained, estimates that 100 people were held in the Bobonaro Koramil with him. The Commission identified at least 15 people detained from around Zumalai and Bobonaro Sub-districts through its statement-taking process.* Another witness provided the Commission with a list of 45 people who were detained and then killed in the operation.[639] Six victims were arrested in the village of Carabau (Bobonaro, Bobonaro) in February 1984 in relation to the attack. Information provided to the military by other members of the community that they were members of Fretilin or had contact with Fretilin/Falintil resulted in the arrests.† Clearly, the military had conducted an investigation following the attack in late 1983 to identify all Fretilin and clandestine members in the area, before making arrests. Arrest of actual or suspected Fretilin members in the sub-districts of Bobonaro and Zumalai continued until August 1984.[640] Dinis de Araújo told the Commission:

> *One day my child was sick and I was looking after her. All of a sudden, ABRI brought four people to the front of my house, all tied up. I saw that most of them had been burnt. Like barbecued sweet potato, they were covered with black and dark [marks] on their bodies and faces. My hair stood on end and I was filled with fear. But they didn't do anything to me. They just walked in front of my house. They probably already had my name. After one month, a Hansip from Bobonaro came to my house and arrested me.*[641]

510. All detainees identified by the Commission reported torture and ill-treatment. Miguel dos Santos was arrested in Hauba (Bobonaro, Bobonaro) on 7 February 1984 by Infantry Battalion 407 and brought to the Carabau village office before being taken to the Bobonaro Koramil:

> *Battalion 407 started the interrogation. They said to me: "You were with GPK/Falintil, shooting soldiers in Fatuleto/Zumalai." An East Timorese man, T403, the former village head of Oeleu, along with TNI, started beating, punching, kicking and burning me with cigarette butts. My body was hurt all over and my face was swollen. Blood ran from my nose, mouth and eyes.*[642]

* They are: Armindo Franquelin, Alarico Sena, Francisco Talo Mau, António Gomes, Afonso da Cruz, Manuel Freitas, Matias, Miguel dos Santos, José Noronha, Rozito dos Santos, Carlos Magno, José Cardoso, Agapito Moniz and Belarmino dos Santos.

† For example, Antonio Gomes told the Commission that he was arrested by Infantry Battalion 407, Nanggala members and members of the Bobonaro Koramil based on "information" from five people from the village. [T404, T405, T406, T407, T408. HRVD Statement 5156.]

511. Prisoners were sometimes forced to strip naked while being interrogated about the killing of the Indonesian soldiers. The Commission also received reports that prisoners were threatened with being doused with oil and burned alive. They were deprived of food for up to a week. Kopassandha officers, most likely from Chandraca 11, were involved in many of these beatings, although Hansip sometimes participated under the orders of Kopassandha officers. The Commission has determined that at least three prisoners were killed while in detention, although it is likely that there were many more (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). Those prisoners who survived were moved from their homes in the mountains of Bobonaro to a newly constructed area called Halecou in the village of Ritabou (Maliana, Bobonaro) in May 1984.[643]

512. In other cases of arbitrary detention in 1984, the victims were arrested on suspicion of giving material assistance to Falintil, being in contact with Falintil leaders, having knowledge of preparations for a Falintil attack, or having family members in the forest.[644] One deponent, Sama Leto, said that he was arrested by Infantry Battalion 412 and Kopassandha 55 both because they found a photograph of his younger brother who was still in the forest, and because he was the village head but refused to supply women to the military. He told the Commission:

> *I was arrested and taken to Tokoluli to dig a hole and then I was to be killed. But it didn't happen and I was taken back home. Two days later I was called back again. I was beaten until all of my teeth were broken. I was bleeding and my face was swollen. I was taken to Liquiçá where I was detained with my friend Domingos [for two weeks]. I was detained then taken to Bazartete [Liquiçá] for one day and then released because I donated a goat for the leaving party of Infantry Battalion 412 and Kopassandha 55.*[645]

513. Some people were unfortunate enough to be caught in a Falintil attack, after which the Indonesian army suspected them of having cooperated with the attackers. Adriana Soares described how Falintil robbed a kiosk owned by her older brother, Manuel Gaspar, in Uaitame (Uatolari, Viqueque) in April 1984. She said that someone in her village reported her and Manuel to the commander of Chandraca 7 (Kopassandha) and they were arrested. Adriana was interrogated and tortured with another young woman, Angelina. She told the Commission:

> *Angelina and I were put into a room and then our clothes were torn off until we were naked and then we were told to sit on chairs and were interrogated: "Say you were both in contact with Falintil, ok! You met Xanana and Commander Rosito!" Then that Nanggala member stood and hit me until I fell and…said again: "Xanana and Commander Rosito screwed the two of you!" We stayed silent. Then they burned Angelina and I with a cigarette on our bodies and thighs, but they didn't rape us. In May, ABRI came at 5.00am and took 18 men detained there in a Hino truck. Their families still do not know where they are.*[646]

Detentions and torture by the Indonesian occupation authorities, 1985–1998

Introduction

514. During the 14-year period 1985 to 1998, known as the period of "normalisation and consolidation", Timor-Leste purportedly became just another province of Indonesia and was opened up to the outside world.[647] The Commission's research indicates that arbitrary detention, ill-treatment and torture of civilians was at lower levels than in the period 1975 to 1983, nevertheless they occurred in every year of this period.

515. Significant political shifts and changes in both the nature of the occupation and the nature of the resistance took place from 1985 to 1998. In 1987 Falintil split from the Fretilin party to become a non-partisan armed resistance (see Vol. I, Part 3: History of the Conflict, and Part 5: Resistance: Structure and Strategy). Isolated from the outside world, they became increasingly reliant on the clandestine front for survival and for most resistance activity. While regional armed clashes by the Resistance with the support of clandestine networks characterised the earlier periods, by the late 1980s the resistance occurred mainly in towns and cities, through demonstrations and other forms of political activism. A new generation of youth activists became the leaders of the urban clandestine movements. They continued to be directed by Falintil leaders in the forest (see Vol. I, Part 5: Resistance: Structure and Strategy).

516. Although Resistance figures were still detained and the use of torture in detention actually increased, the Indonesian military became less visible as the perpetrators of these violations. Police took over increasing responsibility for security in the territory. Members of Falintil and clandestine network members who were arrested were eventually charged and put on trial (see Vol. III, Part 7.6 Political Trials). In the early 1990s, the military established local paramilitaries and youth militias who were responsible for many violations. The politicisation of Resistance and pro-Indonesian youth led to outbreaks of civil unrest around religious and ethnic issues. These tensions resulted on a number of occasions in violent skirmishes between East Timorese youth and members of Indonesian security apparatus (see Vol. I, Part 3: The History of the Conflict).

517. Earlier established patterns persisted. The hunt for members of the armed Resistance and the clandestine movement continued. Those caught were arrested and arbitrarily detained, and suffered torture and other forms of cruel and inhuman treatment. Armed Resistance attacks on military or civilian targets also continued, although on a smaller scale than the early 1980s. As in the early 1980s, however, the civilian population suffered widespread violations in the aftermath of the attacks. Torture remained a common experience during interrogation, and conditions of imprisonment were also often harsh. The numbers of detentions and incidence of torture and ill-treatment remained quite stable in this long and complex period. This section has been structured according to the broad reasons for detention rather than chronologically. The criteria included:

- Involvement in, or contact with, the clandestine movement or the armed Resistance

- Involvement in public demonstrations against the occupying power
- Religious matters and other conflicts
- Detentions in the course of searching for Falintil members
- Resistance attacks on Indonesian military or civilian targets.

Profile of violations

518. The period of "normalisation and consolidation" of the Indonesian occupation between 1985 and 1998 is hallmarked by substantially different patterns of arbitrary detention, torture and ill-treatment compared with the other periods (namely the periods 1974-79, 1980-84 and the later period around the time of the UN Popular Consultation in 1999). In particular, the overall level of violence was lower between 1985 and 1998 than during the other periods. This hypothesis is supported by the Commission's quantitative findings. Consideration of the overall magnitude of documented violations reveals that although the period spans 53.8% (14/26) of the years under the Commission's mandate, only 23.8% (6,039/25,383) of the detentions, 30.5% (3,393/11,135) of tortures and 27.1% (2,292/8,443) of ill treatments reported to the Commission occurred during the period.

519. Further evidence of this can be seen by looking at the daily violation rate. For detention, torture and ill-treatment, the violation rates on a daily basis were substantially lower during this period than in other periods, as can be seen in the table below. For example, the documented daily detention rate by the Commission for 1999 was more than 7.9 times higher in 1999 and 3.8 times higher in the initial invasion years than during the "normalisation and consolidation phase".

Table 7: Daily violation rates for reported detentions, torture and ill-treatment by phase, 1974–1999

Period	Detentions	Tortures	Ill-Treatments	Total
1974	0.1	0.1	0	0.2
1975–1984	4.5	1.5	1.1	7.1
1985–1998	1.2	0.7	0.5	2.3
1999	9.3	7.5	7	23.8
Mandate Years	2.7	1.2	0.9	4.8

Source: Database of narrative statements given to the CAVR (HRVD)

Violations over space

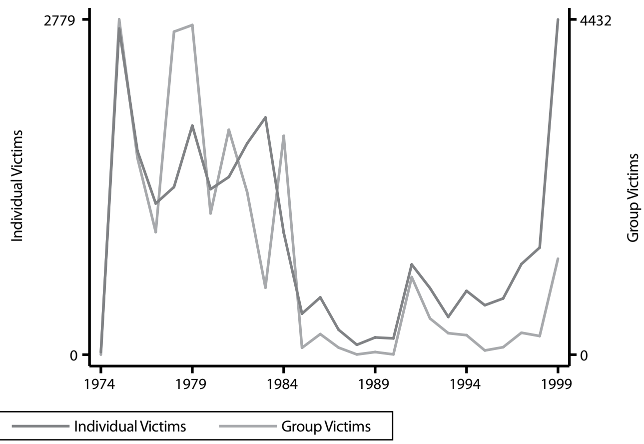
520. Apart from the Santa Cruz Massacre and its aftermath in 1991 in Dili and surrounding regions, reported violence during the "consolidation years" from 1985 through to 1998

took the form of sporadic low-level violence in all three regions. The Commission documented relatively similar levels of detentions, tortures and ill-treatments during the "normalisation and consolidation" phase in the western and eastern regions and a slightly higher level in the central region during this period. This appears consistent with the fact that the major detention centres of the Indonesian military were in Dili.

Detention and torture

521. During the period 1985-98, individual victims were detained consistently more often than group victims, as can be seen in the table below. This is consistent with the hypothesis that the detention practices of the Indonesian authorities shifted from a focus on both individuals and groups in the early occupation years of 1977–1984 to a more targeted strategy aimed at individuals from 1985 to 1999. It also reflects the end of the mass displacements of civilians to internment camps such as Ataúro early in this period.

Violations over time, 1974–1999



Source: Database of narrative statements given to the CAVR

522. The more targeted nature of violence by the Indonesian military is supported by the Commission's statistical evidence: the correlation coefficient between documented detentions and tortures attributed to the Indonesian military during the "normalisation and consolidation phase" was 0.97. In particular, as shown in the table below, the relative rate of tortures per detention increases substantially over the three phases of the conflict: from 0.29 in the early invasion years, to 0.52 in the "normalisation and consolidation" years to 0.69 during 1999.

Table 8: Ratio of reported tortures per detention attributed to the Indonesian military and police by phase, 1974–1999			
Period	**Detentions**	**Tortures**	**Ratio of Detentions to Tortures**
1975–1984	10,867	3,237	3.4
1985–1998	5,465	2,921	1.9
1999	1,417	972	1.5
Total	**17,749**	**7,130**	**2.5**

Perpetrator affiliation

523. The institutions attributed with responsibility for detention and torture by victims also changed in this phase. The involvement of civilian defence (Hansip) drops markedly in 1984 following the Hansip-led uprisings in 1983, and falls further in 1985. The number of cases of detention involving police also falls from earlier levels between 1985 and 1990, but from 1991 police involvement increases until they are one of the main institutions making arrests. The Indonesian military remained the most frequently named perpetrator in documented cases throughout the period.

Detention of clandestine members

524. By 1985, the Indonesian authorities were convinced that Operation Unity (Operasi Persatuan) had largely destroyed the clandestine networks that sustained the Falintil armed Resistance, and that Falintil numbers were dwindling. The armed Resistance was also taking a more cautious approach to the struggle. The strategy of the Resistance shifted during the 1980s to the point where armed conflict was secondary to the international diplomatic struggle, and generally did not seek large scale direct confrontation with the Indonesian military (see Vol. I, Part 5: Resistance: Structure and Strategy). Nevertheless, the clandestine networks were becoming more organised and many were placed under the control of a central structure in 1986, the Inter-regional Coordination Organisation (Organização Coordinadora Inter-Regional, or OCR).* They also began targeting schools and youth groups for membership. This process of organisation and centralisation continued in the 1990s. The leaders of these networks were a prime target for the Indonesian military.

525. One hallmark of the phase was that the clandestine movement was increasingly led by youth and youth organisations. They carried out open political protests against the occupying power which are considered below. Detention and interrogation of actual or

* According to Vasco da Gama, António Tomás Amaral da Costa (Aitahan Matak) and Paulo Assis Belo were active in this body. It was operative until 1988. [CAVR Interview with Vasco da Gama, Dili, 18 May2004.]

suspected clandestine members not involved in demonstrations continued throughout the period in all districts of Timor-Leste, including Dili. The Commission received over 500 reports of detention, ill-treatment or torture of clandestine members in this period. Clandestine detainees often experienced torture and ill-treatment at the time of arrest or while in detention.

1985 to 1998

526. In this period, Timor-Leste was still closed to the outside world. Communities were tightly controlled through extensive community intelligence networks and the pervasive presence of the occupying forces down to the neighbourhood level. Neighbours informed on neighbours. The military and police acted with impunity and with a free rein to treat suspected clandestine members as they chose (see Vol. I, Part 3: The History of the Conflict).

527. In one case, the Commission heard of Special Forces (Kopassandha) in the district of Lautém detaining minors on 23 May 1985 and subjecting them to torture and ill-treatment. Armindo Nunes (17) described how he and two friends, Agusto da Silva (18) and Amelio Nunes (17), all clandestine members, were arrested at their high school in Lospalos (Lautém). They were taken to the Kopassandha headquarters where they were detained, beaten, slapped and kicked. All three were then taken to the Lospalos Kodim where they were held with a Fretilin member, Domingos Savio, who had been shot and wounded. After two days and nights in the Kodim, Airborne Infantry Battalion 700 forces came and tortured the three youths. Armindo Nunes told the Commission:

> *That night they [Airborne Infantry Battalion 700] came and beat us by punching us in the head and kicking us in the knees. This happened every night for seven days. They just beat us; they didn't say a single word. Then in the morning we had water poured on us and were just left there saturated. After seven days I was called by a member of Kopassandha and he placed a table leg on my toes and then he sat on the table. A member of Team Alfa came in and said we would be killed if we didn't give up on achieving independence. I was interrogated four times during my time in detention and every time I was beaten in the same way, by being punched in the head. My head began to feel heavy and I couldn't answer their questions.*[648]

528. For seven days the detainees weren't given any food and, unable to stand the hunger, they ate banana skins that had been thrown away. Amelio Nunes was released but new detainees arrived at the Kodim including Victor, José, Angelo, Martino and Manuel Xisto. They were all beaten regularly. In August, Armindo Nunes was moved to the District police headquarters for one month. On 14 September 1985, he was taken by

helicopter with five others to the Balide Prison in Dili for investigation where he was kept naked in a dark cell for around 15 days and where he slept on the floor. He was finally tried five months later and sentenced to one year and ten months imprisonment.[649]

529. Other examples of arbitrary detention from the early part of the period include:

Table 9: Examples of arbitrary detention, 1985–1998

Name	District	Arrest	Reason for Arrest	Detention	Torture/Ill-treatment
Moises de Jesus dan Domingos[650]	Ainaro	25 January 1985 by Hansip T409 and T410, a member of Kopassus.	Suspected of seizing rifles from Koramil and of giving them to Falintil.	Held in Ainaro Koramil for two days.	Continuously beaten.
Ildefonso Piedade Belo[651]	Baucau	17 September 1985 by Infantry Battalion 724 Commander T411.	Suspected of knowing where Falintil rifles were stored.	Detained in the Flamboyan Hotel in Baucau, interrogated by Indonesian ABRI Commander T412 for two days and two nights.	Beaten, electrocuted, burned with cigarette butts, submerged naked into a water tank several times by Indonesian ABRI Commander T413.
António de Araújo Soares[652]	Makadade, Dili	1985 by Rukun Warga.	Community ordered to pull a boat along the coast. Victim did not join in, so was accused of supporting Fretilin.	Taken to the home of the village head.	No torture reported
Raimundo da Cruz[653]	Viqueque	1985 by an Indonesian Kopassus commander named T414.	A neighbour lost a cow and accused deponent of stealing it to give to Falintil.	Held for three months.	Beaten, punched and kicked.
Herculano dos Santos[654]	Hatolia, Ermera	April 1986 by the section head of village society development (Kasi PMD) T415.	Went to bank to take out money to pay staff but suspected of giving money to Falintil.	Held for one day in the Hatolia police station.	Choked, strangled and stepped on by T415 and then kicked by T416. At station, handcuffed and submerged in water for three hours.
Eugenio de Jesus[655]	Hera-Lebos, Dili	By troops from Infantry Battalion 723	Identity card found to be torn during check.	Held for one week in the Dili Kodim.	No torture reported

530. During this period, political detainees who had been sent to the island of Ataúro in the early 1980s began to return.[656] While some were completely free after their release, others continued to be monitored in their villages, or held in temporary detention or

resettlement camps, such as those in Cailaco or Bonuk (Hato Udo, Ainaro) (see Vol. II, Part 7.3: Forced Displacement and Famine).

Prisons in Timor-Leste

By the early 1980s the Comarca in Dili, the only official prison in Timor-Leste, was severely overcrowded. Military operations had resulted in large numbers of people being detained. From 1983 more prisoners were being put on trial and sentenced to long periods of imprisonment, for which they needed accommodation.[657] Some political prisoners were being sent to prisons in Indonesia, but there was still a need for more prison space in Timor-Leste. Accordingly, in 1985, Becora Prison in eastern Dili opened. It was followed by Buruma Prison in the district of Baucau in 1986-87 and then prisons in Maliana (Bobonaro) and Gleno (Ermera).*

These prisons were run by civilian officals under the Department of Justice. They held both prisoners awaiting trial, and those who had been convicted and sentenced. In general, conditions in state-run prisons were better than in the numerous informal detention centres, military commands and other police and military institutions where political prisoners were held.

Torture and ill-treatment

Torture and ill-treatment in these institutions were less frequent than in other detention centres. No reports of torture were received from detainees in the Maliana and Gleno prisons, although several former detainees of Becora Prison reported serious ill-treatment by prison guards.† Torture was reported to have occurred at Buruma. Januari Freitas Ximenes, who worked as a guard at Buruma Prison from 1990 to 1999, told the Commission that he saw people being tortured during interrogation by the police. One man was tortured "for 40 days in a cell until he was battered and powerless." The police forced prison officials to participate in beating detainees. He said: "I was forced and threatened at gunpoint [to slap a prisoner], and if I didn't do it they would kill me."[658] Mário Filipe reported that he was tortured constantly at Buruma by Brimob.[659]

* Due to the destruction of Indonesian government records in Timor-Leste, the Commission has not been able to determine when the Maliana and Gleno prisons were first opened. However, statements received by the Commission describe detention in these institutions suggesting a date around 1990.

† For example, Manuel Pereira told the Commission that he was detained in Becora Prison for six months in 1987, during which time he was left in the sun for extended periods and on one occasion was forced to drag a car tyre which was tied around his neck, along with other prisoners. [HRVD Statement 0928. See also HRVD Statements 0185, 3729 and 5079. Cases of torture and ill-treatment in LP Baucau include HRVD Statement 7817.]

Dark cells

All prisons had "dark cells" (sometimes described as "special cells") in which detainees were deprived of light and fresh air. They were used for newly arrived prisoners, for punishment or for solitary confinement.[660] Some dark cells in Buruma Prison had a toilet and bath facilities and a mat to sleep on. Dark cells in Gleno Prison had a wash-basin and toilet. The Commission heard that several detainees were held in dark cells for excessive periods, amounting to cruel and degrading treatment. Octavio da Conceição spoke of his psychological suffering after being held for three months in a dark cell in Becora Prison.[661] Eduardo Lopes (Lorico Lopes), arrested in 1995, spent four years in Maliana Prison without seeing daylight.[662]

Sanitation and hygiene in state-run prisons were below the standard required for the humane treatment of detainees in accordance with the Geneva Conventions, and conditions did not appear to improve over time. Mário Filipe said about conditions in Buruma in 1997: "There was a toilet in the cell, but no water so there was a constant strong smell of faeces and urine."* Conditions at Maliana Prison were no better. In the late 1990s, hygiene in the smelly, dirty cells was poor, especially since prisoners had to eat, wash, use the toilet and sleep without a mattress all in the same room.[663] Former prisoners held in Timor-Leste consistently report they had to sleep on cement floors, often without mats and sometimes the floors were damp.

Sanitation was often mentioned to the Commission in conjunction with other human rights abuses. José da Costa Ximenes, detained in 1994 at the Buruma Prison in Baucau, was separated from others arrested at the same time. When he protested, the Indonesian prison governor, T419, called him a bastard and had him thrown naked into a dark cell for ten days:

I was fed only porridge and dry rice. The dark cell had a toilet on the floor not far from where I slept, so I had to be careful not to spill any water when I washed myself, otherwise the floor would be wet. The cell was very small and I could not move.[664]

Once prisoners were sentenced and convicted they were generally treated better than those on remand. They were usually moved from dark cells to the common room. They were no longer interrogated and they could move more freely around the prison. However, prison guards often treated political prisoners and ordinary prisoners differently. Felismina da Conceição said of the Becora Prison in 1992:

* Mário Filipe was held for two months at Buruma Prison, Baucau in 1997, then moved to Kalisosok Prison, Surabaya, East Java. During the last three months before the Popular Consultation in 1999 he was held at the Semarang Prison, Central Java. [CAVR Interview with Mário Filipe, Baucau, 3 September 2004.]

They paid more attention to the criminal prisoners than to us [political prisoners]. When the regular prisoners became ill they could be taken to a hospital, but when we became ill we were only treated in our cells.[665]

Julio Araújo Martins, detained in Gleno Prison, said the movement of political prisoners within the prison was restricted:

I was not free to [talk to] other prisoners…Because I was a political prisoner they suspected I would influence [them], so I was kept alone in a cell."[666]

This sort of isolation was experienced by the six imprisoned in Becora following their conviction for involvement in the demonstration at Santa Cruz in 1991:

Those of us [they called] hard-headed were separated. So the six of us stayed alone in one block. The door was locked and we were not allowed any contact with the others for more than two years. We did some gardening and played ping-pong there.[667]

Sometimes prisoners could leave prison grounds but this does not seem to have been the norm for political prisoners. Felismina de Conceição said that guards at Becora Prison would escort a regular (criminal) prisoner to a family gathering such as a funeral or party, but not political prisoners.[668] David da Conceição Thon, one of those detained in Becora after the Santa Cruz Massacre, explained that after two to three months of detention he was allowed outside the building to get fresh air as well as to go to church. Eventually he was also able to pay some guards to let him go home for the night and return to prison the next morning.[669]

1989 to 1998

531. Even after Timor-Leste was "normalised" and opened to the outside world in 1989, the detention of clandestine members continued.

532. Sometimes a captured clandestine member provided the military or police with information that led to numerous other arrests. For example in Liquiçá in November 1990, after the capture of CNRM leaders including Amadeo Dias dos Santos and Agustinho dos Santos,* a major part of the clandestine network was exposed.[670] Arrests were made in villages such as Loidahar, Luculai and Darulete (all in Liquiçá, Liquiçá).[671] In Loidahar the village head, T420, arrested several people, sometimes accompanied by a Babinsa, T421.† He then handed detainees to the SGI or the Liquiçá Koramil, where they

* The village head of Darulete (Liquiçá, Liquiçá), who was subsequently fired.

† See HRVD Statement 2989. Other village heads in the district of Liquiçá involved in arresting people or threatening them at the end of 1990 were T426 (Leorem Village) [HRVD Statement 2177] and T427 (Bazartete Town, Bazartete) [HRVD Statement 0956].

were interrogated and tortured.[672] Most were held for between ten days and two weeks. One man, António Hatoli, had distributed Fretilin flags, while António Alves was found in possession of a flag.[673]

533. The following statement, describing an arrest in November 1990 in Liquiçá, illustrates the practice of handing a prisoner from one arm of the security apparatus to another for ongoing interrogations:

> *At 10.00am on 10 November 1990, an East Timorese soldier from the Liquiçá Kodim, T422, and [members of] the SGI arrested me at the residence of the Liquiçá parish priest. They took me to the Liquiçá Kodim for interrogation. During interrogation, they kicked me until I fell to the floor. Then they stepped on me and hit my back with a rock until I was flat on my back and lost consciousness. Then the head of the intelligence section at the Liquiçá Kodim, an Indonesian called T423, crushed my toes under a leg of a table leg while another soldier sat on [the table]. As the interrogation went on they hit me with a rock until, for the second time, I lost consciousness.*
>
> *When I woke up, a police officer hand-cuffed me and took me to the Liquiçá Sub-district police headquarters. They treated my wounds there with a compress, betadine and herbs. Then they stripped me and put me in a cell. At 5.00pm Gadapaksi*[674] *and SGI from Dili came and took me to SGI headquarters in Colmera Dili. There, an [East Timorese member of] SGI, T424, punched my face until I fell to the floor. I got up slowly and the SGI interrogated me. They beat, kicked and slapped me until my body was swollen.*
>
> *Then they transferred me to Kolakops Farol [SGI Investigation Office]. There, a member of SGI, T425, stripped my clothes off piece by piece, tied me to a chair and electrocuted me, at both the tips of my feet and in my ears.*[675]

Detention of a clandestine leader

The clandestine network in Ossu (Ossu, Viqueque) was particularly strong in the late 1980s and 1990s. It was led by José da Silva Amaral (Asuloko). He and his colleagues gave food, clothes, medicine and intelligence on military activities to the Resistance. José described how the network gradually extended its operations from the town of Ossu to the entire sub-district so that eventually the whole community, including women and children, were involved in clandestine activities.

José da Silva Amaral told the Commission that on 17 July 1991 he was arrested by an Indonesian member of Kopassus, T428. T428 took José Amaral to a house owned by a member of the local assembly, T429,

which was used at the time to detain and torture people, and interrogated him.

When José Amaral refused to answer questions he was ordered to take off his clothes and T428 and his East Timorese colleague, T430, put him into a tank filled with water and ice cubes and left him for three hours. Then T430 took a scoop and poured the ice water over José Amaral's head. José Amaral could no longer stand the cold. He shouted that they should just kill him and said to T428 that if he was taken out he would tell the truth. T428 continued the interrogation and José Amaral gave the names of some friends whom he knew had already been arrested, such as Mário Miranda and Fernando Nahabia. T428 was not satisfied with this information and he pulled out a gun and hit José Amaral across the hands until they bled. José Amaral wiped the blood on his trousers, intending to show it to the ICRC later, but T428 saw the blood and ordered somebody to clean and wash the trousers. After this, his moustache hairs were plucked out and he was beaten and kicked until he lost consciousness. He was held in T429's house for one month and then in the Kotis for two months.

After José Amaral was released members of the Viqueque Koramil came and arrested him at his home. T428 reappeared and took him to the base camp in Manatuto. While tied up, he was put into a box that was loaded onto a helicopter and taken to Manehat (Barique, Natarbora, Viqueque). After two months José Amaral was moved again to the Rumah Merah in Baucau, where he was held with Alberto Espirito Santo, José Manuel, Filomeno, and the nurse Victor Viegas. T431 interrogated him. He was stripped of his clothes and beaten by T428 with a 1-metre long iron rod. This interrogation continued from 9.00am to 3.00pm. José Amaral was detained in the Rumah Merah in Baucau for one year, and eventually released without trial.[676]

534. Sometimes whole villages suspected of being part of the clandestine network were arrested by the military:

- In the villages of Soro and Suro-Kraic (Ainaro, Ainaro), 40 people were reportedly arrested in October 1990 after clandestine documents were found implicating the villages in clandestine activities. Most of the detainees were released after interrogation but some were held for several weeks.[677]
- In the villages of Tutuluro and Babulu (Same, Manufahi) in November 1992, at least 40 clandestine members were arrested by police.[678] T432, under orders of police village guidance officer (Binpolda) T433, called them into the village meeting hall. They were questioned about sending goods to the forest. The police then handed the group to the Indonesian head of intelligence, T434, at the Manufahi Kodim. He took the group to the base camp in Same. At the base camp the detainees were made to sit against the wall and were then beaten

and kicked. After the beating, they were ordered to cut grass until evening. All but six of them were then released. The six, Raul da Costa, Anteiro, Paulo da Costa, Marito da Costa, Benigno and Hilario became "outside detainees" for 18 months.[679]

- On 15 January 1995, Liquiçá Kodim 1638 launched an operation in Gariana Village (Vatuvuo, Maubara, Liquiçá) because the villagers were suspected of hiding members of Falintil.[680] They arrested residents of Gariana, including the village head, José Nunes, Abel Nunes, Victor, Agusto Pinto, Joanico Sampanho, Fernando Pinto Nunes and Filomeno.[681] All six men were eventually shot and killed (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). Before their deaths, they were taken to the Karbaudabas Post and interrogated overnight. Four of the men were tortured by being hung from the neck until they fell unconscious, by an East Timorese officer T435 and a TNI private T436.[*] Another victim, Mário da Silva, was not killed but was interrogated by First Lieutenant T437.[†] During interrogation, another East Timorese soldier, T438, cut off his toe with the leg of a table, stomped on him with military boots and beat him with a rifle.[682] According to the community of Vatuboro (Maubara, Liquiçá), following the incident in Gariana ABRI and its auxiliaries began to suspect youths from around the district of Liquiçá of working with Falintil.[683]
- In Uatolari (Viqueque) in 1998, the Indonesian commander of the Uatolari Koramil, T439, and his men arrested 100 residents for belonging to the pro-independence group 55 (read Cinco Cinco or Five Five). After their arrest they were tied up, kicked, stabbed with a rifle and taken to the Uatolari Koramil. They were then taken to the Viqueque Kodim where they were held for three months. They were interrogated while tied up with cable. They were also forced to stand to attention facing the Indonesian flag every day. After their release they had to report twice a week.[684] As well as arrests in rural areas, members of the clandestine movement in Dili were also arrested. In one case the Commission heard of three youths, Alexandre dos Santos, his brother[‡] João Xavier and Mariano da Costa, who were arrested in October 1990 because the authorities believed that they were planning to burn the house of Jaime Oliveira, a Sub-district administrator. Members of the police, military and intelligence chased the youths from the Dili suburb of Fatuhada to Hudi Laran in Dili, shooting at them. When they were caught, they were beaten with motorcycle chains and metal pipes. They were taken to local police stations and interrogated, after which they were taken to a clinic to attend to their wounds. After three days in the Sub-district police headquarters, they were taken to Becora Prison for 17 days.[685]

* They were eventually shot by the same perpetrators. [HRVD Statement 3004.]

† T436 and T437 were convicted by a military tribunal for disobeying the orders of a superior, ordering another person to commit murder and making a false report to their superiors [*Amnesty International Indonesia and East Timor: Twenty years of violations*. Statement before the United Nations Special Committee on Decolonisation, 11 July 1995 Amnesty International Index: ASA 21/33/95].

‡ In East Timorese society, someone described as "brother" could mean a cousin, nephew, a member of the extended family, or a good friend or colleague.

Clandestine arrests in Dili

Chiquito da Costa Guterres started working as an *estafeta* from 1994, bringing important documents for the Resistance from Dili to Manatuto. He was arrested on 21 February 1996 by police intelligence at the Juwita photoshop in Colmera where he was developing pictures for Falintil. He was put into a taxi and taken to the traffic police station where he was questioned for a few hours about who his leaders were and who had ordered him to develop the photographs. He was beaten and given electric shocks by the police. The police moved him to the Sub-district police station at the Old Market, where he was interrogated. His eyes were covered with cloth and his clothes were stripped. He was beaten by police intelligence officers. He was forced to sign a letter which falsely recorded his answers under interrogation. After two days he was moved to the District police station where members of the SGI and intelligence police interrogated him. His toes were crushed under a chair with someone seated on it. He lost consciousness, and was later put in a "dark cell".

At night the intelligence police took him out of his cell to Tacitolu, on the outskirts of Dili:

They [police intelligence] kept me standing in the water while waves wet my legs and they fired their guns. I did not know what they were aiming at. Then, they dragged me to a tree full of thorns and I stepped on these thorns. They tied me to the tree and fired their guns. It was a psychological threat to force me to tell the truth.

After a month in the Regional police headquarters, Chiquito was moved again to SGI Colmera, where he was held for one week. He was not physically harmed there, but was still threatened with torture. When asked why he was constantly moved around to different detention places, Chiquito explained:

They transferred me from the traffic police to Sub-district police headquarters because it was not a place of detention and there is no guarantee that detainees would not escape. Then they moved me from Sub-district police headquarters to Regional police headquarters because Sub-district police headquarters could not accommodate long-term detainees and there was also no guarantee that the detainees would not escape. Then they handed me over to SGI in Colmera because, first of all, they had no concrete evidence to take me to court. Second, they thought SGI in Colmera would be tougher. They tortured me to get concrete evidence. Third, they could prolong the torture so that I would reveal my clandestine friends' identities as well as my friends in the Resistance in the mountains. In fact the SGI did not physically torture me. Instead, they used psychological torture.[686]

The arrest of clandestine members in Indonesia

535. In the 1980s, many East Timorese people started living, working and studying in Indonesia and by the late 1980s active clandestine groups had been established in Indonesian cities. Those involved in clandestine activity in Indonesia were at risk of arrest and detention by the Indonesian authorities. The Commission received reports of the arrest and ill-treatment of East Timorese people suspected of clandestine activity in the Javanese cities of Bandung,[687] Semarang, Solo, Surabaya, Jakarta,[688] Malang, Yogyakarta[689] and Denpasar, Bali.[690]

536. In one case, José Neves was arrested at the Malang Central Post Office on 18 May 1994 while trying to send documents detailing human rights abuses in Timor-Leste abroad to a solidarity group in Germany. The customs officers opened the documents and, seeing Xanana Gusmão's name, realised that they related to the resistance in Timor-Leste. Within 30 minutes two people from the Prosecutor's Office and plain-clothes intelligence officers arrived and arrested José Neves. He was taken to the police station in Malang and interrogated:

> *While I was in detention, intelligence officers and detectives interrogated me every afternoon and also at night. The intelligence officers were interested in the clandestine networks, their activities and the people who were involved. The detectives wanted [information that would help them] to prepare indictments for the trials. During interrogation I was verbally abused, including swearing and threats of beating or shooting me. But this never happened. They said things like "stupid students", "trouble-makers" and "disturbers of public order". They also insulted East Timorese, saying that they were stupid, ungrateful and backward.*[691]

537. After five months in detention José Neves was tried and sentenced to four years imprisonment. He served two-and-a-half years in Malang's Lowok Waru Prison from February 1995 to September 1997.

Demonstrations

538. Public demonstrations were a context for detention, ill-treatment and torture that was unique to the period of "normalisation". These public acts of resistance were led by the city-based clandestine networks which emerged in the late 1980s. These acts become a significant strategy of the Resistance. This strategy, however, made members of the Resistance visible to the authorities and many hundreds were arrested over the years (see Vol. I, Part 3: The History of the Conflict; Part 5: Resistance: Structure and Strategy).

539. The phenomena of public demonstrations began after President Soeharto opened eight of Timor-Leste's 13 districts to Indonesian and overseas visitors and delegations in 1989. They were a way to convey the message of resistance to the outside world. The first major demonstration was held after the Mass in Tacitolu during the visit of Pope John Paul II in October 1989. Over the following two years organised demonstrations were

a regular occurrence until the military crackdown at the Santa Cruz cemetery in 1991, which resulted in the capture and detention of many leading Resistance figures. Reports of arbitrary detention and torture in connection with the demonstrations therefore declined in 1993, but still occurred as new generations of student activists emerged, particularly from the University of Timor Timur (Untim). Figures for detention and torture related to the large demonstrations coinciding with the fall of President Soeharto in 1998 are low (see Vol. I, Part 3: The History of the Conflict).

540. The victims of detention and torture related to demonstrations were predominantly urban youths in the population centres of Dili and Baucau. Many were students from high school or university.

541. The following section examines the nature and extent of arbitrary arrest of would-be demonstrators in anticipation of a demonstration, arbitrary arrest and detention at or after a demonstration, and patterns of interrogation and torture.

Arrests in anticipation of a demonstration

542. The Indonesian authorities put considerable time, effort and funds into suppressing demonstrations and other forms of public expression of political opinion. Many cases of arbitrary arrest and detention in connection with organised demonstrations occurred before the demonstration took place. Because demonstrations were usually held to coincide with international visits or to mark particular days, they could be anticipated. People were arrested on the basis of specific intelligence or general knowledge of clandestine networks. Certain schools known for their resistance activity were regularly raided by police and military searching for pro-independence literature or to arrest clandestine members.*

The visit of Pope John Paul II

543. At least three months before the visit of Pope John Paul II on 12 October 1989, an intense military operation began across the territory to arrest potential troublemakers and prevent guerrilla fighters from entering villages and towns.† Thousands of soldiers guarded Dili, as well as the towns of Aileu and Ermera.[692] Gregório Saldanha, a clandestine member, was one of those arrested during this operation.‡ He explained:

* Schools targeted by the authorities included St Paul VI Catholic Junior High School (SMP Paulus) and the Externato de São José Secondary School, both in Dili; and Fatumeta Junior High School IV (SMP 4) and Technical Senior High School (STM) Fatumaca (also known as João Bosco school) both in Baucau district. [CAVR Interview with José Manuel da Silva Fernandes, Dili, 31 October 2002.]

† Document "35 Tahun Darma Bakti Kostrad, Perpus Lemhanas, seluruh sector, khususnya Kodim 1627/Dili, mengadakan Pam dalam rangka kunjungan Paus Johannes Paulus II ke Dili." ["...all sectors, especially District Military Command 1627/Dili, exercised extra security in relation to the visit of Pope John Paul II to Dili."], Document "35 Tahun Dharma Bakti Kostrad, Perpustakaan Lemhanas, [no date] ["35 Years of Kostrad Services, Library of Lemhanas"[no date]: p. 97].

‡ Amnesty International reported that Filomeno Paixão de Jesus and Hermegildo de Conceição were detained in June 1990 and taken to a military arsenal in Dili, the Gudang Municipal [Amnesty International, Amnesty International Statement to the United Nation Special Committee on Decolonization, AI Index: ASA 29/09/90, August 1990. p.2].

The Indonesian military thought that by arresting us, the demonstration for the Pope's visit wouldn't take place. They arrested us to anticipate any unwanted incidents. The other reason we were arrested was that they had discovered the network we had formed. But it turned out that they were wrong. Other people staged a demonstration during the Pope's visit on 12 October 1989, because they were already well organised.[693]

544. In total, 34 people were detained, first in Battalion 744 headquarters and then in the SGI Colmera headquarters. All spent between five and six months in detention without visits from family members or international monitoring agencies (see Vol. I, Part 3: The History of the Conflict).

The Portuguese parliamentary delegation

545. In 1991, there was increased political activity in anticipation of the scheduled visit of a Portuguese parliamentary delegation on 4 November 1991.* The Resistance saw the visit as an opportunity to convey its message to the outside world and in April 1991 it organised a meeting with all youth groups to plan for the occasion. At the end of the meeting the establishment of the CRNJT (Conselho Resistência Nacional Juventude Timor, Timorese National Youth Resistance Council) was declared and José Manuel da Silva Fernandes was elected president. The main purpose of the CRNJT was to plan a welcome for the Portuguese parliamentary delegation.[694] Banners were made and peaceful demonstrations were planned throughout Timor-Leste by various youth groups from Dili to Baucau to Oecussi.[695]

546. The Indonesian military was determined to prevent further Resistance actions and demonstrations following embarrassment at the Mass held by the Pope in Tacitolu. The Regional Military Command in Bali (Kodam), Operations Implementation Command (Komando Pelaksana Operasi, Kolakops) prepared a 150-page document outlining a detailed operations' plan starting three months before the scheduled visit.[696] As part of this plan, troop numbers were increased significantly† and paramilitary groups were told to organise demonstrations in favour of integration.‡ The military visited villages throughout Timor-Leste to warn communities that anyone found to be involved in clandestine activities in relation to the visit of the parliamentary delegation would be killed.§ In addition the military arrested everyone they suspected might join an action or demonstration.

* Initially scheduled for an earlier date, but rescheduled a number of times.

† Three additional Strike Force units (1,629 soldiers) were employed, [Samuel Moore, "The Indonesian Military's Last Years in East Timor: An Analysis of Its Secret Documents", *Indonesia 72*, October 2001, p. 25; *East Timor's Unfinished Struggle: Inside the Timorese Struggle*, Constâncio Pinto and Matthew Jardine, 1997, South End Press, Boston, MA, p. 176].

‡ The Volunteers Team, for example, was established by Special Forces in Ainaro in 1991 with the purpose of demonstrating in favour of integration.

§ Pinto also mentions that mass graves were dug in Tacitolu, Gleno and Aileu to intimidate people. [*East Timor's Unfinished Struggle: Inside the Timorese Struggle*, Constâncio Pinto and Matthew Jardine, 1997, South End Press, Boston, MA, p. 178].

547. In Dili, many of the "usual suspects" were targeted for detention. Afonso Maria, who had been arrested previously in 1987, 1988, 1989 and 1990, reported that he was arrested again in 1991 because the military in Jakarta had received information that he was making plans for the parliamentary visit. Afonso was taken to Nusra Bhakti in Dili but he said that many others who were arrested at this time and were taken out of Dili and detained in Baucau and Viqueque in an attempt to separate them from the clandestine network.[697]

548. Arrests were also made outside of Dili. Jorgé Flores dos Santos told the Commission that on 14 November 1990 he and two friends, Calistro and Amadeo, were called to the Liquiçá Kodim by the section head of intelligence (Kasi 1), T423, and the East Timorese Kodim member T422, because information had been received that these three youths were preparing something for the Portuguese delegation. They were immediately taken to the Liquiçá Koramil where the Indonesian Sergeant from Kolakops T442, two ABRI members and police officers took turns kicking, punching and beating them and then interrogated them. The same day, the three were handed over to Kopassus and taken to Dili for detention in Nusra Bhakti. No interrogation or ill-treatment occurred there.[698] The next day, 15 November, Jorgé Flores dos Santos was moved to the Balide Prison where he was held for five days without clothes in a dark cell full of faeces. He was fed food "fit for animals". He was sent back to the Nusra Bhakti for three more weeks and ordered to translate documents that had been obtained by members of the SGI.[699]

549. Because known activists were being increasingly targeted for arrest, a group of more than 20 Resistance activists went to hide in the Motael Church in Dili. At 11.00pm on 28 October 1991, the military, members of the police and the SGI surrounded the church and then stormed it. The activists fought back. One member of the Resistance, Sebastião Gomes Rangel, was shot dead and an East Timorese military informant (*mauhu*) named Afonso was also killed. Boby Xavier Luis Pereira told the Commission that the next morning he and others, including João Domingos Freitas Leite, Alexio da Silva Gama (Alexio Cobra), Bonifacio Barreto and Jacob were arrested. They were brought to the Dili District police station, while being kicked, beaten and punched. Boby Xavier Luis Pereira told the Commission:

> *When we were detained at the police station every day we were tortured in various ways, and interrogated. The forms of torture included beating us with their hands and with a baton, kicking us until we were black and blue and fell to the floor and then dousing us with dirty water. The daily interrogation and torture continued for about one week. The people who tortured us, the ones that I knew, were East Timorese police officers T443, now in Indonesia, T444 from Lospalos, also now in Indonesia, and T445, now a police officer with the new PNTL [Policia Nacional de Timor-Leste].*[700]

550. David da Conceição Thon was also arrested at Motael on 29 October, but was sent straight to Becora Prison.[701] According to Amnesty International, 20 individuals were arrested at the Motael Church on charges of creating a social disturbance and pro-independence activities.[702] José Manuel da Silva Fernandes told the Commission

that the parish priest of Motael and the Vicar-General of Dili Diocese, Father Alberto Ricardo, were also taken in for interrogation.* Boby Xavier was eventually tried and sentenced to three years in Kupang Prison.[703] Alexio Cobra was detained first to provide a witness statement but was soon also charged and tried for his participation. He was also sentenced to three years in Kupang.[704] The Portuguese visit was eventually cancelled and no demonstration took place at this point.

551. Moving suspected clandestine members outside of Dili to prevent them from joining in a demonstration was a form of preventive arrest, as Anibal Ximenes experienced:

> *On 27 September 1994, around 8.00 in the morning, I went to the Dili Wira Dharma Korem 164 because a letter delivered by the Babinsa Hary had called me there…On arrival, I joined 50 other people who had been detained. We were broken up into groups and taken to the districts to prevent us from staging a demonstration during a visit by an American congressman to Timor Lorosae. They took me to the Baucau Kodim where I spent two days, and then [I spent] two weeks in Quelicai. Then they took me back to the Dili Kodim and kept me for a day before I was released.*[705]

Arrests at or after an event

552. Despite intense preventive arrests before visits from overseas delegations, the clandestine movement often managed to hold demonstrations. The Indonesian authorities responded to these actions with mass arrests of demonstrators and brutality far out of proportion to the threat posed by the demonstrators. Photographs and videotapes of demonstrators taken by plainclothes intelligence were used to catch demonstrators who managed to escape arrest during the demonstration.

The Mass at Tacitolu by Pope John Paul II

553. The Mass conducted at Tacitolu (Dili) on 12 October 1989 by Pope John Paul II was attended by an estimated 100,000 people (see Vol. I, Part 3: The History of the Conflict). As the Mass ended a group of young pro-independence supporters took out banners they had hidden under their clothes and began shouting slogans. The demonstrators were mainly high school students from the Externato de São José, STM Fatumaca, Baucau and Catholic scouts (*escuteiros*) of the Balide Church. Chaos ensued. Chairs were thrown by Indonesian security agents, the Pope was taken from the stage and police

* Amnesty International also reported that Father Ricardo "has been subjected to repeated, intensive interrogation by the security forces since the 12 November incident. Interrogation appeared to have ceased briefly during the Christmas period but has reportedly now resumed. On 2 January 1992, Father Ricardo is said to have been subjected to continuous interrogation from 9am to 5.30pm, during which time he was threatened and verbally humiliated. As a result of these interrogations, colleagues say, Father Ricardo is in grave danger of a psychological breakdown." Amnesty International Urgent Action 04/92, AI Index: ASA 21/01/92, 3 January 1992. [See also CAVR Interview with José Manuel da Silva Fernandes, Dili, 20 December 2004.]

and Indonesian military captured and arrested the demonstrators.* According to Bishop Belo, cited by Asia Watch, 40 people were arrested at Tacitolu.† The Commission received a statement concerning the demonstration from Celestino Porfira da Silva, who testified that many people were arrested including Donanciano Gomes and José Manuel da Silva Fernandes, both of whom were taken to the SGI Headquarters in Colmera and detained for several days.[706] The military told the STM Fatumaca students, recognisable by their uniforms, to get into trucks that would return them to Baucau. Instead they were taken to the Infantry Battalion 745 base in Comoro.

554. With the aid of photographs taken at the Mass, the military was able to arrest other demonstrators who had managed to flee the demonstration. The Commission heard that several people were arrested at checkpoints as they tried to return to their villages outside Dili.[707] Others were caught in the following days and weeks. For example, Boby Xavier Luis Pereira from the Externato de São José told the Commission that he was captured by the military from Security Operations Command for East Timor (Komando Operasi Keamanan, Koopskam) and taken to the Becora Prison. He was released within a month after intervention by the ICRC.[708] José Manuel, one of the demonstration organisers, went into hiding for three days and then sought refuge in the Bishop's residence, along with about 26 others, including Donanciano Gomes, Francisco Sousa, António Mesquita (Maukoer) and Guilherme. He told the Commission that after ten days the demonstrators were visited by a group of intelligence and military officers including Colonel Bimo, head of intelligence, Brigadier General Mulyadi, the Commander of the Kolakops, and Colonel Nainggolan, who was a Kopassus officer from Jakarta. They tried to convince them to surrender and brought Governor Mario Carrascalão as a negotiator and two prisoners, Victor da Costa, a Fretilin Central Committee member, and Baimetak, a guerrilla fighter, to show the demonstrators that prisoners were not mistreated and that surrendering was their best option.[709] Military representatives promised Bishop Belo that the demonstrators would not be tortured, but they refused to surrender. A week later, on 5 November, members of the military returned and arrested the group and they were taken to the Korem.[710]

Visit of the US Ambassador John Monjo

555. On 17 January 1990, 100 demonstrators[711] gathered in front of the Hotel Turismo and asked the visiting US ambassador to Indonesia, John Monjo, to come outside and hear a petition they had prepared. The ambassador came out and spoke to the demonstrators through a megaphone for about one hour. During the exchange, plainclothes Indonesian military videotaped, photographed and recorded the names of those present.‡ As soon

* The Commission obtained film footage of the Mass, the subsequent demonstration and its violent aftermath, which shows Indonesian security agents throwing chairs at demonstrators and violently disbursing them. [Film footage from ABC Television, Australia. CAVR Archive.]

† See *Asia Watch*, "Remembering History in East-Timor: The Trial of Xanana Gusmão and a Follow-up to the Dili Massacre," April 1993, p. 76.

‡ A Kodim member in military uniform was seen filming openly, whereas only plainclothes intelligence officers were seen taking photographs. [Statutory Declaration of Andrew John MacMillan before the Comissioner of Oaths, Darwin Australia, January 23, 1990. See also CAVR Interview with Simplicio Celestino de Deus, Dili, 8 October 2004].

as the ambassador left the hotel, riot police began to beat and arbitrarily arrest the demonstrators.[712] Most were taken to the Dili Kodim and interrogated (see Vol. I, Part 3: History of the Conflict).

SMPN IV School, Dili

556. Not all demonstrations were planned. Some occurred spontaneously in response to perceived provocation from the state but were also put down by the authorities. For example, at the SMPN IV School (Dili) on 17 March 1990 a visitor to the school, Bambang Udiyono, from the Prosecutor's Office, said in a speech: "If you can't even make a single match, then Timor-Leste cannot yet be independent."* The students reacted angrily to the speech and began to demonstrate. Brimob arrived and scuffled with the students, arresting some. One of the students arrested, Francisco da Costa, reported that he was held first in the Dili Sub-district police headquarters where he was heavily beaten and then in SGI Colmera where he was accused of being in the Resistance, stripped naked and beaten unconscious.[714]

Santa Cruz demonstration

557. The Santa Cruz demonstration is the most well-known of the public demonstrations to have occurred in Timor-Leste. Videos of the massacre at the Santa Cruz Cemetery on 12 November 1991 profoundly changed the fortunes of the territory by drawing international attention to the situation. As well as those who were killed at the demonstration (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances) many were arrested and detained. Statements given to the Commission about the incident describe the methods of arbitrary arrest as brutal and involving severe beatings by both the police and the military. Most of those arrested were thrown into trucks and taken to various police stations around Dili or to the Korem and Kodim in Dili.[715] Some of the seriously wounded were taken by truck to the military hospital in Lahane. Beatings reportedly occurred during the journey,[716] and even in the hospital itself.[717] After being given basic medical attention, most detainees were sent to the police station where it was decided who should remain in custody.† Bishop Belo was able to secure

* This phrase is similar to a phrase reportedly used by members of the UDT political party in 1974-75 when they claimed Timor-Leste was not sufficiently developed for immediate independence. The Commission heard reference to this in many testimonies. [See, for example, testimonies of Manuel Agustinus Freitas, Manuel Duarte and Francisco Xavier do Amaral to the CAVR National Public Hearing on the Internal Political Conflict 1974-76, 15–18 December 2003].

† According to Laporan Khusus Tentang Pengungkapan Para Perusuh Yang Terlibat Dalam Peristiwa Demonstrasi 12 Nopember 1991 Di Santa Cruz, Dili, Timor Timur, [Special Report Regarding Disclosure of the Rioters of 12 November 1991 Demonstration in Santa Cruz, Dili, East Timor] dated December 1991 (no day entered), signed and sealed by Komando Pelaksana Operasi Timor Timur (Brigadier General Rudolf Warouw), 253 people were released on the same day, seven people released eight days later, 11 people released 12 days later, 10 people released 15 days later. The document mentions that 22 were *ditahan* (detained), meaning for a longer period. This differs from the Asia Watch account [Asia Watch, "Remembering History in East-Timor: The Trial of Xanana Gusmão and a Follow-up to the Dili Massacre," April 1993, Vol. 5, No. 8] which says that 32 persons were arrested of whom eight were tried in Dili in June 1992 and received sentences ranging from five years and eight months to life in prison [Asia Watch used the ICJ report, "Tragedy in East Timor: Report on the Trials in Dili and Jakarta," Geneva, Switzerland, 1992]. The other 24 became *tahanan pembinaan* (detainee for guidance); see discussion below.

the release of some,[718] but others were held for longer periods. The Commission heard that some, mostly leaders of the clandestine movement, were moved to other districts to break all connection with the Resistance movement.[719] Amnesty International estimates the number of people detained after the incident as around 300.[720]

558. Several people who had managed to escape arrest at the cemetery were chased by members of Brimob or the military and caught in other parts of Dili. They tracked down others later in the day. Pedro Amaral told the Commission how he ran towards the Old Market area to catch a public minibus, but was caught by two members of Brimob and two members of the police. They beat him with their hands and SKS rifles. He spent two nights in the Sub-district police headquarters before being moved to the District police headquaters (Sub-Regional Police Headquarters) for one week where he did not experience ill-treatment. He then spent three months in Becora Prison, after which he was released. During his first week in Becora he received no food.[721]

559. Simplicio Celestino de Deus, a clandestine member, was arrested at the cemetery after the shooting of demonstrators had ended. He told the Commission:

> *At Santa Cruz Cemetery I looked for a place to hide. Soon soldiers entered the cemetery and stepped on victims who were on the ground and hit them with their rifles. Then they arrested me. One soldier from Battalion 303 from Sulawesi cut my left ear [and] it bled. They started to torture and abuse [hit] me. Then a [East Timorese] police corporal, T443 from Hatolia, came and cut off my right ear and hand-cuffed me. Blood streamed from my ear.*
>
> *As they tortured me, I heard a soldier yell: "Don't torture him, because the commander needs him." Then they dragged me violently out of Santa Cruz Cemetery and threw me into a Hino truck full of dead bodies, around 50 to 60 dead bodies. Blood streamed all over my body and my eyes. Then my friends and I received medical treatment for nine days at Wira Husada Hospital in Lahane.*[722]

560. Simplicio de Deus was later detained in the Regional Police Headquarters in Comoro.

561. The Commission received statements indicating that the military arrested people, not only in Dili but also in the districts of Liquiçá, Bobonaro and Baucau after the Santa Cruz demonstration and massacre.[723] For example, the communities of Venilale (Baucau) and Vemasse (Baucau) described how the army increased patrols at night and began to target individuals, usually young men, whom they suspected of attending the demonstration.[724] The Commission heard of two people in the village of Uatu-Haco (Venilale, Baucau) who were tortured.[725] In Quelicai (Baucau), members of the paramilitary group linked to ABRI, Team Saka, helped with arrests of suspects.[726]

Detention for guidance

The military tried many techniques to break up the clandestine movement. In the early 1980s, clandestine members were sent away from their networks to the island of Ataúro or to prisons in Indonesia and held incommunicado. Still others were moved out of their home villages and held in newly-constructed villages, such as Dotik (Alas, Manufahi) or Bonuk (Hato Udo, Ainaro), far from their family and friends. In the 1990s, members of the urban resistance involved in demonstrations were also moved out of their home-towns into rural areas to separate them from the clandestine network.* Some were sent to be "re-educated", which involved forced labour for the military for indefinite periods.

This was the experience of Simplicio Celestino de Deus and five of his colleagues, Filomeno Gomes, Fernando Tilman (Gulit), Renilde Guterres, José Bento and José Belo, all of whom were arrested after the Santa Cruz demonstration in 1991. After first being held in the Dili District police station with other detainees, they were told they would be released after attending a Mass by Fr Brito. However, the truck they thought was taking them to the Mass took them instead to the district of Lautém. They were held in the Lautém Kodim for a day and then the Army Strategic Command (Komando Strategis Angkatan Darat, Kostrad) base in Illiapa, Lore II (Lospalos, Lautém), for two days. Simplicio and Filomeno Gomes were separated from the others and held in the Airborne Infantry Battalion Kostrad base in Alapapulu (Lospalos, Lautém) where they were interrogated about the clandestine network and asked to name members. After about four months all six met again at the base camp in Lospalos.[727]

In the basecamp the detainees were required to work around the clock without pay, growing food for the soldiers during the day and guarding the camp at night. Simplicio explained that they worked on the land for 12 hours a day between 6.00am and 6.00pm with only a short break at breakfast and a 15-minute lunch break. They were beaten if they were late. At 6.00pm they bathed, ate and rested and at 9.00pm they took turns doing the night watch until 6.00am.

* After his arrest on 23 January 1991, José Manuel da Silva Fernandes was moved around different detention places such as Senopati I (Dili), Nusra Bhakti (Dili), Rumah Merah (Baucau), Kotis, Battalion 413 base (Manu-boe, Ossu, Viqueque), Kodim Viqueque and eventually to the base camp in Viqueque, where he was held as a *tahanan luar* (an outside prisoner) for two years. [CAVR Interview with José Manuel da Silva Fernandes, Dili, 20 December 2004].

This type of imprisonment is sometimes referred to as "persons detained for guidance" (*tahanan pembinaan*).* Asia Watch reported that such prisoners were put into the custody of territorial units in rural areas where they worked under the supervision of soldiers in rural development projects.[728] General Theo Syafei reportedly told Asia Watch that this form of detention could be indefinite, although supervising soldiers were given "targets" for completing the re-education of detainees in their care. The answer a senior military intelligence officer reportedly gave when asked when these detainees would be charged and brought to trial was: "not determined".[729]

Simplicio Celestino de Deus described how two military officers from Jakarta visited him every three months. They would talk with him to assess his psychological state. They would ask him things such as: "Where do you see yourself in five years? What do you think will happen in the future? Why do you think this happened to you?" Simplicio believes that he was allowed to go home in 1993 because these visitors sent a favourable report to Jakarta.[730]

Cancelled visit of the Portuguese parliamentary delegation

562. Also in November 1991, the military and other Indonesian agents arrested pro-independence supporters who had been preparing for the visit of the Portuguese parliamentary delegation to Dili and other districts.[731] For example on 15 November 1991 in Cailaco (Bobonaro), the Koramil commander, Sergeant Major T451 arrested ten youths who had been preparing for the Portuguese visit to Cailaco. One of those arrested, Adriano João, was taken to the Bobonaro Kodim 1636. Intel Sergeant T452 and the Indonesian head of intelligence, T453, interrogated Adriano João for three days. During the interrogation he was beaten heavily and given electric shocks. Adriano described how, on one night, drunken soldiers woke the detainees and ordered them to take their clothes off and sleep naked on the floor. Food brought to the Kodim by family members was confiscated.[732]

563. Julio Araújo Martins told the Commission that an Indonesian member of Kopassus named T454 arrested him at his home in Ermera at 9.00am on 17 December 1991, because he had been making a banner for the Portuguese delegation visit to Ermera, and also because he had attended the Santa Cruz demonstration the previous month. The Ermera Koramil commander and four others took him to the Kodim where he was held for four months. During this time, T454 and two Babinsas from Bobonaro, T455 and T456, beat and slapped him and tortured him with electric shocks.[733]

* Asia Watch, *Remembering History in East Timor*, April 1993, Vol. 5, No. 8, p. 22. Family members of Simplicio who visited him were indeed told that he was not a prisoner, but a *tahanan pembinaan* (detainee for guidance).

The rise of the militias, 1985–1998

As described in the earlier section on Profile of Violations: 1985–1998, this phase of the political conflict was also marked by increased cooperation between the Indonesian military and various new East Timorese militia groups, as well as East Timorese auxiliaries to the Indonesian military (see Vol. I, Part 4: The Regime of Occupation, section on Militarisation of East Timorese Society) in the detention, ill-treatment and torture of civilians.

Most militia groups were established at the district level by Kopassus which recruited young East Timorese men from the district. A common pattern identified by the Commission was an increase in arrests in a particular district in the months after a new militia was formed. They included: Team Alfa (Lospalos) and Team Sera (Baucau) in the 1980s, Team Saka (Baucau) in 1983 and the Team Sukarelawan (Volunteers Team (Ainaro) in 1991.[734]

A large number of arrests reported to the Commission were attributed to the Volunteers Team (Team Sukarelawan), operating in Ainaro (from 1991), Team Saka in Baucau (from 1991) and Halilintar in Bobonaro (from 1994).

Halilintar

According to statements received by the Commission and the Community Profile of Atabae (Bobonaro), in September 1994 the military in Atabae heard from an informant that there was clandestine activity in the village of Atabae Lama. The military then set up a group of youths who later became the Halilintar militia. A large arrest operation was conducted in the area, targeting youth suspected of clandestine activities.* By the end of November at least 50 people had been arrested and taken to the Koramil.[735] They were beaten and tortured in their cell.[736] Both the SGI and members of the Koramil, such as commander T457 and the village head T458, were involved in making the arrests.[737] T457 authorised the arrests and was personally involved in torturing detainees.[738] The Kodim 1636 Maliana also detained people in the village of Fatubessi.[739]

João da Silva of Fatubessi (Hatolia, Ermera) told the Commission that in 1994, he and 62 other people that he did not know were arrested in Atabae because they were suspected of contact with Falintil. He said that he was arrested by Halilintar member T459 and beaten, then taken with the other detainees to Loes (Atabae, Bobonaro). The detainees were held

* The Commission was told that there was a reactivation of the Halilintar group, used in the kidnapping and the disappearance of pro-independence supporters [CAVR, Community Profile of Atabae Village, Atabae Sub-district, Bobonaro District, 8 October 2002. See also HRVD Statement 1181].

in Loes for three months and had to report every day, before they were allowed to go home.*

One year later, according to the community of Atabae, T1 and SGI members in Atabae established the militia group Halilintar which continued to detain youth suspected of clandestine association. Many people were arrested and beaten, sometimes so severely that their faces became unrecognisable.[740]

Team Sukarelawan (Volunteers Team)

Several years earlier, in 1991, the Team Sukarelawan was established in a small village in the district of Ainaro.† According to various sources, the team was intended to gather youths to hold a counter demonstration in favour of integration when the Portuguese parliamentary delegation passed through Ainaro,[741] to crack down on the clandestine movement[742] and to prevent youths from Ainaro joining the Santa Cruz demonstration.‡

Statistics

The actions of the Team Sukarelawan were responsible for a large spike in the detentions in Ainaro in 1991 and 1992. From only two cases of detention reported to the Commission from 1990, the Commission received statements describing 390 incidents in 1991. There were also 219 reported incidents of ill-treatment and 201 of torture. In 1992, the number of reported detentions declined again to 19, with just three cases of torture and 13 of ill-treatment.

Detention and torture

At first Team Sukarelawan detained only those who refused to join them,[743] but soon they targeted any civilian or community suspected of links with the Resistance. Communities reported mass arrests of civilians in villages and towns in Ainaro including Maulau (50 people), Cassa (26 people), Manelobas (97 people) and Manetu (55 people).[744] Detainees were held in a variety of detention facilities including military installations such as the Maubisse Koramil, public buildings such as

* See HRVD Statement 1200. This mass arrest was corroborated by Domingos Soares who said that he and other clandestine members were forced to attend a ceremony (probably an Indonesian flag raising ceremony) on the 17th of each month for a year after their arrest by Halilintar [HRVD Statement 1181].

† According to the community of Manutasi (Ainaro, Ainaro), the Volunteers Team was established in Mau-ulo II, Fatuk Maria, Manutasi village, where the team erected its first "big post". The East Timorese human rights organisation Yayasan HAK reported that the Volunteers were recruited among children of former Apodeti leaders and that the group was led by T466.

‡ CAVR, Community Profiles of Maulau Village (26 May 2003), Manelobas Village (23 May 2003), Manetu Village (8 July 2003), Maubisse Sub-district, Ainaro. An increase in arrests was reported on 10–11 November 1991, in the days leading up to the Santa Cruz demonstration.

the Integration Building in Cassa, the village offices in Maneto, Aitutu and Manutasi and the office of the Sub-district administrator T461.[745] The private house of village head T462 was also identified as a place for detaining prisoners. This suggests that the Volunteers worked in cooperation with, or at the very least with the knowledge of, both the Indonesian military and the civilian administration.

Most detainees were held for a few days but some were held for up to four months, especially those detainees held in the Maubisse Koramil. Many endured continual interrogation and torture at the hands of Team Sukarelawan and ABRI. In Maulau (Maubisse) a mixture of chilli peppers and water was rubbed into detainees' eyes. In Manelobas (Maubisse) the village head, Cecilia Xavier, was rolled into a flag from head to toe and threatened that she would be burnt alive.[746] In Manetu (Maubisse), Manutasi (Ainaro) and Cassa (Ainaro) women were raped or threatened with rape.[747]

Team Sukarelawan and the military

Further evidence of the relationship between Team Sukarelawan and the military was the clear division of tasks between the two. Certain members of Team Sukarelawan were assigned to arrest people, usually in groups of five or more. They would then hand the victim over to other members of Team Sukarelawan or the military head of intelligence who would interrogate the victim. Interrogation focused on the victim's involvement in clandestine activity and contact with Falintil. Other members of Team Sukarelawan, the Babinsa or even the village head, then tortured the victim. Such an arrest, detention and torture was normally ordered by Team Sukarelawan commanders, such as T463, T464, T465 or "the highest leader" T466 with the consent of the military. Pedro Sarmento recalled:

In 1991, at 3.00pm, the Sukarelawan members T468, T469 and T470 arrested me at my home. They took me to the integration building in Cassa. There, T471 slapped me on orders from T472…I stood and T473 interrogated me, kicked me in my ears until they bled and detained me inside the building for three days and three nights. They interrogated me, beat me and kicked me continually. T474 and T475 tied me with wire. Then they told me to go home.[748]

Moises Mendonça Doutel Sarmento told the Commission:

In 1991 the village head [of Manetu] T462 and Sukarelawan T477 took me…to two Kopassus who interrogated me about the national [Fretilin] flag. I gave them information, but then Sukarelawan members, including T478, T479, T480 and T481, beat and punched me in the face…At 5.00pm, Babinsa T482 and two Kopassus came and immersed Abel Mendonça and

myself in water and told us to lie down and stare at the sun. Two Kopassus came with big rocks, placed them on our chest and interrogated us and immersed us in water for one hour. Then they told us to get out of the water and interrogated us. They told Abel Mendonça to go home and kept me for one month at the Koramil. Babinsa T482 ordered my friends and me to build a pigpen for him. Then he told us to go home but we had to report once a week and bring firewood for ABRI.[749]

Forced labour

After release victims were often forced to undertake labour including building a new house for the village head of Manetu, T462, guard a Sukarelawan post, clean the Koramil garden or build a new fence.[750] This work could continue for up to a year after "release" so that from late 1991 until mid-1992, many sectors of the population in Ainaro lived under highly monitored conditions. According to the community of Manetu, the civilian population were only left alone after Xanana Gusmão's arrest in November 1992.[751]

Release

After most detainees had been released, the Koramil Maubisse 02 was ordered by Kodim 1633 Ainaro to round up all those released and escort them to a large blood oath ceremony to be held in the stadium of Ainaro. The communities of Manutasi (Maubisse, Ainaro) and Hohorai (Ainaro, Ainaro) described what happened:

All day we drew our blood and then we drank the blood and vowed that we would not be involved in any political activities, that we would live under the Red and White flag and that we would sacrifice our lives for integration with Indonesia.[752]

Our leader was Manuel Pereira, the head of the Ainaro District Education and Culture Division. We came from four sub-districts, Hato Builico, Maubisse, Hato Udo and Ainaro. There were more than 2,150 of us and the football field was full. Our leaders forced us to kill goats, cook, bring palm wine and to feast. Then they asked us to return to our sub-district to tell the people that we were two-faced.[753]

Interrogation and torture of victims connected to demonstrations

564. The Commission's research indicates that abuse, ill-treatment and torture in detention were used regularly against people detained in connection with demonstrations. A submission to the Commission from former political prisoners stated:

> *We were subjected to beatings, immersion in tanks of excrement. Sometimes they would open the doors to soldiers returning from combat duty in the mountains and let them beat us up. They would come in at dawn in full*

*combat gear, dust on their clothes, and start hitting and punching us. They'd shout: "We're looking for the communists. So, after all, they're here in Dili, not in the mountains."**

565. Often victims were tortured during interrogation by the police to force a confession for a possible trial. For example, José Manuel da Silva Fernandes, one of the organisers of the demonstration at the Mass at Tacitolu by Pope John Paul II, who was detained several days afterwards, told the Commission that the group of activists hiding at the Bishop's house were taken to the Sub-Regional Police Headquarters (Polwil) and then were separated from each other. José Manuel was taken to the Korem and detained there for three months, during which he was subjected to continued torture.[754] José Manuel told the Commission that interrogation for the first two weeks was aimed at extracting a basic confession. In this period he was beaten, kicked, attacked with rifle butts, stabbed with the point of a knife, burnt with cigarettes, immersed in a tank of excrement and stepped on and threatened with loaded guns.[755]

566. After the confession was obtained, his interrogators sought to "verify" the forced confession by applying two forms of electric shock. The first was applied with a charger for which a handle was turned, the second administered in a specially-designed metal chair in which the near-naked prisoner was shackled by the wrists and ankles and then had electrodes attached to the body.[756] José Manuel describes that this would sometimes last up to 15 minutes and could be administered three times a day.[757] Five Kopassus soldiers assisted the torture under the direction of the Kopassus Colonel T449.

567. José Manuel reported also that during his time in detention Brigadier-General T485, the commander of Kolakops, beat him with a stick and T449 hit him in the face. During an interrogation he was told not to sit on a chair, but to squat on the floor because he was an animal. He was then beaten across the knees and head, often more than ten times. In the Korem, officers from different institutions interrogated and tortured him.[758]

Table 10: Detainees arrested in connection with the Santa Cruz demonstration and their treatment†

Name	Arrested	Detained	Tortured	Perpetrator
José P. Vicente[759]	At home in Taibessi (Dili) by intelligence officer.	Korem for one day; Kodim; Wira Husada hospital.	At Korem – beaten with rifles, kicked and punched heavily. At Kodim – same but also stabbed in the back. Kicked and beaten on the way to hospital and then interrogated at the hospital and tortured.	Korem and Kodim members.

* The Commission received a detailed analysis of this shift in the pattern of detention from the Ex-Political Prisoners Association (Assepol), in testimony to the CAVR National Public Hearing on Political Imprisonment, together with a written Submission [CAVR Archive]. The above quote is included in this Submission, taken from a report by the International Commission of Jurists 1992:23 [see also Constâncio Pinto and Mathew Jardine, op cit].

† This list contains some of the names of those arrested after the Santa Cruz demonstration, who were reported to the Commission. These deponents have been selected in order to demonstrate the treatment of people upon arrest and detention.

Francisco Branco, member Executive Committee of Clandestine Front.[760]	Offically summoned to the Sub-Regional police headquarters.	Sub-Regional Police Headquarters for 7-8 months; then taken to the Comarca after trial proceedings.	Not tortured. He believes because of international attention on Indonesia and because the authorities realised that detainees were not going to cooperate.	A group of Intel from Bakin in Jakarta carried out interrogation.
Basilio dos Santos[761]	At the Santa Cruz Cemetery 12 November 1991 by police and ABRI.	Sub-Regional Police Headquarters, then same day to Kodim for six months.	At the Sub-Regional Police Headquarters beaten with a gun and kicked with police boots. At Kodim electrocuted, fingernails pulled out with pliers, lips sliced with a razorblade.	Police and military.
Miguel dos Santos and his friends, Leandro Lobato and Adolfo[762]	At the Santa Cruz Cemetery 12 November 1991 by Rajawali.	Sub-Regional Police Headquarters for two weeks, then taken to Wira Husada hospital for treatment.	Ordered to walk on thorns until his feet bled, put in a cell under bright sunlight. Trampled on with heavy boots at the hospital.	Rajawali and police.
Manuel da Conceição[763]	At the Santa Cruz Cemetery 12 November 1991 by military.	Sub-Regional Police Headquarters Comoro for 15 days along with many others including Aleixo Cobra and Aleon.	At the cemetery beaten and kicked. At the Sub-Regional Police Headquarters Comoro forced to take off clothes then beaten, punched and kicked during lengthy interrogations in turns by many police.	ABRI, then police.
Estaquio Pinto[764]	At the Santa Cruz Cemetery 12 November 1991 by military.	Sub-Regional Police Headquarters, released on request of Bishop Belo.	Electric shocks and beatings, hair shaven.	ABRI
António Fernandes[765]	16 November 1991 by military.	Korem for two days and two nights.	Interrogated about incident. Beaten and burned with cigarette butts on the face.	Three ABRI soldiers.

568. Given the variation in treatment meted out to detainees, it is difficult to say that there was a clear strategy in relation to the torture of prisoners. Mario Carrascalão suggested that the treatment of prisoners after the visit of Pope John Paul II was not condoned at the national level. He told the Commission that he and Brigadier-General Mulyadi took Benny Moerdani to the airport after the Pope's visit:

> *Benny said to Mulyadi: "Mulyadi, don't do anything funny okay. Arresting people for no reason, don't do that." But as soon as the plane took off, while we were still at the airport, Mulyadi said: "Benny is in charge nationally but in East Timor I am the one in charge." Starting that day, he began making arrests.*[766]

569. Nevertheless, there was clearly coordination at least at the provincial level. As the table shows, detainees were frequently held in a variety of places and interrogated by different units, similar to the pattern of detention in the early 1970s. José Manuel da Silva Fernandes said that different institutions interrogated and tortured him and

used the term “*bon*” (receipt) or “*saya bon dulu*” (let me use a receipt), meaning one institution would borrow detainees from another so that they could interrogate or torture them.[767]

570. Further, although there may have not been commands about how detainees should be tortured, there was clearly no limit on what police and military officers could do to obtain information. Torture and other cruel and inhuman treatment, in whatever form, were so common as to have been considered a systematic part of the detention and interrogation process.

Interrogation after the Santa Cruz demonstration

Gregório Saldanha, one of the clandestine members in charge of organising the Santa Cruz demonstration, was arrested at the cemetery and then taken to the hospital for four days. He then spent nine months in the police station in Comoro followed by imprisonment in the Comarca for nine months, then in prisons in Becora (Dili), Semarang and Cipinang (Jakarta, Indonesia). He told the Commission:

I was arrested in front of Santa Cruz Cemetery on the morning of 12 November after I sustained a gunshot [wound in] my back. Nearby, soldiers were shooting and stabbed their bayonets towards protesters…I pretended to be dead. Five minutes later a Kodim commander arrived and ordered his men to stop shooting, stabbing or hitting. He also said: “If you are alive, raise your hands!” I stood and raised my hands. There were five dead bodies in the truck.

On arrival at the hospital they kicked the dead bodies out of the truck and then those of us who were injured were bathed and treated. I did not see the people who were on the same truck as me again. I suspect that they may have been killed or taken to the morgue. As far as I know, there were about 90 people who had been injured and whom they registered.

At the police station I immediately met with the senior people in the police and military to tell them: “You have already arrested me. I am the one who takes responsibility for the incident, so I am ready to take punishment as heavy as you like. I ask that the others be released.”

Many of the young detainees were still of school age, and many also had jobs. Eventually they [the military authorities] released some, but the rest were kept in detention. It was their practice to detain people they suspected for interrogation so that they could extract new information

from them for use as evidence to make further arrests. I continued to demand [the other demonstrators' release]. I also said this to a Supreme Court delegate visiting from Jakarta. But when I was brought in front of the other detainees at the police station, the authorities asked the detainees whether they knew me. They said that they didn't know me, even though they were my close friends, such as Simplicio, Marcio and others. I was full of admiration for them. They were not only brave in what they did but also in taking responsibility.

Torture was always part of the interrogation process. Because they believed that without pressure it was difficult to get a confession. They knew very well that it wasn't easy to get me to confess, and much of what I confessed wasn't what they wanted. We were lucky because the 12 November incident drew international attention and we were at the centre of this attention. Because of that we were always in the spotlight. At certain times they put pressure on me. They took me at night for interrogation and torture. But at other times they had to be gentle. The police did not only have formal interrogation processes. Each group could conduct an interrogation in whatever way they wanted. Sometimes you had a unit from the SGI, and sometimes other units came and interrogated me. This made my head spin. They never left me alone.

One of the most humiliating experiences was when the deputy area police chief called me in front of the delegate from the Supreme Court, the military police and the prosecutor. All of these officials put questions to me. They put the questions like a marathon-before I answered a question from one official another official would ask another question, so I wasn't given a chance to respond. And their questions were mostly random which caused me to often give the wrong answers. Because I denied the allegations they threw at me, the deputy police chief slapped me across the face, he was so angry. I spoke about this incident during my trial, because a police officer cannot physically abuse prisoners. There were some who hit me while others tried showing a sense of humanity by saying to me "it's best that you give correct information so that you aren't tortured again." I think this was just another of their tactics to get the right answers from me.[768]

Demonstration in Jakarta, 19 November 1991 and the Bali arrests

571. East Timorese clandestine members in Indonesia were also arrested in the 1990s. The treatment they received was generally better, both in terms of the process and of their physical treatment, than the treatment of detainees in Timor-Leste. Nevertheless, the detentions were still a violation of the rights to freedom of expression and association (see Vol. III, Part 7.6: Political Trials).

572. The first major political demonstration by East Timorese students in Jakarta was held one week after the Santa Cruz Massacre, on 19 November 1991.* About 100 students held a peaceful demonstration in the centre of Jakarta to commemorate those who had died and to protest the actions of the Indonesian military. Protestors chanted pro-independence slogans, displayed banners and delivered a petition to UN representatives and to the Australian and Japanese embassies. The posters and the petition referred to the Santa Cruz massacre but also to the invasion and forced integration of Timor-Leste into Indonesia.

573. The police arrested about 70 of the demonstrators and detained them first in the national police headquarters in Jakarta. Police from the headquarters, members of the military based in Timor-Leste and Kopassus interrogated the detainees. After three days the detainees were moved to the headquarters of the regional police for the greater Jakarta area (Kepolisian Daerah Metropolitan Jakarta Raya, Polda Metro Jaya) where they remained for three months.[769]

574. Five days after the demonstration, on 24 November 1991, the police made six more arrests of East Timorese clandestine members in Denpasar, Bali: Fernando de Araújo (Lasama), José Pompeia, Anito Matos, Aniceto Guterres Lopes (arrested 3 days later) José Paulo and Clemente Soares. These arrests may have been made on information obtained in the interrogation of the detainees in Jakarta. They were taken from their boarding house and detained at the Regional Police headquarters (Polda Nusra) in Denpasar, Bali until 30 December 1991. Aniceto Guterres Lopes and José Paulo were then released and Fernando de Araújo was flown, handcuffed, to Jakarta by military plane where he joined colleagues at the Polda Metro Jaya; José Pompeia, Anito Matos and Clemente Soares remained at the Regional Police headquarters.

575. Virgilio Guterres told the Commission that he was not subjected to torture during his detention:

> *Maybe one reason was that the Indonesian authorities were under intense pressure at the time of our arrest. Max Stahl's video footage of the 12 November incident was aired internationally and Indonesia was under intense international pressure. Their treatment of us in detention in Jakarta was a tactic designed to show the world that they could treat us well, to rebuff accusations of human rights abuses and to give an impression that they did not commit violence in Timor-Leste as their critics claimed. In Dili, there was hardly any contact with the outside world so torture happened often. While in Jakarta, we only experienced lack of access to the outside world during the early weeks in detention. But after the interrogations, friends and family visited us. Even our friends in*

* One prior, although unsuccessful, action in Jakarta was the attempt by several East Timorese students to gain asylum in 1987. Demonstrations had been held in other parts of Indonesia prior to this, such as the demonstration at Udayana University in Bali on 13 March 1991. Amnesty International reported that dozens of students were arrested at this demonstration including six East Timorese students detained overnight: Alexandro Corte-Real, Manuel Sarmento, Boaventura da Silva, José Celestino, Lorenço and Miguel Ximenes. [AI Index: ASA 21/04/91.]

the media came to interview us and the Indonesian officers did not dare to use violence during an interrogation.[770]

576. Many of the detainees were released after three months in the Polda Metro Jaya, though 22 who were to be tried remained. Domingos Barreto described how some were released:

> *They separated us because their investigation revealed that the participation of some was incidental…[They] continued the investigation at night…Then they separated us from the other detainees [around 70]. They released [most of] the detainees after the investigation proved that their participation was incidental.*[771]

577. Of the 22 prisoners not released, 17 became witnesses in the trials of the other five: João Freitas da Camara, Fernando da Araújo, Virgilio Guterres, Agapito Cardoso and Domingos Barreto. All five were charged with subversion.[772] During their trial, the defendants were held at the Polda Metro Jaya. All were convicted and sentenced to terms of imprisonment. Four were sent to Salemba Prison (Jakarta) while João Freitas da Camara was sent to Cipinang Prison (Jakarta). Fernando de Araújo and Virgilio Guterres later moved from Salemba to Cipinang (see Vol. III, Part 7.6: Political Trials).

Untim demonstrations

578. After the arrests and killings in 1991, the numbers of clandestine leaders active in Timor-Leste greatly diminished. From the mid-1990s onwards, however, students of the University of Timor Timur (Untim) organised many demonstrations at the university campus, sometimes joined by high school students.[773] Some demonstrations were spontaneous but others were carefully planned, such as the annual commemorations of the Santa Cruz Massacre. Some of the demonstrations reported to the Commission include:

- In June 1994, students responded to an incident in Remexio (Aileu) in which Indonesian soldiers had thrown Communion wafers on the floor and stamped on them in a village church. According to a media report, around 300 East Timorese students attempted to hold a protest at the university but it was broken up and many were arrested.[774]
- On 9 January 1995, an Untim demonstration descended into violence as demonstrators, the police and TNI threw stones at each other.[775] Between 26 and 30 people* were arrested on the spot, and taken to the Comoro Sub-Regional Police Headquarters. While they were in detention, Members of Brimob beat the students severely, stripped them naked and gave them electric shocks. Some

* Among others: Inácio de Jesus Santos Oliveira, José A. Beto, José Pinto, Paul Amaral, Luis Tavares, João Manuel, Lemos, Carlos, José Henrique, Alfredo Lopes, Crispin, Apolito, Mário Pinto, Bendito Salo, Filomeno, Zito L. Barreto and Alexandrino [HRVD Statements 5674 and 6982-2].

were released after 11 days, while other were tried, convicted and imprisoned in the Becora Prison.[776]

- On 14 November 1997, another Untim demonstration became violent after an argument between students and two plainclothes members of the military. External independent observers found excessive use of force was used by the police, joined by members of Battalions 744 and 511. Five students were hospitalised, some with gunshot wounds.[777] At least 11 were arrested,[778] of whom six were tried under Article 170 (violence against people and property) of the Indonesian Criminal Code (KUHP) for their alleged assault of three members of Battalion 511, Unit C.

SARA and civil unrest

579. Arrests, arbitrary detention and torture were also reported in the 1990s in connection with incidents characterised by the Indonesian security apparatus as cases of SARA (*suku, agama, ras, antara golongan,* ethnic, religious, racial, inter-group outbursts). Although these spontaneous incidents by East Timorese youth may not always have had a direct connection to the political conflicts, statements provided to the Commission suggest that both sides to the political conflict used the incidents for their own purposes. Pro-independence supporters used them as a platform for demonstrating against the occupation and the Indonesian military and police used them as a pretext for arresting and detaining suspected clandestine members and interrogating them about their clandestine activities. The treatment of detainees arrested in connection with these incidents was often as harsh as that of those detained in other contexts.

580. One reason for the emergence of unrest, particularly conflicts between youth groups, was the growing politicisation of youth in Timor-Leste during this period. In 1994 the military reduced the number of battalions it had stationed in the territory to seven but made up the numbers by forming the Youth Guard Upholders of Integration (Garda Muda Penegak Integrasi, or Gadapaksi). According to Indonesian military documents, 11,000 youths were recruited into Gadapaksi in 1994.[779] Other district militias also formed in the 1990s (see box on the Volunteers Team par. 563, above), while at the same time pro-independence youths were becoming more openly resistant to the regime. These loyalties emerged in various incidents of civil unrest, which began to flare up in the mid-1990s.

581. Many SARA incidents resulted in demonstrations, some of which escalated into riots which were followed by increased arrests and detentions and the ill-treatment and torture of detainees. Some examples reported to the Commission include:

- A religious clash in Uatolari (Viqueque) in September 1995 between Protestant and Muslim youths against Catholic youths. The background to this case is uncertain, but it resulted in Catholic youths burning down Protestant and Muslim places of worship. Most of the Catholic youths ran away but Marcelino Duarte Barros was arrested with ten others by members of Team Saka. He reported their detention and ill-treatment.[780]

- In Maliana (Bobonaro) in early September 1995, a prison officer named Sanusi Abubakar reportedly made insulting remarks about the Catholic faith.[781] Catholic youths and other pro-independence supporters in Maliana responded by demonstrating, threatening to kill Sanusi Abubakar and burning down the Maliana market. The police, ABRI and members of Kodim 1636 arrested the demonstrators. Some managed to flee, such as José Soares Vicente, who escaped to Dili.[782]
- The Commission also heard of the following cases of detention, torture and ill-treatment:

Table 11: The detention and ill-treatment of Marcelino Duarte Barros

Perpetrator	Detention Place	Length of Detention	Torture/Ill-treatment
Team Saka under Commander T486	Team Saka headquarters in Quelicai (Baucau)	Three days	Hit with a metal bar, kicked, stamped on, tied up with wire and eyes covered then forced to lie in the sun for three days.
Brimob	Cell in Baucau New Town	Two days	Ordered to stand in line and run, then beaten. Forced to drink water mixed with urine.
Police	Beloi Polsek	-	Beaten, kicked, punched, sprayed with gas. Interrogated by the police about contact with Falintil and providing food to them in the forest.
Police	Uatolari Polsek (Viqueque), taken there by 12 Brimob members.	One week	Beaten, punched and kicked by an East Timorese intelligence officer, T487.

Table 12: Detention, torture and ill-treatment in Maliana (Bobonaro)

Victim	Perpetrator	Detention Place	Length of Detention	Torture/ill-treatment
Hernani M. de Araújo, a clandestine member of the Sagrada Familia.[783]	ABRI and police.	Kodim 1636 then a police station (unidentified).	One night in the Kodim, then six weeks in a police station. Tried and sentenced to imprisonment in the Maliana Prison.	The military beat the victim, electrocuted him and pulled out his toenails and fingernails with pliers. Police interrogated him and then again beat him, electrocuted him and crushed his toes under the leg of a chair.

Eduardo Lopes, (Lorico Lopes) arrested 18 September 1995.[784]	Police, Corporal T488 led the arresting team.	Police station.	Two months, then sentenced to four years in Maliana Prison.	Victim was beaten and burned with cigarettes. He said police ripped off rosaries around detainees' necks and told them they were "opposing the state".
Laurentina Amaral[785]	-	Kodim 1636.	Three months. She then paid Rp.500.000 for her release.	-
José P. Vicente, of Lebos (Lolotoe, Bobonaro)[*]	Police Officer called T489.	Sub-district police headquarters Maliana.	One day.	Beaten across the head once with a metal baton.

- In Uatolari (Viqueque) in February 1997 a group of pro-integration youths** attacked a group of church activists.† The Macadiqui (Uatolari, Viqueque) community told the Commission that people then took to the streets and fought the authorities. Fighting continued for four days, blocking the road in Macadiqui.[786] The number of people arrested during this incident was variously given as 70 (by Colonel Mahidin Simbolon, the Commander of East Timor Sub-Regional Military Command) and 109 (by Deputy Chief of Police for East Timor, Colonel Atok Rismanto).[787] All detainees were taken to the Viqueque Kodim and a military post in Darabai (Uatolari, Viqueque) where they were questioned and released after a few days.

Incidents after the award of Nobel Peace Prize

582. A number of arrests occurred in Dili in December 1996, when Bishop Belo returned to Timor-Leste after receiving the Nobel Peace Prize he shared with José Ramos-Horta. Nationwide celebrations were held on his return,‡ but a number of violent scuffles also occurred, including the beating to death by 26 East Timorese youths of an intelligence officer, Corporal Alfredo de Santo Sigamau. The youths reportedly believed that the corporal was planning to murder the Bishop.§

* José Vicente, a Fretilin member, was arrested by the Kodim again two years later in October 1997 because he was suspected of having mobilised a demonstration which burned down the market. He was detained for three days during which time he was stripped naked, beaten, punched and kicked. In 1999 he was arrested by the KMP militia in Lolotoe and detained for one day [HRVD Statement 7157].

** The community of Macadiqui Village in Uatolari (Viqueque) described the youths as Gadapaksi members. [CAVR, Community Profile Macadiqui Village, Uatolari Sub-district, Viqueque District].

† The Commission does not have clear evidence of the background to this local clash, though the community of Macadiqui Village in Uatolari (Viqueque) told the Commission that the clash continued for four days and involved the local villagers fighting against Indonesian authorities. [CAVR, Community Profile Macadiqui Village, Uatolari, Viqueque District].

‡ CAVR, Community Profile of Bidau Santana Village, Nain Feto/Dili Oriental Sub-district, Dili District. In Baucau a big demonstration was staged on 25 December 1996 [CAVR, Community Profile of Bucoli Village, Baucau Sub-district, Baucau District].

§ According to Hermenegildo Martins, one of those implicated in the killing, a letter was found in Corporal Sigamau's pocket which read: "Whoever successfully kills Bishop Belo will received the amount of Rp1,500,000." [HRVD Statement 3739.]

583. The Indonesian military and police arrested people in response, and took them to the Sub-district police headquarters, the Regional Police Headquarters and the SGI Colmera in Dili. Some were tried and served sentences in the Becora Prison.[788] The police reported that they arrested 13 people in connection with the turmoil in Dili.[789]

584. Hermenegildo Martins, one of the 26 youths implicated in the killing of Corporal Sigamau, was arrested four months after the incident and taken to the Regional Police Headquarters in Dili. Police interrogated him about the killing for three days and during the interrogation they burned him with cigarettes. He was then moved to the Sub-district police headquarters in Dili where 12 police officers ill-treated him, including using a razor to cut his thigh. He was eventually tried for his involvement in the killing and sent to Becora Prison.[790]

Ninja gangs and anti-ninja gangs

During the mid-1990s, as part of the growing politicisation of youth, pro-integration and pro-independence gangs began to form in Dili. The Ninjas were pro-integration youths who dressed in black, covered their heads with a hood and attacked the houses of pro-independence families at night. Although they appear to have been disenchanted youths causing trouble, they seem to have acted in coordination with the military to sow fear in the city.[791]

In response pro-independence activists set up vigilante groups to counter the Ninja attacks, and many were detained by the police. Amnesty International reported that between 18 and 22 February 1995, police and military forces arrested up to 15 individuals in Dili.[792] East Timor's police chief, Andreas Sugianto, stated that 14 people were held, 12 of whom were to be charged for having attempted to set up vigilante groups to counter attacks by the Ninja gangs.[793] On 25 March 1995, an East Timorese SGI agent called T491, arrested two Ojetil[794] members, Carlito and Octavianos in Quintal Bot, Dili. They were taken to the SGI headquarters in Colmera and accused of having taken part in cutting the ear of a Ninja.[795]

The Commission received one statement from a pro-integration youth who was seriously assaulted by pro-independence youths, although it is not clear whether this is the case referred to above. An East Timorese man (who preferred not to be named) told the Commission that on 13 February 1995 he was abducted by four pro-independence youths, T492, T493, T494 and T495. He says they accused him of being a Ninja and of working with the SGI. His house was ransacked, his hands tied and then he was taken to the house of Alves Ribeiro. There, the four youths cut his face with a razor, beat him across the head with a steel baton and then cut off his ear. They then took him to the Santa Cruz village office, tied him to a flag post and beat him until his body was smeared with blood.[796]

The hunt for Falintil leaders in the 1990s

585. Leaders of Falintil controlled the armed, clandestine and diplomatic fronts of the Resistance and therefore remained the prime targets of the Indonesian military throughout the period 1985–1998. The Commission's research suggests that a key strategy in the hunt was the arbitrary detention, interrogation and torture of anyone suspected of having links these leaders. Although such detentions had occurred in earlier years, the statements of victims provided to the Commission suggest that Indonesian efforts to capture Falintil were stepped up in the early 1990s.

586. Sometimes such operations occurred following an incident highlighting the continuing influence of Falintil in Timor-Leste. For example, when the Australian lawyer and journalist Robert Domm managed to meet and interview Xanana Gusmão on 27 September 1990, major intelligence operations were launched to discover who had arranged the meeting.[797]

587. At other times, military operations were launched specifically to root out leaders of the Resistance. During 1991-92, for example, joint military and paramilitary operations were carried out to search for Xanana Gusmão.[798] In 1991 the security forces believed that Xanana Gusmão was in Ainaro, with the result that many people in the district were arrested by Team Sukarelawan (see box following par. 563, above).[799] In 1992 two military operations were carried out in Timor-Leste, Operations I (March–September 1992) and II (October 1992-March 1993) (Operasi Tuntas I and II), which involved the preparation of lists of East Timorese suspected of being in contact with Xanana Gusmão.[800]

588. Detention of suspects tended to be short term and involved interrogation often accompanied by torture or ill-treatment. For example, a woman told the Commission that she was detained in 1991 in Ainaro because she was suspected of giving food to Falintil. She was arrested by the Team Sukarelawan and then interrogated in the Integration Building in Cassa (Ainaro, Ainaro). After the interrogation she was beaten heavily, causing bleeding from her genitals, and then sexually harassed by 38 members of the Team Sukarelawan. She was released after one night.[801]

589. Bendito da Conceição was also arrested in 1991 in Ainaro along with more than 40 other civilians from the village of Suro Kraik (Ainaro, Ainaro) because they had danced at a village party with Xanana Gusmão and other Falintil leaders including Adjunto Maufutu, Konis Santana, Riak Leman and Abia Monaria. Five days after the party, on 25 July 1991, the community was detained by T496, an Indonesian Kopassus member, and two Milsas, T497 and T498. They were interrogated for four hours and then required to dig holes and maintain a lawn at the military post for three years.[802]

590. In Ossu (Viqueque), where several suspects were arrested in late 1992 by Battalions 407 and 503, suspects were taken to the base camp in Viqueque and the post of the non-organic Battalion (BTT) in Ossu. Some detainees were sent to other districts for further investigation. Faustino da Silva was arrested in Ossu along with three others. After a violent interrogation in the Ossu Koramil, in which all the detainees were accused of being part of Xanana Gusmão's network, they were separated. Faustino was taken to

the Viqueque Kodim barracks. His friend Rui was detained for three months in the Battalion 503 headquarters, while fellow detainees Alfredo and Tomás were transported to Dili by helicopter for further interrogation.[803] There were also reports of arrests in Dili of people suspected of being in contact with Xanana Gusmão. The arrests were made by Major T499, the Kopassus commander of the SGI Colmera, and by Battalion 745 together with the Koramil Becora.[804]

591. Other arrests connected to the search for Falintil leaders included:

- In the district of Aileu in 1985, 11 people from Liquidoe were arrested by members of the Koramil because they were suspected of hiding senior Fretilin/Falintil members, including Xanana Gusmão. The deponent, Celestino Amaral, did not tell the Commission the length of their detention.[805]
- Jacinto Moniz of Fohorem (Fohorem, Covalima) told the Commission about his arrest on 16 July 1989 on suspicion of hiding Xanana Gusmão. When he did not confess, he was beaten, kicked and punched by Indonesian soldiers in Fohorem.[806]
- In Ossu (Viqueque) in 1992, as well as searching for Xanana Gusmão, Infantry Battalion 407 together with members of Team Makikit and Rajawali targeted individuals suspected of working with the Falintil Commander Falur Rate Laek.[807]
- In the village of Babulu (Same, Manufahi) in 1994, several people were arrested during a joint Kopassus and Milsas search for senior Falintil member Riak Leman (Vidal de Jesus). Some of those arrested had appeared on a list of people accused of involvement in the clandestine network led by Riak Leman, most likely prepared by military intelligence.[808] They were taken to the Manufahi Kodim and Nanggala headquarters and interrogated and tortured for three days. They were then released with the status of "outside detainees" for three months. During this period they were forced to carry poles and cut grass to make a traditional house.[809]
- In the villges of Carau-Balu and Luca (Viqueque, Viqueque) in 1994 and 1997, ABRI soldiers and Rajawali arrested and ill-treated people suspected of having contact with the Falintil commander, Ular.[810]
- Civilians in Baucau, where Falintil commander David Alex operated before his capture and death in 1997, were regularly detained for interrogation about the Falintil leader's whereabouts. Most were held for only a few days of intense interrogation in places such as the Flamboyan Hotel, Rumah Merah and the Ossu Kopassus post in Viqueque.[811] Sometimes whole villages were rounded up. In 1994 ABRI and Team Saka members arrested 24 people in the village of Guruça (Quelicai, Baucau), after rumours that the people of Guruça had been in contact with David Alex. They were taken to the Baucau Kodim where they were held, interrogated and tortured for two days.[812]

592. The Commission also heard of people being made to repudiate the authority of Falintil leaders publicly. In one case, Frederico de Araújo told the Commission how soldiers from Airborne Infantry Battalion 700 arrested him and four others in 1991.

Their hands and feet were tied and they were taken to the Kopassus Post in Mau-Ulo (Ainaro), where they were held for eight months. Frederico says that while in detention he was kicked and punched and on one occasion was left outside in the rain for two days and two nights while tied up. He was also forced to travel around Ainaro telling people that the Falintil leaders Xanana Gusmão, Mauhudu, Mau Hunu and Venancio Ferras were liars. Frederico's wife eventually bribed the Commander of sector B (west), Thamrin, with two woven garments (*tais*), two chickens and a sword to save Frederico's life.[813]

Xanana Gusmão's arrest

Xanana Gusmão was arrested at 4.00am on 20 November 1992 inside a house in Lahane (Dili) where he had been hiding. The arrest was filmed by the Indonesian authorities and received widespread media coverage throughout Indonesia.[814] He was then kept incommunicado for 17 days, before the ICRC was allowed to see him. During this time he was moved between several locations before being detained at the national police headquarters in Jakarta (Mabes Kepolisian RI), where he was interrogated and suffered ill-treatment.

According to Xanana Gusmão, he was treated with respect during his arrest but was not presented with an arrest warrant. From the house, he was immediately taken to the home of General Theo Syafei, Commander of Operations Implementation Command in East Timor (Kolakops) where he spent one or two hours and was visited by the then commander-in-chief of the Indonesian Armed Forces, Try Sutrisno. He said that both men treated him with respect. Later the same day he was flown to Bali where he was detained at the Regional Military Command (Kodam IX) for three days and three nights.[815] In Bali he was handed over to Kopassus who interrogated him and subjected him to severe sleep deprivation for three days and three nights:

The first method, when I was in Bali, [was that] they did not let me sleep. I was sleepy during the day and they screamed. At night I was sleepy and they also screamed. They talked to me at 2.00am. I remember Yunus Yosfiah, because I knew him from 1983 when he was a major, so he spoke about this and that. He would hit the table and I did the same, we both hit the table.[816]

Xanana Gusmão was then sent to Jakarta to the Strategic Intelligence Body (Badan Intelijen Strategis, Bais) where Hendropriyono visited him and he gave a statement at the State Intelligence Coordination Body (Badan Kordinasi Intelijen Negara Bakin).

Xanana Gusmão was sentenced to life imprisonment in May 1993 and was sent to Cipinang Prison in Jakarta to serve his sentence. In August

1993, President Soeharto reduced the sentence to 20 years. In August 1995, he was held in an isolation cell after he attempted to send an unauthorised letter from the prison to the United Nations Fourth World Conference on Women in Beijing to protect the rights of East Timorese women which, he said, Indonesia had "systematically violated" for 20 years[817] (see Vol. III, Part 7.6: Political Trials.)

593. After Xanana Gusmão's arrest the military and police arrested anyone who was connected to him. In December 1992, only weeks after the arrest, the Secretary-General of the United Nations reported to the Commission on Human Rights that at least 20 of Xanana Gusmão's close associates and relatives had been arrested and detained.[818] Amnesty International alleged that those detained in Dili were subjected to serious maltreatment and torture.[819] The owners of the house in which he was arrested, Aliança Araújo and her husband Augusto Pereira, and their children were taken to the SGI headquarters. They were held there for seven months during which they suffered torture and ill-treatment including Augusto having several toe-nails ripped out with pliers. One of the women later testified that she had been raped.[820]

594. Nine of Xanana Gusmão's family members, according to Asia Watch, were arrested.[821] They included Xanana Gusmão's younger sister Armandina Gusmão, her husband and two of their children. They were arrested soon after his arrest by intelligence police "in the presence of their village headman and were not told why, in violation of the Indonesian Criminal Procedure Code as well as in violation of international standards".[822] The family was taken to the Sub-Regional Police Headquarters and interrogated continuously for three days. Armandina Gusmão told the Commission that police presented evidence to them. The police also took their photos and fingerprints. After three days in the Sub-Regional Police Headquarters, Armandina Gusmão and her husband were blindfolded and taken to the SGI headquarters in separate cars. They spent five months in the SGI headquarters, after which she was taken to Nusra Bhakti for a week.[823]

595. At least one case was reported to the Commission in which a person who had previously been detained for his supposed contact with Xanana Gusmão was rearrested after the capture. In Ainaro, an East Timorese man associated with Xanana Gusmão was called back after being released when Xanana Gusmão was arrested and told to report every morning for a month. Conversely, some people were released from detention as soon as Xanana Gusmão was captured, because they were no longer necessary to obtain his arrest. As Afonso Maria explained:

> *Before Xanana Gusmão's arrest they always beat and tortured us. They always asked: "Do you have a network with Xanana?" If you said no, you would be beaten and electrocuted until you said yes. Then they would stop the torture. After Xanana's capture on 20 November they released us.*[824]

596. Others were released from reporting obligations or periods of forced labour, but only after they swore allegiance to Indonesia. Vicenti Tavares had been arrested with

seven other clandestine members from Carau-Balu in October 1992 by Battalion 407 because they had been in contact with Xanana Gusmão. They had been held for six days but were then required to report to the military post in Ossu (Ossu, Viqueque). After Xanana Gusmão's capture, they were released from their reporting obligations but were made to take an oath (presumably of allegiance to Indonesia) and drink dog's blood before the Muspida, the Tripika and the Korem Commander from Dili.[825]

Olga Corte Real's story

Olga Corte Real became involved with the clandestine movement in 1982, where she and several members of her family met with Falintil members Birak and Kasihan, and discussed the obstacles faced by Falintil. A week later Olga, Petronela and Manuel Corte-Real met with the Falintil commander Mau Hunu in the *aldeia* of Trilolo, Holarua (Same, Manufahi) to plan clandestine work.

In 1990, Olga worked as a nurse in the community health centre in the village of Datina, Holarua (Same, Manufahi). In August 1990 Olga met with Xanana Gusmão in the *aldeia* of Kakau Lidin, Bairro Pite (Dom Alexio, Dili) Olga gave an account of her experiences to the CAVR at its National Public Hearing on Women and Conflict, 28–29 April 2003.

Maybe ABRI spies reported me for my clandestine activities. On 8 November 1992, an East Timorese police officer named T500 and a number of soldiers from the Manufahi [Kodim] arrested me along with Graciana, Fernando Cardoso and Gabriel C Trindade da Costa. They took us to the Kodim where the East Timorese Kodim Commander T501 and East Timorese battalion Commander 514 were waiting for us. T501 asked me whether my sister Regina and I gave medicine to Xanana in Hoholau. I said that my sister and I had not taken the medicine to Xanana but that we sent it through an estafeta*, António Martins. In fact, my sister and I had delivered the medicine ourselves but I lied [to them].*

Then T501 demanded that we reveal the names of other girls in the [clandestine] network but I told him that the only women in my network were my cousin Graciana, my sister Regina and myself. Actually, there were other women [in the network] such as Angelina da Costa, Fernanda de Jesus, Eleonora Cardoso and Francisca Cardoso. T501 threatened that if he later found out the names of other women he would cut my throat. I said I was prepared to have my throat cut if my information proved to be inaccurate.

As the interrogation went on a member of Nanggala [Kopassus] entered the room. He took me to another house where a police intelligence officer, T490, interrogated me from 9.00am until 3.30pm. A colleague of T490 called T502 entered the room. He swore at me and said that I often had

sex with Xanana. T502 then ordered Luis Cardoso and his little brother António Martins to sit on a chair and crush my toes until my nails turned black.

At 10.00am the next morning, 9 November 1992, an ABRI commander arrived from Dili in a helicopter and landed in the base camp. He had a Polaroid camera and took my picture. Then the helicopter took him back to Dili. ABRI escorted us back to Datina at 4.00pm.

They forced me to attend the morning ceremony at the Kodim from 1 January 1993 to April 1994. I attended the ceremony every morning, but my clandestine activities and my ties with Falintil in the mountain continued.[826]

Reprisals for Resistance attacks

597. The pattern of mass arrests of civilians following Falintil attacks on military or government targets continued throughout the period of "normalisation and consolidation", albeit on a smaller scale. The authorities responded to such attacks through the arrests, arbitrary detention, ill-treatment and torture of suspects, usually members of the clandestine movement, but also ordinary civilians.

598. Between 1985 and 1987, the Commission heard of isolated Falintil attacks, mainly in the district of Lautém but also in the district of Manufahi, which brought reprisals from the military.[827] In the 1990s, police and local paramilitary groups became more involved in the crackdowns and in the detention and torture of suspects. The following examples are the main Falintil incidents known to the Commission in the 1990s. Testimony received by the Commission from victims of the military and police crackdowns suggest that the standard response was detention, often involving torture and other cruel and inhuman treatment. These examples are:

- Baucau Town in October 1992 following a Falintil killing
- Ermera, 1996, following a Falintil killing of a civilian
- Brimob attacks in Dili and Baucau, May 1997
- Attacks in Manufahi, 1998.

Baucau, October 1992

599. The Commission received one statement about the killing of an Indonesian civilian from Sulawesi by Falintil on 5 October 1992 at a restaurant in the Old Town of Baucau. Jerónimo Paulo Freitas told the Commission about the event and then explained that five days later members of Infantry Battalion 315 and Team Saka arrested him on suspicion of involvement in the crime. Jerónimo was active in the clandestine network in Baucau. A Team Saka member, T503, struck him in the back with a rifle and then took him to the Baucau Kodim. There, one East Timorese member of the military identified as T504 interrogated Jerónimo about the incident while another East Timorese member

of the military, T505, tortured him by beating him with a wooden bar and punching and kicking him. Jerónimo told the Commission that he was then put into a black bag and taken to the village of Gariuai (Baucau, Baucau), where he was thrown into a toilet and left for 13 days with only banana skins and salt to eat.[828]

Ermera, October 1996

600. The Commission heard of another Indonesian civilian killed by Falintil four years later, in Ermera in October 1996, which also led to arrests of civilians. The Commission was told that a Falintil member killed an Indonesian cloth trader in Ermera because he suspected the man of working for the intelligence.[829] This time the police, rather than the military, arrested young pro-independence activists from a number of villages in the area.

601. João Alves Trinidade told the Commission that on 16 October 1996, seven youths from the *aldeia* Lekesi (Railaco, Ermera) – João Alves Trinidade, Eduardo dos Santos, Gaspar dos Santos, Silvestre Martins, João, Luis Salsinha, Joel Assuncão Neves – were arrested by armed East Timorese police officers T506, T507, T508, T509, T510 and Indonesian police officers T511, T512 dan T513. The police tied the detainees' hands, then dragged them down the slope of a mountain and beat them with wood. The group later suffered further torture and ill-treatment at the Gleno (Ermera) police station. João Alves Trinidade told the Commission:

> *At the Gleno Sub-district police headquarters the police ordered us to strip naked and put us in a cell. [They] electrocuted us, squeezed and pulled our genitals. They hit us and kicked us until our bodies were swollen. They hit our heads and forced us to make a statement detailing things that we did not do...They detained us for two months.*[830]

602. João Alves Trinidade and his friends were held in the Ermera police station for two months and then tried. They began their ten-year prison sentence in Becora Prison but escaped on 11 September 1999 after the Popular Consultation.[831]

603. The police officer, T506, also reportedly arrested Julito Babo in Darhetu Mate, Ponilala (Ermera, Ermera). T506 took Julito Babo to the Gleno police station where he stripped him of his wallet, crucifix and clothing. He then tied Julito Babo to a cross, in a parody of Jesus, and beat him until late that night. He then grabbed a gecko and forced Julito Babo to eat it, and told him to lick food scraps from the floor.[832]

604. The Commission also received one statement suggesting that the families of youth members of the clandestine network also suffered arbitrary detention and ill-treatment. Amalia Alexio Martins told the Commission that after her sons Eduardo dos Santos and Gaspar dos Santos had been arrested, a police officer called T512 came and arrested her and her husband Pedro Martins on 16 October 1998 in Poetete (Ermera, Ermera). They were arbitrarily detained in the Ermera police station and ill-treated to try to force them to give evidence against their children. Amalia Martins said that T512 interrogated her while beating her, pulling her hair, threatening to strip off her clothes and then shoving

her up against the door. After four days they were released but were required to report every day and police officer T506 extorted Rp900,000, two goats, six chickens, a dog and daily money for cigarettes from her and her husband.[833]

Attacks around the time of the 1997 Indonesian national election

605. In 1997, a spate of Falintil attacks occurred around the time of the Indonesian national election on 29 May 1997.* According to Amnesty International 42 people, including police and Falintil fighters, were killed in these attacks.† The two largest attacks were made on mobile police brigade (Brimob) units:

- The first attack was made by pro-independence youths in Dili on 28 May 1997. At around 10.00pm, 15 youths attacked a Brimob guard post in Bairro Pite, a suburb of Dili.‡ They wounded five police officers and one of the youths stole a rifle, although he later threw it in the gutter.[834] Five of the attackers were shot and killed in the attack.
- The second attack was carried out by Falintil on 31 May in the sub-disrict of Quelicai (Baucau). Falintil attacked Hino trucks carrying 26 Brimob police and two soldiers who were delivering a Popular Consultation box for the count in Baucau. They threw a grenade into a truck causing a drum of gasoline to explode. As a result of the explosion 13 of the people in one of the trucks were burned to death. Falintil then shot four more people as they tried to escape.[835] Francisco da Costa, involved in the attack, describes the incident:

> *That afternoon, the police were supposed to return the Popular Consultation boxes to Baucau for counting. So the police…loaded several police cars with the Popular Consultation boxes and took them to Baucau with tight security escort. Midway, near the village of Abafala and Quelicai, [Falintil] soldiers stopped the cars and attacked the police, causing a significant number of casualties among the police officers.*[836]

* According to HRW, another attack related to the Indonesian national election took place in Seisal (Baucau) on 29 May, where a polling place was attacked by an unidentified group. One election official, Abinau Salay, who was a member of Wanra, was hacked with a machete and wounded. Ten people were arrested. [Human Rights Watch, *Deteriorating Human Rights Situation in East Timor*, CAVR Archives at HRW East Timor\reports\1997\indtimor\index.html]. According to João Bosco, an election-related attack in Daraqua (Laga, Baucau) took place on 27 May 1997 [CAVR Interview with João Bosco, Quelicai, Baucau, 2 September 2004].

† According to the East Timor Police Colonel Jusuf Mucharam during the month of May 1997, 17 civilians were killed by Falintil (including 10 in Lospalos 10, two in each of Baucau and Liquiçá, and one in each of Viqueque, Ermera and Ainaro). [AI UA 391/97].

‡ According to Romeo da Conceição [HRVD Statement 5074] the youths were acting under orders of Kaixa Koto Morok; according to Reinaldo Marchal, they were acting under orders of Xanana Gusmão and Taur Matan Ruak; and according to Mariano Soares acting under the orders of Taur Matan Ruak and Commander Region II, Sabica.

606. The deputy police chief of Timor-Leste, Police Colonel Jusuf Mucharam, reported that around 120 members of the Resistance were arrested by the authorities in connection with these attacks and ambushes in different parts of the territory.*

Arrests following the Dili attack

607. The ten youths left alive after the attack in Dili were able to flee the scene but at least nine of them (nine names have been identified to the Commission) were later arrested or turned themselves in. They were Francisco da Silva, Reinaldo Marcal, Adalio Barreto, Domingos Barros, Abeto Soares, Frederico Soares, João da Cunha, EIgidio da Cunha, Francisco da Conceição, Romeo da Conceição and Mariano Soares. David Dias Ximenes, considered by the authorities to be the mastermind behind this attack, was also arrested on 31 May at his home.[837] His wife was detained soon after.[838] Other civilians who had not been involved in the attack were also arrested, not only in the Dili area. Francisco Garcia Correia and a man named João were arrested in Manatuto.[839]

608. All detainees known to the Commission (except for João from Manatuto who was kept in Manatuto) were taken to the Dili district police station. There they were interrogated and suffered torture and ill-treatment.[840] Francisco Garcia Correia told the Commission that he was beaten and kicked by five policemen and then put in a bag and hung up.[841] Romeo da Conceição, one of those who turned themselves in to the district police on 31 May 1997, told the Commission:

> *They swore at us and then told us to strip off our clothes. Then they hit me in the groin and a police officer, M283, electrocuted me. At meal times they told us to dance before we could eat. They detained and tortured us for six months. In January 1998, they transferred us to Becora Prison and the guards there also tortured us.*[842]

609. For the nine suspected perpetrators of the attack, the interrogations were carried out by the district police and intelligence. Mariano da Costa Sarmento Soares, for example, was interrogated by Indonesian police officer T515, Lieutenant T516 and an intelligence officer named T517.[843] David Ximenes, because of his suspected role as organiser, was interrogated by a military team from Jakarta, including the military commander for Timor-Leste, Major General T518. Soon after David Ximenes's arrest, Brimob also arrested his wife and child and took them to the District police station.

610. According to Reinaldo Marcal, after the police had interrogated them they were taken to the SGI headquarters for interrogation by Kopassus. Kopassus members hit them with a rifle and crushed their feet under the leg of a chair while asking them who was behind the attack. The men answered that they organised the attack themselves:

* "26 people, who launched an attack against Company A of Mobile Brigade Police Brimob in Bairro Pite, Dili, (28/5), have been arrested" [Apakabar Online news service, apakabar@clark.net 9 June 1997].

They said: "We don't believe it. There must be someone who ordered it and we don't know him", and then continued with the torture. And they said: "You must tell the truth, otherwise we will take you to Tacitolu tonight."[844]

611. The Kopassus members took them to Tacitolu where they threatened them, before returning them to the district police. There they were again interrogated while being kicked, beaten with a wooden club and threatened that they would be killed because they were traitors. The interrogation, ill-treatment and torture continued for a week until they were forced to sign a letter written by their captors. They signed it because they felt threatened by the armed guards.[845]

612. The detainees were then sent to Becora Prison, where they spent a month in the dark cell. They were ill-treated further by guards at Becora as well as T519, an Indonesian. They were required to strip off their clothes, only wearing underwear. They were beaten, kicked and given electric shocks.[846]

613. Nine of the suspected perpetrators were put on trial and sentenced to ten years imprisonment. They were imprisoned in Becora. David Ximenes was released without trial after a few days.[847]

Arrests following the attack in Quelicai (Baucau)

614. The attack in Quelicai in May 1997 also prompted a military crackdown involving the arbitrary detention and torture of suspected perpetrators of the attacks, suspected organisers, known clandestine members and ordinary civilians in the sub-districts of Quelicai and Vemasse in Baucau.[*] The operation resulted in the arrest (and killing) on 25 June 1997 of the senior Falintil commander David Alex, whom the military believed had masterminded the attack, along with six others.[†‡]

615. In most of the arrests reported to the Commission the military worked together with Team Saka, sometimes accompanied by members of Team Rajawali, Brimob or Hansip. Where the arrest was of a suspected perpetrator of the attack, it was carried out by a large group comprising various institutions. Detainees were taken to either

* Arrests in connection to the attack also took place in Dili: David Dias Ximenes and his wife. Also in Ainaro: Francisco Magno, José Acacio and his wife [Amnesty International Urgent Action 391/97].

† HRVD Statement 7681; Human Rights Watch, *Deteriorating Human Rights Situation in East Timor*, CAVR Archive at HRW East Timor\reports\1997\indtimor\index.html. According to Amnesty International, also arrested with him were José Antonio Belo, Césario da Costa, Gil da Costa, Guilherme dos Santos. [AI Index: ASA 21/54/97].

‡ In response to the death of David Alex, Falintil also arrested some people whom they suspected of cooperating with the military, leading to his arrest. "On 24 August 1997, at 4.00 three Falintil members went to Mamutu in Samalari Village (Baucau, Baucau) and arrested the child of Joana Martins called Justino Sarmento because he was accused of being involved in the capture of David Alex in Bahu Village, Baucau by ABRI. After they arrested him, the three Falintil tied Justino Sarmento's hands and ordered him to kneel. They started to interrogate him with questions such as 'Do you know of the capture of David Alex in Uaidei?'" [HRVD Statement 7721].

the Quelicai Koramil, the district police in Dili or the Baucau District police station,* and many were moved around between different places for interrogation.[848] The interrogation of the detainees was generally conducted by the Koramil commander or Team Saka commanders such as T520 and T521 and accompanied by ill-treatment and torture carried out by members of Team Saka or the police.

616. The precise number of people arrested in relation to the attack is unclear, although it is known that 19 people were eventually charged and that one died. Many arrests were carried out against ordinary civilians from villages in the sub-district of Quelicai, who had no involvement in the attack and who were detained for only a short period of interrogation.[849] Constâncio Gaio, for example, told the Commission that he was a farmer and cattle-herder, but that he was arrested when ABRI soldiers came from Baucau to pick up the corpses of the Brimob killed in the attack. He was taken to the Baucau District police station where he was beaten, kicked and stabbed with a rifle and then interrogated about the event. He was released after three days.[850]

617. Those suspected of direct or indirect involvement in the attack were held for longer periods.[851] Clandestine member Luis Maria da Silva (Maukiak) was arrested in connection with the attack with several others on 5 June 1997 by members of Brimob, the police, Team Sera, Team Rajawali, Team Saka commander T521 and his deputy, T523. Francisco da Costa, one of those involved in the attack, was arrested on 6 June 1997.[852] João Bosco was arrested at church as he left Mass on 8 June 1997 by Koramil and members of Team Saka.[853]

618. All three were taken first to the Quelicai Koramil where they were beaten and tortured by Team Saka commanders, including T521. João Bosco was also beaten by Koramil soldiers and T524, an East Timorese intelligence officer, at the Koramil. Francisco da Costa described being tortured by members of Team Saka for two days:

> *They grabbed a piece of wood and tied it between my legs. Then they beat and kicked me. My bones were broken and I could not move my jaw because it was swollen and weak. I bled but they continued beating me until all of my teeth were broken and scattered on the ground. They tortured me for two days.*[854]

619. The detainees were moved from the Koramil to the Baucau police station. Luis Maria da Silva spent only two hours there, being beaten by police, before he was moved to the Rumah Merah for six days where members of the military beat him. Francisco da Costa and João Bosco spent several days at the police station and João Bosco described being tortured there by the Indonesian Sub-district police captain, T525. On 11 June 1997, all three, along with Marcus Ximenes, Mário Filipe and

* According to Human Rights Watch those arrested on June 5 were taken to the Kodim. [Human Rights Watch, *Deteriorating Human Rights Situation in East Timor*, CAVR Archive at HRW East Timor\reports\1997\indtimor\index.html.]

Januario Martins, were moved to the Regional Police Headquarters in Dili where they were held and interrogated for several months.* Mário Filipe described the interrogation routine at the Dili District police station:

> *The interrogation method was that one person asked the questions and four people tortured me. While one person interrogated me, the four others kicked me from behind, from the sides and from the front, so I could not speak calmly. They fed me once a day. The Red Cross visited me. One day before the Red Cross came, they cleaned all the rooms and fed me three meals a day. But once the Red Cross left, they returned to their old practice. They let us sleep on the floor in a dirty room, and sometimes they did not even give us food.*[855]

620. The conditions in the District police station were particularly inhuman. Detainees described their treatment:

> *They spilled the food onto the floor and asked the prisoners to lick it clean.*[856]
>
> *Sometimes, they mixed the food with glass fragments and forced people to eat. They also forced prisoners to roll on the floor until it was dry like a human mop.*[857]

621. After their time in the District police station, the Baucau clandestine members were sent back to the Baucau police station where they were held until their trial. Francisco da Costa was detained for six months by the police in Baucau.[858]

622. Eventually 19 people were put on trial in Baucau and the Commission was told that one person, Januario Martins, died while in custody.† Of those who survived, 16 received sentences of between nine and 15 years; José Maria and Francisco da Costa received the death penalty. Sixteen were sent to Kalisosok in Surabaya (East Java, Indonesia) after they accepted their sentence. Both Francisco da Costa and Luis da Silva refused to accept their sentences and so remained in Baucau until 1999.[859]

623. An overview of Luis Maria da Silva's experience of detention and torture highlights the familiar pattern of moving detainees between various places of detention, the close relationship between the military, police and local militias in the detention, interrogation, ill-treatment and torture of detainees, and the almost routine use of torture during interrogation.[860]

* Francisco da Costa says that it was more than one month; Luis da Silva was held for two months and João Bosco told the Commission that all were held for three months.

† According to João Bosco:"They beat Januario Martins to death when they got to the Dili Regional Police Headquarters [Polda] on 11 June 1997." [CAVR Interview with João Bosco, Quelicai, Baucau, 2 September 2004].

Table 13: Overview of Luis Maria da Silva's detention, torture and ill-treatment			
Detention	**Length**	**Torture/ill-treatment**	**Perpetrator**
Quelicai Koramil	1 day	"They beat, hit and kicked me until my body was swollen and I collapsed."	Team Saka commander T521
Police, Sub-district Baucau	2 hours	Beating and hitting.	Police
Rumah Merah, Baucau	6 days	"They beat, kicked and stepped on me again until I bled from my mouth, nose and ears. I fell into unconsciousness. When I woke up, they beat me again."	Military
Police, District Dili	2 months	"Before I entered my cell they tied my hands and body with a rope and beat me, dragged me and threw me and six other people I did not know into the toilet."	Police
Police, Sub-distrct Baucau	1 month	"They hit and beat me until my body became swollen. They poured hot water on my body. A police officer gave me rice mixed with needle shards and glass fragments."	Police
Baucau Prison	Served sentence		

624. In addition to those detained in Baucau, the Commission was told of the arrest of a senior clandestine member in Dili. Vasco da Gama (Mauleki), a clandestine leader, was arrested in June 1997 on suspicion of having ordered the Quelicai attack and for other suspected clandestine activities. Rajawali, Kopassus, police and members of the Koramil under the orders of Captain T527 from Kupang and his East Timorese deputy, T528, carried out the arrest. They covered Vasco da Gama's eyes with black cloth, tied his hands behind his back and beat him on the way from his house to the police station. They also questioned him on the Brimob attack and on who had ordered the election boycott. Vasco da Gama (Mauleki) told the Commission:

> *I did not confess. So as soon as I arrived at the entrance to the police station they rolled my body in a drum full of water. Then, with my body all swollen, they put me in a cell for interrogation. Fifteen minutes later they started to beat and kick me and they cuffed my hands. Then someone tied my legs to the chair. I did not know who it was, because they covered my eyes with a black cloth.*[861]

625. The next day he was further questioned by Police Sergeant Major T529 from Kupang and Lieutenant Colonel T530, who wanted to obtain information on different clandestine leaders in the interior as well as in Dili. Vasco da Gama was accused of

giving Rp9 million to the clandestine movement to fund a demonstration. When he did not confess, T529 started to beat him with an iron stick and a rifle butt, and kicked him. He put a gun into Vasco da Gama's mouth and threatened to shoot if he did not name names. Four days later Indonesian Colonel T531 interrogated him again about the names of other clandestine members.[862]

Police

As the above case studies demonstrate, the police began taking a more active role in the arrest and detention of politically-related suspects in the 1990s. This occurred at both a local level and the national level.

One reason for this was the "normalisation" of the province of Timor-Leste which meant, in part, that the territory was no longer regarded a war zone and therefore the police had greater responsibility for security. As early as 1983, when political detainees began to be tried, they and their files were handed over for processing through the court system (see Vol. III, Part 7.6: Political Trials).

Police treatment of detainees

Arrest by the police did not necessarily mean better treatment. Arrest warrants were rarely used and detainees were kept incommunicado for days or weeks and often did not have access to a lawyer before the day their trial opened. Police were also identified as perpetrators in many cases of ill-treatment and torture reported to the Commission. They were also named in cases where detainees were held in appalling conditions without food or drink.

Police and the military

In many cases, particularly up until the early 1990s, the police and the military worked together in making arrests and obtaining information. Until 1998, the police force was formally part of the military within the Indonesian system, and generally assumed a subservient status within that system. The maintenance of law and order and upholding of the rule of law was often secondary to the achievement of military objectives in the context of conflict (see Vol. I, Part 3: History of the Conflict).

The statement by Constâncio da Costa dos Santos (Akita) to the Commission illustrates the increasingly important role played by the police. He told the Commission about his arrest for bringing a bomb into Dili from Indonesia. The bomb was intended to be used to blow up a police post in September 1997. Authorities in Timor-Leste had been tipped off about his arrival and when his boat came into the Dili Harbour the police and the SGI commanders as well as the then

Kopassus commander, Major General Prabowo Subianto, the Korem chief of staff, Lieutenant Colonel Tono Suratman and the Korem commander, Colonel Sidabutar were waiting for him.* [863]

Constâncio was arrested by the police and taken to the police station. However, the interrogation was conducted by the SGI commander. He was interrogated from 10.00am until 2.00am the next morning, mainly on whether there was cooperation between Falintil and international terrorist groups. Because he refused to answer their questions, he was beaten, burned with cigarettes and handcuffed from behind and ordered to hold a heavy telephone directory. According to Constâncio, the police at the Sub-district police station did not take part in his ill-treatment.

The following day Zacky Anwar Makarim, head of the armed forces intelligence agency (Badan Inteligensi ABRI, BIA), came from Jakarta to see Constâncio. Constâncio told the Commission that when SGI members took him to see Zacky Anwar, the police captain did not agree to let him out of police custody. He eventually agreed under the condition that some members of the police would accompany the SGI members to the military chief's house.

Constâncio was taken from the Sub-district station to the military commander's house for dinner. They spoke at length, and he recalls:

I was surprised at what Zacky told us, because he talked about the movement's activities in Java as if he were East Timorese. He knew everything. I mean, all about the movement's activities in Java and its ties with Dili, the Resistance groups, the student organisations and other organisations in Java.

After his "interrogation" he was brought back to the Sub-district police headquarters, where he was held for two months.

When members of SGI asked the police captain whether they could take him out at night for questioning, they were refused permission. Police officers told Constâncio that he might have "disappeared" if the SGI had arrested him rather than the police.

Liquiçá, July 1997

626. The Commission received statements about arrests after a Falintil killing of three Rajawali members in the village of Darulete (Liquiçá, Liquiçá) in mid-July 1997. Members of the community of Maumeta (Bazartete, Liquiçá) described how members of the Liquiçá Kodim and the SGI arrested civilians they suspected of involvement in the attack.[864] Those arrested were taken to the Liquiçá Sub-district police station,[865] the

* While on his way from Semarang by boat, another bomb accidentally blew up inside the house of clandestine members in Demak, Semarang (Java, Indonesia). As a result, the police and military in Timor-Leste were informed that Constâncio was on a boat on his way to Dili and they waited for him at the harbour.

Liquiçá Koramil[866] and the Kodim.[867] Jacinto da Costa, one of the detainees, described his arrest, interrogation and torture:

> *On Thursday 31 July 1997, at 2.00pm, the Kodim members T532 and T533 led around 20 ABRI soldiers to my house. T533 asked for my identity card, which I showed him. Then he told me to get into a Hino truck, where I saw eight of my friends already sitting, including Francisco, Marcelino, Adelino Vidigal, Silvino dos Santos, António de Jesus, Guilherme, Armindo and António Vidigal. They took us to the village office in Darulete. As we got out of the truck, T534 tore my shirt. Then he ordered us to return to the truck and took us to Kodim 1638 in Liquiçá. There, ten members of SGI questioned us, and separated me from my friends. They took me to the Koramil and put me in a room. T534 forced me to take off all my clothes except my underwear. Soon, between ten and 15 SGI members came and beat me with rifles, and slapped, punched and hit me over the head with bamboo until I was bleeding. They asked me where Falintil was and I said I did not know. They tortured me. They cut my face with a razor, beat me, kicked me, slapped me, punched and kicked me non-stop for three days.*[868]

627. After their interrogation and torture, Jacinto da Costa and Silvino dos Santos were taken back to the Darulete village office by four members of SGI and Rajawali. They were held there for two days without food but were then allowed to go home. The next day, however, Rajawali came and took the two men to the Liquiçá Kodim and then the Liquiçá Koramil, where again the military ordered them to strip down to their underwear and soldiers beat, kicked, slapped and punched them. Jacinto da Costa told the Commission that a member of ABRI, T535, kicked him until he lost consciousness. When he woke up an hour later his face was sliced with a razor and pricked with nails. After a few days the two were moved again to the Liquiçá Sub-district police station, where they were detained for four months and 18 days. Finally, they were moved to the Becora Prison where Jacinto's head was shaved and he was interrogated. He remained in Becora Prison for seven months.[869]

Two Falintil incidents in Alas (Manufahi), late 1998

628. In October and November 1998, two attacks on the Indonesian military in Manufahi led to a harsh military response and a large number of cases of detention, torture and ill-treatment of civilians. Much of the violence was perpetrated by the ABLAI militia with the support of the military, foreshadowing the violence to come in 1999.

The first attack

629. The first attack was the spontaneous killing of three people during a meeting between the community in Weberek, Dotik Village (Alas, Manufahi) and Falintil under the Falintil commander T536 on 28 October 1998. According to Alexandro da Costa, two Kopassus soldiers arrived in a car and when they insisted on passing, Falintil took their weapons. Mateus da Costa Amaral told the Commission that four Kopassus

soldiers were captured by pro-independence youths at the meeting. Three of the captives were killed; one managed to escape and to report the incident to Dili.[870]

630. On the evening of the day of the attack, a combined force of military, Brimob, the Bimpolda and T537, a member of Koramil, attacked Weberek. The Commission was told that 16 people were detained following this attack, though it has only received the names of five people who were detained: Mateus da Costa Amaral, Alexandre, João Maia, Patricio da Costa and Alexandro da Costa.* It is possible that two young women, Vicentina Fernandes and Etelvina Fernandes Dias, were also arrested. Mateus da Costa said that he and three others were thrown into a Hino truck and beaten before being taken to the Same Sub-district police station. They were thrown into a chicken coop until being taken out for interrogation. Mateus da Costa told the Commission:

> *A member of Brimob came in then and pulled out a table to put onto our toes. They interrogated one of us while beating the four others with their rifles. They stripped us naked and told us to scrape our bodies against the walls. Then they ordered us to kneel, and kicked us. An, [Indonesian] soldier, T538…came and asked: "Do you recognise me or not?" (He asked this question three times). I said: "No!" Then he drew his knife and cut my ears. Because they weren't completely cut off, he pulled my ears until they were completely severed. He stabbed my chest, put his gun in my mouth, stripped [my clothes off] me, kicked and beat me…until I fell to the ground. He rested for a while before he grabbed the tail of a stingray and rubbed it on the nape of my neck. He asked me to kneel and forced me to smell human faeces and lick faeces in the toilet. Then a police officer from Bali came with food and hot water and told me: "You pray in your heart."*
>
> *Nanggala and Milsas† blindfolded me and took me in a jeep to the Bolmeta Bridge in Same. They stopped to kill me, but their commander suddenly spoke on the radio and told them not to kill me. They took me back to Same and treated my wounds. At 4.00am they took me to Same police station and gave me clothes to wear.*[871]

631. Alexandro da Costa said that he was arrested the next day, 29 October, when he went to Dotik to deliver some items for the church. ABRI soldiers in Dotik chased him and shot at him but missed. When they caught him he was arrested and beaten with a rifle-butt, and kicked and punched to the ground until he was bleeding. He was then thrown into a hole, boiling water was poured over him, he was dragged by the hair and they burned his skin. The soldiers then took him to join the other detainees at the Same police station.[872]

632. On 20 November 1998 some of the detainees were released and six others were taken to the Dili District police station and detained for nine months until July 1999.[873]

* Other victims named were also named in statements describing the attack on the Alas Koramil, 12 days later.

† Milsas is an abbreviation of "militerisasi" meaning militarisation. Milsas were former Hansip who after three months in Bali and Java, become members of the military [see Vol. I, Part 4: The Regime of Occupation].

The second attack

633. The second attack occurred nearly two weeks later, on 9 November 1998, and was carried out by Falintil and local villagers.* According to Human Rights Watch, the attack was staged to capture Siswanto, the officer who managed to escape from Weberek. The group attacked the Alas Koramil and killed three Indonesian soldiers, took 36 rifles and at least 13 (mostly East Timorese) soldiers with them to the mountains for two nights before they were released.† The attack on the Alas Koramil, like the attacks 16 years earlier on the Koramil in Hato Builico (Ainaro), brought heavy retaliation from the military, involving widespread arbitrary detention, ill-treatment and torture.[874]

634. The Falintil perpetrators were arrested by Marine Battalion 301, Infantry Battalion 744 and Infantry Battalion 745 one week after the attack and were taken to the Manufahi Kodim.[875] The military continued to look for other perpetrators and the whereabouts of the stolen weapons. It began arresting civilians in Alas, as well as anyone suspected of involvement in either the attack or the clandestine movement (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearanceson killings of civilians during this crackdown).

635. Also reminiscent of communities' experiences in the early 1980s, many citizens of Alas fled in fear of the coming military response. Others were ordered to go to the church by the village head and other local leaders.[876] The community did not find safety in the church however. The Alas Koramil commander, an East Timorese officer named T539, went to the church soon after the attack and started interrogating people on the whereabouts of the weapons. ABRI soldiers who accompanied him beat several people.[877]

636. On 14 November, the commander of ABLAI militia in Alas, along with T540,‡ T541,[878] T542,[879] T543[880] and the Alas Sub-district Administrator, T544, came to the church. They allowed some people to leave but took others to the Alas Primary School. There, members of Infantry Battalion 744 and T434, the head of intelligence from the Manufahi Kodim 1634, again tried to find out about the weapons by forcing people to point out the hiding place.[881] They threatened that anyone who had not given information by 4.00pm would be shot dead or buried alive.[882] The village head, T541 (reportedly an ABLAI commander), together with ABLAI members T550 and T551, verbally and physically harassed the detainees, insulting them and pulling their genitals.[883] The civilians were arbitrarily detained in the primary school for about one

* According to HRVD Statement 1531 Falintil under leadership of Commander T545, T546, T547. Human Rights Watch also said that it was an armed group of some 50 to 80 men, including some Falintil but mostly villagers from around the village of Taitudak (Alas, Manufahi). [http::/hrw.org/press98/nov/etimor1123.htm].

† The soldiers reported to have been abducted were Luis Fasalo, Henriques Morato, José Pereira, Manuel Oliveira, José Conceição, António da Costa, Felisberto, Mateus Conceição, José Fernandes, Thomás Martins and Francisco O P Seak [HRVD Statement 9019) and João Baptista and Manuel dos Santos who were held for a longer period; http::/hrw.org/press98/nov/etimor1123.htm; HRVD Statements 1566 and 9019].

‡ According to HRVD Statement 1510, a Babinsa; according to HRVD Statement 1568, a commander of the ABLAI militia – the same person could have held both positions.

month under harsh conditions, food was scarce and visits from the members of the Church or family were not allowed.[884]

637. The Commission heard that, on 17 November, T541 moved a group of detainees to an empty house.[885] There, Koramil commander T539 and the head of intelligence, T434, further tortured and interrogated the prisoners. Flaminia da Costa, a 20-year-old clandestine member who had been taken to the house told the Commission that they were interrogated about their role in the clandestine movement and she was slapped hard ten times until blood came out of her mouth:

> *They told us: "If any of the soldiers in Same disappear, you are the ones who will be targeted. Even if you flee to the eastern region, we will hunt you down and catch you."*[886]

638. They were then taken to the Alas Koramil and held for one month, where T539 interrogated them and T434 tortured them.[887]

639. In addition to those who fled to the church, many other civilians were also arbitrarily arrested, interrogated and ill-treated. Victims of these violations reported that a variety of perpetrators were involved, including:

- Koramil members including Koramil commander T539, T552 and T553 and intelligence section head T434[888]
- Members of the ABLAI militia including T554, T555 and T556[889]
- Infantry Battalion 744[890]
- Police including an Indonesian named T557 and an East Timorese named T558[891]
- Village heads (also named as ABLAI commanders) T541 and T540[892]
- Milsas T559,[893] T560[894] and T561.[895]

640. Detainees were taken to the primary school, the Alas Koramil, the Alas Nanggala Post, the police station, the ABLAI militia headquarters and private houses, including the house of the village head of Taitudak, T562.[896] Most detainees were held and interrogated for a few days, but some were held for several weeks. Many were beaten, punched and threatened with rifles and knives. Some were ordered by Infantry Battalion 744 to look for the missing weapons.[897]

641. In one case, an East Timorese man told the Commission that he was arrested on 13 November 1998 with eight of his friends. They had no knowledge of the Falintil incident in Alas but were arrested by village head and ABLAI Commander T540 and ABLAI militia member T556 in Taitudak. They were taken to T562's house in the village of Taitudak where they were beaten and tortured. The next morning they were taken to Beroban, Taitudak (Alas, Manufahi) where soliders from Infantry Battalion 744 and Infantry Battalion 745 beat them, and later returned to Alas where the beatings continued. They were then detained at ABLAI militia T554's house for six days and during this time they carried out forced labour.[898]

642. José Tilman also told the Commission of the detention of five young female students from the Alas SMP (junior high school), who were also clandestine members. They were detained for two nights in the old police station because they were suspected of helping Falintil.* They were detained by members of the ABLAI militia and military.[899]

Detention, torture and ill-treatment by the Indonesian occupation authorities, 1999

643. This section looks at the nature and extent of arbitrary detention, ill-treatment and torture committed in 1999. 1999 is considered separately in this Report because of the unique set of circumstances in which detentions took place: the Popular Consultation which divided the community; the coercive and violent campaigning techniques used, including the attempted suppression of the pro-independence movement, the creation and arming of militia groups to implement these techniques; mass recruitment, often forcible, into militia groups; the presence of United Nations staff from June to oversee the Popular Consultation; and finally the extreme violence and devastation that occurred following the Popular Consultation. The unwillingness of the authorities to prevent or punish those committing acts of violence was, as documented in earlier sections of this part and in other sections of this Report, normal. What was unusual, in 1999, was that such conduct should occur in the context of a process under international supervision and under an international treaty which bound Indonesia to ensure that the Popular Consultation took place in secure conditions.

644. Arbitrary arrest, detention and torture reached its highest peak since the late 1970s in 1999. However, the patterns of arbitrary detention, ill-treatment and torture differed from previous years in their purpose, form, targets and perpetrators. These patterns are considered in detail below.

645. The seeds that eventually brought about massive violence and devastation were being germinated from late 1998 (see Vol. I, Part 3: History of the Conflict, par. 562 ff: the Popular Consultation). It was at this time that plans for the creation of the militias were first drawn up, and the main perpetrators of the violence of 1999 were already making their presence felt by late 1998. Arbitrary detention, ill-treatment and torture began to increase at this time, for example in the mass arrests in Alas (Manufahi).

646. This part considers some broad patterns of detention and torture in 1999, both quantitative and qualitative, including the way in which detainees were held and the reasons for their detention. It then examines the pattern of detentions and torture over time in the following phases:

- November 1998–March 1999, during which plans for a Popular Consultation were drawn up and announced and militias were formed
- April 1999, in which militias began recruiting youths and conducting operations throughout the territory

* They were Joana Alves, Antonina Alves, Artunisa Fernandes, Anunciacão and Filomena.

- May 1999, after the Indonesian police were given responsibility for security
- June–August 1999, during the UNAMET presence and preparation for the Popular Consultation
- September–October 1999, after the announcement of the result of the Popular Consultation.

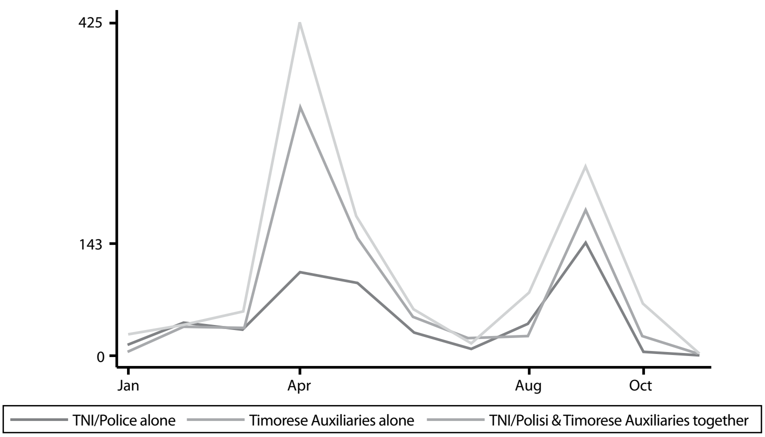
Statistical profile of detention, torture and ill-treatment in 1999

647. The patterns over time and space for detentions and torture in 1999 are almost identical to other violations in the same year, such as extra-judicial killings and sexual violations.

Patterns over time for both detention and torture

648. The following graphs show the patterns of detentions and torture (see par. 660 below) in 1999 by month.

Reported acts of detention attributed to TNI, Police and Timorese Auxiliaries, 1999



Source: Database of Narrative Statements Given to the CAVR

649. Almost all detentions, tortures and ill-treatments were reported to have occurred in the months of April, May and September of 1999, as shown in the graph above. However the number of violations began to increase in January and February. After the arrival of UNAMET, the number of reported incidents was relatively low, but begin to rise again in August in the lead-up to the Popular Consultation.

650. The incidence of torture and detention are closely correlated throughout the year and in some months (July and October) are exactly the same. This suggests that a very high proportion of detainees also suffered torture.

Patterns over space

651. During the final phase of the conflict in 1999, 75.1% (9,494/12,634) of reported non-fatal violations occurred in the western region. The Commission's data are consistent with the claim that communities close to the West Timor border and in Oecussi in 1999 were subjected to higher levels of violence as the pro-autonomy militias and Indonesian military withdrew towards West Timor.

Table 14: Number of cases of detention, torture and ill-treatment in 1999 recorded by the Commission

District	Detention	Torture	Ill-Treatment
Lautém	32	23	19
Viqueque	114	105	22
Baucau	20	10	10
Manatuto	51	33	20
Manufahi	79	72	94
Aileu	104	67	64
Ermera	249	264	266
Liquiçá	257	211	182
Dili	195	119	92
Ainaro	90	74	53
Covalima	569	377	367
Oecussi	419	417	488
Bobonaro	497	412	283

Length of detention

652. In 1999, the length of time that people were held in detention was significantly shorter than in earlier periods. Sometimes detentions were as short as a few hours but during that time those detained suffered torture, beatings or other forms of ill-treatment, as well as threats to induce them to support the autonomy option. The purpose of the detention was often to intimidate pro-independence supporters, not hold them for long periods, and the places used to hold people were improvised detention centres not made for holding many people long-term.

Targeted groups in 1999

653. Both the Commission's quantitative and qualitative research strongly indicates that the perpetrators of most incidents of arbitrary detention specifically targeted members of pro-independence groups including the CNRT, student groups and clandestine networks and Falintil. Others who were not clearly a part of the pro-independence movement but nevertheless demonstrated opposition to the autonomy option were also subject to human rights violations. This included civil

servants, UNAMET staff and members of local political parties. Family members of those campaigning for independence also experienced harassment and sometimes detention.

654. One proof of the targeting of particular individuals, besides the evidence in statements, is that nearly twice as many people were detained as individuals than as part of groups in 1999. This suggests that the individual detained was selected for detention, rather than randomly caught as part of a mass arrest.

CNRT members

655. Victor da Cruz made a list with names of pro-independence supporters in the sub-district of Balibó (Bobonaro) to send to the CNRT office in Dili. When members of the Firmi Merah Putih militia group found out about his activities, he was summoned to the Firmi post in Balibó, where he was beaten by members of Firmi, including East Timorese member T565. He was held there for two weeks, and only let go after participating in an oathtaking ceremony in which he promised to join the Firmi militia along with 15 others.[900] In Railaco (Ermera), Daniel Ataidi was ordered to do a hundred push-ups by an Indonesian Babinsa T566, because he was in the CNRT leadership, after which he was taken to a post where he was tortured by T566 and two East Timorese TNI members T567 and T568.[901] Other reports of arrests and ill-treatment include cases of a person wearing a CNRT T-shirt, another attending a CNRT opening ceremony, another who was the wife of a CNRT member, and many who were CNRT members.[902]

Clandestine members

656. Although the Indonesian authorities targeted people with a view to the upcoming Popular Consultation, individuals were still arrested and detained for having contact with Falintil. The Commission received a total of 567 statements reporting the detention of people who were identified as clandestine members in 1999. The months for such arrests were April and May, and then again but slightly lower in September and October.

Student activists

657. Members of the East Timorese Student Solidarity Council (Dewan Solidaritas Mahasiswa dan Pelajar Timor Timur, or DSMPTT) had already been openly campaigning for independence from late 1998 by going from village to village explaining the benefits of independence. Justino Ferreira Vicente told the Commission that he was arrested in Fatumean (Covalima) and detained with 26 other people on 23 April 1999 during an investigation into DSMPTT which had recently visited Fatumean to campaign for independence.* After the announcement of the result of the Popular Consultation, DSMPTT members were targeted even

* HRVD Statement 6277. HRVD 8489 describes how two cars from the Suai Town Koramil (Covalima) went to the local DSMPTT post and shot and injured two university students.

in West Timor, where some had fled. Agnes Lese told the Commission that her husband, Edmundus Bere, was captured by Laksaur militia members on 15 October 1999 in Lakmaras, Atambua (West Timor) and taken to the militia post because he had been a member of DSMPTT. He was tortured in Lakmaras and on 17 October he was killed.[903]

UNAMET staff

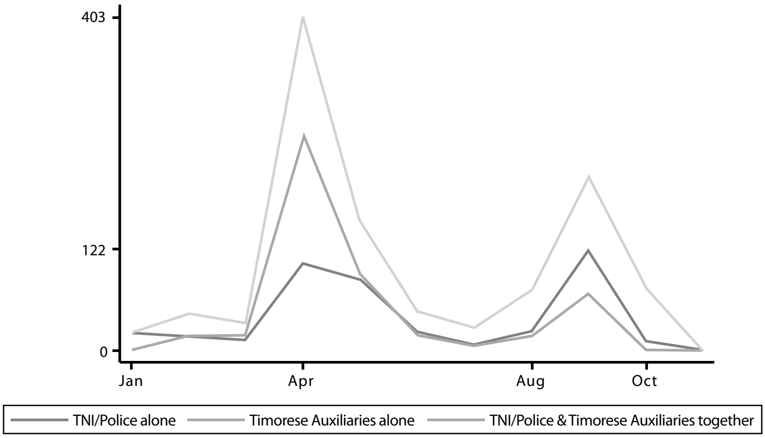
658. The Commission received at least five statements reporting cases in which local UNAMET staff working on the Popular Consultation and others suspected of having a connection to UNAMET endured threats, harassment and beatings.[904] These cases intensified close to the Popular Consultation. For example, João da Costa told of being detained in the Hato Udo police station (Ainaro, Ainaro) in the days before the vote with three female staff members of UNAMET.

659. After the result of the Popular Consultation was announced, some people connected to UNAMET were punished. Cristina dos Reis Ataide told the Commission that on 9 September 1999 in Aissirimou (Aileu Town, Aileu) her house was burned down and she was called to the Aileu Kodim and verbally abused because she was suspected of having a connection with UNAMET.[905] Armando do Rêgo was detained on 15 September in Deudet Village (Lolotoe, Bobonaro) after a joint TNI and KMP (Kaer-Metin Merah Putih) militia conducted an operation in the village. He was interrogated about UNAMET.[906]

Perpetrators

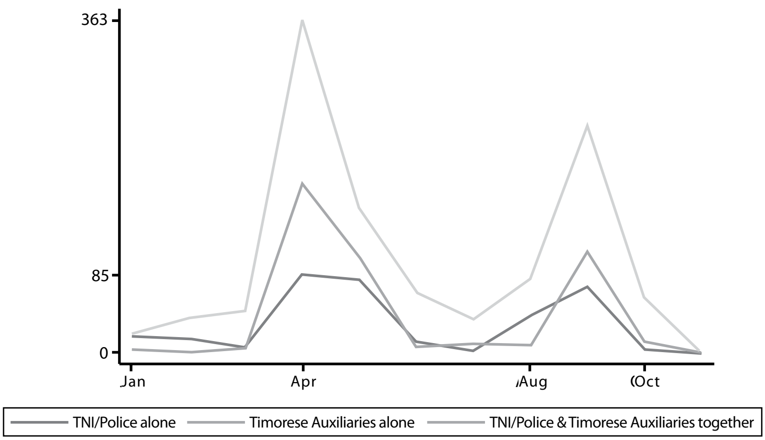
660. The statements given to the Commission describe a number of different permutations of perpetrator responsibility for the arbitrary detention, torture and ill-treatment of people in 1999. Of the acts of arbitrary detention documented by the Commission, most were attributed to the Indonesian security forces, their East Timorese auxiliaries or both. Most detentions were attributed to East Timorese auxiliaries. Of the acts of arbitrary detention in 1999 documented by the Commission, 75.7% (2,104/2,779) were attributed to either the East Timorese auxiliaries acting alone or in collaboration with the Indonesian military and police, while 19.2% (534/2,779) of documented acts of detention which occurred in 1999 were attributed to the Indonesian military alone. A similar proportion (namely 82.5% (16,135/19,559) of the documented ill-treatments and tortures were attributed to the Indonesian occupation forces and their East Timorese auxiliaries. Also, 75.8% (3,278/4,324) of reported acts of ill-treatment and tortures were attributed to East Timorese auxiliaries (either acting alone or in collaboration with associates of the Indonesian military and police).

Reported acts of torture attributed to TNI, Police and Timorese Auxiliaries, 1999



Source: Database of Narrative Statements Given to the CAVR

Reported acts of ill-treatment attributed to TNI, Police and Timorese Auxiliaries, 1999

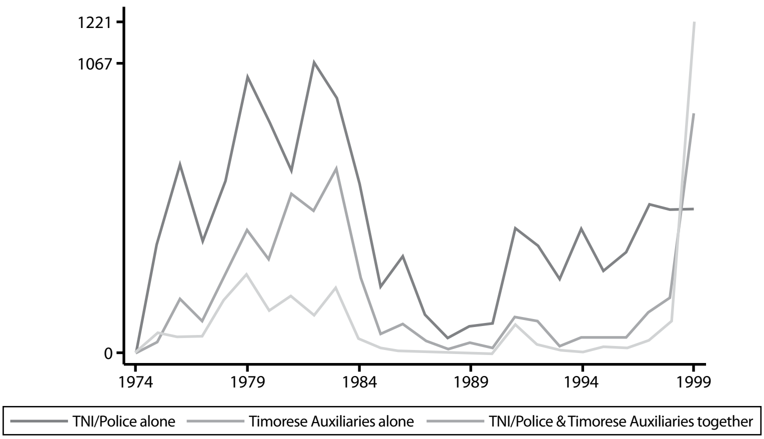


Source: Database of Narrative Statements Given to the CAVR

661. These statistical patterns suggest prior planning and operational coordination between both forces in their use of arbitrary detention. As the graph below shows, reported acts of arbitrary detention attributed to the Indonesian military and police alone, East Timorese auxiliaries, or both forces acting together, are positively correlated over time, including in 1999. But in 1999 the role of auxiliaries became much more

visible. It is clear from this that rather than seeking to control their East Timorese auxiliaries (principally the pro-autonomy militias), the Indonesian military aided and abetted them in the widespread use of arbitrary detention in the lead-up to, and the aftermath of, the UN-sponsored Popular Consultation.

Reported acts of detention attributed to TNI, Police and Timorese Auxiliaries, 1974–1999



Source: Database of Narrative Statements Given to the CAVR

662. Within the category "East Timorese collaborators with the Indonesian military", are included civil defence organisations such as members of Wanra (People's Resistance, Perlawanan Rakyat) and members of the 25 militias identified as operating in Timor-Leste. It also includes members of the civilian administration, from district administrators (*bupati*) to village heads, many of whom worked for the pro-autonomy cause in 1999 either willingly or under pressure of office (see Vol. I, Part 4.3: Civil Administration). The Commission has found that these collaborators were established, armed and very often directly instructed to perpetrate violations by the Indonesian military.

Detention locations

663. The Commission's qualitative research indicates that Koramils, police stations and TNI posts were used widely in 1999 as in other periods, but there was also a return to the pattern of detention in the 1970s of holding individuals in improvised detention centres such as newly-built militia posts, private houses and public buildings such as primary school buildings.* The nature of these detention centres influenced detainees' experience in detention. Because these buildings were often small and not

* The Tropical in Dili was first used in the 1970s by TNI to detain people and was notorious for the torture practices conducted on its premises. Aitarak militia and PPI (Pasukan Pejuang Integrasi, Integration Fighter Force), under the command of leader Eurico Guterres, reoccupied it as a detention place in 1999.

built for holding people, detainees were held in small groups or individually for a short period and then released. Conditions were poor and many people received little or no food. Some detainees managed to escape because of poor security. The Commission received only one statement in which a detainee was held in an official prison (Lembaga Pemasyarakatan, LP) such as LP Becora, LP Balide Comarca, LP Baucau, LP Gleno or LP Maliana in 1999.*

Reasons for detention and torture

664. Several clear motives for the arbitrary detention and the torture and ill-treatment of victims are apparent in the statements provided to the Commission and interviews carried out by Commission staff and others. Before the Popular Consultation the main reason for detention and torture cited was to coerce the victim and the population as a whole into rejecting the independence option and choosing to be an autonomous province of Indonesia. As part of this strategy, Indonesian security personnel and their militia proxies arrested individual people at random or at "socialisation" meetings and interrogated them about their political affiliation.

665. At the same time, militia members were asserting their new power over the population through random acts of violence. Militia groups were composed largely of young men who were marginalised and angry, or who had long histories of involvement in Indonesian paramilitary or civil defence groups. Some were also just opportunists and, in this period of lawlessness and heightened tension and violence, were given free rein to do as they pleased with impunity. Indeed, the evidence is clear that the military not only allowed but actively encouraged brutality on the part of the militias.

666. Other reasons included:

Forcible recruitment of militia

667. As well as detention and torture to intimidate people, a commonly reported reason for arrest was to find new recruits for militia groups.[907] While in detention victims were forced to join various militia groups, sometimes after participating in a blood-oath ritual or other kinds of traditional ceremonies† at which they pledged their allegiance to Indonesia and the autonomy option, before being released.[908] In Oecussi the Commission heard of people being offered money to join the militia.[909]

668. Agustino was detained by Mahidi militia in the Mahidi headquarters in Zumalai (Covalima) for his clandestine activities. He was forced to take an oath by drinking water in which the Indonesian flag had been submerged. He was then given a pro-autonomy uniform and became a member of Mahidi.[910] The community of Saboria

* One statement of someone who was detained in the Ermera Prison.

† The long-standing East Timorese ceremonial tradition of drinking goat, dog as well as human blood was used by the pro-autonomy camp as a way to further their campaign. The Commission received statements about the use of blood-oath ceremonies to force people to swear allegiance to integration, going as far back as 1982 [HRVD 7161; 5610; 5592].

Village (Aileu Town, Aileu) described how many of its young men were forced to join the AHI (Aileu Hametin Integrasi, Aileu Strengthen Integration) militia during an autonomy socialisation meeting in the village run by the TNI, police and militia leaders. The youths were forced to join in village meetings to promote integration and to participate in a blood-oath ritual.[911] The TNI captured João Leki, a young man from Saboria and took him to the AHI office, where he was held for 24 hours and beaten into unconsciousness to force him into joining the militia.[912]

Assertion of pro-autonomy forces' authority over the community

669. The Commission received reports of arrests, torture and detentions with the apparent purpose of conveying to the community that pro-autonomy supporters, specifically militia groups, had power over civilian's lives. Many of these arrests occurred immediately after a mass recruitment, an inauguration ceremony or other public event in which the militia members were incited to go on a rampage through the community. The most well-known instance of this was the meeting of all militia groups for the inauguration of the militia umbrella group, the PPI, in Dili on 17 April 1999, after which militias burned and looted houses in Dili, including the house of Manuel Carrascalão.[913]

Retaliation against Resistance attacks

670. As in previous years, in 1999 people were arrested after Resistance attacks or other incidents involving opposition forces in an effort to find the perpetrators, but often also to punish the community of the village in which the event occurred. Several such incidents occurred, for example, in the district of Ermera in April 1999 and are discussed further below par. 696-730.

Punishment of individuals who openly declared support for independence

671. Force was used to punish those who openly declared their support for the independence movement. Many were beaten, ill-treated or tortured before they were released after receiving serious threats to themselves and their families. People identified at public rallies in support of independence were later arrested and interrogated.[914] There were several reports of pro-independence supporters who had their ears cut off, apparently so as to brand them.[915]

672. Others were required to prove their change of heart by signing a statement (*surat pernyataan*), declaring their commitment to autonomy as well as denouncing any affiliation with the pro-independence movement.[916] Alexandre dos Reis's statement made at the Covalima Kodim on 26 May read as follows:

> *When I leave, I will not run away to the forest. If I run away, all of my family in Zumalai, in Galitas and in Akar Laran will be killed. I must support autonomy.*[917]

673. This motive gained new force after the results of the Popular Consultation were announced on 4 September 1999. Known supporters of independence were rounded up and tortured, and many were executed.

Obtaining intelligence about pro-independence leaders and structures

674. In 1999, the TNI and the militias continued the pattern that had existed since Indonesian forces first invaded the territory of detaining, interrogating and torturing people to obtain information about the pro-independence movement and members of clandestine networks. Community members suspected of assisting or possessing information on the whereabouts of pro-independence activists were arbitrarily arrested. The authorities also made targeted arrests of members of CNRT, clandestine members, youth activists and students in an attempt to extract information and identify the pro-independence movement leadership. Torture was often used to obtain such information.

Transportation of civilians and capture of those fleeing

675. After the Popular Consultation hundreds of thousands fled their villages. Some went freely to West Timor or the mountains in Timor-Leste, many others were forced over the border. Victims reported being detained both in the context of being forcefully displaced and also as they tried to flee voluntarily.

Detentions and torture, November 1998–March 1999

676. The patterns of detention, ill-treatment and torture described above actually began in late 1998 as political events leading to and following the announcement of the Popular Consultation unfolded.

Before the announcement of the Popular Consultation

677. Arbitrary detentions began to occur, often perpetrated directly by the military acting alone. The Commission heard, for example, of a case in Poemate in Atabae Village (Atabae, Bobonaro) on 9 November 1998. Jacinto Lobato and three of his friends, Ernesto Gaspar, Domingos and Claudino were threatened with M-16 rifles by Luis António, a member of Atabae Koramil and Territorial Combat Battalion (Batalyon Tempur Teritorial, BTT) based in Atabae.[918]

678. Also in late 1998, members of Falintil attending a traditional gathering in the *aldeia* of Holbese in Leber Village (Bobonaro, Bobonaro) were suddenly surrounded by more than 20 TNI soldiers* and members of Kodim 1636/Maliana. The soldiers arrested people from the community of Holbese, including women and young people. The next day the community as a whole was punished. Agusta told the Commission:

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* Among whom M284 a member of TNI originally from Tapo, M285 a member of TNI from Holsa and M286 a member of TNI from Oe-lau.

The next day at 8.00am, the whole community was gathered together and given instruction by Januario, a TNI member. He insulted us saying: "You want independence, but you can't even make a matchstick. What do you want independence for?" Friends were arrested and tortured by being punched, kicked, and stomped on by military boots. Five of the victims' faces, including my husband José Vicente's, became swollen and blood poured out of their mouths, noses and heads and they were also stabbed with the end of a weapon over and over again.[919]

679. Paulo Morreira and Vicente do Rosário told of their arrest in January 1999 in Turiscai (Manufahi) by ten Kopassus soldiers and four East Timorese members of the military: T570, T571, T572 and T573. Their captors hit them across the head and back with rifle butts and then handed them over to the Koramil, where the Koramil commander slapped them again. The soldiers then took them to the Infantry Battalion 745 base, whose members beat them so hard that Paulo Morreira's spine was broken, he had serious head injuries and he lost the hearing in one ear.[920]

680. The military also reorganised the paramilitaries in Baucau (Team Saka, Team Makikit and Team Sera) and Lospalos (Team Alfa) and established new militias such as Mahidi in Ainaro District, Halilintar in Maliana Sub-district (Bobonaro), and Besi Merah Putih (BMP) in Liquiçá District. The first members of these new militias were drawn from long-time paramilitary members and other Indonesian military auxiliaries. For example, Cancio Carvalho Lopes, the former head of the Volunteers Team which had carried out widespread arbitrary detention and torture in Ainaro in the early 1990s, now headed the Mahidi militia. After their formation, widespread arbitrary detention, ill-treatment and torture occurred both to recruit further members and to establish their authority in the area.

681. In early January, in one of the founding meetings held by Besi Merah Putih militia[921] in the village of Guguleur (Maubara, Liquiçá) plans for future BMP operations in the sub-district of Maubara were laid out. The community of Guguleur described how, the following day, BMP members arrested five people and beat them. Four were beaten so badly that they were hospitalised in Dili; the fifth was detained in the militia post.[922]

682. Large groups of 30 or more members of the BMP militia, together with civilian staff from Koramil, then arrested many others in the area, mostly members of CNRT. The Commission received one statement about detentions in Guguleur in January 1999 and five from February 1999. In addition five were received from Vatuboro, four from Vatuvuo, and six from Guico (all in Maubara, Liquiçá). Perpetrators named in these statements include East Timorese members T574, T575, T576, T577, T578, T579 and T580.[923] Members of Gadapaksi and Battalion 143 also attacked the people of Guguleur with sticks and sharp weapons, such as spears and machetes.[924] Many villagers fled the sub-district of Maubara.

683. The Commission also heard that 40 members of the Naga Merah militia attacked the house of the village head of Vatuvou, Manuel Almeida. He was not home at the time of the attack but the attacking youths used knives, rocks, iron bars and M-16s to destroy his house and threaten his family. Three members of his family were abducted and taken

to the Naga Merah post in the Maubara Koramil where they were tortured.[925] The arrests continued into February.

684. Paulo dos Santos, a former clandestine member, told the Commission that on 2 January he was arrested by four TNI marines in Ainaro. They ordered him to step out of a public minibus and then took him to the marine base in Cassa (Ainaro, Ainaro). He was beaten and kicked until he was bleeding from his ears and he lost consciousness for about an hour. At midnight, with his thumbs and his big toes tied together and blindfolded, he was taken to a building near the Cassa River. He recalled his experience:

> *They held me for two days, beginning with interrogation about my participation in independence activities. Because I was afraid, I told them everything I had done. A member of the marines warned me: "Don't be involved again in demonstrations related to the referendum like what happened in the SP II incident, where the youth beat the SGI commander, when Bishop Belo inaugurated the Chapel at SP II." I said that I wouldn't be involved in such activities. After two days, my uncle Agustinho Sarmento, the Sub-district administrator of Hato Udo, came and got me out [of detention] and took me to Hato Udo where I hid for one month.*[926]

After announcement of two options

685. On 27 January 1999, the decision to hold a Popular Consultation on the political future of Timor-Leste was announced. More militias were established in districts and sub-districts around Timor-Leste (see Vol. I, Part 4: The Regime of Occupation, for a full list).

686. In the following week, there were a number of arrests carried out in Maubara (Liquiçá) by the BMP militia. In some cases the militia acted alone. For example, Mário da Costa, a former member of CNRT, told the Commission that he was arrested at his home in Vatuboro (Maubara, Liquiçá) on 30 January by two East Timorese members of the BMP militia, T578 and T579. At the time of arrest he was kicked in the neck and beaten with a motorbike chain. Then he was taken to the militia post where he was beaten further and interrogated by T580, a militia commander.

687. The Commission received at least five statements describing cases of the BMP militia in Liquiçá working closely with the TNI, Gadapaksi and police.* In one case on 16 February 1999, João Soares was arrested in his house in Manukabia (Maubara, Liquiçá) by four East Timorese members of TNI, T581, T582, T583 and T584, and two East Timorese members of BMP militia, T585 and T586. They beat him with a rifle butt, punched and slapped him, resulting in head injuries. He was then taken to the Maubara police station and on the way T585 and T586 stabbed him with an arrow causing him to bleed heavily. He was eventually taken to a police station in Liquiçá where he was detained and interrogated for eight days.[927] On 5 February, Ana Maria Mouzinho was arrested in Holbolu (Beco 1, Suai, Covalima) after information from an East Timorese

* HRVD Statements 4630; 1001; 0225; 5908; 2867 (victim Joanico Marcal was arrested by TNI members and then handed over to BMP militia)

intelligence informer T587 had reached members of Mahidi militia, including T587 and T589 (wife of a government official in Raimea). Ana Maria was beaten, hit with a rifle and taken to the Mahidi headquarters in Zumalai where she was interrogated, threatened with death and beaten again with a rifle and ordered to mill rice for the militia. She was held there for two days.[928]

688. As well as furthering the autonomy option, newly recruited militia members were often ordered to carry out some type of forced labour, such as cleaning, cutting grass, fixing pipes, looking for firewood or guarding a militia post.[929] On 11 March, Agustinho was captured by four East Timorese members of the Mahidi militia, T590, T591, T592 and T593, in Mape (Zumalai, Covalima). They interrogated him throughout the night after which he was told to carry out different tasks before being released. He told the Commission:

> *I was ordered to repair the Loumea Bridge, cut grass and chop wood to build the Mahidi militia post in Kulu Oan, Zumalai. On 16 March 1999, Mahidi took me to Zumalai, where I was ordered to pick up cigarette butts around the Mahidi headquarters and dig holes. I was held in the Mahidi headquarters for one week.*[930]

689. The community of Rai Fun (Maliana, Bobonaro) told the Commission that in February 1999, members of the Maliana Kodim looked specifically for young men with long hair. Manuel Laka Suri, Domingos Salvador and João Barreto, all long-haired men, were captured and had their hair cut off by knife. They were arrested and submerged in flooded rice fields. They were then stripped naked and put in a dark room filled with water which prevented them from sitting or sleeping.[931]

Dilor, Viqueque, 20 March

690. Team Makikit militia reportedly began recruiting in March 1999. On 20 March, after a gathering at the TNI post in Dilor (Lacluta, Viqueque) the new recruits started attacking people and their houses in surrounding villages, beating and threatening alleged supporters of independence. Approximately 160 people were detained briefly at the Lacluta Koramil in Dilor and approximately 500 others fled their homes in fear.[932]

691. Artur de Carvalho, a supporter of independence, was one of the victims of this attack. He told the Commission that militia members attacked his house in Laline (Lacluta, Viqueque), destroying the roof, door and windows. They then took him to the Koramil and handed him to East Timorese militia member T594 and the Koramil commander, Sergeant Major T598. He said that at least 64 others were detained in the Koramil at the time. Their houses and kiosks had also been wrecked. The detainees were held for 24 hours without food and were then released on 22 March 1999. He told the Commission that at least one detainee, MN, was ill-treated while in detention. Her dress was pulled off and then her genitals were touched.[933]

692. Seven East Timorese men fled to the forest. When they returned two weeks later they were arrested by local Babinsas, T596 and T597, and taken to the Koramil. The Koramil commander T598 interrogated them and then released them the same evening.

However, the next day, when they reported to the Koramil, T600 and the Koramil commander T598 detained them again, and they were forced to work for the military including hoeing land, cutting wood and bamboo, building a fence, tiling roofs and planting vegetables for two and a half months.[934]

Maliana, Bobonaro, March 1999

693. On 22 March, TNI soldiers beat a prominent CNRT leader, José Andrade da Cruz, in public and dragged him through town to the local TNI headquarters in Maliana (Bobonaro). His public beating served as an example for other pro-independence supporters and instilled widespread fear in the community.[935]

694. To escape the worsening security situation, many members of CNRT in the sub-district of Maliana sought refuge in the Maliana police station and local churches or fled to Dili[936] (see Vol. II, Part 7.3: Famine and Forced Displacement).

Zumalai, Covalima, March 1999

695. On 23 March, Celestino Pereira de Araújo and nine of his friends were captured by Mahidi militia in the village of Julo (Zumalai, Covalima) and taken to the house of Mahidi member Vasco da Cruz. The ten men were then handed over to members of BTT Infantry Battalion 144 who took them to the BTT headquarters. They were interrogated, beaten and kicked and at night received a visit by the Sub-district administrator of Zumalai. He told the Commission:

> *At night, the Sub-district administrator, T601, came and asked us what our names were. After that he threw dirty oil at my head and verbally abused us saying: "Your faces look like monkeys, and yet you want independence!" Then he ordered the ten of us to drink our saliva, which had been mixed together in a glass, and so we took turns drinking it.*[937]

Detentions and torture in April 1999

696. The number of people detained, as well as the number of people who suffered torture and ill-treatment, peaked in April 1999.

697. Most arrests and detentions that involved some kind of interrogation occurred in April and May 1999. As in earlier years members or suspected members of the clandestine movement were interrogated about their own or their friends' activities within the clandestine network,[938] as well as on the whereabouts or the extent of contact they had had with family members in Falintil.[939] Some were questioned about the whereabouts of specific members of Falintil[940] or about weapons caches.[941]

698. New militias were formed, such as the Sakunar militia in Oecussi, and militias that had been formed earlier were formally inaugurated. For example, the Laksaur militia was formed in January but began full-scale operations and started intensively recruiting members in mid-April when it was formally inaugurated.[942]

699. The Mahidi militia, which was mostly active in the district of Ainaro, also had a branch in the sub-district of Zumalai (Covalima) led by Vasco da Cruz and Domingos Alves, both village heads.[943] Members of Mahidi also arrested people and took them to the Zumalai headquarters.[944] M122 was directly involved in the detentions and some of the beatings of detainees.[945] The Commission received seven statements about individuals detained by Mahidi. All these detainees were threatened, beaten, and even tortured, and subsequently forced to join the Mahidi militia.[946]

Liquiçá, April 1999

700. In the first week of April, the BMP militia, police and military carried out a joint operation to find pro-independence people in the sub-districts of Liquiçá and Maubara. Domingos de Jesus da Costa, for example, told how he and nine others from Lailok Lara in Dato Village (Liquiçá, Liquiçá) were detained on 5 April by a joint force consisting of East Timorese Kodim member T612, East Timorese soldiers T613 and T614, East Timorese police officers T615, T616, T617 and T618, East Timorese Koramil member T619 and a civil servant T620. They were held for several hours during which time they were forced to lie out in the middle of the main road. One victim, Fernando da Costa, was beaten with a rifle butt.[947]

701. On the same day, according to Mamo Ana, she and her family were attacked by four BMP militia members in Fukelara in Dato Village. They killed her husband Maubusa, and took her and her family to the Liquiçá Kodim 1638 where they were held for one night and one day. The next day the district administrator of Liquiçá, T621, and members of the Liquiçá Kodim moved the family to Maubara for one month.[948]

702. On 6 April 1999, the population ran to find shelter in the church in Liquiçá. The BMP militia gathered outside the church and proceeded to kill many of those taking refuge, while members of the TNI and the police looked on (see Vol. II, Part 7.2: Killings and Disappearances). As well as those who died, many suffered ill-treatment and abuse. Remiro Ximenes dos Santos, aged 71 at the time of the massacre, recalled:

> *On 6 April, I fled to the Liquiçá Church because the BMP militia was conducting an operation and carrying out brutal acts in the Liquiçá area to find pro-independence people. When I arrived, I stood in front of the church and saw BMP militia members going towards the church. So I went into the kitchen of the Liquiçá Parish to get a knife to defend myself. But suddenly a BMP militia member was behind me and started beating me with a piece of wood on my back and I fell over unconscious. Then he cut my face with his knife so that my skin was torn and bleeding. He just left me, unconscious and bleeding in the Liquiçá Church. My wife came and took me to the Liquiçá Kodim…where a soldier named Mateus gave me some Timorese cloth for my wound and told me to go home.*[949]

703. After the massacre, the BMP militia continued to capture independence supporters around the district. The community of Loidahar (Liquiçá, Liquiçá) said that 50 people were detained from the village and were tortured by members of BMP. Girls were forced

to participate regularly in dances with the militia.[950] Many of the detainees were held first in the home of the Sub-district administrator of Liquiçá, T621.[951] They were then transported to the town of Maubara and detained in the BMP headquarters for around two months.[952]

704. A number of youths from other areas joined the Aitarak militia in April 1999 after the massacre to save themselves.[953]

Ermera, April 1999

705. Ermera was the site of serious human rights violations in 1999 including a large number of killings (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). It was also a district which reported one of the highest number of detentions in 1999, with 235 incidents from 220 statements being reported to the Commission.

706. There were five militias operating in Ermera and the pro-independence movement was very active in the district. The Commission heard that members of CNRT detained the entire population of the *aldeia* of Ilimanu in the village office of Manusae Village (Hatolia, Ermera) on 1 April and held them for a week. They beat the male members of the group because they were suspected of being Naga Merah militia.[954] In the sub-district of Railaco in April 1999, the CNRT members, Dinis dos Santos and 43 others wrote a declaration to the governor of Ermera District to express their rejection of autonomy.

707. Pro-autonomy supporters and the Indonesian authorities responded to these actions. On 14 April, the Naga Merah militia arrested clandestine members and civilians in Manusae Village.[955] On 26 April 1999, the SGI called all of the residents of Kukara, (Manusae Village, Hatolia to gather for instructions. Two clandestine members called Marito and António were then arrested and beaten.[956] In Railaco the Koramil commander, T668, arrested Armindo Soares, one of the 44 individuals who had written the letter. He was beaten severely in the Koramil. The Koramil commander then ordered Koramil members to hunt down and arrest the other 43 signatories of the letter.[957] The statement of Dinis dos Santos described their treatment by members of TNI:

> *When we arrived, we were ordered to line up and then they beat, punched and kicked us. Then they beat Estevão on the head with a pistol, seriously injured his leg and hit him with a chair until the chair broke. The Koramil commander, T668, ordered East Timorese TNI members T669, T670, T671, T672, T673 and T674, to beat us. T670 took a knife to stab Estevão but luckily T668 yelled [at T670], otherwise Estevão might have died. After we were released [and allowed to go] home to Tocoluli, Commander T668 ordered the 44 of us to pay a fine of Rp2,500,000 and cut five cubic metres of wood which consisted of 5 X 7 blocks and sheets.*[958]

708. They were then forced to join the militia group Darah Merah, and had to attend the group meetings in Ermera.[959]

709. It is clear that the military had identified pro-independence individuals for detention and torture. Cudinho Manegas told the Commission that in April the Railaco

Koramil commander and a Babinsa, T677, came to Hermenegildo's house, accused him of being a clandestine member and were looking for another clandestine member named Martinho. When they found that Martinho had fled, they started beating Hermenegildo. Martinho returned soon after and surrendered, and the Babinsa, T677, released Hermenegildo and began instead to beat Martinho with a rifle butt.[960]

710. The SGI commander in Hatolia, T678, was named in several accounts of arrests in the sub-district.[961] Anselmo Soares described his arrest with Armando dos Reis, Alcino and Abilio by T678 and two members of SGI in Ailelo Village (Hatolia, Ermera), after which they were taken to Hatolia for interrogation. Armando dos Reis was beaten heavily during the interrogation.[962] José Lemos told how he and Bonifacio dos Reis were arrested on 10 April by T678 and detained in the Hatolia Koramil. There, José Lemos's head was shaved and his scalp was cut with razor blades. Both victims were clandestine members.[963]

711. Other incidents of violence also raised tensions in the district. On 10 April in Gleno, the capital of the sub-district of Ermera, the military burned down the CNRT headquarters and killed a well-known member of CNRT and local parliamentarian, António Lima.[964] Many people fled Ermera after the killing on 19 April and took refuge with Falintil. In their effort to capture other clandestine members, the SGI and members of the Territorial Combat Battalion (BTT) carried out widespread arrests beyond Ermera.[965] There appears to have been no militia involvement in these arrests. For example, André Madeira told of six clandestine members from Ermera including himself, who were arrested at the home of the district administrator of Ermera on 10 April by two members of SGI and a police officer.* They were taken to the Ermera Kodim where they were beaten, kicked and punched by a number of perpetrators including members of the police, the SGI and the local BTT.[966] João de Jesus Soares Valeres told the Commission that he was arrested by the SGI members T682 and T683, and then under threat of death was ordered to find the Falintil commander Ernesto Fernandes (Dudu). He forged a letter from the commander and was released.[967]

Covalima, April 1999

712. Several militia groups operated in the district of Covalima, which borders West Timor. In the sub-district of Zumalai the Ainaro-based Mahidi militia had a branch. The Serious Crimes Unit of the Office of the Prosecutor General of Timor-Leste indicted seven former commanders of the Mahidi militia for crimes against humanity committed in Zumalai, including the detention and torture of pro-independence supporters at three detention centres in the sub-district. The indictments allege that:

> Detention and imprisonment were one of the primary means used to persecute pro-independence civilians, who were systematically selected, detained and imprisoned, on political grounds. The main detention centre was at the house of Vasco da Cruz [in Zulo Village] where over

* The sub-district administrator of Ermera, Constantino Soares, did not give active support to the pro-integration cause and indeed let CNRT members in danger hide in his residence. [See Robinson, p. 161].

45 villagers were detained. Across the road from Vasco da Cruz's house was the Indonesian government house, where Lino Barreto lived. Lino Barreto detained at least six persons in his house. A detention house also existed in Beilaco Sub-Village [Reimea, Zumalai], at the house of Napoleon dos Santos aka Napoleon Alves. Napoleon dos Santos, aka Napoleon Alves, detained at least 12 persons in this house. These detainees were subject to physical and psychological abuse, including beatings and torture, and suffered inhuman deprivation of basic necessities, such as adequate food, water and shelter. The detention camps were overcrowded, unsanitary and no medical attention was provided.[968]

713. The Commission received a number of statements which mention the detention and torture of civilians in Zumalai, particularly in April. According to Leontino Moniz, on 12 April five members of Mahidi arrested him in Boro and took him to the Mahidi headquarters in Zumalai. There T602, the East Timorese Mahidi commander, beat him over the head while others hit him with pieces of wood. He was interrogated, beaten and punched until he lost consciousness. Subsequently he and others accused of supporting independence were ordered to stand in a line to have their hair cut off. They were released when UNAMET was deployed in the area, but not before T602 and East Timorese militia members T643 and T644 told them that if autonomy lost, they would all be killed, including their wives and children.[969]

714. Six statements were received about the detention centre in Beilaco, Raimea Village (Zumalai).[970] Most detentions and experiences of torture were attributed to the East Timorese Mahidi members, T645 and T646, T647 and T648. Luis Soares was beaten with a rifle butt and kicked with military boots and then his hands were tied before he was taken to the Mahidi post in Beilaco. At the post he was beaten repeatedly by T645 and T646, causing him long-standing back pain.[971]

715. In the sub-district of Suai (Covalima) the Laksaur militia terrorised the population in collaboration with the police and the military. Carlos Pereira described his arrest and torture on 24 April in Suai Town (Suai, Covalima):

The East Timorese Laksaur members, T654, T655 and T656, and an East Timorese TNI member, T657, came and arrested me in the village of Akar Laran because I was pro-independence. I was close to being killed by T658's machete but T659 stopped him so he only pushed me to the door. He started to hit me in the face and ears until my nose and ears were bleeding. I fell but stood up again. I was hit in the face, blood came from my mouth and I fell for the second time. Then T654 lifted me and threw me to T657, who tied my hands to my neck with wire. I was beaten by the three members of Laksaur for 20 minutes. After that I was ordered by the two Laksaur and a TNI to walk from Akar Laran to the Akar Laran intersection. I saw T658, a policeman, carrying a weapon and waiting for me with a Kijang vehicle, and I was told to get into the Kijang, which took me to be handed over to T662, the East Timorese Suai Loro village head, at his house.

When we got to his house many militia sat surrounding me. It wasn't long before twins from Suai Loro whose names I don't know started to hit Agustinho and me. They hit us across the mouth with their hands, kicked us in the chest and hit our bodies for 20 minutes. Then T662 accused me of being a radical from the pro-independence side. He had heard that from East Timorese informants T664, T665 and T666. Not long after this Agustinho and I were taken to the Sub-district police station in Suai Loro and handed over to a policeman from Indonesia. I don't know his name. We were put in a cell and I was punched once in the mouth.[972]

Cailaco, Bobonaro, April 1999

716. After the killing of Manuel Gama, a pro-autonomy figure and a member of the Koramil, on 12 April in circumstances that are disputed,[973] the military carried out a violent operation in the sub-district of Cailaco (Bobonaro) to find the killers.* This case provided strong evidence of the close cooperation between militia members and officers in the TNI in wreaking terror in the community. The SGI commander in Marco, the main town of Cailaco, T623, ordered the TNI and members of the Halilintar militia to carry out sweeps. They arrested about 30 residents of Marco, including women and children, and took them to the Cailaco Koramil in Marco. The women and children were separated from the men and released after several days. The male detainees, however, were severely beaten. The Bobonaro Kodim in Maliana and the militia commander, João Tavares, reportedly specifically authorised the beatings. The Cailaco indictment filed on 3 February 2001 described the beatings:

The detainees were told to lie on the floor and the TNI and militiamen present hit them with their fists and boots. They were also beaten with rifle butts while being questioned about the murder of Manuel Gama.[974]

717. The Commission received six statements from individuals detained during this operation. Deponents described how residents and civil servants were ordered to gather at the house of the deceased Manuel Gama, where they were told that independence supporters present would be killed just like the three already killed in Purugoa (see Vol. II, Part 7.2: Killings and Enforced Disappearances). Some were then detained in the Cailaco Koramil[975] or surrounding BTT posts in Purugoa and Bilimau (Cailaco, Bobonaro).[976] Statements mention a number of perpetrators, including the Koramil, the Halilintar militia, the Guntur Merah Putih militia, the Cailaco police and TNI forces such as BTT 143.[977]

718. In one case that occurred on 13 April, T624 and three other members of Dadurus Merah Putih (DMP) militia arrested a CNRT official, Adriano João, at his sister's house in Cailaco. They hit and punched him, and then took him to the house of T1, where he was further beaten and kicked, breaking some of his bones.[978]

* See also HRVD Statement 9167, which states that the operation was conducted because they did not participate at an inauguration meeting of BMP earlier that month.

Oecussi, April 1999

719. The Sakunar militia group was formed on 14 April 1999 in Oecussi.[979] It was formed with the full support of the governor of Timor-Leste, Abilio Osório Soares, the district administrator of Dili, Domingos Soares, the national militia leaders João Tavares and Eurico Guterres and local leaders Laurentino Soares (Moko) and Simão Lopes.* [980] Sakunar militia member Jacinto Colo described the inaugural meeting:

> *On 14 April, I was approached by the village head of Nipani, Candido Meko, to go to the house of the District Administrator Filomeno Mesquita for a meeting about the formation of the Sakunar militia in Ambeno. The people gathered there included Candido Meko, Elvis Lopes, Simão Lopes, Belarmino da Costa, Laurentino Soares (Moko) and Carlos Pereira. In the meeting the structure and leadership was decided, and Simão Lopes was made the Sakunar commander-in-chief and Candido Meko was made the commander for Sakato Village. I also became a commander.*[981]

720. A sharp increase in arrests, detention and torture was reported all over Oecussi in the month of April,[982] continuing into May.[983]

721. Many of the arrests were made during operations in which large numbers of militia members assisted by Kodim members went from village to village destroying houses of suspected members of CNRT. The Commission received at least nine reports of the Sakunar militia arresting and forcing suspected members of CNRT into the militia, especially during April 1999.[984] The Commission received six reports of an operation led by Sakunar militia Commander T603 on 22 April 1999 in which many of those arrested were taken to his house in Cunha, (Pante Makassar). Victims reported being beaten by members of the militia and tortured.[985] Following another arrest operation in April, led by police officer T604, many of the detainees were taken to the Abani village office (Passabe, Oecussi),[986] T604's house[987] or the Sub-district police station.[988]

722. Another mass arrest of leaders and members of the CNRT took place in mid-April in Abani Village (Passabe, Oecussi). The community described how around 42 people connected to the CNRT were taken to the house of militia leader and village head, T603, and the Koramil, where they were beaten with wooden clubs. Some were beaten so hard that they lost consciousness.[989]

723. The Sakunar militia was responsible for the most of the arrests reported to the Commission in Oecussi in 1999. Most such arrests were under the command of militia leaders such as the village head of Cunha, T603,[990] the village head of Abani, the police officer T604,[991] the East Timorese Babinsa T609[992] and civil servant T610.[993] The Koramil Commander T611 was also involved in many arbitrary detentions and acted in coordination with the militia commanders.[994] The victims in cases reported to the

* Sakunar received full political and financial backing from the district administrator, head of the district police and the Kodim commander (Dandim) from its time of formation. [Robinson, *East Timor 1999*, OHCHR submission to CAVR, April 2004 p.184.]

Commission were either members of CNRT or people suspected of having a connection with the clandestine movement.

Dili, 17 April 1999

724. A member of the Sakunar militia told the Commission of the rally of militias in Dili on 17 April 1999, and the violent attacks after this rally:

> *On 17 April 1999, I attended the mass inauguration of pro-integration militias [the PPI] in Dili, with 40 members of Sakunar militia from the* aldeia *of Sakato in Oecussi. [The PPI] in Dili was under the leadership of commander-in-chief João Tavares, and his deputy, Eurico Guterres, who was also the commander of Aitarak. After the ceremony, all the pro-integration militias including Sakunar militia paraded around the city of Dili, led by Eurico Guterres. In the parade, all the militias used two and four-wheeled vehicles from the [East Timor] Regional Police Headquarters. When we arrived in the house of Manuel Carrascalão near the Dili Tropical, some militia open fired at the door and windows and they started to burn the house.*[995]

725. Francisco da Silva Serrão and Raul dos Santos were hiding in the bathroom of Manuel Carrascalão's house when it was attacked. They were found by a member of BMP called Francisco Afonso do Rosário. Francisco da Silva Serrão told the Commission:

> *So we immediately surrendered...While our hands were up in the air T268 cut Raul's left hand...Then T268 called Raul and stabbed him in the back. Again, Raul was stabbed in the chest with two knives that went all the way through to his back until he died. Then Brimob [Mobile Brigade police] rescued us…They took us to the Sub-district police headquarters near the old market. When we arrived at the Sub-district police headquarters I was separated with two other prisoners, Santiago Canselo and Filomeno, from the other refugees. We were held in the Regional Police Headquarters in Comoro for three days and not given any food or drink. We were interrogated by a police officer…I didn't know who had put a stone in the mouth of my friend, André Serrão...[T]hen Lieutenant-Colonel Paulo asked me to look at my friend. He said: "See, your friend is eating a stone now; how can people like you want independence?"*[996]

726. Another attack was carried out at Meti-Aut (East Dili, Dili) on 17 April. Agapito Ximenes described how 15 militia members smashed up the house of clandestine member Carlito, then verbally abused the youths in the area. When five youths ran off, the militia members shot at them and four were wounded, Carlos da Silva, João Baptista, Julião da Costa Xavier and Agapito Ximenes himself.[997] Amnesty International also reported that António Barbosa, a civil servant and independence activist, was arrested at his home on the same day by unknown perpetrators.[998]

727. Aitarak militia were strong in the village of Hera (East Dili, Dili). The Commission received several reports of arrests of independence supporters by the militia, the TNI and the police in Hera in 1999.[999] In one incident the Commission was told of the arrest of 17 youths suspected of supporting independence on 22 April 1999. T630, the former head of Hera Village who had become the local Aitarak commander, asked teachers, students, and the community at Hera Polytechnic to come to a peace dialogue with the Aitarak militia. As soon as the villagers gathered, members of the Aitarak militia, Brimob and the BMP militia surrounded the youths and arrested those believed to be activists at the Polytechnic. They were then brought to the village head's home, and they were last thought to be held at the Regional Police Headquarters in Dili.*

Viqueque, April 1999

728. After a ceremony at the Kodim 1630 Viqueque on 20 April, the deputy commander-in-chief of the PPI, Eurico Guterres, gathered all PPI members from the sub-districts of Viqueque and had them take an oath while drinking dog's blood (*asu malibuti*). Members of both PPI and the TNI then started to intimidate residents of the community, particularly those suspected of being pro-independence. They arrested and tortured several youths in the village of Ahic (Lacluta), including Domingos Amaral Bosi, Paulo Sarmento, Jovelino Andreas Sarmento, Geronimo dos Santos, Francisco Gomes, Cipriano Correia, Francisco Sarmento, Norberto Soares, Adriano de Jesus and Izac Martinho.[1000]

729. The following event in the sub-district of Lacluta (Viqueque) illustrates how village heads and other civilian government employees were also targeted. On 30 April in Lacluta, 14 local civil servants from the village of Ahic were arrested after they had intervened in a militia event some days earlier.† They included the village head, Germano Gomes Amaral; the village secretary, José Martins Lopes; five RK (Rukun Keluarga, the village level neighbourhood association); three RT (Rukun Tetangga, the sub-village level neighbourhood association); and a church catechist, Eugenio Soares. According to Eugenio Soares, the militia and the TNI assembled the community at night to kill cows and had them listen to pro-autonomy speeches. The 14 civil servants jointly decided to tell the population to go home and rest rather than to participate.[1001] The Koramil commander, T598 together with members of Team Makikit militia[1002] arrested the group and took them to the Lacluta Koramil.‡ The victims were interrogated, beaten

* HRVD statements 3757, 615, 6952 The names of the victims kidnapped were Belai, Leopoldino, Quieros, Cesaltino, Amoe, Kobuti, Eurico Gaspar Amaral, Alberto da Silva Costa, António da Costa, Domingos da Silva, Sebastiao da Silva, Egidio da Silva, Elvino Cerilo dos Santos, Fernando dos Santos, Helio Tavares Guterres, Jose Cai and Laurento Sarmento.

† The 14 civil servants arrested were: Germano Gomes Amaral, the village head of Ahic; José Martins Lopes, the village secretary; Domingos Belo, RK; Luciano Lemos, RT; Acacio Soares Ximenes, RK; Gilberto Paiva, RT; Moises Marques, RT; Mateus Horta, RK; Teofilo Gusmão, RK; Inácio Soares, village government official; Mateus Soares; Eugenio Soares, a church catechist; Pedro da Costa Araújo, RT; and Zacarias da Silva Belo. [See HRVD Statements 0404; 0471; 0469; 9167; 0477; 0475 and Robinson, p.189].

‡ According to HRVD Statement 0469 they were told they were taken to the Koramil, but in actual fact were taken to the BMP post. HRVD Statement 0475 states that they taken to the KUD (Koperasi Unit Desa) office.

with sticks and pipes, kicked and stomped on, resulting in such serious injuries that one of the group, Zacarias da Silva Belo, died.[1003] The perpetrators were the Koramil commander, T598, and nine East Timorese members of the Makikit militia.

Molop, Bobonaro, 24 April 1999

730. Operations were also sometimes held in a particular village because of intelligence or rumours that the village was involved in clandestine activities. If the TNI heard of such a village, TNI soldiers, militia or both sometimes terrorised the whole village or even the sub-district. Thus it was not only those suspected of engaging in pro-independence activities who were victims of intimidation, detentions and torture, but the whole community was made to suffer. Justino Barreto, the head of the *aldeia* of Omelai in Molop Village (Bobonaro, Bobonaro) described how his community was intimidated by members of two militia groups armed with automatic weapons:

> *On 24 April 1999, the community of Omelai in Molop Village, Bobonaro District was visited by T684, the East Timorese commander of the Halilintar militia and a member of Halilintar, T685, and East Timorese members of Dadurus Merah Putih (DMP) including T686. They came from Bobonaro with M-16 and Z-3 rifles to carry out the operation. They encircled my house because I was suspected of being clandestine, of working with the Falintil [commander] Loro Mesak and of distributing a letter of appeal to the community which contained a political vision contrary to the view of the Indonesian forces, namely to fight for independence.*
>
> *A Koramil member came into the house and pulled me outside and left me in the sun for a full day. They brought knives to kill me…He confiscated Rp1.3 million [that had been collected] for the appeal and Rp1.4 million of my personal money, and they forced the whole community to dance with them. If they refused, all of the people of Molop would have been killed. So out of fear, I, as the head of the* aldeia, *called nine young people to dance with the militia until morning. On 25 April 1999, they handed me over to the Bobonaro Koramil 01 for interrogation about the publicity I had made and then I was released to go home.*[1004]

May 1999

731. The agreements signed on 5 May 1999 between the United Nations, Indonesia and Portugal in New York assigned responsibility for security in the territory to the Indonesian police. Detention and torture of East Timorese declined slightly overall after these agreements were signed but, according to reports received by the Commission, in many districts detentions and torture continued unabated.

732. Public ceremonies continued to be held to denounce the independence option, particularly in early May. On 1 May, a large ceremony was held in the Palapan village square, in Palapan (Oecussi) in which 100 members of CNRT were forced to renounce their affiliation with the organisation and take an oath supporting the autonomy option.

The district administrator of Oecussi, Filomeno Mesquita da Costa, the chief of police for Oecussi District, Lieutenant Colonel (Pol.) Wilmar Marpaung, and the Kodim commander, Lieutenant Colonel Kamiso Miran, as well as the man who succeeded him in August, Lieutenant Colonel Bambang Sungesti, all attended this ceremony.[1005]

733. Ceremonies to forcibly recruit militia members were also held in the sub-districts of Atabae and Lolotoe in the district of Bobonaro. Both were attended by the Halilintar commander, T1. Basilio Sousa da Silva told the Commission how he and his friends Laurentino Martins, Tomás Tavares, Maria Fernandes, Sérgio Soares and Agustinho Pereira da Silva were forced to join the Halilintar militia in Atabae:

> *In May 1999 Halilintar commander T1 and Armui commander, T689, forced us to join the Armui militia. If we didn't they would kill us. After we became Armui militia we didn't damage anyone's property and our hands never touched any person.*[1006]

Falintil attack in Lolotoe, Bobonaro, May 1999

734. In May 1999, a Falintil attack on the Koramil in Gole, Deudet Village (Lolotoe, Bobonaro) resulted in the death of three soldiers. This in turn sparked a crackdown by both the Indonesian armed forces and militias in the area.* The day after the attack, on 16 May, the local BTT and Kaer-Metin Merah Putih (KMP) militia members moved into the area and rounded up hundreds of suspected independence supporters and CNRT leaders.[1007] Lolotoe, a region on the border with West Timor, was a known stronghold of pro-independence support even before the attack.

735. According to members of the communities of Opa and Deudet Villages in Lolotoe, the Koramil's head of intelligence and militia members arrived from Maliana in 17 trucks to carry out a large-scale operation. They burned down houses and beat people. One resident named Armindo was stabbed in the back by an East Timorese militia member, T690, but was not killed. The majority of people of Gole were moved into the Deudet Catholic Primary School where they were subject to continual intimidation until UNAMET arrived in Timor-Leste and they were released. Community members of Ope and Deudet described how 22 people were detained in the Sub-district police headquarters and the village square, and given no food, although their families provided them with food secretly. They were ordered to dig two large graves, each five metres square.[1008] Statements received by the Commission indicate that many others arrested in connection with this operation were detained in the Lolotoe Koramil.[1009]

736. João dos Santos described how he was forced to attend a traditional ceremony while being held by the Koramil and members of the Kaer Metin Merah Putih militia in Lolotoe:

* The soldiers Caetano Vicente, Vitorino and Bendito were killed. Another member of the Koramil, Gabriel, escaped as did two members of the KMP militia, Jhoni Franca and Mouzinho (José Cardoso) [HRVD Statements 5612, 7164 and CAVR Community Profiles of Opa and Daudet Villages, Lolotoe Sub-district, Bobonaro District, 14 July 2003].

*In May 1999, members of the local BTT, Koramil members and members of KMP militia from Lolotoe, led by militia commanders T691 and T692, came and arrested me and 21 other clandestine members and took us to Lolotoe Town. We were forced to make a traditional oath…The elders from Lebos and Lolotoe were invited to a ceremony where a goat and a chicken were sacrificed. One bottle of wine and coconut juice were mixed with the goat and chicken blood. Then they ordered us 21 people, to line up below a flagpole from which the red and white [Indonesian flag] was flying. Halilintar militia commander and PPI commander T1 and his followers started to make the blood-drinking oath, [saying that] those of us working in the clandestine network would no longer be a part of the organisation from that moment onwards and that we would no longer be "two-faced" [or "two-headed"]. My friends and I joined in the traditional oath because we were afraid that otherwise we would die. But we still thought that there was only one way, namely "*Ukun Raik An*" [Independence].*

737. People detained by the military in other areas were made to join the operation. Saturnino Mali Eli described how he was arrested at his home in Maliana (Bobonaro) by the TNI, the local Babinsa and a member of TNI, T694, together with three members of military intelligence, Lieutenant T695 [head of intelligence in Maliana], T696 and T697, all carrying AR-16 rifles. They took him to the Raifun 1 village office in the town of Maliana, where he was forced to join an operation in the sub-district of Lolotoe. This operation was probably the operation discussed above. On his return from Lolotoe, he was held in a cell at the Maliana Kodim for four days, where he was investigated and beaten by a member of TNI, T698. He was then taken out to be killed, but was saved by a member of TNI named Domingos.*

738. As a result of the Lolotoe operation Mário Gonçalves, a CNRT leader from the village of Guda (Lolotoe, Bobonaro), was also detained and tortured by a large group of KMP militia as well as the village head on 24 May. The following description is taken from an indictment issued by the Serious Crimes Unit in May 2001 of Mário Gonçalves's treatment by members of the KMP militia:

> When Mário Gonçalves came out of the church he was beaten by the KMP militia members whilst being dragged to the field outside the CNRT office. At the field, Sabino Gouveia Leite [the village head], José Cardoso Fereira alias Mouzinho [the KMP deputy commander] and João Franca da Silva alias Jhoni Franca [the KMP commander] ordered members of the KMP militia to beat Mário Gonçalves in turns. Approximately 37 KMP militia members beat Mário Gonçalves. João Franca da Silva alias Jhoni Franca also attacked Mário Gonçalves

* HRVD Statement 2535; see also HRVD 1868 in which the head of the intelligence section, T695, is described as interrogating the victim in the Maliana Kodim 1636, placing a table leg on his foot with two people sitting on the table.

with a machete, cutting him on his right arm and stabbing him in the left shoulder.

Sabino Gouveia Leite incited José Cardoso Fereira alias Mouzinho and João Franca da Silva alias Jhoni Franca to cut off Mário Gonçalves' ear… His ear was thrown on the ground and Sabino Gouveia Leite and João Franca da Silva alias Jhoni Franca forced Mário Gonçalves to eat it. Mário Gonçalves feared for his life and did as he was ordered by eating his right ear.[1010]

Ermera, May 1999

739. Violence continued to occur in the district of Ermera in May 1999 as the military and militia conducted operations throughout the district. Operations reported to the Commission included the following:

- On 2 May, the military conducted an operation in Lauala Village (Ermera, Ermera) and detained pro-independence youths. José Xavier do Amaral was arrested by members of Kodim and SGI.
- In Mau Ubo Village (Hatolia, Ermera) between 9 and 11 May the local BTT carried out a mass arrest of pro-independence supporters or their families.[1011] According to Jacinto de Jesus Soares, the operation was instigated at the request of the village head of Mau Ubo, T700, who called on the BTT to conduct an operation in the village after Falintil allegedly surrounded his house on 8 May. All the men of the village fled to the forest leaving their families behind. Jacinto de Jesus Soares stated that his wife, Branca Araújo dos Santos, and a relative, Deolinda Santos, were detained and then forced to find their husbands.[1012] On 12 May, Jacinto Soares and his brother, Gregório Araújo, reported to the BTT. They were immediately beaten and kicked for three hours and then forced to apologise to the village head. As security for the family they then had to pay Rp200,000 to T700 and give one buffalo, two goats and two sacks of coffee to members of the BTT.*
- In Haturegas in Fatubessi Village (Hatolia, Ermera) on 14 May, the Darah Merah militia (also known as Darah Integrasi) conducted an operation to detain supporters of independence. NN described how at least 30 people from the community were beaten with green coffee branches by the militia. NN was beaten for several hours, then taken to Fatubessi by T147, a member of Darah Merah militia, with his wife, ON and his adult son, PN, all pro-independence supporters. There, ON was raped and PN was tortured so badly that he died soon after from his injuries.[1013]
- Nine pro-independence supporters were arrested on 26 May 1999 by a Babinsa T702, and six BTT members, including T699. They were taken to the Lauana

* HRVD Statement 6421; 6428. HRVD Statement F9425 also relates that the victims had to pay one sack of coffee and two chickens to a civil servant named T700 to obtain the husband's release.

(Letefoho, Ermera) village office where they were beaten and jabbed with a rifle, and then held for one night. The detainees included Saturnino de Deus Soares, the clandestine leader in the area, Domingos Soares, Manuel Soares, Serafin Soares, Paolino de Araújo, Maulino, Jaime, João and Pedro. Regina dos Santos, the wife of Saturnino Soares, was then ordered by the wife of the former village head, to cook for the members of the Darah Merah Militia.[1014]

Continuing search for clandestine members

740. Arrest and interrogation of clandestine members also continued in May. Monica Amaral described her detention in Zumalai (Covalima) for four days. She was tortured by female militia members, a new phenomenon that emerged in 1999:*

> *On 2 May 1999, a female East Timorese member of Mahidi militia, T704, and an Indonesian TNI member, T709, with about ten other members of Mahidi attacked our SMP (junior high school) in Beco to arrest me… [along with] Domingas dos Santos, Cecilia da Costa and Lucia da Costa. They took us to the Mahidi post in Zumalai in a Kijang [vehicle]. When we got there we were interrogated. They said that we were hiding grenades, weapons and Fretilin flags, but we said that we didn't know [anything]. On 3 May 1999, they took us back to a house in Beco to look for the grenades, weapons and a Fretilin flag. Because they didn't find anything, T704, T711 and T712 hit and kicked us on our backs. T704 punched me in the face until I was bleeding. T713 burned my mouth with a cigarette. The three of them beat us. When they finished the beating they took us to the house of the Mahidi coordinator, T602, in Zumalai. They put the four of us in a cell and started interrogating us. We weren't given any food or drink.*[1015]

741. In the sub-district of Lequidoe (Aileu), AHI militia forces and Rajawali soldiers made several arrests while searching for clandestine members, CNRT members, clandestine documents or ordinary people who provided Falintil with food. The arrests were sometimes made in collaboration with the Koramil and the Sub-district administrator, T715, whose office was used for detaining people.[1016] Sabino das Neves told the Commission:

> *In May 1999, the chief of the RT (Rukun Tetangga, Neighbourhood Association), T716, and members of the AHI militia ran in and out of houses looking for clandestine documents. In my aunt Maria Fátima's house in the* aldeia *of Fatu Merin they found a letter of appeal (*apelo*)*

* See for example the case of Ana Maria Mouzinho (par. 687) in which T704 was also a perpetrator. In another case, T705, a member of Aitarak militia, was named by Manuel Soares Lemos as the one who hit him across the head with an iron rod in the Aitarak post in Kampung Alor, West, Dili (Dili) on 14 September 1999. Community members of Ahic Village (Lacluta, Viqueque) told the Commission that two women from Ahic, Hermelinda da Conceicão and Rita Correia, were beaten severely by T706, the wife of a PPI member, resulting in serious head injuries. [HRVD Statements 6260; 7024 and CAVR Community Profile of Ahic Village, Lacluta Sub-district, Viqueque District, 22 November 2002].

from the Falintil Chief-of-Staff [Chefe do Estado-Maior]…My aunt told them that her "son", Sabino das Neves, had brought that letter to the house. I was in the SMP (Junior High School) Liquidoe at that time. After school, two other friends, Domingos Araújo and João Oliveira, and I were questioned by T716 and members of AHI militia. Later we were taken to Koramil headquarters. In the headquarters we were interrogated by Liquidoe Sub-district Administrator T716 and the Liquidoe Koramil Commander, T710. They took off our clothes and accused us of assisting Falintil. The Koramil commander ordered four members of Koramil to point their guns at us and they threatened us with death if we didn't provide clear information. After we were interrogated for about four hours they released us and told us to report to the Koramil every day. But that very same day we ran away to Dili.[1017]

742. Intelligence organisations were also involved in identifying and detaining pro-independence supporters. After the military found out that Lucas João was hiding six members of Falintil in his house in Lahomea (Maliana, Bobonaro) he was arrested on 11 May by members of Dadurus Merah Putih, Kaer Metin Merah Putih, the SGI and the Kodim. His hands and feet were tied and he was put into a bag. He was then taken to the Maliana Kodim where he was beaten while still in the bag. He was later put in a dark cell, where he was not given food and drink for five days. He was threatened with a gun before he was released.[1018]

743. On 19 May 1999, Vicente Lourdes and Martinho da Costa Barreto were captured by the ABLAI militia commander T717 in Letefoho (Same, Manufahi). He handed the detainees over to Koramil member T434, a Kodim member called T719 and an ABLAI leader T720, who took the victims to the Manufahi Kodim 1634. At the Kodim, T434, members of Kopassus and civilian staff of the Kodim interrogated the detainees. They were told to stand against the wall, hands raised in the air, and were then punched, kicked and beaten in the ribs and burned with cigarette butts in the face and over the rest of their bodies. They were held in the Kodim for ten days.[1019]

744. Tomás dos Santos told the Commission that he and other pro-independence supporters were arrested and tortured on 30 May 1999:

At 4.00 in the morning, a Halilintar militia member, José Zoro, pulled me from my house in Abatninin [Rairobo, Atabae, Bobonaro]. He held me very tightly and brought me to the street and immediately a TNI wearing a green beret took me to a car. There were already other people in the car, namely: Ernesto Soares, Baptista Guterres, Hermenegildo Tavares, Henriques, João da Culu, Francisco Martins, Afonso Haletalo and Jacinto Barros. We were forced to lie face downward in the car and our backs were pinned with wood while the Atabae Koramil Commander stepped on the wood. We were taken to the Koramil and when we arrived we were stripped naked, beaten with the root of a banyan tree...[and] they beat my face. Then they told us to lie on the floor while they tied our hands.

In the evening, the SGI came and took us out, covering our eyes with handkerchiefs, and then they beat us with weapons until our bodies were bruised. Until now, I cannot do any heavy work; my back was affected so that if I work, it hurts all the time.[1020]

Identifying marks

The cutting off of Mário Goncalves's ear by a member of the KMP in Lolotoe was not the only instance of such an act reported to the Commission. One statement suggests that it was not only the Indonesian authorities who resorted to cutting off ears in Lolotoe. Armando do Rêgo, a former member of Falintil, told the Commission that on 9 August 1999, when he was walking to Mass with his wife in Lolotoe, they were stopped by Falintil and he was taken away. His captors, Falintil members T722 and T723, beat him with a block of wood, kicked him until his nose bled, and threatened him with a knife. He said that a car then arrived and two police officers named Constantino and Caetano were pulled out and their ears were cut off.[1021]

Indonesian armed forces also committed similar acts. The community of Laclo (Atsabe, Ermera) reported that in May members of the SGI, the TNI and Team Pancasila cut off the ear of a man called Bereleki in the village of Laubano, and Agustinho's ear in the village of Obulo. The following day members of the SGI, Partisans and Team Pancasila cut off Lourenço's ear in Atara.[1022]

The Commission also received various accounts of people whose hair was shaved or cut off. In one instance a man's hair was shaved into the shape of a cross, in another all those identified as independence supporters were lined up and their hair cut off.[1023]

Manatuto, the involvement of the district administrator

745. The district administrator (*bupati*) of Manatuto, T724, was also named in three statements given to the Commission for personally interrogating people and allowing his house to be used as a detention centre.[1024] Connected with the TNI since he became a Tonsus commander in the late 1970s (see Vol. I, Part 4: The Regime of Occupation), and allegedly made an honorary Kopassus officer,[1025] he allowed his house to be used as a Kopassus post. Joaquim Soares stated that he was detained in T724's home. Joaquim told the Commission that in May 1999, when he was on his way to a CNRT opening ceremony with his family and other civilians, members of the Team Morok militia, T726, T727, T728, and T729, stopped them. They were ordered to go to the Manatuto Kodim to receive weapons but were instead taken to the house of T724. There they were blindfolded with black cloth and then interrogated individually about the whereabouts of the CNRT office. When Joaquim Soares answered that he did not know, his hands

and feet were tied, he was beaten with wood, kicked and punched, and burned with cigarettes. After this abuse he was locked in one of the rooms in T724's house for seven days, while still tied up.[1026]

746. John Hornai Sarmento described how, in early 1999, the six village heads and the sub-district administrator of Soibada were suspected of clandestine activity and so were summoned to see the district administrator of Manatuto. He questioned and interrogated them on their involvement in clandestine activity. Following the interrogation, John Hornai Sarmento and his colleagues were given Rp25,000 each to return to Soibada but the sub-district administrator (*camat*) of Soibada, Zaolino, was kept in detention in Manatuto. John Sarmento heard that a Mahadomi militia member, T732, tortured Zaolino and that eventually Zaolino was killed.*

Detentions and torture between June and 30 August, the day of the Popular Consultation

747. The United Nations Assistance Mission for East Timor (UNAMET) arrived in Timor-Leste on 4 June 1999. After UNAMET deployed, reports of arrests and torture decreased, though people continued to be intimidated and some were threatened with death, usually to force them to vote for autonomy in the Popular Consultation. One deponent, from Zumalai, referring to this period, stated:

> *After UNAMET arrived they released us to go home but [Mahidi] militia members T733, T602 and T644 said to us: "If autonomy loses we will kill all of you including your wives and children."*[1027]

748. In this period, pro-integration supporters continued to pressure people to support their cause, sometimes resulting in the detention of pro-independence supporters. "Socialisation visits" to communities, during which the authorities purportedly sought to inform communities about the Popular Consultation, were often used to intimidate people in the hope of getting them to support autonomy.

749. In June, in the village of Lebos (Lolotoe, Bobonaro) 20 youths were detained for a day and a night in the village office during a "socialisation visit" by the Kodim 1636 head of intelligence, and members of the local BTT and the Dadurus Merah Putih militia. They were threatened and warned not to get involved in clandestine activity before being released.[1028] The community of Saburai (Maliana, Bobonaro) also told the Commission that in June the commander of the Dadurus Merah Putih militia in Saburai, T736, threatened the community by telling them that whoever chose to vote to reject autonomy at the Popular Consultation would have their hands cut off.[1029] The community of Saboria (Aileu Town, Aileu) said that militia leaders, the TNI and the police engaged in autonomy socialisation events in which they forced members of the community to endorse the autonomy option, attend a blood-oath ceremony and join the AHI militia.[1030]

* A teacher called Vicente was also killed at the same time [HRVD Statement 0643].

750. People began to flee from their homes and were also liable to detention if caught (see Vol. II, Part 7.3: Famine and Forced Displacement). In the district of Liquiçá there were cases where people whose husband, child or other family members had fled to the forest or were trying to hide in the forest, were themselves arrested and their family members also.[1031] Abilio Lobato de Fatima stated:

> *On 7 June 1999, a joint force of BMP militia, police and TNI came to Fatunesu in the village of Fahilebo to arrest me because they had received information that I had run away to the forest. They took me to the BMP command post in Fatumasi Village (Bazartete, Liquiçá) where they held me for 40 days. On 23 June 1999, BMP militia went again to my house and arrested the wives of all our brothers who had fled, to explain where their husbands were. I gave Rp500,000 to T737 so that the wives of our brothers would be released. I was still kept at the command post and while I was there, I had to be on duty to watch the post 24 hours a day, without a break. I tried to give Rp950,000 to T738 and T739 to protect me from the threats of other militia. When the results of the referendum were announced on 4 September, I fled to the forest without them knowing.*[1032]

751. Pro-independence campaigners were also detained. For example, on 26 June the DMP militia in Maliana reportedly detained five clandestine members – Mateus Barreto, Agusto Marques, Joséfina Marques, Joanico Soares and Fernando Vicente – when they gathered to distribute CNRT banners. They were pushed around and then taken to the Bobonaro District police station where they were held for one month.[1033]

752. Despite the UN presence, the military still carried out occasional arrests on its own. An East Timorese man told the Commission how in Fatululik (Covalima) at the end of June he was arrested by an Indonesian intelligence officer, T740, and taken to the Fatululik Koramil. The Koramil commander, T741, interrogated him about certain documents and he was held for three nights.[1034]

753. Others were released. On 8 July 1999, the Lolotoe Koramil Commander Lieutenant Bambang Indra, the Guda village head, Sabino Gouveia Leite, and the KMP commander, José Cardoso Fereira (Mouzinho), co-signed a document confirming the release of six people back to their village of Guda. It stated that they had been held for "guidance" since 22 May and that they were now being returned to their village "in a safe and healthy condition", but that they might be called for further questioning at some time in the future.[1035] The letter is another clear demonstration of the continuing cooperation between the military, militia and the civil administration.

754. In August, as the date of the Popular Consultation approached, terror campaigns by the militias escalated. On 25 August, five days before the Popular Consultation, two East Timorese BMP members, T742 and T743, arrested an East Timorese man and took him to the Command Post in Fatumasi (Bazartete, Liquiçá). The Commission was told that he received fierce beatings resulting in a loss of hearing, was kicked in the back and was then ordered to guard the BMP post in Unahei.[1036]

755. On 26 August, Aitarak militia members including four East Timorese members T744, T745, T746 and T747 attacked six men – Calistro, Julio, Sergio, Fernando, António and Tomás – in Calistro's house in Hudi Laran (Bairro Pite, West Dili). They were beaten, kicked and slashed on the head and then taken to an Aitarak post were they were held briefly before being handed over to the SGI for interrogation.[1037]

Detentions and torture after the Popular Consultation

756. As has been described in earlier sections of this Report, the period immediately following the Popular Consultation was violent. Tensions increased further after the announcement of the result on 4 September, which was followed by a frenzy of destruction of houses and infrastructure. The incidence of detention and torture rose. Whereas before the Popular Consultation detention and torture were perpetrated to intimidate and coerce detainees into supporting integration, after the Popular Consultation the reasons for these violations included the following:

- Punishment and revenge
- Detentions of targeted victims in order to execute them
- Holding people to prevent them from fleeing to the mountains or catching them as they came back to their homes to find food
- Gathering groups of people in one place so that they could be sent to West Timor, in an attempt to demonstrate to the outside world that the majority of East Timorese people did not agree with the result of the Popular Consultation and that they would rather stay in Indonesia.

757. After casting their votes on 30 August, many CNRT and other pro-independence supporters, particularly the movement's leaders, felt unsafe in their homes and fled to the forest or mountains. Sometimes family members left behind were targeted for detention and ill-treatment. Community members of Ahic (Lacluta, Viqueque) described how this occurred in their region. José Andrade dos Santos and 39 other pro-independence supporters in Dilor (Lacluta, Viqueque), while on their way to vote, noticed militia posts at strategic points. They decided that after the vote they would flee and stay the night in Ue-Aiheres (beyond Mount Manutargele, in Bibileo Viqueque) to organise hiding places for the community. Their wives and families stayed behind in Dilor Town. Pro-autonomy supporters subjected some of those who remained behind, including José Andrade dos Santos's relatives, to degrading treatment, threats, intimidation and torture.[1038]

758. Others were caught and detained after they had fled but returned to their homes to find food. For example Abilio Paicheco, who had fled to the hills after the vote, came down to Mota Ulun, Becora (Dili) with two friends to find food on 17 September 1999. On the way they ran into six members of the Aitarak militia. The militia beat and kicked them and shot Abilio in the back. He survived but told the Commission that he still carries the bullet in his body.[1039]

759. A week after the Popular Consultation, on 7 September 1999, Evangelino da Conceição and his friend Mateus also came down from the hills to look for food, but

they were caught and suffered ill-treatment. They were caught on the road to Dare (Dili) by an East Timorese TNI officer, T335, and Battalion 613 troops. They were beaten, and a member of Battalion 613 grabbed Evangelino around the waist and stabbed him in the ear with his bayonet. For the next two hours, a civil servant beat both men and kicked them in the face and ears. They were then taken to the Dare Koramil, where they were again stabbed with a bayonet on their backs and thighs. Evangelino was burned with cigarettes and thrown into the water by the TNI, while an East Timorese civilian who worked for the Koramil, T749, threw a stone at his head causing it to bleed.[1040]

760. The military, police and their auxiliaries were also looking for members of Falintil coming down from the forest and mountains. Because a person from the forest had been seen in Amelia do Carmo's house in Asumaten in the town of Suai (Suai, Covalima), her house was attacked on 4 September 1999 by the Laksaur militia members T750, T751, T752, T753, T754 and 40 police from the Lorosae Contingent. They found four young men in her house, though Amelia only knew one of them. All were beaten on the spot and taken first to the police station and then to the Covalima Kodim. Amelia's two-year old child died after her mother was threatened with a machete, and the Commission was told that her mother believes this was due to the shock of the attack.[1041]

After the Popular Consultation

761. After the Popular Consultation, but before the results were announced on 4 September, pro-independence supporters and clandestine members continued to be detained.

762. The Commission received six statements from members of PDI-P (Partai Demokrasi Indonesia-Perjuangan), the Indonesian political party in Oecussi and Ataúro (Dili).[1042] The deponents believe they were targeted because of their affiliation with that party.[1043] According to Gonzalo Abi from Oecussi, this was because many members of PDI-P were also clandestine or CNRT members.[1044] Tito da Costa, a member of PDI-P as well as a clandestine member, told the Commission how he was called along with others, some of whom were also PDI-P members, to attend the Ataúro Koramil commander's office after the Popular Consultation:

> *After the Popular Consultation, on 1 September 1999 at 9.00am, the Koramil commander came and called me and some friends, namely José, Alfredo, Tomás Alves, Cézar Brandão, Pedro dos Santos, Daniel, José Rambo and Apoli to the Ataúro Koramil headquarters. When we arrived at the Koramil, the Koramil commander ordered us to line up. Then he played a tape and we all had to dance. Because we didn't dance the Koramil commander told his East Timorese subordinates, T755 and T758, to beat us. Then he ordered us to go out and show our respect to the red and white flag for about two hours. We were then told to go home, but so that we could summon our other friends from Makadede. We were ordered to report to the Koramil for two weeks. After the result of the Popular Consultation was announced the Koramil commander [left Ataúro] and we were free.*[1045]

763. In Covalima, violence increased dramatically after the Popular Consultation. Perpetrators included not only members of the Laksaur militia and the TNI, but also the local police and the Lorosae Contingent (Kontingen Lorosae), an Indonesian police contingent assigned to Timor-Leste specifically for providing security during the Popular Consultation. Detainees were taken to police stations throughout Covalima. In Fohoren (Fohorem, Covalima), many civilians fled to the Fohoren Nossa Senhora do Rosário Church after they had voted, anticipating post-Popular Consultation violence. The police arrested 14 people seeking refuge there and took them to the Fohoren police station.[1046] Community members of Fohoren described how they were beaten, stripped of their clothes and burned with cigarettes at the police station. The women were sexually harrassed. They were touched and fondled, and threatened with lewd remarks and sexual advances. The Laksaur militia leader, T757, came from Salele to interrogate some of the detainees.[1047]

764. Later East Timorese police officers T758 and T759 and police commander T760, together with Laksaur militia company commander T761, commander T762 and a deputy commander T763, went to the church in Fohoren and arrested 16 of the men.* Informers had told Laksaur that the men had influenced their family members to join the clandestine movement. Basilio Amaral described their treatment:

> *We were taken to the Laksaur post at the police station, where we were interrogated and then beaten one by one. Our clothes were taken off before we were beaten, punched, kicked and hit with weapons until our faces were covered with blood. They put weapons in our mouths and punched me until my face was bruised. We were tortured like this for two days.*[1048]

Punishment and revenge

765. After the result was announced the military and the militias responded with more violence. Hundreds of pro-independence supporters were detained and tortured or suffered other cruel, degrading and inhuman treatment. Many victims of arbitrary detention and torture told the Commission that the motive for their detention after the Popular Consultation was simple revenge on the part of the militia and the military for the result of the Popular Consultation. In the district of Dili the Commission received statements describing how people were taken to the Aitarak headquarters at the Tropical, Aitarak posts, police stations and the Koramil in Metinaro and beaten.[1049] Detention was, as in earlier months in 1999, very short – usually no more than a few days.

766. The AHI militia acted alone in detaining and interrogating Domingos da Cruz. He stated that he was arrested on 5 September 1999 by T764 and T765, members of AHI militia, and taken to the local government agriculture office where he was beaten, kicked and punched. Then he was taken to the AHI headquarters where he was interrogated by the AHI commander, T766, and slapped and threatened with death by T767. A militia member named T768 beat him into unconsciousness. Fernando, another militia member, later rescued him.[1050]

* Basilio Amaral, Fernando Sarmento, Hipolito Afonso, Daniel de Araújo, Anito Saldanha, Grasiano do Rego, Paulo dos Santos, José Barreto, Antonio Amaral, Julião Cardoso, Gabriel dos Santos, Angelo dos Santos, Constâncio dos Santos, Roberto Gomes, Pedro do Rego and Salvador Pereira.

767. In Balibó (Bobonaro), Agapito da Purificação, a clandestine and CNRT leader who had given money and rice to Falintil in Sector 4, described how he was arrested with his friends Alexio Gama, Sabino da Purificação, Manuel Caiero and Paulo Soares on 17 September 1999 in Balibó Town (Balibó, Bobonaro). TNI member T769 made the arrest with Firmi militia commander T770 and militia members T771 and T772. They were taken to the Firmi headquarters in Balibó for interrogation, during which T772 beat Agapito over the head with a home-made firearm (*rakitan*) until he was unconscious. They were threatened with death and held captive for three days without food before being released.[1051]

Cases of detention before evacuation

768. As the militia and military began to withdraw, they transported thousands of people over the border. Many of those forcibly displaced in this way reported a short period of detention, sometimes as short as a few hours, before they began moving.

769. The community of the village of Ahic (Lacluta, Viqueque) described their detention on the day the result of the Popular Consultation was announced, 4 September. Members of the community of Dilor who had not fled were gathered in the garden of the Koramil by members of PPI militia. They were guarded tightly for a short period after which they were evacuated to West Timor.[1052]

770. In the district of Lautém in the weeks after the Popular Consultation, amid scenes of burning houses and the sound of gunshots, some people who were unable to flee were captured and sent to the Kodim 1629 in Lautém.[1053] Some were immediately sent on to West Timor, while others were detained in the Kodim for a few days.

771. Manuel Mendonça was taken to the Koramil in Metinaro (Dili) on 6 September by members of the Aitarak militia, where he was forced to put his and his family's name down on a list of people to be sent to Atambua, West Timor. But the following day, Manuel and three of his family fled to Kotomurin.[1054]

Detention of individuals targeted for execution

772. The Commission also heard of individuals known to be leaders who were targeted for arrest and detention so that they could be executed (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). Militia leaders and the TNI identified certain people for capture. Sometimes lists were drawn up to distinguish those to be sent to West Timor and those to be executed.*

* Serious Crimes Unit investigator Dave Savage told the Commission: "We have obtained evidence across all districts of Timor-Leste that lists of Independence leaders were drawn up during 1999. These were the people that were hunted down and in many cases executed. This can be shown by the number of CNRT, and leading Pro-Independence supporters who were hunted down, even in West Timor (Kupang and Atambua) arrested, detained and executed. In many cases those arrested in West Timor were transported back to Timor-Leste for the execution phase of their detention. This is not to say that there weren't additional killings to those identified and listed, either as part of a larger offensive (Suai Church, Maliana District police station, clergy killings, Passabe massacre) or even part of a crazed mass killing of anyone not under the control of TNI/militias (Maliana 3-9 September) or opportunistic paybacks for any number of reasons." (E-mail from Dave Savage, CAVR Archive).

773. António da Costa Guterres told the Commission that the BMP militia arrested José da Costa Guterres in Odomau (Maliana, Bobonaro) on 5 September and took him to the Bobonaro District police station in Maliana, where he was then killed because of his membership of the CNRT.[1055]

774. Anibal do Régo and Lito da Costa Amaral both gave statements describing their arrest as they tried to flee to West Timor on 9 September. As they neared the Suai Koramil, Anibal said that he was arrested by the Koramil commander and the Laksaur militia. The Koramil commander, Lieutenant T774, and T775 of Laksaur ordered him and four others – Paulo Ximenes, Cancio, Lito da Costa Amaral and Anis Tahu – to get into a car. When they arrived at Audian in Camanasa (Suai), they were told to get out of the car and three of them, Paulo Ximenes, Anis Tahu and Cancio, were selected to be killed. They were shot immediately, while the other two prisoners, Anibal do Régo and Lito da Costa Amaral, were driven home but on the way were kicked and stamped on.[1056]

775. Domingos Araújo, a member of the Mahidi militia, described to the Commission how on 12 September 1999 he and eight other militia members attended a meeting called by the East Timorese Mahidi commander, T776, at his house in Cassa (Ainaro, Ainaro). T776 and his brother T779 called for the capture of Paulino Maria Bianco because he was suspected of being a clandestine member and helping Falintil. Immediately after the meeting Mahidi members caught Paulino and brought him to T776 the following morning. Paulino's face was wrapped in plastic and his hands and feet were tied. T776 then ordered Mahidi members T782 and T783 to take Paulino to Sildena Harikain, Cassa (Ainaro, Ainaro) to have him killed.[1057]

Release

776. In most cases of detention reported to the Commission from 1999, the victims were allowed to walk out and go home, sometimes as soon as a few hours after arrest. Most were released after receiving warnings and threats and being ill-treated. Threats were both implicit and explicit. For example, it might be suggested that if the warning was not heeded, the captors could easily find and capture the victim again. As mentioned above, some were released only after participating in a blood oath ceremony and after promising to become a member of the militia.

Reporting requirements

777. For those victims detained before the Popular Consultation, many had reporting requirements following their release for days, weeks and sometimes even several months.[1058] This is a similar pattern to earlier periods and, as in earlier periods, it allowed the Indonesian authorities to monitor the movements of suspected troublemakers. Sometimes the reporting requirements were onerous and involved multiple institutions. Francisco da Conceição Guterres described how when he was released from the Kodim and District police station in Ermera (Ermera) on 10 April 1999 he was required to report to the following institutions for nine days:

- 8.00 - 10.00am at the Ermera Kodim 1637
- 11.00 - 12.00 at the Ermera District police station
- 1.00 - 2.00pm at the Prosecutor's Office
- 2.00 - 4.00pm at the court.

778. Francisco was tried on 19 April 1999 and sentenced to two months imprisonment.[1059]

Bribes

779. Several statements told of detainees being forced to pay the police, militia or the military for their release. Extortion had been used in this way before 1999, and it became much more common in 1999.[1060] The Commission also heard of at least one case in which the deponent described having to pay a kind of protection money as the price for not being arrested. In this case the whole community in Atabae (Bobonaro) was forced to contribute money at the end of April. Cristovão Afonso described his arrest with seven friends by the Armui militia on 26 April because they were suspected of giving food to Falintil.* He told the Commission of the coercion to provide money and goods to the Halilintar militia on 27 April:

> *The commander of the Halilintar militia gathered all of the residents of Diruaben and Bia-Matae to listen to his orders. They ordered everyone in Diruaben and Bia-Matae to give or collect money, livestock and rice to feed the Halilintar forces operating in Hatas Village. We were released only after these things were collected.*[1061]

780. Often family members were told that their loved ones would not be released or worse, would be killed in detention, if they would not pay.[1062] Some were forced to sell their belongings in order to pay. Marcus Pereira da Costa Freitas had already been released from a BMP post in Fatumasi (Bazartete, Liquiçá) but was still harassed and eventually had to pay to be able to live in relative peace. He told the Commission:

> *I was ordered to go to the house of the East Timorese village head T784. Each night members of the BMP militia were watching me. Then T784 said to me that the Sub-district administrator of Bazartete, Jacinto Gonçalves, the Deputy Sub-district administrator, Laurindo, and a BMP militia member, Manuel Rosário, needed money. So I told my wife to take a traditional necklace belonging to my grandmother and I sold it to T784 for Rp800,000. That, together with Rp1.3 million from my father, totalled Rp2.1 million. [This money] was given to T784 to give to Laurindo, Jacinto, Manuel Rosário and their men. After that they started to treat me well.*[1063]

* The seven friends were Anselmus Nunes, Julio Nunes, Agustino Soares, Marcelino Ximenes, Flabiano Lopes, Pedro dos Santos and Agusta. The deponent stated that all detainees apart from himself and Julio Nunes died while in detention because of their "terrible physical condition" after the torture.

Intervention by others

781. The Commission has received several statements from people who were released because of the intervention of others. A visit by a priest would sometimes result in the release of a detainee.* Other detainees stated that the International Committee of the Red Cross (ICRC) facilitated their release.† Sometimes a family member or friend in a position to intervene would assist. For example, in January Paulo dos Santos had been taken from the Marines Headquarters in Cassa (Ainaro), where he was interrogated by a member of the Marines about his clandestine activities. After two days his uncle Agustinho Sarmento, the Sub-district administrator of Hatu Odo (Ainaro) came and freed him and took him to Hatu Odo, where he hid for a month.[1064] José Brites was held in a BMP post in April and was told to escape by one of the militia members, Ventura, because he was going to be killed the next day by other militia members.[1065]

Escape

782. The Commission also received a number of reports of detainees escaping from detention, often by simply running away.[1066] This was possible because improvised and poorly secured buildings were used to hold most detainees, as discussed above. Several statements reveal that detainees fled after their captors threatened them with death.[1067]

Torture and ill-treatment in 1999

783. As in earlier periods, victims of torture and ill-treatment in 1999 suffered being beaten, punched, kicked and burned with cigarettes. For example Armindo Soares Salsinha, a CNRT leader in the town of Ermera, was captured on 30 April by members of the TNI, Rajawali and DMP militia and was taken to the Rajawali post at the Integration Hall. He was later moved to the Koramil. He described his treatment to the Commission:

> *When we arrived ar the Koramil, T785 (a soldier), T789 and T786 (DMP militia) interrogated me while pressing a chair onto my foot, and José used his weapon to hit me across the face, knocking out two of my teeth. T786 kicked me in the chest and kicked and punched my forehead. A soldier from the BTT punched me and a BTT used his gun to hit my back so that now I suffer if I lift anything heavy. I was beaten continuously from midnight until morning.*[1068]

784. There were some differences from earlier periods in the methods of torture and ill-treatment used in 1999. For example, on the one hand the Commission received very

* For example Agusto da Silva and another victim were released from the Covalima Kodim in March 1999 after Father Hilário met with the head of intelligence, Sergeant Yus Nampun [HRVD Statements 5135-2. See also HRVD statements 2161-2; 5641; 8445; 5176].

† For example, the ICRC was mentioned as facilitating releases from the Covalima Kodim in May 1999 and the Dili District police station on 27 January 1999 [HRVD Statements 7399; 5176].

few reports of the use of electricity in comparison to the decades before.[1069] On the other hand, death threats were much more commonly reported than in previous years.

785. Other methods of torture to emerge in this period include the following.

Humiliation and degradation

786. Many incidents of torture or ill-treatment of victims had an element of humiliation and degradation of the victim, both while in detention centres and in public. Public humiliation of the victim was not only used to dissuade the person from "reoffending" but also to send a clear message to the community about the consequences of being pro-independence.

787. Some detainees were humiliated by being stripped naked in public. Carlito Fernandes described how on 13 April 1999, the village head of Malabe Village (Atsabe, Ermera) called the people of Malabe to the village office and then ordered Carlito Fernandes to undress completely. Carlito was forced to stand in front of the crowd naked while the perpetrators beat him with wood, kicked him and then pushed him into a buffalo mud hole. He was sent home naked and ashamed. This occurred because his clandestine activities were discovered.[1070] Domingos da Conceição told the Commission that members of TNI from Atsabe (Ermera) arrested him because he was a clandestine member in Maliubu (Bobonaro, Bobonaro). They ordered him to take off his clothes and then made him stand on an anthill while they beat him with their rifle butts.[1071]

788. Degrading treatment of detainees also occurred after the Popular Consultation, as punishment for the result. José Costude Cardoso stated that he was told to strip naked in front of his house in Borohun, Duyung (Metinaro, Dili) by members of Aitarak militia on 31 August 1999.[1072] Fernando de Araújo Sarmento (the zone 1 clandestine secretary for Foheren Sub-district, Covalima) was arrested with Basilio Amaral, whose statement is quoted above. He told the Commission that on 1 September he and 13 others were captured by a joint group of Laksaur militia, BTT, Contingent Lorosae and the chief of police in Fohorem, T760.* They were taken to the Fohorem police station where they were forced to stand on one leg with their hands on their head while they were beaten by East Timorese police officers T759, T790, T791 and T792.[1073]

Public violence

789. Public violence was also a more common phenomenon than in previous years, perhaps to instil fear in the community and because the militia members acted with impunity. For instance in Manufahi, on 30 August, the day of the Popular Consultation, two men were decapitated and their severed heads were displayed in public to terrorise the community into leaving for West Timor.[1074]

* The other victims known to the deponent were: Basilio Amaral, Hipolito Afonso, Anito Saldanha, Paulo de Jesus, Angelo, António, Julio, Daniel, Graciano do Rego and Gabriel.

Verbal abuse

790. Insulting remarks about the independence movement and death threats were much more common than in previous years.[1075] The blood oaths in which participants were forced, often under threat of death, to drink mixed animal and human blood and swear allegiance to Indonesia was also a form of abuse.

Other cruel and degrading treatment

791. Many people suffered numerous other kinds of cruel and degrading treatment during 1999, including having their head covered with plastic, being deprived of food and drink or forced to eat non-food items, or being urinated on.

792. On 30 April, Alexandre dos Reis was captured by East Timorese Laksaur militia members T794 and T795, and a police officer, T796, in the village of Akar-Laran in Suai Loro (Suai, Covalima) and taken to the Covalima Kodim. He described his treatment to the Commission:

> *Before I was beaten they put me in a room and then tied my neck with wire, tied my hands, tied my waist and handcuffed my hands…[They] covered my head with a black plastic bag and then beat me with their hands. The people who tortured me were a soldier, T797, and three others I did not know. I was tortured from 10.00pm until 12.00pm the next day. Then the ties and the plastic over my head were taken off but my hands remained handcuffed. For three days and three nights I was given no food and drink. Because I was so hungry and thirsty I lied and said that I needed to use the toilet, and then I drank the toilet water.*[1076]

793. While detained in a cell behind the village office of Cassa (Ainaro, Ainaro), Filomeno Soni and Basilio were stripped of their clothes, their heads were wrapped in plastic for 30 minutes and their toenails pulled out with pliers by members of the local BTT, Gadapaksi and Mahidi.[1077]

794. On 13 September, Raimundo Madeira was detained by Aitarak militia and taken to a TNI post in Resende Hotel, Dili. After being blindfolded, beaten unconscious and dragged along the main road, he was ordered to sleep on the floor. He was later urinated on and burnt with cigarette butts.[1078]

795. After voting in the Popular Consulation, Justino do Rego dos Santos was trying to flee to Dili airport. He was stopped by Aitarak militia and taken to their Comoro post. He was heavily beaten, resulting in bleeding from inside his ear, and he was forced to chew his CNRT identity card and swallow it.[1079]

796. Carlos Pereira described a rather odd kind of ill-treatment while detained in the Suai Loro Sub-district police station:

> *On 25 April 1999, early in the morning, a police officer went out and bought one rice meal and forced me and Agustinho to eat it. He gave us only to the count of ten to finish. Because we couldn't eat it all by the time*

he had counted to ten, the police officer hit my chest, my back and my mouth with his weapon until blood poured out.[1080]

Conclusion

797. Several conclusions can be drawn from the evidence about the patterns of arbitrary detention, ill-treatment and torture in 1999:

- Arbitrary detention, torture and ill-treatment were used by the military or its militia proxies explicitly to intimidate the population and coerce people into support for integration with Indonesia.
- Militias were given free rein by the military to terrorise the community through the private and public abuse and torture of civilians. The Commission did not come across any examples of militia being punished or even reprimanded for their abuses. On the contrary, the evidence suggests that the military was very often involved in the detentions, torture and ill-treatment of victims.
- Military installations were used to detain, interrogate and torture victims.
- Militia groups also used improvised detention centres in which conditions of detention were poor.
- Periods of detention were short, usually no more than a week, although there were some exceptions to this. Sometimes an authority figure facilitated the release of a detainee. In other cases bribes were paid to the victim's captors.
- Torture and ill-treatment was designed not only to punish the victim but also to degrade and humiliate him or her.

Findings

Detentions, torture and ill-treatment by UDT

Detention

798. The Commission finds that:

1. Members and supporters of UDT and UDT forces carried out widespread detentions during the period of the armed movement in August 1975. These acts were clearly directed towards leaders, members and supporters of Fretilin. The Commission bases this finding on interviews with, and first-hand testimony of, hundreds of people who were detained by UDT or who witnessed UDT detaining people, as well as historical profiles prepared by communities.
2. UDT members and UDT forces detained victims in every district of Timor-Leste except Oecussi, but the largest numbers of people were detained in Ermera, Dili and Bobonaro. Most detentions occurred on the first day of the UDT armed movement, 11 August 1975, but more people were detained over the following ten days.

3. These detentions were a central strategy of the UDT action. However, UDT had no legal authority to arrest civilians, and these arrests and detentions arose from the legitimate exercise by Fretilin supporters of their rights to freedom of political opinion and freedom of association.
4. Victims of arbitrary detention were held in improvised prisons, usually large buildings in the area where the arrests were made. They included warehouses, schools, private houses, a former Portuguese prison, military barracks and animal pens. UDT also established main detention centres, including Palapaço in Dili and Descascadeira in Baucau, to which detainees arrested in other districts were brought.
5. Periods of detention were short because the UDT movement which began on 11 August was short-lived. Most detainees were released within two weeks but some were held for longer than one month. While in detention, detainees were regularly forced to perform work such as cooking for other detainees and cleaning detention centres, building roads or carrying rocks and wood. UDT released some detainees of its own accord but most were abandoned when Fretilin forces attacked the areas where detainees were being held and UDT forces fled.
6. The victims of arbitrary detention by UDT known to the Commission were predominantly male, of military age and believed by the perpetrators to have an association with Fretilin. Sometimes family members of these victims, including their wives, parents and children, were arbitrarily detained.
7. The perpetrators of arbitrary detention were predominantly UDT leaders at the district level or people under their command. These leaders knew the population in each district and were able to effectively target members or supporters of Fretilin.

Ill-treatment and torture

8. Members and supporters of UDT and individuals mobilised by UDT leaders carried out widespread cruel, inhuman and degrading treatment of detainees during the armed movement in August 1975. In some cases detainees were tortured but this was not widespread. These acts occurred between 11 August 1975 and the end of August and in every district of Timor-Leste except Oecussi, but were concentrated in Ermera, Dili, and Bobonaro.

799. The Commission bases these findings on interviews with, and the first-hand testimony of, hundreds of people who were ill-treated and tortured by UDT or witnessed UDT detaining people.

9. Forms of physical abuse suffered by victims included:
    - Heavy beatings by hand or with a rifle, by one perpetrator or sometimes by a group of perpetrators
    - Whipping
    - Being tied up for long periods, sometimes for more than one week

- Death threats
- Cutting the victim with a machete or razor blades
- Slapping and kicking
- One victim reported being burned with lit cigarettes.

10. Individual UDT leaders held prisoners in buildings or structures that were not equipped to hold large groups of people for long periods of time. Sanitation and ventilation were grossly inadequate and little or no effort was made to improve conditions by members of UDT in charge of detention centres. Many detention centres were severely overcrowded. Further, UDT made no provision for feeding the hundreds of people whom it detained. Detainees from the main UDT detention centres reported being deprived of food; some received no food for up to nine days. At least two people died of starvation while in detention. The severity of these conditions amounted to cruel, inhuman and degrading treatment.
11. Physical abuse of detainees was not carried out for the purpose of extracting information or to coerce the victim. Rather, victims suffered the violent acts listed above in the process of arrest, transportation to the prison and while in detention as punishment or as a manifestation of the wider unrestrained violence that was unleashed in this period.
12. The victims of ill-treatment and torture by UDT were primarily detainees or people under arrest. They were therefore predominantly military-aged men with a real or suspected association with Fretilin. Leaders of Fretilin were treated with particular brutality.
13. Ill-treatment and torture were not necessarily ordered by the UDT Political Committee, but the tensions of the time, the incitement to arrest made over the radio and the general incitement to "purge communists" created an atmosphere in which abuse of detainees was highly likely to occur. Further, members of the UDT Political Committee would have been aware that individual UDT leaders, members and UDT forces were ill-treating and in some cases torturing prisoners. The most extreme forms of abuse occurred in the UDT headquarters in Dili and in UDT's strongholds in the districts of Ermera and Liquiçá and senior UDT leaders were sighted in these places.
14. Only minimal efforts were made by the UDT leadership collectively to prevent abuse occurring or to stop the abuse of prisoners once the leadership became aware of what was happening.

Detentions, torture and ill-treatment by Fretilin

During the internal armed conflict

Detention

800. The Commission finds that:

15. Fretilin responded to the armed movement by UDT with an armed insurrection, which included the widespread capture and detention of leaders, members and supporters of UDT. Although this was partly motivated by a desire to halt violence against Fretilin members, it was also motivated by revenge for the violations that UDT members and forces had perpetrated. Detentions were carried out in all districts of Timor-Leste except Oecussi and Lautém, but numbers were highest in Aileu, Manufahi, Ainaro and Dili. More than one thousand people were detained around the territory.

16. Fretilin detained most members or supporters of UDT in the first week of the armed general insurrection, 20–27 August 1975, after which members and leaders of UDT fled the territory into West Timor (Indonesia). Isolated cases of detention of UDT members who remained behind continued until the Indonesian invasion. Fretilin also detained leaders, members and supporters of Apodeti who were involved in the UDT movement which began on 11 August through August and September. On 4 October, the Fretilin Central Committee ordered the widespread detention of members of Apodeti in response to rumours of an Apodeti coup and ABRI infiltration of Timor-Leste's borders, and it then detained the senior leaders of Apodeti as well as other members and supporters. Fretilin also detained members of the Portuguese administration including the Portuguese chief-of-police Lieutenant Colonel Maggiolo Gouveia because of his involvement in the UDT armed action of 11 August 1975.

17. Victims of arbitrary detention were held in improvised prisons, usually large buildings in the local area. Some of these had been been used by UDT during the armed movement. They included warehouses, schools, former Portuguese prisons, the Dili museum, military barracks. The largest detention centres were in the Fretilin headquarters of Aissirimou, in the district of Aileu.

18. After Fretilin had control of the territory it concentrated detainees from the districts of Ermera and Manufahi with detainees from Aissirimou and on 7 December, when Indonesia launched a large-scale invasion, detainees from Dili were also moved to Aissirimou. By 9 December, prisoners detained in Aissirimou numbered close to 1,000.

19. The victims of arbitrary detention by Fretilin members and supporters known to the Commission were predominantly male, of military age and believed by the perpetrator to have an association with UDT or Apodeti. Leaders of the KOTA and Trabalhista political parties were also detained. Sometimes family members of these victims were also arbitrarily detained.

20. The perpetrators of arbitrary detention were predominantly Fretilin commanders at the district level or people under their command. These commanders knew the population in each district and were able to effectively target members or supporters of UDT and Apodeti.

21. After the end of the internal armed conflict by late September 1975, Fretilin made efforts to accord due process to detainees. It established a commission of investigation (Comissão de Inquêrito) to decide on the guilt or innocence of

detainees held after the UDT armed movement of 11 August 1975. This process involved people providing testimony. This process of investigation operated at the district level but in the atmosphere of recent conflict was no better than mob justice. The accused was not presumed innocent before being found guilty by the populace and had no right of reply. The form of punishment decided on by the people was often harsh and disproportionate to the crime alleged.

22. Victims were held in detention for up to five months, until the advance of Indonesian forces made holding prisoners untenable and they were abandoned, released or in some cases executed.

23. Detainees were regularly forced to perform tasks such as cooking for other detainees and cleaning detention centres, building roads and carrying rocks and wood. Some of the detainees were also recruited into Fretilin/Falintil forces after the large-scale invasion by Indonesia. In order to feed prisoners labour camps were established in which they were forced to work in rice-fields and coffee plantations.

24. Fretilin held onto its prisoners in Dili and Aileu after the Indonesian invasion for fear that they would fall into the hands of the Indonesian military. It moved the prisoners away from the invading forces, first taking those held in Dili to Aileu and then moving all prisoners from Aileu through Maubisse to Same Town and finally to Hola Rua in the sub-district of Same in Manufahi District. Some UDT detainees were taken to Ainaro. In Same, the majority of remaining detainees who were UDT were released and a small number of remaining Apodeti prisoners were released with conditions (Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances deals with the killing of prisoners).

Torture and ill-treatment

25. Members and supporters of Fretilin and Fretilin forces carried out widespread cruel, inhuman and degrading treatment of detainees during the internal armed conflict in 1975. The severity of the treatment suffered by detainees in some cases verged on torture and a number of people died as a result of the abuse they suffered. This abuse occurred in an atmosphere of unrestrained violence and in the spirit of revenge for the violations perpetrated by UDT. Members of Apodeti were also caught up in the violence and suffered ill-treatment and torture, particularly as the Indonesian incursions grew in intensity.

26. The brutality with which members of Fretilin treated detainees or allowed detainees to be treated is apparent from the following partial list of what took place:

- Heavy beatings by hand or with an implement including a rifle, an iron bar, wooden sticks, bamboo, rattan, car-brake cords, a helmet, a pestle, nails and a barbed whip; some detainees were beaten to death or until they were unconscious, blind or deaf
- Prisoners were ordered to beat each other, including prisoners who were related to each other

- Stabbing
- Whipping
- Tying detainees up before beating them so that they could not defend themselves
- Dragging detainees along the ground until they were injured and bleeding
- Stripping detainees and forcing them to sleep naked on the rough ground.

801. These acts began to occur on 20 August 1975 in every district of Timor-Leste except Oecussi but were concentrated in Ermera, Dili, Baucau, Manufahi and Aileu.

27. The treatment of detainees varied between detention centres but the Balide Comarca and the Museum in Dili were the only locations in which violence against detainees was not reported. In other detention centres guards beat prisoners frequently and, in at least one Fretilin prison, a particular guard was appointed to be in charge of abusing prisoners.
28. Few detainees were interrogated by Fretilin and the violence was, in most cases, for no other reason than to punish the detainee or as a manifestation of the general atmosphere of conflict and violence.
29. As UDT had done previously, Fretilin commanders and members used buildings or structures to hold prisoners that were not equipped to hold large groups of people for long periods of time. Conditions of sanitation and ventilation were deplorable and little or no effort was made to improve conditions by Fretilin members in charge of detention centres. Detention centres were often severely overcrowded, particularly those in Aileu. These conditions were so deplorable as to amount to cruel, inhuman and degrading treatment.
30. The amount of food received by Fretilin detainees varied. In Baucau and in the Comarca in Dili detainees reported receiving three meals a day from August to October. In other detention centres detainees reported receiving insufficient food. By November, as Indonesian incursions along the border continued, there were severe food shortages in all detention centres. The Fretilin leadership was aware of the food shortages and set up labour camps in Aileu, but this failed to feed the detainees largely due to the Indonesian attacks. Fretilin did not release detainees after it realised that it could not feed them. This amounted to cruel, inhuman and degrading treatment.
31. Although the violence occurred in the context of armed conflict, it was clear that senior members of the Fretilin Central Committee were aware of the abuse of prisoners. The most brutal treatment of detainees occurred in the Fretilin headquarters in Taibessi and in Aissirimou, Aileu. The treatment of detainees varied between districts, as did the level of responsibility for ill-treating and torturing prisoners. In Baucau, prisoners said that they were beaten regularly but only by the guards after their superiors had left. In Manufahi and Aileu however, Fretilin leaders were present at the torture of UDT leaders and not only allowed it but incited the community to attack members of UDT. Several

members of the Fretilin Central Committee spoke of their knowledge of the abuse of prisoners, but stated that they were not able to control it.

32. Insufficient efforts were made by the Fretilin leadership to prevent abuse occurring or to stop the abuse of prisoners after the leadership became aware of what was happening.

1976–1979

802. The Commission finds that:

Detention

33. After the Indonesian invasion Fretilin continued to detain people across the territory within the Fretilin controlled "liberated zones" (*zonas libertadas*) until the destruction of the Resistance bases. The Fretilin Central Committee routinely used detention to maintain discipline and control and to resolve political differences.

34. Because detentions were a recognised element in the administration of the *zonas libertadas*, there were members of the Fretilin Central Committee who either personally carried out or who ordered arrests to be made. Arbitrarily arresting and detaining suspects was procedurally within the authority of Falintil commanders and investigations were overseen by political commissars. Arbitrary detention was therefore clearly condoned by the Central Committee.

35. Fretilin detained people for violations of Fretilin rules established by the Central Committee. This included being a traitor to Fretilin's political position, to the nation or to the party, or for disciplinary breaches. Because there were no guidelines, these rules were applied inconsistently and therefore in practice any act or suspected act of which the Central Committee disapproved could be denounced as treason or as a breach of Fretilin rules.

36. The victims of detention were all those under Fretilin control including members of Fretilin and Falintil and ordinary civilians. People considered to be "reactionaries" and "traitors" were targeted. Often people associated with a particular Fretilin/Falintil leader were detained.

37. Fretilin made efforts to accord due process to detainees through justice practices (*justiça popular*) for trying and sentencing detainees but sentences of imprisonment resulting from these processes were arbitrary. There was no opportunity for accused persons to defend themselves or to appeal the decision or sentence. Further, many people were detained for months before being "tried" or not informed of the charges against them, or were never tried at all.

38. Detainees were held in unsuitable structures such as "pig-pens"*, chicken coops, bamboo huts or holes in the ground. In the beginning these were simply places in which people were detained, but in late 1977 many were turned into national

* The "pig-pen" prisons were not structures formerly used to hold pigs. Rather they were usually improvised detention structures, sometimes similar in shape and size to a pig-pen, to hold detainees. The name "pig-pen" was adopted to refer to the fact that the detainees ate, slept and toileted in the cell like a pig in a pen.

rehabilitation camps (Campo de Rehabilitasão Nacional, or Renal). Other Renals were purpose built and included these kinds of conditions. Renals were identical to prisons in the conditions in which detainees were kept, except that they were established on the principle that wrong-doers could be "rehabilitated". Detainees received political education and sometimes literacy training. They were also made to work in communal fields in a supposed ethos of equality.

39. Sentences of imprisonment were theoretically indefinite and these periods of detention lasted until the *bases de apoio* were destroyed. Even at that point, the Central Committee released few detainees of its own accord but detainees either escaped when Indonesian forces arrived in the area or Fretilin released them when further detention became practically untenable.

Torture and ill-treatment

40. Members and supporters of Fretilin and Fretilin forces carried out widespread cruel, inhuman and degrading treatment as well as torture of detainees in detention centres and Renals between 1976 and 1978. Torture and ill-treatment were perpetrated more cruelly than in the period of internal conflict, as they became a routine part of Fretilin-administered justice practices. Torture and ill-treatment were used not only to control detainees but also were used during interrogation and to punish political opponents. Many people died in detention.

41. Methods of torture and ill-treatment commonly suffered by victims included:

- Heavy beatings by hand, with a rifle, with thorny branches or other pieces of wood
- Whipping
- Burning the victim's flesh with heated iron rods, cigarettes, or burning pieces of wood
- Tying victims to a tree or pole and leaving them in the sun for long periods
- Tying victims in a way that their movement was highly restricted and they could not feed or relieve themselves
- Urinating on victims
- Placing victims in a hole filled with ants
- Threatening victims with death
- Kicking with military boots.

42. Members of the Fretilin Central Committee were often directly involved in, or witnessed, the torture of prisoners and took no action to halt it.

43. In some places prisoners were held in overcrowded and poorly ventilated conditions and in all places sanitation was extremely poor. Some detainees were left to urinate and defecate where they sat. In many cases the conditions of detention constituted cruel, inhuman and degrading treatment.

44. Fretilin frequently deprived detainees of food or were unable to provide sufficient food. Detainees died of starvation and illness related to starvation.

Detainees who were ill were still required to work. This amounted to cruel, inhuman and degrading treatment. This treatment can be partly explained by the difficult circumstances of the time: as Indonesian forces advanced, they burned Fretilin food crops and thus forced Fretilin to move. But Fretilin did not release detainees after it knew that it could not feed them. Further, in many cases Fretilin deprived detainees of food intentionally to punish the victims, including withholding food brought to detainees by members of their family.

Detentions, torture and ill-treatment by the Indonesian military, police and agents

Arrest and detention

803. The Commission finds that:

45. Members of the Indonesian security forces and their auxiliaries committed, encouraged and condoned widespread and systematic arbitrary arrest and detention during the period of the Indonesian occupation of Timor-Leste.

804. The Commission bases this finding on around 150 interviews and thousands of statements containing first-hand testimony about arbitrary detention and on corroborating evidence contained in witness statements and other documents, including Indonesian military documents in the possession of the Commission.

46. Over the course of the occupation it is likely that tens of thousands of East Timorese were detained. The Commission bases this finding on the fact that its statement-taking process identified 18,518 victims of arbitrary detention by the Indonesian military and its auxiliaries in over 20,895 acts of detention. As the statement-taking process took statements from only around 1% of the population, the actual numbers of people detained is certain to be far greater.
47. Detentions increased during and after military operations. The number of people detained peaked in 1979 but was consistently high between 1975 and 1983, the period of major military operations. Detentions peaked again in 1999 during preparations for the Popular Consultation and after the announcement of the results of the Popular Consultation.
48. The Indonesian authorities arrested people in every district in Timor-Leste, although the highest numbers of detentions occurred in Dili, which had the largest state prisons and the main interrogation centres, followed by the eastern districts of Timor-Leste. Very few people were arrested in Oecussi after the initial invasion period until the militia violence of 1999. The Commission's data is consistent with the hypothesis that the Indonesian military, police and their East Timorese auxiliaries used arbitrary detention more in areas where the Resistance movement was perceived to be strong, and also in Dili where its administrative and logistical headquarters were located.
49. The victims of arbitrary arrest and detention were predominantly men of military age (20-39 years old) with a real or suspected association with groups resisting the occupation, including Fretilin/Falintil, clandestine networks or

other pro-independence groups. Indonesian security forces and their auxiliaries also targeted family members, including wives, parents and children, of suspected members of the armed Resistance, clandestine networks or other pro-independence groups. These arrests were made in the name of national security and ridding Timor-Leste of members of the "Bands of Security Disruptors" (Gerombolan Pengacau Keamanan, GPK).

50. Seventy percent of reported detentions were carried out directly by the Indonesian security forces. This included members of combat battalions, members of the provincial, district and sub-district commands and their associated battalions and intelligence branches, members of the Joint Intelligence Unit (Satuan Gabungan Intelijen, SGI) or Indonesian Special Forces (Kopassandha/Kopassus) and members of police stations at the sub-district, district and provincial levels. In the beginning, the military made most arrests. Over the period of the occupation this changed and by the mid-1990s the police were responsible for most arrests.

51. Kopassandha/Kopassus was active from central to village level throughout the occupation. Its direct role in detaining people peaked between 1983 and 1986 after the uprisings in the eastern districts. Kopassandha/Kopassus later began to form, train and arm local militias.

52. After the Indonesian military and police, the next largest amount of detentions were attributed to East Timorese auxiliaries of the Indonesian military. Auxiliaries (including civilian defence or Hansip, public servants, paramilitaries and militias) were named as being directly involved in 34% of reported detentions, but in many cases the arrest was made on the orders of the Indonesian military or carried out together with the military. Some paramilitary and militia groups were established by the Indonesian military specifically to terrorise the local population in areas where the Resistance was strong, including detaining and torturing suspected clandestine members. Collaborators were also essential in providing intelligence information to the military.

53. During the Indonesian invasion and occupation, arrest and detention were used to crush the Resistance in Timor-Leste in the following ways:

- By keeping members of the Resistance in detention, they were prevented from continuing their activities or communicating with their colleagues.
- Intelligence and other military personnel used the interrogation of prisoners to obtain information about Resistance structures and strategies, or the whereabouts of particular members of the Resistance.
- Arbitrary detention and the other violations that often occurred during a period of detention were used to punish real or suspected members of Resistance groups, thereby warning others of the consequences of following their examples.
- Detaining family members and associates of suspected members of the Resistance could provide the security forces with intelligence about a suspected member, and was also used to punish the family member or associate in the place of the suspected member of the Resistance.

- Where large groups were arrested, members of Fretilin and Falintil could be separated from ordinary civilians based on intelligence information and then detained.

54. The institutional practice of the Indonesian security forces was arbitrarily to arrest suspects without any regard for due process, particularly in the early years of the occupation. Persons arrested were not read their rights or told the charges against them. Excessive force was routinely used in the arrest of suspects.
55. This finding is based on strongly and widely corroborated evidence, which demonstrates that the practice of arrest without warrant and the use of excessive force were carried out by a wide range of military units, the police and Kopassandha/Kopassus in all districts of Timor-Leste in every year of the occupation.
56. Throughout the occupation, but particularly between 1975 and 1984, the Indonesian authorities made regular mass arrests of groups of 98 people or more. These arrests were made during large-scale military operations in response to Resistance attacks, or after intelligence information identified a specific village supporting the clandestine movement or hiding members of Falintil. Sometimes mass arrests were carried out as a collective punishment for the actions of a few.
57. From 1985, people were more commonly arrested individually than in large groups suggesting that detentions were made in a more targeted fashion than previously. Indonesian security forces used intelligence from East Timorese auxiliaries to identify members of Fretilin, Falintil and clandestine networks or their families, and targeted these people for arrest.
58. Sometimes intelligence was used to create "black lists" containing names of suspects, which were used to arrest people. The people on these lists were arrested repeatedly. They were often rounded up in anticipation of some Resistance event such as a demonstration.
59. In most cases people were arrested at their home or work place or were summoned to a police station or military post by an East Timorese auxiliary and then taken into custody. Others were detained during military operations. Only a few were "caught in an act" of resistance, such as attending a demonstration.
60. East Timorese people living in Indonesia, particularly students, were also subject to arrest and detention, especially in the 1990s, when many were detained for participation in demonstrations or clandestine activities.

Conditions of detention

805. The Commission finds that:

61. Members of the Indonesian security forces and their auxiliaries committed, encouraged and condoned widespread and systematic detention of East Timorese in conditions that were below the internationally accepted minimum standards for the treatment of detainees. Hundreds of people died while in

detention, of deliberate ill-treatment or of neglect, hunger and illness. Of the 18,518 individuals who were reported to have been detained by the Indonesian military and police, 378 were known to have died whilst in detention. Another 1,314 detainees died, but the exact date of their death was unknown and hence it is not certain whether they died while being held in detention.

62. The Indonesian security forces used a wide variety of detention centres to hold detainees, both official and unofficial. They included:

- Large buildings commandeered by the military, such as shops, hotels, public buildings, like warehouses at the Dili Port, and private homes. Occupied public and private buildings were used to hold prisoners when there were large numbers of people detained and not enough space. For example after the invasion of Dili and when the military first moved into other areas, after the Resistance uprisings (*levantamentos*) around Mount Kablaki in 1982, in the eastern districts in 1983 and in Alas (Manufahi) in 1998. Such buildings were also used by paramilitaries and militias when they detained victims. Examples are the detentions by Team Sukarelawan in Ainaro in 1991 and all militias in 1999.
- Military and police buildings including military commands and police stations at the sub-district, district and provincial levels, the SGI headquarters, military bases, the Korem Mess, military barracks, military posts and Kopassandha/Kopassus bases. In most cases detainees were held in cells but sometimes they were locked in rooms in the headquarters or post, including in the toilet.
- Government buildings such as village offices, village meeting halls or the offices of the sub-district or district administration. Such buildings were used with either the involvement or the acquiescence of the administrative officer in charge of the building.
- State prisons: the Comarca in Balide, Dili, was used immediately after the invasion. Other state prisons in regional centres were opened in the second half of the 1980s.
- Improvised structures such as holes in the ground or buildings made from branches and bamboo. This was most common during the period 1978-79 when masses of people surrendered or were captured in rural areas.
- The detainee's home. Detainees were put under house arrest when there were large numbers of people in detention, such as during the invasion and during military crackdowns after the Resistance uprising in 1982 in Mau Chiga (Hato Builico, Ainaro).
- Ataúro Island. Between 1980 and 1983 around 3,500 East Timorese who were either real or suspected members of the clandestine networks or suspected of association with the Resistance in any way were sent to the arid island where they were held until 1983 and in some cases as late as 1987.

- Transit camps. These camps, established around the territory, were used in the late 1970s after mass surrenders of people who had been under Fretilin control.
- Prisons in Indonesia. According to reports received by the Commission, apart from a group of prisoners sent to Kupang, West Timor, in 1983, prisoners from Timor-Leste were sent to prisons on Java after they had been put on trial and convicted. They were usually high-profile members of the clandestine movement or Resistance.

63. It was institutional practice to deprive prisoners of adequate food and clean water or to make completely inadequate provision for feeding and housing prisoners. Prisoners frequently died of starvation and illness in numerous detention locations up until the mid-1980s, when numbers of detainees declined and state prisons were constructed to house detainees. Even after this time there were frequent reports of detainees being deprived of food for several days at a time or being given food that was inedible.
64. It was institutional practice to detain prisoners in unofficial detention centres far from their family and friends. In many cases families did not know what had happened to their relatives who had been arrested, and if they did find out they were prohibited from communicating by letter or from making visits. The presence of the ICRC improved this situation for some detainees, but only during the times it was permitted to operate in Timor-Leste and only in those prisons and detention centres to which ICRC representatives gained access.
65. It was institutional practice to move detainees between detention centres, sometimes between a number of places on the same night. This was to disorient the victims, to allow different military units or organisations to interrogate the victim, or to place victims in the custody of different units. Sometimes detainees were taken from one detention centre by a military unit for interrogation and then returned. These patterns occurred throughout the occupation, beginning from the first days of the invasion.

806. Other examples of the conditions in which detainees were commonly held include:

66. Providing food but making it inedible, for example by dropping it on the floor, mixing it with broken glass or other sharp objects or cat faeces, or giving prisoners food that was burned or rotten.
67. Stripping the victim of their clothes, leaving them naked or in only their underwear. Sometimes this was done before interrogation but in some places it was the practice for all detainees to be kept in this condition.
68. Placing detainees in solitary confinement, sometimes for up to a year.
69. Placing victims in cells known as "dark cells", in which there was no light and extremely poor ventilation. All detention centres, including prisons, police stations and military commands, had dark cells.

70. Extremely poor sanitary conditions, including providing no toilet so that detainees were sitting in their own or each other's excrement, or providing only a small toilet for a large group of people.
71. Restricting detainees' access to activities while in detention. Permission to play sports, read books or papers and other forms of leisure activity was routinely denied. Some activities were forced on detainees, however, such as singing the Indonesian national anthem or honouring the Indonesian flag.
72. Restricting access to legal advice or representation until the 1990s, and even then the access granted was limited.
73. Before and after visits from the ICRC, lawyers or a foreign delegation to a detention centre, conditions tended to improve. However, some detainees were punished for having talked to the visitors.
74. Overall conditions sometimes improved when detainees were transferred to an official prison. This was particularly true of the Becora Prison in Dili after it was opened in 1986. Ill-treatment and torture, including beatings and abuse by prison guards, being kept in solitary confinement and restrictions on leisure activities, communication with the outside world or family visits still occurred in these institutions but much less frequently.
75. Before late 1983 the Indonesian authorities did not put detainees on trial. Detainees had no means to challenge their detention or to request a release date. Their detention was indefinite. Even when trials began in 1983, Indonesian authorities held many people for long periods before putting them on trial. By the 1990s those detainees who were tried were charged and put on trial relatively quickly. Nevertheless, even in the 1990s many detainees were never put on trial. In 1999 almost no detainees were put on trial.

Interrogation

807. The Commission finds that:

76. It was institutional practice to interrogate detainees. Interrogation was used to obtain information about the activities of the victim, to punish or to intimidate the victim, or to obtain information about the structures and strategies of the Resistance, the locations of weapons or documents, or the names of other members of the Resistance.
77. These patterns shifted over time. In the early years of the occupation the military used interrogation to increase its understanding of the Resistance.
78. When the police became more active in the detention and interrogation of suspects and detainees were put on trial, interrogations also focused on obtaining evidence, such as a confession, for use in a trial. Interrogators often prepared a written confession before the interrogation began which was then read to the detainee, who was then forced to sign it, or police would force the detainee to make a false confession. Many detainees signed the confession simply to put an end to the interrogation and torture.

79. In 1999, before the Popular Consultation, interrogation was used to intimidate the victim as well as to find out the movements of pro-independence groups.

80. It was institutional practice to use highly coercive practices during interrogation. Methods included the widespread use of torture, death threats against the victim or the victim's family, firing numerous or confusing questions at the detainee or twisting the detainees words, telling the detainee that a fellow detainee had already confessed to an alleged crime, and depriving detainees of food, drink, sanitary facilities and sleep, between interrogation sessions.

81. When there was international attention on particular detainees, the treatment of these detainees by Indonesian security forces during interrogation was markedly better.

82. Detainees were usually interrogated inside detention centres, in their cell or an interrogation room. A smaller number were interrogated at home before the arrest. Some detainees were taken to special interrogation centres to be questioned, such as the Sang Tai Hoo building in Dili. Some of these places became particularly notorious for the treatment of detainees. Some detainees were sent to Java or Bali for further interrogation.

83. The duration of interrogations varied. Sometimes detainees were subject to lengthy interrogations spanning several days in an effort to "break" the victim. Some detainees had an interrogation timetable whereby they were interrogated on the same day each week or at the same time on certain days. At other times interrogations were short and intense, particularly when the purpose of the interrogation was to intimidate the detainee.

84. Different agents of different institutions often interrogated detainees, either at the same time or consecutively. Usually intelligence officers were in charge of interrogations. In some cases high-ranking military officers from Jakarta would fly to Timor-Leste to interrogate victims.

85. Tactics used by clandestine members during interrogation include only mentioning the names of comrades who had already been arrested, only releasing information already in the hands of the interrogators and taking responsibility for the actions of others themselves.

Torture and ill-treatment

808. The Commission finds that:

86. Members of the Indonesian security forces and their auxiliaries committed, encouraged and condoned widespread and systematic torture and ill-treatment of victims during the period of Indonesian occupation of Timor-Leste. In some cases torture led to death, sometimes as a direct result of the torture applied to the victim and sometimes as a result of wounds sustained during torture being left untreated.

87. The victims of torture and ill-treatment were overwhelmingly male, of military age, and involved in Fretilin/Falintil or other pro-independence groups.

Victims who identified themselves as civilians were the second largest group to be subjected to torture and ill-treatment. These people were usually suspected members of Resistance groups, civilians in villages that were targeted for supporting or hiding members of Fretilin/Falintil, or the family or associates of members of Fretilin/Falintil or other Resistance groups.

88. The Indonesian security forces were named as the direct perpetrator in 64% of reported torture cases and 55% of reported ill-treatment cases. Different institutions within the security apparatus played prominent roles at different times. Early in the occupation military battalions and officers were involved in most cases of torture, particularly intelligence officers. Between 1985 and 1987, Kopassandha/Kopassus was involved directly in many cases of torture. In the late 1990s the involvement of the police in torturing detainees increased and peaked in 1999.

89. East Timorese auxiliaries were also heavily involved in the torture of victims. They were named as responsible for 35% of reported torture cases and 40% of reported cases of ill-treatment. In many cases victims were tortured by auxiliaries on the orders of the military or carried out together with the military. Auxiliaries played a significantly less prominent role than the military in all years apart from 1999. In 1999, they were the main perpetrators of violence against victims.

90. The majority of acts of torture and ill-treatment were carried out during or after arrest or while in detention. Some victims were tortured and ill-treated outside of a place of detention including being assaulted in public, in their homes, in a field or on the journey to a place of detention.

91. The purpose of torture was to obtain information from the victim, to punish the victim, to threaten the victim, to humiliate the victim, to intimidate the victim or others sharing the victim's political allegiance or to force a change in a victim's loyalties.

92. Torture and other cruel, inhuman and degrading treatment usually took place when detainees first arrived in a detention centre, or during interrogation. It was perpetrated in the cells, sometimes in front of other detainees, and sometimes in specific interrogation rooms. In the early years of the occupation the Indonesian military used some buildings specifically for the torture of prisoners.

93. Public torture and ill-treatment occurred frequently over the course of the occupation, but was particularly marked in 1999. Not only did it cause pain and humiliation to the victim, it was intended to terrorise those who witnessed it. Conversely much torture and ill-treatment was carried out in secret, away from the eyes of the victim's loved ones or the eyes of the international community.

94. Over the course of the occupation, the correlation between torture or ill-treatment and detention increased. During the period 1985-98, although there were fewer people detained, those detained had a much higher chance of being tortured than during the period 1975 to 1984 when there were frequent mass arrests.

95. The following acts of torture and other cruel, inhuman and degrading treatment were commonly used by the security forces:

- Beating with fists or with implements such as a wooden club or a branch, an iron bar, a rifle butt, chains, a hammer, a belt, electric cables
- Kicking, usually while wearing military or police boots, including around the head and face
- Punching and slapping
- Whipping
- Cutting with a knife
- Cutting with a razor blade
- Placing the victim's toes under the leg of a chair or table and then having one or more people sit on it
- Burning the victims flesh, including the victim's genitalia with cigarettes or a gas lighter
- Applying electric shocks to different parts of the victim's body, including the victim's genitalia
- Firmly tying someone's hands and feet or tying the victim and hanging him or her from a tree or roof
- Using water in various ways, including holding a person's head under water; keeping a victim in a water tank for a prolonged period, sometimes up to three days; soaking and softening a victim's skin in water before beating the victim; placing the victim in a drum filled with water and rolling it; pouring very hot or very cold water over the victim; pouring very dirty water or sewage over the victim
- Sexual harassment, sexual forms of torture and ill-treatment or rape while in detention. Women were the main victims of this kind of abuse
- Cutting off a victim's ear to mark the victim
- Tying the victim behind a car and forcing him or her to run behind it or be dragged across the ground
- Placing lizards with sharp teeth and claws (*lafaek rai maran*) in the water tank with the victim and then goading it to bite the softened skin on different parts of the victim's body including the victim's genitalia
- Pulling out of fingernails and toenails with pliers
- Running over a victim with a motor-bike
- Forcing a victim to drink a soldier's urine or eat non-food items such as live small lizards or a pair of socks
- Leaving the victim in the hot sun for extended periods
- Humiliating detainees in front of their communities, for example by making them stand or walk through the town naked
- Threatening the victim or the victim's family with death or harming a member of the victim's family in front of them.

96. There are other examples of forms of torture and cruel and inhuman treatment that were not widely reported but nevertheless confirm the general pattern of widespread and systematic physical abuse of detainees. These include:

- Rubbing chillies in the victim's eyes
- Forcing the victim to sweep the floor with his or her body
- Forcing the victim to carry a decapitated head around the victim's village
- Beating two male victims while their genitals were tied together
- Cutting off of the victim's ear and forcing him to eat it
- Tying the victim inside a sack filled with snakes
- Dousing a group of prisoners with petrol and threatening to burn them alive.

97. As well as physical abuse, detainees were also subject to mental and emotional torture and cruel, inhuman and degrading treatment. Methods included:

- Keeping prisoners in detention indefinitely without access to family and friends
- Keeping prisoners for extended periods in solitary confinement or in cells with no light and little ventilation
- Taking a detainee to a place used for extra-judicial executions and pretending to the victim that they were going to be killed, even to the point of firing a shot in the victim's direction
- Verbal abuse and insults
- Forcing victims to beat each other
- Torturing a family member in an adjoining room so that the victim could hear the screaming, or torturing or threatening to torture a family member in front of the victim
- Blindfolding or placing a black cloth, helmet or bucket over a victim's head during interrogation and torture
- Using symbolism to humiliate and break the spirit of the victim such as forcing the victim to drink water in which an Indonesian flag had been soaked, writing "I am Fretilin" on detainees foreheads, making detainees sing well-known Fretilin or Portuguese songs or conversely the Indonesian national anthem, forcing detainees to sit on the Fretilin or Portuguese flag, beating a detainee with a Portuguese or Fretilin flag, or tying victims to the flag-pole of an Indonesian flag
- Insulting a victim's religion such as by tearing off the victim's crucifix or tying the victim to a cross
- Spitting on the victim
- Sleep deprivation by methods such as playing loud music throughout the night in detention centres

- Stripping the detainees, both male and female, and touching their genitals.

Release

98. The Indonesian security forces rarely released political prisoners absolutely.
99. In some cases political detainees were forced to make some form of statement of allegiance to Indonesia including:
    - Signing a declaration ("clearing list") in which they pledged allegiance to the Indonesian flag and promised no longer to engage in clandestine activities
    - Drinking water in which an Indonesian flag had been soaked
    - Participating in traditional blood oaths by drinking animal and human blood. This was a powerfully symbolic act in East Timorese culture that was co-opted by the military, and later the militias, for their own purposes.
100. A payment in cash or kind was often demanded on release. The incidence of extortion increased significantly in 1999.
101. The security forces also developed ways of monitoring detainees after they were released. These included using them as forced labour or recruiting them into the security forces, civil defence organisations or paramilitaries, or forcing them to find their relatives who had not yet surrendered. Others were given the status of "outside detainees" (*tahanan luar*) which meant that they were still under close supervision.
102. Most detainees were required to report to a military base, police stations or other agency regularly after their release, sometimes for several years (*wajib lapor*).

Endnotes

1. Article 3 UDHR, Article 9 ICCPR and customary law: Human Rights Committee [henceforth HRC] General Comment 24, para 8.
2. See UN High Commissioner for Human Rights Fact Sheet No. 26 on the Working Group on Arbitrary Detention; see also for example the 2003 Opinions adopted by the Working Group on Arbitrary Detention, E/CN.4/2004/3/Add.1.
3. HRC, General Comment 8 para 2; see also Jijon v Ecuador (1992) HRC Comm. No. 227/88 where a delay of five days in bringing a prisoner before a judge was held to breach Article 9(3) ICCPR.
4. Article 9(3) ICCPR.
5. Article 5 UDHR, Article 7 ICCPR, and customary law: HRC General Comment 24, para 8.
6. See for example Article 1(1) Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment.
7. See for example HRC General Comment 20, para 2.

8. Mukong v Cameroon (1994) HRC Comm. No. 458/91 at para 9.4.
9. Concluding observations of the Committee against Torture on Israel, A/52/44, 9/5/97 at para 257; see also Ireland v UK (1978) ECHR Applic. No. 5310/71, at paras 96 and 167.
10. Concluding observations of the Committee against Torture on Israel, A/52/44, 9/5/97 at para 257.
11. Concluding observations of the Committee against Torture on Israel, A/52/44, 9/5/97 at para 257; see also Ireland v UK (1978) ECHR Applic. No. 5310/71, at paras 96 and 167.
12. Concluding observations of the Committee against Torture on Israel, A/52/44, 9/5/97 at para 257.
13. Article 5 UDHR, Article 7 ICCPR, and customary law: HRC General Comment 24, para 8.
14. In violation of Article 5 UDHR; Article 7 ICCPR, Article 16 CAT.
15. Article 10(1) ICCPR, and customary international law: HRC General Comment 29, para 13(a). See also the Standard Minimum Rules for the Treatment of Prisoners; the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Basic Principles for the Treatment of Prisoners.
16. HRC General Comment 21, para. 3.
17. HRC General Comment 20, para. 6; HRC General Comment 7, para 2, El-Megreisi v Libyan Arab Jamahiriya (1990) HRC Comm. No. 440/90, para 5.4; Mukong v Cameroon (1994) HRC Comm. No. 458/91 at paras 9.3-9.4.
18. HRVD Statements 7659; 2399; 1123; 5606; 8354; 6155; 4677; 5036; 3751 and 3728.
19. José Ramos-Horta, *Timor Leste: Amanha em Dili*, Dom Quixote, Lisbon, 1994, pp. 107-113.
20. CAVR Interview with Armindo Soares Mariano, Kupang, West Timor, Indonesia, 20 July 2004.
21. CAVR Interview with José Catarino Gregório Magno Trindade de Mello (Labut Mello), Kupang, West Timor, Indonesia, 23 July 2004.
22. Paul Freitas, testimony to the CAVR Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
23. Francisco Xavier do Amaral, testimony to the CAVR Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
24. João Carrascalão, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
25. CAVR Interview with Mário (Marito) Nicolau dos Reis, Dili, 27 July 2003.
26. HRVD Statement 2447. João Lopes did not provide the dates of his detention.
27. HRVD Statement 2412. See also HRVD Statement 5408.
28. CAVR Interview with Lucio Dias Marques, Maliana, Bobonaro, 13 June 2003.
29. CAVR Interview with Manuel Agustino Freitas, Bobonaro, Bobonaro, 12 June 2003.
30. Mario Carrascalão, testimony at the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
31. CAVR Interview with Lucio Dinis Marques, Maliana, Bobonaro, 13 June 2003.
32. CAVR Interview with Marito Nicolau dos Reis, Dili, 27 July 2003.
33. CAVR Interview with Lucio Dinis Marques, Maliana, Bobonaro, 13 June 2003.
34. HRVD Statement 5062.
35. CAVR Interview with Marito Nicolau dos Reis, Dili, 27 July 2003.
36. Xanana Gusmão, "The Coup and Civil War, 10 August 1975" in Xanana Gusmão, *Timor Leste: Um Povo, Uma Patria*, Lisbon, Editora Colibri, 1994.
37. CAVR Interview with Miguel Agustinho Freitas, Carabau, Bobonaro, 12 June 2003. Manuel gave his testimony at the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
38. HRVD Statement 5036.
39. HRVD Statement 5694.
40. HRVD Statement 5699.
41. HRVD Statement 3745.
42. HRVD Statement 5698.
43. HRVD Statement 3784.
44. CAVR Community Profile, Fatukero Village, Railaco Sub-district, Ermera District, 27 March 2003.
45. CAVR Interviews with Lourenço dos Santos, Ermera, 25 August 2003; Manuel Duarte, Hatolia, Ermera 23 September 2003; Florentino de Jesus Martins, Ermera, 25 June 2003. See also HRVD Statement 6442.

46. HRVD Statements 6203. Eufrasia de Jesus, Gleno, Ermera. She also says that 32 Fretilin delegates were killed in detention. See Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearance.
47. HRVD Statements 8330.
48. CAVR Interview with Adelino Soares, Ermera, Ermera, 12 October 2003.
49. HRVD Statement 8346.
50. Manuel Duarte, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
51. HRVD Statements 1084; 6202; 1039 and 6155.
52. HRVD Statements 1080; 1730; 5102 and 1663.
53. HRVD Statements 3570; 3596; 3541; 3502; 3559; 2107 and 3570.
54. HRVD Statements 4568 and 8262.
55. HRVD Statement 8262.
56. HRVD Statement 1071.
57. HRVD Statement 1772.
58. HRVD Statement 1088.
59. HRVD Statement 1745.
60. HRVD Statement 1077.
61. Ibid.
62. CAVR Interview with Lay Kuon Nhen (Manisera), Mandarin-Dili, 2003.
63. CAVR Interviews with José Guterres, Dili, 19 July 2004; and João Godinho, Dili, 26 July 2004.
64. HRVD Statement 2455 and CAVR Interview with João Godinho, Dili, 26 July 2004.
65. CAVR Interview with João Godinho, Dili, 26 July 2004.
66. CAVR Interview with José Pinto Guterres, Bairro Maravilha, Maliana, 19 July 2004.
67. HRVD Statements 2414; 2455 and 2412.
68. HRVD Statement 2600.
69. HRVD Statement 2412.
70. HRVD Statements 2412; 4355; 8992; 5606; 5639; 2600; 5622 and 2454.
71. HRVD Statement 3703.
72. HRVD Statement 5606.
73. CAVR Interview with Adriano João, Dili, 10 June 2004; HRVD Statement 8992.
74. HRVD Statement 5622.
75. CAVR, Community Profile, Guda Village, Lolotoe Sub-district, Bobonaro District, 26 August 2003.
76. HRVD Statements 5472 and 5486.
77. HRVD Statement 5472.
78. HRVD Statement 5486.
79. HRVD Statement 1585.
80. CAVR Interview with Santina de Jesus Soares Ly, Baucau, Baucau, 10 October 2003; HRVD Statements 6119; 2399; 7634 and 7764.
81. HRVD Statement 7634.
82. HRVD Statement 6119.
83. HRVD Statement 2399.
84. HRVD Statement 1994.
85. HRVD Statement 0293.
86. HRVD Statement 5904.
87. HRVD Statement 1994.
88. CAVR Interview with Edmundo da Conceição Silva, Denpasar, Bali, Indonesia, 3 August 2004.
89. CAVR Interview with José da Conceição, Kupang, West Timor, Indonesia, 24 August 2004.
90. HRVD Statement 3447.
91. CAVR Interview with Adriano João, Dili, 10 June 2004.
92. HRVD Statement 5904.
93. HRVD Statement 5450.
94. James Dunn, *A People Betrayed*, 1966, p. 187.
95. CAVR Interview with Rogério Tiago de Fatima Lobato (Rogério Lobato), Dili, 26 August 2003.

96. CAVR Interview with Lucas da Costa, Dili, 21 June 2004.
97. CAVR Interviews with Rogério Tiago de Fatima Lobato, Dili, 26 August 2003; and Lucas da Costa, Dili, 21 June 2004.
98. CAVR Interview with Filomeno Pedro Cabral Fernandes, Dili, 5 May 2004.
99. CAVR Interview with Lucas da Costa, Dili, 21 June 2004.
100. CAVR Interview with Paul Freitas da Silva, former President of the Trabalhista Party, Dili, 9 July 2003.
101. HRVD Statements 8152 and 4987.
102. CAVR Interview with Assis dos Santos, Dili, 17 July 2003.
103. Rogério Lobato, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
104. Ibid.
105. CAVR Interview with Francisco Gonçalves, Dili, 14 June 2003.
106. HRVD Statement 3764.
107. HRVD Statement 9081.
108. CAVR Interview with Mari Alkatiri, Dili, 25 June 2004.
109. Mari Alkatiri, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
110. International Committee of the Red Cross, *East Timor Relief Operation, 16 September 1975*. Email from Noel Barrow, archivist of Australian Red Cross, National Office, Melbourne to CAVR, 8 October 2004. Due to the confidential nature of ICRC records regarding the organisation's visits to prisons, no specific details are available.
111. HRVD Statement 6146.
112. HRVD Statements 3764 and 9081.
113. CAVR Interview with Frederico Almeida Santos, Dili, 2003.
114. CAVR Interview with Anselmo dos Santos, Maubara, Liquiçá, 9 March 2004.
115. CAVR Interview with Monis da Maia, Dili, 5 December 2004.
116. CAVR Interview with Rafael dos Nascimento, Aileu, June 2003.
117. HRVD Statement 1413.
118. CAVR Interview with Monis da Maia, Dili, 5 December 2003.
119. CAVR Interviews with João da Costa, Same, Manufahi, 24 June 2003 and Monis da Maia, Dili, 5 December 2003.
120. CAVR Interview with Monis da Maia, Dili, 5 December 2003; Monis da Maia, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
121. CAVR Interview with João da Costa, Same, Manufahi, 24 June 2003.
122. See for example HRVD Statement 3595.
123. HRVD Statement 2156.
124. HRVD Statement 3594.
125. HRVD Statement 6146.
126. HRVD Statement 6357.
127. HRVD Statement 3568.
128. HRVD Statement 9062.
129. HRVD Statement 8300.
130. HRVD Statement 6409
131. HRVD Statement 6409.
132. HRVD Statements 8337; 2220; 8371.
133. HRVD Statements 4971; 5975; 7201; 5982.
134. HRVD Statement 2694.
135. HRVD Statements 2375; 7658; 9056
136. HRVD Statement 8040.
137. HRVD Statement 9056.
138. Clementino dos Reis Amaral, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December, 2003.

139. HRVD Statement 2375.
140. Paul Freitas, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
141. CAVR Community Profile, Rasa Village, Lospalos Sub-district, Lautém District, 1 March 2004.
142. CAVR Interview with Edmundo da Conceição Silva, Bali, Indonesia, 3 August 2004.
143. Ibid.
144. CAVR Community Profiles, Bauro Village, Lospalos Sub-district, Lautém District, 26 January 2004.
145. HRVD Statements 5919; 4541; 5853; 5930.
146. HRVD Statement 5919.
147. HRVD Statement 4541.
148. HRVD Statement 5853.
149. HRVD Statement 6018.
150. Paul Freitas, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
151. HRVD Statements 6502; 7995; 8025; 1918; 6501; 8021.
152. HRVD Statement 6502.
153. HRVD Statement 7946.
154. CAVR Community Profile, Carabau, Cotabot, Tebabui, Maliubu and Colimau Villages, Bobonaro Sub-district, Bobonaro District, 24 October 2003, and Community Profile of Lourba Village, Bobonaro Sub-district, Bobonaro District.
155. HRVD Statement 2540.
156. HRVD Statement 1082. See also HRVD Statement 8347.
157. HRVD Statement 5546.
158. HRVD Statement 8152.
159. HRVD Statement 5524.
160. HRVD 0186; 5546; 1162; 8152.
161. Mari Alkatiri, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
162. HRVD Statement 3666.
163. HRVD Statement 8025.
164. HRVD Statement 8021.
165. HRVD Statement 2510.
166. HRVD Statement 2375.
167. CAVR Interview with Monis da Maia, Manleuwana, Dili, 5 Desember 2003.
168. CAVR Interview with Edmundo da Conceiçâo Silva, Bali, Indonesia, 3 August 2004.
169. CAVR Interviews with Assis dos Santos, Dili, 17 July 2003; Filomeno Pedro Cabral Fernandes, Dili, 5 May 2004; Luis António de Aquino Caldas, Dili, 21 May 2004, José Catarino Gregório Magno de Mello (Labut Mello), Kupang, West Timor, Indonesia, 23 July 2004; Armindo Soares Mariano, Kupang, West Timor, Indonesia, 20 July 2004.
170. Apodeti campaign on Timor Radio, Dili. Audio Tape is at CAVR Archive.
171. Mari Alkatiri, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, Dili, 15–18 December 2003.
172. HRVD Statement 0826.
173. HRVD Statement 8950.
174. HRVD Statement 6243.
175. HRVD Statement 9034.
176. CAVR Interview with Luis António de Aquino Caldas, Dili, 21 May 2004.
177. CAVR Interview with Frederico Almeida Santos, President of Apodeti Pro-Referendum, Dili, 2003.
178. Testimony of former detainee at Sub-district prison in Same; CAVR Interview with Monis da Maia, Manleuana, Dili, 5 December 2003; João da Costa, Letefoho-Same, 24 June 2003; Bento Reis, Same, 2004.
179. CAVR Interview with Bento Reis, Same, Manufahi 2004.
180. Monis da Maia, testimony to CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.

181. CAVR, research papers on the theme of the Party Conflict: Case 7, A Collection of Case Reviews, January 2004.
182. HRVD Statement 3265.
183. Monis da Maia, testimony to CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
184. CAVR Interview with Eufrazia de Jesus Soares, Gleno, Ermera, October 2003
185. CAVR Interview with José Maukabae, Maubara, Liquiçá, 9 March 2004.
186. CAVR Interview with Rafael do Nascimento, Aileu, June 2003.
187. CAVR Interviews with Monis da Maia, 5 December 2003; Rafael Nascimento, Aileu, June 2003.
188. CAVR interview with Amelia Mesquita, Seloi-Malere, Aileu, 27 June 2003.
189. CAVR Interview with Francisco Xavier do Amaral, ASDT/Fretilin leader 1974–1977, First President of the RDTL 1975–1977, Dili, 28 August 2003.
190. António Serpa, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
191. CAVR Interview with João da Costa, Letefoho, Same, Manufahi, 24 June 2003
192. CAVR Interview with Monis da Maia, Dili, 5 December 2003.
193. CAVR Interview with Edmundo da Conceição Silva, Bali, Indonesia, 3 August 2004; José de Conceição, Kupang, West Timor, Indonesia, 24 August 2004.
194. CAVR Interview with Edmundo da Conceição Silva, Bali, Indonesia, 3 August 2004.
195. HRVD Statements 1082 and 8347.
196. HRVD Statement 6416.
197. HRVD Statement 2375.
198. Paul Freitas, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
199. CAVR Interviews with Assis dos Santos, Dili, 17 July 2003; Luis António de Aquino Caldas, Palapaço-Dili, 21 May 2004; José Maukabae, Maubara, Liquiçá, 9 March 2004; and Filomeno Pedro Cabral Fernandes, Dili, 5 May 2004.
200. Xanana Gusmão, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
201. CAVR Interview with José Maukabae, Maubara, Liquiçá, 9 March 2004.
202. António Ximenes Serpa, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
203. The statement in this box constitutes a summary of the CAVR Interview with Anselmo dos Santos, Maubara, Liquiçá, 9 March 2004, as well as the CAVR Interview with Frederico Almeida Santos, Dili, 2003.
204. CAVR Interview with Monis da Maia, Dili, 5 December 2003.
205. Francisco Xavier do Amaral, testimony to the CAVR National Public Hearing on the The Internal Political Conflict 1974-76, 15–18 December 2003.
206. António Serpa, testimony to the CAVR National Public Hearing on the The Internal Political Conflict 1974-76, 15–18 December 2003.
207. CAVR Interview with José Maukabae, Maubara, Liquiçá, 9 March 2004.
208. Assis dos Santos, *Relatório da Tortura na Prisão de Fretilin 1975, 1976, 1977* [Report of the Torture at Fretilin Prisons 1975, 1976, 1977]. A copy is available at CAVR Archive.
209. CAVR Interviews with Filomeno Pedro Cabral Fernandes, Dili, 5 May 2004 and Assis dos Santos, Dili, 17 July 2003, Monis da Maia, Dili, 5 December 2003; Bento Reis, Same, Manufahi 2004.
210. CAVR Interviews with Filomeno Pedro Cabral Fernandes, Dili, 5 May 2004 and Assis dos Santos, Dili, 17 July 2003; Monis da Maia, Dili, 5 December 2003.
211. CAVR Interview with Luis António de Aquino Caldas, Dili, 21 May 2004.
212. Monis da Maia, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15–18 December 2003.
213. CAVR Interviews with Filomeno Pedro Cabral Fernandes, Dili, 5 May 2004, and Assis dos Santos, *Relatório da Tortura Na Prisâo de Fretilin 1975, 1976, 1977*, Museu Dili, Taibessi, Aileu, Maubisse, Same, Uatolari, nahareca, Ossu. A copy is available at CAVR.

214. CAVR Interview with José Maukabae, Maubara, Liquiçá, 9 March 2004.
215. CAVR Interviews with Filomeno Pedro Cabral Fernandes, Dili, 5 May 2004; Assis dos Santos, Dili, 17 July 2003.
216. CAVR Interview with Assis dos Santos, Dili, 17 July 2003.
217. CAVR Interview with José Maukabae, Maubara, Liquiçá, 9 March 2004.
218. CAVR Interview with Egas da Costa Freitas, Dili, 19 May 2004.
219. CAVR Interviews with Egas da Costa Freitas, Dili, 19 May 2004 and Marito Reis, Dili, 21 September 2004.
220. CAVR Interview with Egas da Costa Freitas, Dili, 19 May 2004.
221. Ibid.
222. CAVR Interview with João Veinas, the person responsible for the village in 1975, testimony to the CAVR National Public Hearing on Political Imprisonment, Dili, 17–18 February 2003.
223. CAVR Interview with Egas da Costa, 19 May 2004.
224. CAVR Interview with Xanana Gusmão, Dili, 30 June 2004.
225. Ibid.
226. CAVR Interview with Egas da Costa Freitas, Dili, 19 May 2004.
227. CAVR Interviews with Marito Reis, Dili, 21 September 2004 and José Manuel Monteiro, Remexio, Aileu, 6 October 2004.
228. CAVR Interview with Pedro Faria, Lospalos, Lautém, ND.
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264. CAVR Interview with Filomeno Paixão, Dili, 17 June 2004.
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520. CAVR Interviews with Francisca Barbosa, Mau Chiga, Ainaro, 28 May 2003; Laurentina de Orleans, Mau Chiga, Ainaro, 31 May 2003; Joaninha Britos, Mau Chiga, Ainaro, 30 May 2003 and Zelia da Conceição, Dare, Ainaro, 1 June 2003.

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522. CAVR Interview with Amelia dos Santos, Mau Chiga, Hato Builico, Ainaro, 28 May 2003.
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529. CAVR Interview with Leonel Cardoso Pereira, Mau Chiga, Hato Builico, Ainaro, 30 May 2003.
530. CAVR Interview with Adelino de Araújo, Mau Chiga, Hato Builico, Ainaro, 29 May 2003.
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532. HRVD Statement 7252.
533. Ibid.
534. Ibid.
535. HRVD Statement 2316.
536. HRVD Statement 0853-2.
537. HRVD Statements 6788 and 6013.
538. HRVD Statement 1061.
539. CAVR Interview with Jose de Conceição, Kupang, West Timor, Indonesia, 24 August 2004.
540. CAVR, Massacres Research Project, Field Report IV, 12–15 December 2003.
541. HRVD Statements 6008 and 6013.
542. CAVR, Community Profile of Mehara Village, Tutuala Sub-district, Lautém District, 10 September 2002; CAVR Interviews with Pedro Faria, former head of Fretilin in Lautém District, Iliomar, Lautém, 1 June 2003; Gaspar Seixas, former Deputy Sub-district Administrator of Iliomar 1979-85, Iliomar, Lautém, 29 May 2003; Fernando Amaral, Village Head of Fuad Village, Iliomar, Lautém, 28 May 2003.
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544. CAVR, Community Profile of Mehara Village, Tutuala Sub-district, Lautém District, 10 September 2002.
545. Ibid; CAVR Interview with Domingos Alves Fernandes, Lospalos, Lautém, 21 March 2003.
546. HRVD Statements 3930; 3952; Ernest Chamberlain, *The Struggle in Iliomar, Resistance in rural East Timor*, unpublished, Point Lonsdale, Australia, 2003.
547. Lembaga Studi dan Advokasi Masyarakat (Elsam), *Kerangka Pencarian dan Pengumpulan Data Operasi Militer ABRI di Wilayah Timor Timur: Periode 1974–1999*, Jakarta, March 2001 [Institute for Study and People Advocacy, Elsam, *Framework for Finding and Collecting Military Operation Data of ABRI in East Timor Period of 1974-99*].
548. CAVR, Summary of the Kraras Case, Preliminary research report from CAVR; CAVR Interviews with José Gomes, Olinda Pinto, Martins Miguel, Viana Martina Rangel, Beatris Miranda Guterres, Domingos Amaral, Vasco Tilman Pinto and Hermenegildo da Cruz, Dili, January 2004.
549. Democratic Republic of East Timor - Fretilin, Report, 1985. pp. 3-6.
550. CAVR, Massacres Research Project, Field Report IV: Viqueque, 12–15 December 2003 at p. 7.
551. CAVR Interview with Thomás Guterres of Afolocai, Uatolari, Viqueque, CAVR Massacres Research Project, Field Report II, 27 November–1 December 2002.
552. CAVR, Massacres Research Team, Field Report IV: Viqueque, 12–15 December 2003, p. 7.
553. Mariano Soares, testimony to the CAVR National Public Hearing on Political Imprisonment, Dili, 17–18 February 2003.
554. HRVD Statement 8045.
555. HRVD Statement 0417-03.
556. HRVD Statement 6015-04
557. António Tomás Amaral da Costa (Aitahan Matak), testimony to the CAVR National Public Hearing on Political Imprisonment, Dili, 17–18 February 2005.
558. CAVR, Massacres Research Project, Field Report IV: Viqueque, 12–15 December 2002, p. 7.

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562. CAVR Interview with Tomás Guterres of Afolocai, Uatolari, Viqueque, CAVR Massacres Research Project, Field Report II, 27 November–1 December 2002.
563. CAVR Interview with Father Maubere (Domingos Soares), Dili, 22 September 2003
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565. HRVD Statement 7523
566. HRVD Statement 7332.
567. Fretilin, hand-written list of victims in Lautém, Viqueque, Baucau and Dili, late 1983-84, prepared for the Fretilin Delegation for External Services (*Delegasaun Fretilin im Servicos Na Exterior*), Doc. No. 4/Ag/84, Timor-Leste, 20 August 1984. CAVR Archive.
568. Ernest Chamberlain, op.cit., 2003, p. 30.
569. HRVD Statements 2113; 3930; 3934; 3972; 3977; 4371; 4407; 4408; 3925; 3938; 3947; 3949; 3951; 3972; 3986; 3989; 4376; 4387; 4393; 4397; 4399; 4436 and 4445.
570. HRVD Statements 3951and 4402.
571. HRVD Statement 7591.
572. Ernest Chamberlain, op.cit., 2003, p. 30.
573. For arrests in which T389 [East Timorese] was involved, see HRVD Statements: 2113; 3918; 3930; 3947; 3950; 3952; 3972; 3977; 3985; 3990; 4371; 4387; 4397; 4399 and 4408. For T390, see HRVD Statements: 3918; 3930; 3952; 3977; 3985; 4371; 4387; 4397; 4399 and 4408. For T801 [East Timorese], see HRVD Statements: 3930; 3952 and 4402. For T802 [East Timorese], see HRVD Statements: 3930; 3952; 4402 and 3989.
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577. CAVR, Community Profile of Porlamanu in Mehara Village, Tutuala Sub-district, Lautém District, 10 September 2002.
578. HRVD Statements 1609; 1611; 0741; 0784 and 0787.
579. HRVD Statements 0717; 0731; 0739 and 0782.
580. HRVD Statements 0717 and 0731.
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582. Ibid.
583. CAVR Interviews with Filipe José Dias de Castro, Tutuala, Lautém, 10 January 2003, and Edmundo da Cruz, the village head of Com Village, Lospalos Sub-district, Lautém, 10 January 2003. See also CAVR Interviews with Justino Valentim and Albino da Silva, Dili, 17 April 2004.
584. CAVR Interview with Abraham Tomás Martino, CAVR Massacres Research Project, Field Report II, 1 December 2002.
585. For example from Viqueque see HRVD Statements: 0417; 4128; 8045; 6015; 6023; 4160; 6016; 6957; 7344 and 7340. From Lautém see HRVD Statements: 7591; 8000 and 7607.
586. CAVR Interview with Isabel da Silva, Beaço Village, Viqueque, Viqueque, 14 December 2002.
587. HRVD Statement 6023.
588. HRVD Statement 6016.
589. HRVD Statement 7607.
590. HRVD Statements 0007 and 8045; CAVR Interview with Carlos Alfredo da Costa Soares, Ataúro, Dili, 28 October 2003.
591. Mariano Soares, testimony to the CAVR National Public Hearing on Political Imprisonment, Dili, 17–18 February 2003; CAVR Interview with António Tomás Amaral da Costa (Aitahan Matak) Dili, 1 November 2002.

592. CAVR, Massacres Research Project Field Report IV, Viqueque, 12–15 December, 2002, p. 5.
593. HRVD Statements 3986; 4387.
594. HRVD Statement 3927.
595. HRVD Statements 3949; 3951; 3985; 4003; 4371; 4408; 4436 and 2291.
596. HRVD Statements 0755; 0760; 0762; 0763; 0771; 0793; 0778; 0741 and 0758.
597. HRVD Statement 0755.
598. HRVD Statement 3927.
599. HRVD Statement 0778. The letter was identified as: Surat Perintah [Letter of Order] of Kodim Commander 1629 Lospalos, Nomor Sprin/028/V/1984, dated 27 May 1984.
600. HRVD Statement 5164.
601. HRVD Statements 7810; 6148; 7819; 3883 and 0567.
602. See for example HRVD Statements 2323 and 2370.
603. HRVD Statements 2323 2370; 2371; 2387.
604. HRVD Statement 2371.
605. HRVD Statement 5244.
606. Ibid.
607. CAVR, Community Profile of Fatisi Village, Laulara Sub-district, Aileu District, 9 October 2002.
608. HRVD Statement 1437.
609. HRVD Statement 1483.
610. HRVD Statement 1454.
611. HRVD Statement 5045.
612. HRVD Statement 1407.
613. HRVD Statement 1420.
614. HRVD Statement 1483.
615. Assepol Submission, 2003, p. 7.
616. CAVR Interview with Marito Nicolau dos Reis, Baucau, 17 November 2002.
617. Ibid.
618. José Antonio de Jesus das Neves, Submission to the CAVR, 29 September 2004.
619. CAVR Interview with António Tomás Amaral da Costa (Aitahan Matak), Dili, 28 April 2004.
620. CAVR Interview with António Tomás Amaral da Costa (Aitahan Matak), Dili, 16 October 2003.
621. CAVR Interviews with Henrique Belmero, Dili, 25 May 2004, and António Tomás Amaral da Costa (Aitahan Matak), Dili, 1 November 2002; Mariano Soares, testimony to the CAVR National Public Hearing on Political Imprisonment, Dili, 17–18 February 2003.
622. CAVR Interview with António Tomás Amaral da Costa (Aitahan Matak), Dili, 1 November 2002.
623. CAVR Interview with Francisco Miranda Branco, Dili, 30 July 2004.
624. Mariano Soares, testimony to the CAVR National Public Hearing on Political Imprisonment, Dili, 17–18 February 2003.
625. CAVR Interview with Marito Nicolau dos Reis, Baucau, 17 November 2002.
626. CAVR Interview with Xanana Gusmão, Dili, 10 August 2004.
627. CAVR Interview with João Freitas da Camara, Dili, 5 June 2004.
628. CAVR Interview with Antonio Tomás Amaral da Costa (Aitahan Matak), Dili, 1 November 2002; Dili, 16 October 2003 and Dili, 28 April 2004.
629. CAVR Interview with Justo dos Santos, Dili, 3 November 2002.
630. Assepol Submission to the CAVR, 2003, p. 8.
631. CAVR Interview with Caetano Guterres, Dili, 22 May 2004.
632. CAVR Interview with Marito Nicolau dos Reis, Dili, 17 November 2002.
633. CAVR Interview with Caetano Guterres, Dili, 22 May 2004.
634. Military Regional Command XVI Udayana, Sub Regional Military Command 164/Wira Dharma, Prosedur Tetap (Protap) No. PROTAP/01-B/VII/1982 regarding the procedure for the Interogation of Prisoners, dated July 1982.
635. CAVR Interview with Aquilino Fraga Guterres, Baguia, Baucau, 17 May 2004.
636. HRVD Statements 1265; 5157; 5169; 5156; 6681; 8182 and 8187.

637. HRVD Statement 5121.

638. CAVR Interview with Lucio Dinis Marques, Maliana, 14 June 2003.

639. See list of 45 victims – "Daftar Nama Korban Yang Dibantai Tahun 1984 di Bobonaro." ("List of Victims Who Were Slaughted in 1984 in Bobonaro") Provided by Olandino Guterres, in Bobonaro District Report (11–14 June 2003).

640. HRVD Statements 7172; 8143; 6715; 7168; 5203 and 3695.

641. CAVR Interview with Dinis de Araújo, Maliana, Bobonaro, 14 June 2003.

642. HRVD Statement 1265.

643. CAVR Interview with Armando dos Santos, Maliana, Bobonaro, 14 June 2003.

644. HRVD Statements 5751 and 5817 (Aileu); HRVD Statements 7233 and 2803 (Ainaro); HRVD Statements 7028; 7060; 7662; 7764; 7092; 7735 and 2401 (Baucau); HRVD Statement 6681 (Bobonaro); HRVD Statements 1265; 5156 and 5203 (Covalima); HRVD Statements 3747; 3167; 5016 and 3785 (Dili); HRVD Statements 2142; 5356; 4433; 5333; 5393; 5394; 8726; 8754; 2797; 4439 and 4459 (Lautém); HRVD Statements 0902; 0922; 0932; 0981; 0992 and 0993 (Liquiçá); HRVD Statements 6515; 1913; 1560 and 3452 (Manatuto); HRVD Statements 3080; 6798; 7331; 7515; 7465; 9180; 4123; 4163 and 6037 (Viqueque).

645. HRVD Statement 0922.

646. HRVD Statement 9180.

647. See Keputusan Presiden Republik Indonesia, Nomor 62 Tahun 1988 Tentang Penyelenggaraan Pemerintahan dan Pembangunan di Propinsi Daerah Tingkat I Timor Timur [Decision of the President of the Republic of Indonesian, Number 62, 1988, Regarding the Implementation of Governance and Development in the Province of East Timor].

648. HRVD Statement 7603.

649. Ibid.

650. HRVD Statement 3338.

651. HRVD Statement 5049.

652. HRVD Statement 6987.

653. HRVD Statement 0483.

654. HRVD Statement 6235.

655. HRVD Statement 4873. See also HRVD Statement 4874 in which the victim suffered the same period of arbitrary detention in the Dili Kodim because Infantry Battalion 723 members disbelieved his identity card was his.

656. HRVD Statements 7213; 7220; 1012; 3334 and 9175.

657. HRVD Statements 3778; 5049; 6025; 4209; 4126 and 4189.

658. CAVR Interview with Januario Freitas Ximenes, Baucau, 3 September 2004.

659. CAVR Interview with Mário Filipe, Baucau, 3 September 2004.

660. CAVR Interview with David da Conceição Thon, detained in Becora Prison in 1991, Dili, 13 August 2004. Interview with Dominggos Martins Pereira, Aileu, 15 October 2004.

661. CAVR Interview with Octavio da Conceição, Dili, 3 November 2002.

662. CAVR Interview with Eduardo Lopes, detained in the Maliana Prison 1995-99, Maliana, 28 August 2004.

663. Ibid.

664. CAVR Interview with José da Costa Ximenes (detained in the LP Buruma, Baucau on 10 July 1994), Baucau, 3 September 2004.

665. CAVR Interview with Felismina da Conceição, Dili 4 May 2004 (detained in Becora Prison in 1992).

666. CAVR Interview with Julio Araújo Martins, Gleno, Ermera, 26 August 2004.

667. CAVR Interviews with Jacinto Alves and Gregório Saldahna, Dili, 4 June 2004. Both were detained in Becora Prison in 1992.

668. CAVR Interview with Felismina da Conceição, Dili 4 May 2004 (detained in Becora Prison in 1992).

669. CAVR Interview with David da Conceição Thon, Dili, 13 August 2004 (detained at the SGI building in Colmera in 1988).

670. CAVR Community Profile of Darulete Village, Liquiçá Sub-district, Liquiçá District, 13 February 2003; mentions 15 people arrested.

671. CAVR Community Profile of Darulete Village, Liquiçá Sub-district, Liquiçá District, 13 February 2003; HRVD Statements 0907; 2989; 1985 and 2874.

672. Interrogation by SGI: HRVD Statement 2989. Interrogation at the Liquiçá Koramil described in CAVR Community Profiles of Loidahar Village, Liquiçá Sub-district, Liquiçá District, 4 March 2003; CAVR Community Profiles of Luculai Village, Liquiçá Sub-district, Liquiçá District, 19 February 2003; HRVD Statement 1985.

673. CAVR Community Profile of Luculai Village, Liquiçá Sub-district, Liquiçá District, 19 February 2003; HRVD Statement 1985.

674. The Submission by Elsam to the CAVR notes that Gadapaksi was founded around March 1994, and Geoffrey Robinson Report noted July 1995, p. 154.

675. HRVD Statement 2874.

676. CAVR Interview with José da Silva Amaral, Afalocai, Uato Carbau, Viqueque, 18 September 2003.

677. Amnesty International, Statement to the UN Special Committee on Decolonisation, ASA 21/14/91, August 1991.

678. HRVD Statements 4779 (40 people) and 4790 (46 people).

679. HRVD Statement 4779.

680. CAVR Community Profile of Vatuvou Village, Maubara Sub-district, Liquiçá District, 5 June 2003; and HRVD Statement statement 1996.

681. CAVR Community Profile of Vatuvou Village, Maubara Sub-District, Liquiçá District, 26 June 2003 HRVD Statements 3004; 5892; 2994; 5882; and 1996. Amnesty International, *Indonesia and East Timor: Twenty years of violations, statement before the United Nations Special Committee on Decolonization*, 11 July 1995, AI Index: ASA 21/33/95.

682. HRVD Statement 1996.

683. CAVR Community Profile of Vatuboro Village, Maubara Sub-district, Liquiçá District, 5 June 2003; HRVD Statements 5882 and 1996.

684. HRVD Statement 6739.

685. HRVD Statement 8098.

686. CAVR Interview with Chiquito da Costa Guterres (alias Michael Savio, alias Kaiwua), Dili, 14 June 2004.

687. Amnesty International, Indonesia/East Timor: Possible "disappearance", 4 July 1991, AI Index: ASA 21/12/91; Amnesty International, Extrajudicial Execution/Arrest/Fear of Torture, 30 October 1991, AI Index: ASA 21/18/91.

688. Amnesty International, Legal Concern/Fear of Torture, 22 November 1991, AI Index: ASA 21/26/91.

689. Amnesty International, Further information on UA 408/91 (ASA 21/26/91, 22 November 1991) and follow-up ASA 21/28/91, 29 November 1991 - Legal Concern/Fear of Torture, 10 December 1991, AI Index: ASA 21/29/91.

690. Amnesty International Statement to the UN Special Committee on Decolonisation, ASA 21/14/91, August 1991.

691. CAVR Interview with José António de Jesus das Neves, Dili, 3 May 2004.

692. Constâncio Pinto and Matthew Jardine, *East Timor's unfinished struggle: inside the Timorese Resistance*, South End Press, Boston, 1997, p. 108.

693. CAVR Interview with Gregório Saldanha, Dili, 10 November 2002.

694. CAVR Interview with José Manuel da Silva Fernandes, Dili, 31 October 2002.

695. Ibid. See also testimony of Gregório Saldanha to the CAVR National Public Hearing on Political Imprisonment, 17–18 February 2003.

696. Kodam IX Kolakops, "Rencana Operasi Halo Kapaz," dated 31 August 1991, secret, cited in Samuel Moore, "The Indonesian Military's Last Years in East Timor: An Analysis of its Secret Documents," *Indonesia 72*, October 2001, p. 21.

697. CAVR Interview with Afonso Maria, Dili, 1 November 2002.

698. HRVD Statement 1970.

699. Ibid. The deponent did not tell the Commission the fate of his friends Calisto and Amadeo.

700. HRVD Statement 5070.

701. CAVR Interview with David da Conceição, Dili, 13 August 2004.

702. Amnesty International Urgent Action 04/92, ASA 21/01/92, 3 January 1992.

703. HRVD Statement 5070.
704. CAVR Interview with José Manuel da Silva Fernandes, Dili, 31 October 2002.
705. HRVD Statement 8046.
706. HRVD Statement 8088.
707. CAVR Confidential Interview, by source not to be named, Dili, 15 November 2004.
708. HRVD Statement 5070.
709. CAVR Interview with José Manuel da Silva Fernandes, Dili, 20 December 2004.
710. Constâncio Pinto and Matthew Jardine, *East Timor's Unfinished Struggle, Inside the Timorese Resistance*, 1997, South End Press, Boston, MA, p. 112.
711. Amnesty International, East Timor: Short-Term Detention and Ill-treatment, AI Index: ASA 21/01/90.
712. HRVD Statement 8084-4.
713. HRVD Statements 2989; 8384-4 and 8304.
714. HRVD Statement 0195.
715. HRVD Statements 2726; 6731; 7157; 7420; 5071; 9126; 6352; 0921; 4169; 4217/3; 9126; 7736; 4705; 0195-4; 1996 and 0634.
716. See testimonies of Simplicio Celestino de Deus to the CAVR National Public Hearing on Massacres, 28–29 November 2003; and Alexandrino da Costa to the CAVR National Public Hearing on Children and the Conflict, 28–29 March 2004.
717. HRVD Statements 6731, 7157 and 4217-3; CAVR Interview with Simplicio Celestino de Deus, Dili, 8 October 2004.
718. HRVD Statement 5071.
719. CAVR Interview with José Manuel da Silva Fernandes, Dili, 31 October 2002.
720. Amnesty International, *Indonesia/East Timor: A new order? Human rights in 1992*.
721. HRVD Statement 2726.
722. CAVR Interview with Simplicio Celestino de Deus, Dili, 5 December 2003.
723. For arrests in Liquiçá, see for example HRVD Statements 0634; 0195; 1996 and 4705 (They were arrested by head of intelligence Duranto and Tomé Diogo). For arrests in Bobonaro, see for example HRVD statements 8634 and 5615-2. For arrests in Baucau, see for example HRVD statement 2363-4 and Neil Barrett interview with Saturnino Belo, Dili, as part of *The Comarca Video Project*, Submission to CAVR, August 2002.
724. CAVR Community Profiles of Uma-Anaico Village and Uma-Analu Village, Venilale Sub-district, Baucau District, 12 June 2003; CAVR Community Profile of Tasi Village, Vemasse Sub-district, Baucau District, 28 March 2003.
725. CAVR Community Profile of Uatu-Haco Village, Venilale Sub-district, Baucau District, 8 June 2003.
726. CAVR Community Profile of Quelicai Town, Baucau District [undated].
727. CAVR Interview with Simplicio Celestino de Deus, Dili, 5 December 2003.
728. Asia Watch, *Remembering History in East-Timor, the trial of Xanana Gusmão and a follow-up to the Dili Massacre*, April 1993, Vol. 5, No. 8, p. 22.
729. Ibid, p. 23.
730. CAVR Interview with Simplicio Celestino de Deus, Dili, 5 December 2003.
731. For arrests in connection with the visit in Ainaro, see section on Team Sukarelawan which was founded to counter preparations for visit.
732. CAVR Interview with Adriano João, Dili, 10 June 2004.
733. CAVR Interview with Julio Araújo Martins, Gleno, Ermera, 26 August 2004.
734. Lembaga Studi dan Advokasi Masyarakat (Elsam), *Kerangka Pencarian dan Pengumpulan Data Operasi Militer ABRI di Wilayah Timor Timur: Periode 1974–1999*, Jakarta, March 2001 [Institute for Study and People Advocacy, Elsam, *Framework for Finding and Collecting Military Operation Data of ABRI in East Timor Period of 1974-99*]. The Commission was told of several cases where individuals were forcefully recruited into these teams, see for example HRVD Statement 0745.
735. HRVD Statements 1887; 1106; 1172; 1115 and 1108.
736. CAVR, Community Profile of Atabai Village, Atabae Sub-district, Bobonaro District, 8 October 2002.
737. HRVD Statement 1115.

738. HRVD Statement 1106.
739. HRVD Statement 1140.
740. CAVR, Community Profile of Atabai Village, Atabae Sub-district, Bobonaro District, 8 October 2002.
741. CAVR, Community Profiles of Manetu Village (8 July 2003), Hohoraikik Village (24 July 2003).
742. CAVR, Community Profiles of Maulau Village (26 May 2003), Manelobas Village (23 May 2003), Manetu Village (8 July 2003), Maubisse Sub-district, Ainaro District.
743. CAVR, Community Profiles of Manutasi Village, Ainaro Sub-district, Ainaro District, 17 February 2003.
744. CAVR, Community Profiles of Maulau Village (26 May 2003), Manelobas Village (23 May 2003) and Manetu Village (8 July 2003), Maubisse Sub-district, Ainaro District; CAVR, Community Profile of Cassa Village, Ainaro Sub-district, Ainaro District, 18 February 2003.
745. HRVD Statement 2682.
746. CAVR Community Profile of Maulau Village (26 May 2003), Manelobas Village (23 May 2003) and Manetu Village (8 July 2003), Maubisse Sub-district, Ainaro District; CAVR, Community Profile of Cassa Village, Ainaro Sub-district, Ainaro District, 18 February 2003.
747. CAVR, Community Profile of Manetu Village, Maubisse Sub-district, Ainaro District, 8 July 2003; CAVR, Community Profile of Manutasi Village, Ainaro Sub-district, Ainaro District, 17 February 2003; CAVR, Community Profile of Cassa Village, Ainaro Sub-district, Ainaro District, 18 February 2003.
748. HRVD Statement 2683.
749. HRVD Statement 3379.
750. HRVD Statements 3309; 3342; 4911; 5956; 5006; 3378; 3386; 3387; 3389; 4919; 4930; 5971; 3307; 4983; 5000; 5977; 3379; 3383; 4950; 4964; 5003 and 4921; CAVR, Community Profile of Manelobas Village, Maubisse Sub-district, Ainaro District, 23 May 2003; CAVR, Community Profile of Manetu Village, Maubisse Sub-district, Ainaro District, 8 July 2003; CAVR, Community Profile of Maubisse Village, Maubisse Sub-district, Ainaro District.
751. CAVR, Community Profile of Ainaro Village, Ainaro Sub-district, Ainaro District; CAVR, Community Profile of Maubisse Village, Maubisse Sub-district, Ainaro District; CAVR, Community Profile of Manetu Village, Maubisse Sub-district, Ainaro District all in May–July 2003.
752. CAVR, Community Profile of Ainaro Village, Ainaro Sub-district, Ainaro District; CAVR, Community Profile of Maubisse Village, Maubisse Sub-district, Ainaro District, all in May–July 2003; CAVR, Community Profile of Manetu Village, Maubisse Sub-district, Ainaro District, 8 July 2003; CAVR, Community Profiles of Manutasi Village, Ainaro Sub-district, Ainaro District, 17 February 2003.
753. CAVR, Community Profile of Hohoraik Village, Maubisse Sub-district, Ainaro District, 24 July 2003.
754. CAVR Interview with José Manuel da Silva Fernandes, Dili, 31 October 2002, Assepol Submission to the CAVR 17 February 2003.
755. Assepol Submission to the CAVR (17 February 2003), confirmed in CAVR Interview with José Manuel da Silva Fernandes, Dili, 20 December 2004.
756. Ibid.
757. CAVR Interview with José Manuel da Silva Fernandes, Dili, 20 December 2004.
758. Ibid.
759. HRVD Statement 7157.
760. CAVR Interview with Francisco Miranda Branco, Dili, 24 November 2002; CAVR Interview with Jacinto Alves, 5 June 2005.
761. HRVD Statement 7420.
762. HVRD Statement 0921.
763. HRVD Statement 9126.
764. HRVD Statement 5071.
765. HRVD Statement 7736.
766. Ben Anderson, Douglas Kammen and Arif Djati interview with Mario Carrascalão, Dili, 20 March 2002. CAVR Archive.
767. CAVR Interview with José Manuel da Silva Fernandes, Dili, 20 December 2004.
768. CAVR Interview with Gregório Saldanha, Dili, 4 June 2004.
769. CAVR Interview with João Freitas da Camara, Dili, 5 June 2004.
770. CAVR Interview with Virgilio da Silva Guterres, Dili, 5 November 2002.

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Part 7.5.

Violations of the Laws of War

Part 7.5. Violations of the Laws of War

Tables:

Graphic:

7.5. Violations of the Laws of War

Introduction

1. The mandate of the Commission required it to report on human rights violations, including violations of international humanitarian law. These laws are also sometimes referred to as the laws of war, or the laws of armed conflict.[1]

2. Many of the violations of international humanitarian law which occurred during the mandate period 1974-1999, were also violations of international human rights standards and have therefore been dealt with in other parts of this Report. The primary purpose of this part is to report on violations of the laws of war which are not covered in other parts. This includes the failure of combatants to protect civilians, prisoners of war, the wounded and other classes of protected persons, the failure to distinguish between military and civilian targets during military operations, forced recruitment, intentional destruction of civilian property, the use of illegal weapons such as chemical weapons, and other violations of the rules regarding the conduct of military operations.

3. This part relies extensively on primary source information gathered by the Commission in its process of taking statements and conducting Community Profile workshops in villages, and through in-depth interviews. Because violations of the laws of war, such as the killing or torture of civilians, are also violations of other international human rights standards, there is some degree of overlap between this part and other parts of the Report.

4. The evidence considered by the Commission in this and other parts provides a picture of widespread and systematic violations of the laws of war by the Indonesian security forces during the invasion of Timor-Leste and the subsequent years of occupation, including a programme of intimidation, violence and destruction related to the Popular Consultation in 1999.

5. Responsibility for violations cannot be equated between the Indonesian military (ABRI/TNI) and Fretilin/Falintil, although the actions of both armed forces resulted

in a wide array of violations, causing immense suffering to the East Timorese civilian population. ABRI/TNI and their surrogate forces were clearly the primary perpetrator in this regard. Fretilin/Falintil caused suffering and deaths among civilians. Although they were in many cases extremely serious, the violations of Fretilin/Falintil constituted only a minor proportion of the total violations.

6. The general humanitarian obligations which apply to situations of internal armed conflict were violated by members of both Fretilin and UDT during the period of political conflict in 1975. These violations, such as killing, detention and torture of civilians and prisoners have been dealt with comprehensively in the respective parts on these subjects, and in Vol. IV, Part 8: Responsibility and Accountability. The events of the civil war have not therefore been referred to in detail in this part, although a brief overview follows (see in particular Vol. I, Part 3: History of the Conflict; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances and Part 7.3: Forced Displacement and Famine; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment and Part 7.8: The Rights of the Child).

7. On 11 August 1975, UDT launched an "attempted coup" referred to by many as the 11 of August Movement. The background and details of this armed action are considered in detail in Vol. I, Part 3: History of the Conflict. Mário Lemos Pires, Portuguese Governor of Timor at the time, told the Commission that UDT seized power using guns taken from the Portuguese police.[2] The Fretilin leadership retreated to their headquarters in the hills of Aileu, south of Dili. UDT captured members of Fretilin in districts across the country and held them prisoner (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment). Attempts by the Portuguese administration at negotiating a settlement failed, and on 20 August Fretilin launched its counter-action, referred to by many in the community as the counter coup. Violence broke out in districts across the country for several weeks, and by late September Fretilin was in control of virtually the whole territory. Members of UDT, Apodeti, and the smaller parties Trabhalista and KOTA and their families, fled west to the border. Fretilin held hundreds of UDT members prisoner from this conflict, and in October also took members of Apodeti prisoner. Vol. III, Part 7.4: Detention, Torture and Ill-Treatment considers these circumstances in detail.

8. East Timorese who had fled to the border area came under the influence of the Indonesian military and intelligence agents, and many joined the Partisan troops who had been trained by the Indonesian military since late 1974. Cross border attacks commenced in late August, with the Indonesian military using these Partisan troops with regular Indonesian army troops.

9. On 15 October, the Indonesian military launched full-scale attacks with sea and air support, and occupied towns such as Batugade and Balibó (Bobonaro) in Timor-Leste. The attack on Balibó included the killing of 5 international journalists (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

10. With Indonesian troops occupying East Timorese towns as far east as Atabae (Bobonaro), the Portuguese authorities remaining on the island of Ataúro without

responding to Fretilin pleas to return, and international talks between Portugal and Indonesia ignoring the reality of Indonesian troops occupying East Timorese towns, Fretilin became increasingly desperate for international intervention and support to protect the territory from foreign aggression. It unilaterally declared independence on 28 November 1975.

11. With the support of the Indonesian Parliament, the Indonesian military launched a full-scale invasion of Timor-Leste on 7 December 1975. The Fretilin leadership retreated to the interior. Large numbers of the civilian population either fled the attacking Indonesian military or were obliged by Fretilin to flee to the interior with them (see Vol. II, Part 7.3: Forced Displacement and Famine). These civilians later suffered terribly in the interior, during the war that ensued.

12. During the invasion, Indonesian armed forces committed violations of the laws of war in the execution of civilians in Dili on 7 and 8 December 1975 (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

13. During the large-scale military operations which followed across the territory, the Indonesian military failed to discriminate between civilians and combatants, using their massive military strength to kill large numbers of unarmed men, women and children. As well as being caught indiscriminately in the crossfire, civilian populations were specifically targeted in operations aimed at achieving their surrender from Fretilin/Falintil controlled areas (see Vol. II, Part 7.3: Forced Displacement and Famine). In very few instances were civilians given prior warning before the launch of military operations.

14. Members of ABRI/TNI routinely executed, tortured and raped civilians and prisoners who were captured or surrendered during the early years of attacks and resistance. The Indonesian military resorted to all available means to overcome resistance to the invasion and occupation. In the years 1976, 1977 and 1978 these violations were widespread and systematic. This included the systematic destruction and looting of civilian property, including buildings, homes and personal items, destruction of food sources, and use of weapons which are prohibited by the international laws governing armed conflict. The means employed included chemical weapons which poisoned water supplies, killed crops and other vegetation, and napalm bombs, whose effect was to indiscriminately burn everything and everyone within their range, including men, women and child civilians.

15. The Resistance led by Fretilin/Falintil in the early years after the invasion developed an ideological position of aiming to build a social revolution based on a transformation of the civilian population, which lived with the political and armed leadership in the interior (see Vol. I, Part 5: Resistance: Structure and Strategy). As Indonesian military offensives intensified and increasingly encroached on Fretilin-controlled areas, divisions developed in the Fretilin leadership. This resulted in a violent purge within the party in 1977. Fretilin/Falintil was responsible for violations such as the detention and torture of civilians and other prisoners such as Falintil members, and for summary executions of prisoners (see Vol. I, Part 3: History of

the Conflict; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment). These were committed in an organised, systematic way.

16. After Indonesian military offensives destroyed the Fretilin/Falintil bases in the mountains (*bases de apoio*) in late 1978, causing massive suffering to the thousands of civilians living in these areas, the surviving political and military leadership of the Resistance undertook a major change in its strategy. This fundamentally changed the relationship between the armed resistance and the civilian population, large numbers of whom were initially held in transit camps and detention centres and who were later able to resettle into towns and villages. In the 1980s, a large clandestine structure and network was established to support the guerrilla armed resistance (see Vol I, Part 5: Resistance: Structure and Strategy). During this period Fretilin/Falintil violated the laws of war by attacking civilian populations, burning houses and stealing foodstuffs from civilians believed to be working in collaboration with the Indonesian armed forces.[3]

17. Members of ABRI/TNI systematically undertook forced recruitment of civilians to take part in their military operations against the armed resistance. The largest single operation involved the forced recruitment of over 60,000 civilians during the months of Operation Kikis in 1981 (see section on forced recruitment below, par. 140 ff). In addition it was routine military practice to force civilians into service to carry weapons and ammunition and to cook, clean and care for the personal needs of military masters. Forced recruits, many of them children, were treated poorly and often subjected to cruel, inhuman and degrading treatment.

18. In the years of occupation and resistance that followed, ABRI/TNI regularly conducted collective punishment of civilian populations, including killing, rape and torture of family members and civilians belonging to the same communities as individuals suspected of supporting Fretilin/Falintil. This widespread practice against civilians was especially harsh after Falintil conducted military operations against ABRI/TNI targets (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).

19. Violations of the laws of war committed by members of Fretilin/Falintil include the execution of prisoners and killing of civilians, particularly those suspected of collaboration with the Indonesian military. Members of Fretilin/Falintil tortured and killed members of their own forces who disagreed with the policies of the Central Committee. They also burned houses of suspected collaborators, and looted their property (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances and Part 7.3: Forced Displacement and Famine; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).

20. East Timorese women and girls who were held prisoners, or who were forced to work for members of ABRI/TNI, were routinely raped and forced into conditions of sexual slavery, including being "passed" from one officer to another at the end of periods of duty in the territory (see Vol. III, Part 7.7: Sexual Violence).

21. As urban youth became increasingly involved in the Resistance in the late 1980s and early 1990s, and public demonstrations became a new feature of Resistance action,

ABRI/TNI committed violations against civilians. The Santa Cruz Massacre was the most well-known example of the Indonesian military opening fire on unarmed civilians engaged in peaceful demonstration, causing large numbers of deaths and serious injuries (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

22. Throughout the 1990s ABRI/TNI was responsible for continuing practice of detention and torture of civilians, usually those suspected of involvement with the clandestine network of the Resistance. These practices were especially targeted at young people who became increasingly involved in the Resistance in this period. This included the killing and disappearance of those detained (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment; Vol. IV, Part 10: Acolhimento and Victim Support).

23. In late 1998 and early 1999, ABRI/TNI formed groups of armed militia across the territory. ABRI/TNI implemented a programme of systematic forced recruitment of thousands of young East Timorese men into these groups, in addition to those who had voluntarily joined (see Vol. I, Part 3: History of the Conflict; Vol. IV, Part 9: Community Reconciliation). The Indonesian security forces and their proxy militias were responsible for a wide range of violations of the laws of war, including killing, rape, torture and the intentional massive destruction of civilian property across the territory after the ballot (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances and Part 7.3: Forced Displacement and Famine; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment and Part 7.7: Sexual Violence).

Relevant standards

24. The standards employed by the Commission in relation to the international laws of armed conflict are referred to in detail in the Annexe to Vol. I, Part 2: The Mandate of the Commission. Most of the legal principles relevant to the conflict in Timor-Leste are derived from the Geneva Conventions, to which Indonesia and Portugal were parties, and from customary international law. The most fundamental of these rules are reflected in four basic principles:[4]

1. Such force should only be used as is necessary for achieving a legitimate military objective (the principle of military necessity).
2. All actions taken must be in accordance with principles of humanity.*
3. Attacks must only be carried out against military targets, and in such a way as to minimise harm to civilians and civilian objects. Attacks must never be intentionally directed at civilians or civilian objects (the principle of distinction).
4. Where an attack may cause some incidental civilian casualties, the attack is only permitted if the harm to civilians and civilian objects is not excessive in relation to the military advantage to be gained (the principle of proportionality).

* The principle of humanity is most famously reflected in the Martens Clause contained in the Preamble to the Hague Convention (IV) Regarding the Laws and Customs of War on Land of 1907.

25. These standards applied to the Indonesian military forces. They also applied to Falintil, which could be recognised in international humanitarian law as a resistance movement as it complied generally with the requirements for such recognition: it had in place a command structure; its members generally distinguished themselves from civilians; they carried arms openly; and it conducted operations in accordance with the laws and customs of war.

26. Even in instances when the Commission has had full access to all factual evidence, it has not always been possible to distinguish between situations where civilians were directly and intentionally targeted, and other circumstances where civilians were killed or injured in fighting that did not deliberately target them. In many military operations examined by the Commission throughout this Report, the Commission has found that attacks were indiscriminate in their impact on civilians, or disproportionate to the military necessity, and therefore constituted violations of the laws of war. In particular, the evidence outlined in this part and referenced to more detailed analysis in the relevant parts of this Report, demonstrates that ABRI/TNI systematically ignored and deliberately violated its obligations to protect East Timorese civilians under the Geneva Conventions to which the Republic of Indonesia was party.

Violations of the laws of war by Indonesian military forces

Attacks on civilians and civilian properties

27. International laws of armed conflict provide clearly that attacks must not be targeted at civilians, civilian objects or undefended towns or buildings.[5] It is also prohibited to carry out acts with the primary purpose of spreading terror among the civilian population.[6]

28. Attacks must not be carried out in ways or using weapons that make it impossible to distinguish between civilian and military targets.[7]

29. Incidental civilian casualties and damage to civilian objects that are caused by an attack on a military objective are permitted only so long as they are not disproportionate in relation to the military necessity of the attack.[10] Attacks should be carried out in such a way as to minimise civilian casualties and damage to civilian objects.[9] Wherever possible, advance warning should be given to civilians of attacks that may harm the civilian population.[10]

30. This sub-section will focus on violations of the laws of war by ABRI/TNI in the early years of the conflict.

31. From August 1975, ABRI/TNI carried out cross border attacks in Timor-Leste, which included the killings of civilians and the destruction of civilian property (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). On 15-16

October 1975, the Indonesian armed forces intensified operations, including large-scale air and sea bombardments inside Timor-Leste. These attacks caused civilian casualties and destruction of civilian property.

32. Full-scale invasion began on 7 December 1975, with combined land, air and sea attacks first on Dili and then Baucau. These attacks expanded to the districts of Bobonaro, Ermera, Manufahi, and Covalima. They caused many civilian deaths, mass displacement and widespread destruction of public and private property. During these initial attacks unarmed civilians were directly targeted by ABRI forces in summary executions, and there was generally a failure to distinguish between civilian and military targets.

33. The use of heavy machine guns, bazookas, grenades, mortars, and artillery in both urban and rural settings inevitably resulted in heavy civilian casualties. It is often unclear as to whether these attacks were targeted or indiscriminate. The Commission received significant evidence from statements collected across the territory that indicate strongly that the invading Indonesian military employed a policy which involved the systematic destruction and looting of houses, livestock and crops, as well as the deliberate killing of civilians.[11] José da Silva Amaral told the Commission of the deliberate destruction of food sources by ABRI/TNI during their attack on Osso-Gori, Uaibobo (Ossu, Viqueque) in 1976:

> *When ABRI attacked Ossu in the dry season in 1976, my wife Ceverina, my son Arlindo and I were in Basilau, Osso-Gori, in the village of Uaibobo. We fled to Mount Builo, Ossorua. ABRI entered Ossu and continued their advance. They built a post near my land in Loilubu, Ossurua. During a patrol, they burned my house in Basilau. ABRI abandoned the post after about a month. When I found out that ABRI had left, a brother-in-law, Patricio, and I returned to see my coconut trees. They were all destroyed. ABRI cut down all the banana trees to build a post. They also cut down all 300 coconut trees. Only one tree was left intact.*[12]

34. In addition to being targets and suffering from indiscriminate attacks, civilians were also severely punished by ABRI/TNI if they were suspected of assisting Fretilin/Falintil forces. This punishment varied according to circumstances and the individuals involved. Lobato Amaral, a young Falintil soldier, told the Commission that his older brother, Leonardo Freitas, and 11 civilians were captured and killed by ABRI/TNI in Bobonaro because they were suspected of providing food for him and other Falintil soldiers in 1979.[13]

35. Any suspicion of contact with people who had fled into the forest, whether or not they were part of Fretilin/Falintil forces, could result in retribution by ABRI/TNI. In 1977, for example, Frederico Gonçalves from Atabae (Bobonaro) reported that his livestock was confiscated by members of the Halintar militia who suspected him of maintaining links with his brother in the forest.[14]

36. During the early period of the invasion there was fierce fighting in many areas, as Fretilin/Falintil forces frustrated the advance of Indonesian forces. The Commission received a number of reports of brutal retribution from Indonesian troops against civilians after they had captured a particular location. In the village of Leimea Kraik (Atsabe, Ermera), for example, ABRI/TNI deliberately burned houses with their owners inside them.[15] Non-violent resistance from civilians was also often met with lethal force, contributing to widespread fear and panic as tens of thousands fled into the hills and forests in search of protection and sanctuary. The Commission received a large number of reports to this effect from across the country, indicating the vulnerability of East Timorese civilians to the advancing Indonesian military through to the end of 1978.[16]

37. Although many sought protection and refuge in the areas controlled by Fretilin/Falintil forces, this respite proved to be only temporary as the Indonesian forces attempted to consolidate the occupation. Agustino Soares told the Commission:

> *I was 17 when we evacuated to the forest in Katrai Leten, at the foot of Mount Ramelau. I hid there with 10 family members. Thousands of villagers gathered in Katrai Leten, including those coming from Letefoho, Ermera, Ainaro, Aileu and Cailaco.*
>
> *Katrai Leten was the second largest Fretilin base in Ermera after Fatubesse, so it was safe there. Fretilin troops guarded us from the enemy, while we stayed behind and grew food crops to feed us…In Katrai Leten, deaths due to starvation or illness were rare.*
>
> *But two years later, in 1978, the Indonesian military attacked our base in Katrai Leten, forcing us to move from Katrai Leten to other locations. ABRI troops came from Atsabe, Ainaro, Same and Bobonaro, and completely encircled us, isolating us at our base in Katrai Leten, before they [ABRI] attacked simultaneously.*
>
> *ABRI fired their mortars, bazookas and cannons. From above, the planes dropped bombs on us. The bombs did not burn us, but the shrapnel killed many people because they couldn't find a good place to hide. ABRI attacks destroyed our resistance base in Katrai Leten on 18 May 1978.*[17]

38. Across Timor-Leste, entire communities were forced to stay on the move. The Commission heard testimony of a similar pattern of experiences, culminating in death, capture or surrender from communities and individuals across the country. The experiences of the community of the village of Muapitine (Lospalos, Lautém) illustrates this pattern. When ABRI/TNI forces landed on Com Beach in February 1976 and began shooting at civilians, local residents fled into the hills. For two years, they stayed together, moving from place to place. During 1977-1978, 155 Muapitine villagers died of starvation, while a further seven died during an ABRI/TNI attack in 1978. As in so many other areas, by late 1978 the remaining villagers of Muapitine began to surrender to ABRI/TNI.[18]

39. The Commission obtained testimony outlining incidents in which ABRI/TNI commanders deliberately failed to protect civilians from abuse, or to discriminate between civilians and armed Fretilin/Falintil troops. A former East Timorese ABRI/TNI soldier who was based in Same during 1977, told the Commission that before launching operations around Mount Kablaki members of Kodim and the local civil defence forces (Hansip) in Manufahi were instructed by the Kodim commander to kill anyone they encountered during the operation, regardless of whether they were civilians or Fretilin/Falintil soldiers:

> *During an operation in Kablaki in 1977, soldiers and Hansip came from two directions, Ainaro and Same, and formed a full circle to prevent Falintil and civilians hiding on the mountain. The attack on Kablaki was simultaneous and the Kodim commander told us that whoever we encounter, whether civilians or Falintil, there should be no mercy, [we should] shoot on the spot or, if necessary, arrest them.*
>
> *When we arrived at the top of Mount Kablaki, we saw a group of five or six people and we shot them. We did not know whether they were civilians or Falintil. [Some] fled, and we could only find abandoned items, such as bags of food supplies that they had left behind. Then we continued the operation back to Same via Rotuto.*[19]

40. The same former soldier described another incident during operations around Same aimed at finding Falintil and civilians who were still hiding in the forest, in which an old lady found by soldiers in a hut in a deserted village was executed by a Hansip member.[20]

41. Indonesian military advances and attacks against communities in territories it did not control continued throughout 1978. Predictably, civilians continued to bear the brunt of these attacks. Maria José da Costa described the experience of her community around the area of Dolok in the southern district of Manufahi to the Commission:

> *In 1978 the enemy surrounded us in Dolok and many people died due to starvation. All the food supplies…were burnt. They surrounded us by attacking from the sea with warships, from the air with warplanes and on land by burning the dry grass and sending in the army. At that time it was August, which is the dry season. The army made big fast-burning fires by spraying gasoline over the tall grass. Many died because they could not escape the fire surrounding us.*[21]

42. The Indonesian military had incorrectly predicted that it's overwhelming firepower could secure its occupation of Timor-Leste relatively swiftly. When this did not occur and Indonesian forces were bogged down, with Fretilin/Falintil forces living with a large civilian population in parts of the territory in the interior, the Indonesian military launched a massive offensive against these resistance bases. In 1978, these attacks became known as the campaign of encirclement and

annihilation, and caused vast casualties among the civilian population in these bases. The fact that so many civilians lived with Fretilin/Falintil forces in these bases may have contributed to difficulties in distinguishing between civilians and combatants. However, the evidence presented to the Commission provides a clear picture of an ABRI/TNI military campaign in which there was little consideration of the principle of the protection of civilians or the need to discriminate between civilians and combatants. The attacks across the territory appeared to be based on the assumption that anyone, insurgent or civilian, who resided outside of the area under the control of the Indonesian military was a legitimate target (see Vol. I, Part 3: History of the Conflict; Vol. II, Part 7.2: Unlawful Killing and Enforced Disappearance and Part 7.3: Forced Displacement and Famine).

43. The Commission heard similar testimony from many parts of the country, as individuals and entire communities tried desperately to stay ahead of the advancing Indonesian military. Many spent between three and four years on the run, moving from location to location, living in dire circumstances that resulted in the steady loss of individual lives and even entire families.[22] The communities of the villages of Aiassa and Malilait, in the sub-district of Bobonaro (Bobonaro) told the Commission:

> *In January 1976, the Indonesian military entered the sub-district of Bobonaro. Continuous ground and aerial attacks forced civilians to flee to Lour. Villagers did not take much food. We stayed in Holba, Anapal for about one year growing food crops and rice. While waiting for the harvest, we ate edible roots. At harvest time, ABRI/TNI and the Partisans forced people to move from Holba to Fatuleto and abandoned their gardens and fields unharvested. People stayed in Fatuleto for one year, but they had to keep moving, first to Molop, and then to Dikehili, where many died from wounds sustained during aerial attacks, or from illnesses and starvation.*
>
> *In 1978, once again people had to flee to Halik after…aerial attacks from 7.00am to 9.00am claimed seven lives, and [there were] other deaths due to starvation, illnesses and poisoning after eating vegetables.*
>
> *When there was nowhere else to go, villagers gradually surrendered to Battalion 507 in 1979.*[23]

44. The Commission received 247 statements from the district of Baucau alone reporting 278 cases of attacks on civilians and civilian targets throughout the period of Operation Seroja in the 1970s. Similar reports were received from Aileu, in which 97 civilian deaths and the destruction of civilian targets during ABRI/TNI operations were recorded.

45. Civilians also died as a result of starvation, after their livestock and food supplies were destroyed or stolen, or having fled with little or no supplies to sustain them. During the same period, increasing pressure on life in the *zonas libertadas*

due to ABRI/TNI operations caused great hardship and loss of life among the civilian population living in these areas. Movement was initially restricted within these zones, and later civilians were forced to be constantly on the move to escape ABRI/TNI attacks, and so unable to grow and harvest crops (see Vol. II, Part 7.3: Forced Displacement and Famine).

46. For Fretilin/Falintil, the precariousness of their situation was of paramount concern. Restricting civilian movements was a direct consequence of the need to secure and maintain a measure of physical geographical control. Such impositions were not only applied by Fretilin/Falintil political and military cadres. Harsh, even brutal measures were sometimes self-imposed by ordinary civilians who were intent on survival. Remaining undetected in the forest, for example, often presented life or death choices. Adriano João was a Fretilin political assistant (*adjunto*) in the Cailaco Zone, and described to the Commission the desperate measures taken by ordinary people to survive during this period:

> *[In Purugua] I saw a father choke his four-year-old son to death because he kept crying. Then, there was a consensus amongst villagers that whoever revealed their position to ABRI should be eliminated, including children. We almost had to throw away our own 18-month-old baby because he kept crying.*[24]

47. Once the Indonesian military had located a concentration of fighters or civilians in a particular area, the usual practice was to bombard the location with heavy armaments. These attacks were often indiscriminate and lethal. In 1978, for example, aerial and naval bombardments caused 100 deaths among the village population of Aidantuik (Suai, Covalima) who had sought refuge in Beco (Suai, Covalima).[25]

48. The Fretilin/Falintil base at Mount Matebian (Baucau and Viqueque Districts) in the east, became one of the final centres of resistance in 1978 as ABRI/TNI attacks overran the Fretilin/Falintil *bases de apoio*. Following the invasion, in early 1976, Fretilin/Falintil forces evacuated many civilians from the eastern districts of Baucau, Viqueque and Lautém to the mountain. Many East Timorese civilians fled to the mountain from Indonesian military attacks in the early years after the invasion. By 1978, it had become one of the last major places of refuge. As military advances overran other bases, Fretilin/Falintil forces and civilians fell back to the Matebian base. In response, between August and October that year the Indonesian military launched devastating ground, air and naval attacks against those on the mountain. Armindo da Silva, who sought refuge on the mountain at the time, told the Commission:

> *When my family and I were in Matahoi in Uatolari [Viqueque], I heard that ABRI/TNI was about to attack Osso Lero at the foot of Mount Matebian, in Baguia. Many civilians from Ossu died during ABRI's indiscriminate aerial bombings and mortar attacks from Quelicai [Baucau]...My cousin Januario da Silva, aged 20, my mother, Paeloi… and the* liurai *of Uaibobo were hit by the bombs and died.*[26]

49. The mountain refuge was encircled by ABRI/TNI and a systematic campaign to force the surrender of all on the mountain began. Many of the communities that the Commission engaged with reported on the death and destruction that accompanied the ABRI/TNI assault.[27] The Commission received reports of several thousand people being killed or injured before permission was finally given by Fretilin/Falintil commanders on 22 November 1978 to surrender (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances and Part 7.3: Forced Displacement and Famine).

The bombs came from the sky, or the coast and the ground

The community of the village of Defawassi, in the sub-district of Baguia in the mountain area of Matebian in Baucau, told the Commission of their experiences as the Indonesian military conducted its final assault on the mountain in late 1978:

1978 was the year the Indonesian army, navy, airborne units (Paskhas) and Police Mobile Units (Brimob) attacked, by encircling Mount Matebian. They made a ring formation around the mountain. Villagers from Defawassi, Viqueque, Baucau and Lospalos were inside the circle. This "fence" tightened every day while more and more civilians were trapped on Mount Matebian.

The Indonesian military used this opportunity to attack people, using ground fires. They attacked with cannons, bazookas, mortars and rockets, as well as aerial bombings and naval attacks bombardments. These incessant attacks destroyed water springs, and left no chance to prepare food. They created a chaotic situation.

Many people died from the bombings or due to starvation or when they got lost on the mountain. Villagers also died of bullet wounds from automatic weapons and the bombardments. An estimated 100 people of all ages, male or female, from our village of Defawassi died on Mount Matebian. From 2 October until 28 November 1978, the people of Defawassi returned to Baguia Town from the mountain.[28]

50. The escalation of ABRI/TNI assaults during 1978 led to a further deterioration of conditions for civilians in the interior, which in turn forced more civilians to surrender to ABRI/TNI. Others remained constantly on the run from attacks until they were eventually captured or forced to surrender.[29] The final mass civilian surrender took place after the fall of the Mount Matebian base in November 1978, after Fretilin/Falintil gave the order to surrender (see Vol. I, Part 3: History of the Conflict; Vol. II, Part 7.3: Forced Displacement and Famine).

51. The situation upon capture or surrender was grim. The Indonesian military separated those they identified as Fretilin/Falintil, many of whom were executed or disappeared (see Vol. I, Part 3: History of the Conflict; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). Other civilians were held first in transit camps, then in detention centres and later were resettled in areas under ABRI/TNI control. Food and medicines were inadequate for these massive numbers of civilians effectively held in detention, and thousands died of starvation and disease in perhaps the most tragic years of Timor-Leste's history. Vol. II, Part 7.3: Forced Displacement and Famine examines these tragic events and the human rights violations associated with them. Communities across the country recounted their experiences during this period to the Commission. For example, communities in Liquidoe (Aileu), Remexio (Aileu) and Metinaro (Dili) recalled the large number of civilian deaths after surrender to Indonesian forces due to starvation and disease in camps.[30]

52. Although assaults on civilians and civilian targets subsided markedly following the culmination of Operation Seroja in 1979, civilians continued to be targeted and adversely affected as a result of on-going counter-insurgency tactics by ABRI/TNI throughout the Indonesian occupation of Timor-Leste.

53. During Operation Kikis in 1981, for example, the Commission received a number of reports about ABRI executions of both surrendering civilians and civilians who had been forced to join the operation. The community of the village of Orlalan Batara (Laclubar, Manatuto) described their experience of being forced to join the operation:

> *After receiving orders from Manatuto and Dili to prepare civilians to join Operation Kikis, the Laclubar Koramil commander ordered the Village Heads from six villages to select strong civilians to join the operation, excepting only children and the elderly. All schools were closed. Civilians were only allowed to carry knives, spears, arrows, bamboo drums. Each person had to have a black ribbon tied to their head as a marker, and each person had to carry their own food rations. Each village had a leader. Civilians were forced to walk from 6.00am to find Falintil and civilians still living in the forest. When they found them, they had to kill them, so that the war could finish quickly.*
>
> *In Fatuhada [Laclubar, Manatuto], there was an armed clash between Battalion 744 and Falintil, which claimed the lives of 15 Falintil members and 50 civilians who surrendered to Battalion 744. There was a pregnant woman stabbed in the stomach, killing the baby instantly. Then the dead bodies were cut up and buried.*
>
> *During the operation, soldiers from Battalion 744 who suspected villagers in Laclubar of working with Fretilin, ordered the villagers to burn all food crops to prevent Fretilin making use of them and to force their quick surrender. The order came with a threat of execution for refusal to comply. During the 40 days of the advance, one villager from Laclubar died of an*

untreated illness and another villager was shot by an ABRI soldier in Aitana. The soldier claimed that he had mistaken the person for someone else. Then villagers returned to their villages in Laclubar.[31]

54. Albino da Costa, former Falintil soldier, told the Commission:

> *I witnessed with my own eyes how the Indonesian military, Battalion 744, killed civilians. They captured those unarmed people, tied them up then stabbed them to death. There was a pregnant woman captured and killed just like that. I saw it from a close distance, just 100 metres from where it happened.*[32]

55. When the advance reached the area of Lacluta (Viqueque) in September 1981, a massacre occurred that according to several accounts killed hundreds of people. While Indonesia claimed a military victory in this area during this time, citing the capture of 450 Fretilin members and 150 weapons, Monsignor da Costa Lopes, Catholic Apostolic Administrator of Timor-Leste at the time, claimed that 500 people had been killed (see Vol. I, Part 3: History of the Conflict; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). Indonesian authorities admitted 70.[33] Others place the toll in the hundreds.[34] While a definitive account of the incident does not exist, including the detail of whether those killed were combatants or civilians, most sources describe this as a brutal massacre of civilians (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

56. The 1983 uprising by East Timorese members of Hansip and Ratih against the Indonesian military in Kraras (Viqueque, Viqueque) is one of the most notorious cases of ABRI/TNI retaliation against the civilian population (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). The uprising was coordinated closely with Falintil. After killing 12 members of the Zipur 4 Engineering Battalion, the members of Hansip and Ratih defected to Falintil with their weapons. The civilian population were left vulnerable. Many fled to the surrounding forest and mountains fearing retribution. The Indonesian military carried out a terrible act of collective punishment against this civilian population who had not been involved in the attack against their forces.

57. A series of massacres of the civilian population of the area followed. On 7 September, ABRI/TNI soldiers entered the village of Kraras and killed 4 or 5 civilians, including one old woman. They then burned most of the houses in the village. The bodies of several of those killed were left in the burning houses.[35] In the following weeks Indonesian soldiers conducted patrols throughout the neighbouring mountains in order to force those who had fled to return to the villages of Kraras and Buicaren, and to the town of Viqueque. The Commission received reports that a number of individuals were executed during these operations, including a 15 year old boy on or about 12 September, and three other individuals on 15 September.[36] During this time a large number of people were also detained and tortured, many at Olobai, where one company from the 745th Infantry Battalion was based.

58. The Commission was told by survivors that on the morning of 16 September, Indonesian soldiers and Hansip took a large group of civilians, including women and children, to the village of Caraubalo. The villagers were taken to a location called Welamo where they were told to stand in a hole created by a landslide, and they were then executed by the soldiers and members of Hansip.[37] The Commission has compiled a list of the names of 54 victims executed at Caraubalo.

59. On 17 September, Indonesian soldiers approached a large group of civilians from Kraras who had fled to the nearby village of Buicaren. The village was surrounded and those from Kraras were detained. The men were separated from the women and were told that they would be marched to Kraras under the supervision of the military to bring food. According to evidence received by the Commission between 6 and 8 Indonesian soldiers and two East Timorese Hansip escorted dozens of men to the Wetuku river in an area known as Tahuben. They were then shot. Only four people are reported to have survived the massacre. There are conflicting reports about the number of victims killed at Tahuben, with figures ranging from a low of 26 to a high of 181.[*] The Commission has received the names of 141 victims, all of whom were male.[†]

Economic and property violations – collateral damage or deliberate strategy?

60. In terms of the laws of war, civilian property[‡] can only be destroyed justifiably when its destruction is necessary and proportionate to achieving military objectives.[38]

61. Information gathered by the Commission indicates that the destruction and theft of property was itself a central military objective, and not a collateral effect of the attacks. The Commission received statements about 1,256 cases of the burning and destruction of homes, destruction of livestock and crops, stealing and looting of property. Although much of this destruction came about because of indiscriminate attacks, there is also considerable evidence that civilians who were suspected to be pro-independence were deliberately targeted by ABRI/TNI in violations of such economic rights, at different periods of the conflict ranging from the earliest days of the invasion through to the destruction after the ballot in September 1999.

62. Analysis of statements made to the Commission indicates that violations of civilian property and economic rights were invariably accompanied by other direct violations to civilians such as arrests, detention, torture or killing.

* CAVR Interviews with: António Soares, (undated) who cited 79 killed; Miguel Viana, Viqueque, 17 July 2003, who cited 181 killed; Silvino das Dores Soares, Viqueque, 10 March 2004, who cited 143; Manuel de Jesus Pinto, Buicaren, Viqueque, 20 March 2004, who said that he counted 82 bodies.

† The list of victims from this massacre is also included in full in Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances.

‡ Article 52, Additional Protocol to the Geneva Conventions, which is also recognised as customary law. See J. Henckaerts and L. Doswald-Beck, *ICRC's Customary International Humanitarian Law*, *Vol I: Rules*, (2005) pp. 25-26.

63. Violations of economic and property rights were an integral component of Indonesia's military policy during this period. They were employed for a number of reasons, including punishment, the destruction of resource bases and the institution of a system whereby collaborators would be rewarded materially by forcefully diverting the property of political opponents to them.

64. The nature and extent of the destruction of civilian property during the invasion and its aftermath bear a striking similarity to the events of September 1999, when a "scorched earth" policy led to the TNI and its agent militias burning and destroying approximately 60,000 houses and the majority of government infrastructure in Timor-Leste in just a few weeks.[39]

1975–1977

65. The Commission collected evidence of deliberate theft and property destruction by Indonesian forces from the start of the invasion. A former member of UDT who joined the East Timorese Partisan forces who assisted ABRI/TNI in the full-scale of the invasion, Rui Emeliano Teixeira Lopes, described the looting by Indonesian soldiers:

> *On the morning of 7 December 1975, Kopassus [known as RPKAD back then], Ranger, Kujang, Kostrad and Marines landed in Dili. We stayed on the ship. We saw fire spreading and we heard gunfire, but we didn't land because they didn't need us. When we headed for Baucau, we just saw that ABRI took people's cars and suitcases and loaded them onto the ship. We didn't like what we saw at all. Were we in a war or in a robbery? This kind of theft did not only happen in Dili [and Baucau], but also in Balibó and at the Maliana Hospital.*[40]

66. Partisans were accused of widespread destruction and looting in Baucau.[41] Comparable accounts were also recorded in the districts of Liquiçá,[42] Ermera,[43] Viqueque,[44] Lautém,[45] and Bobonaro from this period.[46]

67. Following the initial invasion, Indonesian forces sought to consolidate and expand their territorial control. The Commission received reports of theft and the destruction of property from across Timor-Leste during the ABRI/TNI advance, from its Community Profile workshops, including from communities in the districts of Bobonaro (in Atabae and Lolotoe), in Aileu, in Baucau (in Baguia, Quelicai, Venilale, Vemasse), in Viqueque (in Lacluta, Ossu, Uato Carbau, Vemasse) and in Manatuto (in Uaimori). Upon taking charge of a new location, ABRI/TNI forces regularly confiscated or destroyed property, effectively dispossessing and rendering homeless the owners and occupants. Homesteads and other properties were burnt, unharvested crops were destroyed and large herds of livestock were slain. In some locations, the *uma lulik* (sacred house of a clan) and its contents were destroyed.[47] Such gratuitous destruction was indicative of a deliberate intention to undermine East Timorese culture and identity.

68. In many areas, civilians had already fled to the surrounding hills and forests before the Indonesians forces arrived. With their properties undefended, ABRI/TNI had effective *carte blanche* to destroy or steal whatever property they wished.

69. These practices continued relentlessly over the first years of the occupation. The Indonesian military openly admitted this behaviour as part of its standard military practice:

> Operation Pamungkas V, on 6 to 7 March 1978, with the objective of freeing the people in SAS MAUBU [who were] held captive by GPK [ed: Falintil], [was conducted] with the force of 2 Ki [companies] together with Hansip and Danpur-12. The results achieved were 3 people surrendered, 8 houses burned down and 2.5 hectares of cornfield was destroyed.[48]

70. ABRI/TNI was assisted in its offensive actions by a number of surrogate forces, including Partisans, and later civil defence structures such as Hansip and militia groups such as Halintar in the district of Bobonaro. The Commission received numerous reports of the involvement of these proxy or surrogate forces in property theft, either in concert with ABRI/TNI or acting unilaterally.

71. The Commission received numerous reports about the theft of livestock and harvested crops. In addition, valued possessions, including items of cultural importance and financial value such as *tais* (woven cloth), beads and silver coins were also stolen. Domingos da Costa da Silva of Fatuberliu, Manufahi, told the Commission of the theft of a large amount of valuable traditional items:

> *In 1976 we ran to the forest and hid in a place called Orboa in the aldeia of Orlara, until 1978. At one time, a group of members of Hansip came with their leader, L1. They captured my brother, João da Costa, and beat and pulled him like an animal. They also took all of our property including 15* mortens*, 7* belaks*, 7* caibauks*, 15* fucadors*, 30* osan manu liras*, 25 necklaces, 10* sasakis*, 2* loku liman*, 10* buti liman*,* *4 golden combs and 2* murak bulu ayams.* *These things were taken by the perpetrators and we were left with nothing but bruises.*[49]

72. The extent of the reports to the Commission of continuing widespread looting and stealing by Indonesian troops indicates that it must have been known and supported by the senior military hierarchy. Certainly the use of foodstuffs from stolen property eased the need for essential support for the Indonesian troops. Available livestock also provided an opportunity for additional income generation for members of ABRI/TNI. The Indonesian military used East Timorese civilian

* *Morten*: necklace made of orange, stone beads; *belak*: a circular silver breastplate hung from the neck with strong cotton; *caibauks*: horns made from gold or silver tied to head with strong cotton; *fucadors*: a heavy silver or gold wrist chain; *osan manu* liras: large antique portuguese silver coins; *sasakis*: (?) *loku liman*: an upper arm brace made of gold or silver; *buti liman*: a thin silver *bangle; murak bulu ayam*: feathered headdress.

property as an essential element in the support of their military operations. João Pinto Dias told the Commission:

> *In 1976, I had 12 horses. Commander of Kombet, L2 [East Timorese] and his men took my horses. Some of them were shot dead, some were eaten and some were sold. I had more than 40 buffaloes, but Commander L2 and L3 [East Timorese] with his men shot some of them and the rest were taken to be sold in Batugade to people from Atambua.*[50]

73. Property theft and destruction also often followed the execution of civilians. António Soares told the Commission of the murder of his uncle, the burning of his house and the theft of his property by members of Hansip in the village of Esa-isi (Ossu, Viqueque):

> *The Hansips led by L18 with two of his members, L4 and L5 patrolled Esa-isi. They saw Uncle Cristovão and killed him [shot him to death]. Then they burned down our house and took our livestock of 40 buffaloes, 31 horses and 58 goats, as well as 5 barns of rice.*[51]

74. Jacinto Olo Mau said that in 1975 ABRI from Battalion 501 attacked Lahomea (Maliana, Bobonaro) and killed his parents, Bere Soro and Bui Bere. After his parents were killed, and with the house empty, soldiers from the battalion took the opportunity to loot the possessions of victims, after which they burned down the house with the bodies of the victims inside. Jacinto Olo Mau told the Commission:

> *After both my parents were killed and the house was empty, the perpetrators used the opportunity to break in and take everything that belonged to the victims, after which they set the house on fire with the victims' bodies still inside.*[52]

75. The theft of livestock and destruction of crops had direct consequences, as people in many parts of the country suffered from acute food shortages, resulting in widespread hunger and starvation. Reports of hunger and starvation as a result of ABRI/TNI destruction were received from a number of locations including Cailaco and Lolotoe (Bobonaro) and Zumalai (Covalima). Alfredo Moniz Soares reflected to the Commission:

> *In 1977, when ABRI attacked and there was no opportunity to look for food, many members of my family died of starvation and lack of medicines. Additionally, the perpetrators [ABRI] also burned our homes and seized our livestock.*[53]

1978–1979

76. When massive numbers of civilians came down from the mountains and surrendered to the Indonesian military in 1977-78, they were not generally allowed to

return immediately to their home areas. Held first in transit camps, many continued to be held in ABRI/TNI-controlled detention centres or resettlement villages for years (see Vol. II, Part 7.3: Forced Displacement and Famine). When they did return to their places of origins many found their villages and homes had been looted and burned. While the Fretilin/Falintil bases had been destroyed and the form of armed resistance had been fundamentally altered, the war was not over and it continued to have a critical impact on all aspects of civilians' lives. The civilian population no longer lived with the armed resistance in the interior, but during this period were held in conditions of intense control by the Indonesian military whose objective was to ensure that the civilian population was not able to contact and support the Resistance. Surveillance, intelligence gathering and severe control of civilian movement were day to day realities for most civilians in these ABRI/TNI controlled camps. ABRI/TNI continued to destroy crops and steal property as a form of punishment, intimidation and economic opportunism. Many people held in the camps were subjected to beatings and other physical violations by the Indonesian armed forces.[54]

77. A known past association with Fretilin invariably resulted in being targeted by the Indonesian military. East Timorese aligned with the occupying forces were also able to take advantage of the situation. José António told the Commission that former members of UDT took his land during 1979, in Beikala, (Hato Udo, Ainaro) because of his background as a Fretilin member.[55] Another deponent told the Commission that he was arrested by the ABRI/TNI in March 1979, tortured in connection with Fretilin activities and then forced to surrender his coffee plantation.[56] Others continued to be targeted because of suspected links to resistance fighters who remained in the forest.

78. Reports of theft and the confiscation of property by Indonesian security forces from those surrendering were received from the districts of Bobonaro,[57] Baucau (in the sub-districts of Laga,[58] Vemasse,[59] Quelicai[60] and Baguia[61]), Manufahi,[62] Manatuto,[63] Covalima,[64] Ermera,[65] Viqueque[66] and Oecussi.[67] In some cases this was accompanied by beatings and torture.[68]

79. In Lautém, renewed efforts by ABRI/TNI in 1979 to locate Fretilin/Falintil forces resulted in further civilian deaths.[69] Maria Alves surrendered to the Indonesian military in 1979 in the old town of Fatuberliu (Fatuberliu, Manufahi). She told the Commission of the destruction of her property:

> *I was ordered by ABRI and Hansip L6 and L19, to build a house and make a paddy field. After building the house and making the field, I was told to move again to Sukaer Laletek by the Sub-district administrator, L7 [East Timorese], and ABRI. Then the crops I planted such as papaya and cassava were destroyed. The house I built was also destroyed.*[70]

1980s

80. By the end of 1979, there were only a few locations in a few districts that remained under Fretilin/Falintil control. In the early 1980s, while some civilians remained in

resettlement camps under the direct control of the Indonesian military much of the civilian population had returned to their homes. During this period ABRI/TNI had developed a territorial capacity which ensured that there were military posts based in villages across the entire territory. Civilians lived under close scrutiny by ABRI/TNI and the East Timorese auxiliaries such as Hansip and Babinsa (see Vol. I, Part 4: The Regime of Occupation).

81. The numbers of reported economic violations received by the Commission were considerably less for this period than the preceding four years. Between 1980 and 1989, ABRI/TNI operations were focused on destroying the remaining Fretilin/Falintil forces, and often concentrated in specific areas of the country to carry out this campaign.

82. In mid-1981, the Indonesian military launched Operation Kikis,* as noted in the section on Indonesian military attacks on civilians and civilian objects, above. The Commission received reports that during these operations, ABRI/TNI and members of Hansip continued to burn houses, steal livestock and property, and destroy crops and other food supplies.[71] The Commission, for example, received 43 reports of civilian homes being burned in the village of Mau Chiga (Hato Builico, Ainaro) between 20 and 24 August 1982 by ABRI/TNI and members of Hansip.

83. As Indonesia consolidated its control over the territory, it began to focus its actions and attention on specific locations, communities and individuals thought to be linked to the Resistance. Efforts by the Indonesian military to close down clandestine activities supporting the Resistance resulted in widespread intimidation and repression. Across the country arrests, beatings and torture continued to be accompanied by theft and the destruction of property.[72]

84. As ABRI/TNI attempted to exert control over civilian populations who had returned to their home areas, they relied heavily on their East Timorese auxiliaries such as Hansip and Babinsa. Conditions were very repressive for civilian communities and at times there were tensions between members of ABRI/TNI and their East Timorese auxiliaries. There were several internal rebellions from these auxiliary forces in the early 1980s, which resulted in harsh retribution against the civilian population by ABRI/TNI. In August 1983, following a mass desertion of civil defence Hansip and Ratih members from ABRI/TNI in Tutuala (Lautém), the Indonesian military retaliated by killing scores of livestock owned by the families of the renegade auxiliaries.[73]

85. The collective punishment meted out by ABRI/TNI against the civilian population of Kraras (Lacluta, Viqueque) in September 1983, reported in the

* In Timor-Leste it was known as Operasi Kikis. This was the short name for a military tactic known as Operasi Saber Kikis Baratayudha (named after a mythical war in the world of Javanese shadow puppets), also known as Operation "Fence of Legs". It was a technique of using tens of thousands of civilians as a human shield that literally moved in front of ABRI forces in a massive coordinated effort to flush out Fretilin/Falintil forces. This technique was first used during the Darul Islam insurgency in the 1950s. See for example Ken Conboy, KOPASSUS, *Inside Indonesia's Special Forces*, Equinox Publishing (Asia), Jakarta, 2003, pp. 297-8. See also Vol. I, Part 3: The History of the Conflict; Vol. II, Part 7.3: Forced Displacement and Famine.

section on Indonesian military attacks on civilians and civilian objects, above, also included acts of destruction of property. Houses were burned and livestock killed by members of the Indonesian military in retribution for the revolt by East Timorese Hansip and Ratih. The social and economic impact of these actions and the large-scale massacre of the men of the village continues to disadvantage this community to the current day.

86. Across the country throughout the 1980s the Indonesian military operational objectives were aimed at breaking the clandestine network between Falintil and its civilian supporters. ABRI/TNI with the help of militia members forced civilians to participate in Operation Curlog,* aimed at destroying food stocks in order to starve the Falintil.[74] Civilians were targeted, their houses burnt and possessions taken.[75] In addition, ABRI/TNI also confiscated people's food supply (see Vol. II, Part 7.3: Forced Displacement and Famine).[76]

The 1990s

87. During the 1990s, although ABRI/TNI maintained a significant presence across Timor-Leste it was generally no longer involved in ongoing large-scale military operations. The strategy of the Resistance shifted from direct armed conflict with ABRI/TNI to one focused on international diplomacy and urban resistance based largely on the growing youth movement. ABRI/TNI operations primarily targeted civilians suspected of involvement in clandestine activities supporting the Resistance. These operations were often supported by Hansip and other East Timorese quasi-military organisations developed during this period (see Vol. I, Part 3: The History of the Conflict; Part 4: The Regime of Occupation). The Indonesian riot police, Brimob, also played a very active role clamping down on dissent in this period.

88. This ABRI/TNI strategy invariably involved violent attacks on civilians. As for the periods in the 1970s and 1980s, the Commission received numerous reports of the destruction of houses and other property, as well as theft and extortion based on the threat of violence. The Commission also received a number of reports implicating members of the Indonesian police service in violent abuses, and the destruction of property and extortion during this period.

89. As in earlier periods, theft and property destruction is best understood as a deliberate form of punishment. Houses were burnt if the owners were suspected of supporting or sympathising with Falintil forces.[77] A person from Ainaro told the Commission that ABRI/TNI soldiers burned down his house in November 1991 shortly before the Santa Cruz Massacre, on suspicion that he possessed an RDTL flag.[78]

90. Another deponent from Liquiçá told the Commission that he was arrested for being in possession of a Fretilin flag, and was only released after his wife gave

* Curlog (*hancur logistik*) literally means the Destruction of Logistics. It aimed to destroy all kinds of crops that could be used by Falintil. It deprived both Falintil and civilians of food as crops were destroyed (see Vol. I, Part 3: The History of the Conflict; Vol. II, Part 7.3: Forced Displacement and Famine).

Rp300,000 and seven silver coins to an ABRI/TNI commander.[79] The Commission received a number of statements from different parts of the country, revealing how extortion by the military and the police had become common practice during this period. Often, individuals were detained and only released if they were able to pay the officers in charge. Families were often obliged to pay for the release of loved ones, and payments of between Rp100,000 and Rp1,800,000 were reportedly paid.[80]

91. Such practices were largely opportunistic, and much depended on the specific military officers involved. Actions targeted the clandestine activist community. In Baucau, ABRI/TNI soldiers confiscated people's properties and valuables and extorted money from civilians they accused of collaborating with the Resistance.[81]

92. In Dili, following the Santa Cruz Massacre in November 1991, ABRI/TNI searched houses across Dili to find the demonstrators who escaped from scene of the shooting. The Commission received statements attesting that those found harbouring demonstrators, or who were found in possession of pro-independence literature or materials, had their house burned.[82]

93. Similar reports of violence, arson and extortion during the 1990s were collected in Ermera. Various military units, including the Linud 700 (Airborne), were identified as perpetrators.[83]

94. Falintil attacks against ABRI/TNI during this period were generally limited to strategic moments, in which it aimed to gain maximum psychological impact as a reminder of their continuing presence and capability, or international impact to highlight that the conflict continued (see Vol. I, Part 5: Resistance: Structure and Strategy). When attacks did occur, the Indonesian military practice of collective punishment against the civilian population was routinely applied. On 9 November 1998, Falintil attacked the Koramil in Alas (Manufahi). ABRI/TNI launched a massive operation in an attempt to capture the Falintil attackers. During these operations civilians were murdered, detained, sexually assaulted and their property destroyed (see Vol. II, Part: 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment and Part 7.7: Sexual Violence).[84] The Commission also received testimony from José Tilman who was a civilian who participated in the ABRI/TNI destruction of property:*

> *On 12 November 1998, L12, and L13 [both East Timorese] and other Koramil soldiers burned people's houses in Lurin. They started in Kulutetuk and finished in Hasbot. In Natarwaen, the destruction also included traditional objects and private possessions. The attackers also ransacked sacred objects, such as statues of saints. I was with the soldiers in Natarwaen. First, they burned Rémigio's house, then other houses...Before that, they had ordered the villagers to abandon the village and detained them in an elementary school building (SD Inpres Alas Town), about 10 metres from the Koramil 02 Office.*[85]

* José Tilman was in Soe (West Timor, Indonesia) when he made this statement to the Commission.

Destruction in 1999

95. With the fall of President Soeharto in May 1998, political space in Timor-Leste appeared to open through the second half of the year. Unprecedented rallies and calls for a referendum on the political status of the territory went ahead unhindered by the Indonesian military or authorities. However, this “Dili Spring” was shortlived. Reports of TNI troop reductions were proved false, and by late 1998 TNI was reportedly establishing a network of militias across the territory. This programme was developed rapidly in the early months of 1999 as Indonesia, Portugal and the UN negotiated the modalities for an act of self-determination in Timor-Leste (see Vol. I, Part 3: History of the Conflict and Part 4: The Regime of Occupation).

96. With the signing of the 5 May Agreements and the announcement of the Popular Consultation, the CNRT (Concelho Nacional da Resistência da Timor-Leste, National Council of Timorese Resistance) and students organisations began to organise openly across the territory in preparation for the vote on Timor-Leste’s future.

97. The recruitment, forced and otherwise, of civilians into the TNI-backed militias increased rapidly in the early months of 1999. With TNI and the Indonesian police, they began a campaign of terror aimed at intimidating the East Timorese people to support integration with Indonesia. Major acts of violence and the patterns of violence and intimidation are considered in detail in a number of parts of this Report, including Vol. I, Part 3: History of the Conflict and Part 4: The Regime of Occupation; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances and Part 7.3: Forced Displacement and Famine; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment and Part 7.7: Sexual Violence. Economic and property violations were also a common element of this programme of terror and intimidation. These occurred before the announcement of the 5 May Agreements and the Popular Consultation, in the lead-up to the ballot, and in the notorious campaign of violence after the announcement of the result rejecting integration with Indonesia.

98. A quantitative analyis of statements taken by the Commission reflects certain patterns of human rights violations, intimidation and violence perpetrated by TNI and the militia between January and October 1999. In particular, they indicate that large-scale attacks generally occurred in the periods when there was limited or no international presence in the territory: for example, in the period January-April before the 5 May Agreements were signed and UN and other internationals deployed to the territory; and in the period after the announcement of the results of the ballot when most internationals, including media, had either left or evacuated the territory, or were trapped in the UNAMET compound in Dili, leaving district communities entirely isolated from international monitoring. This quantitative analysis also indicates that property destruction by TNI and the militias occcured in all districts of the territory, although the scale of destruction differed between districts and sub-districts (see Vol. I, Part 6: Profile of Human Rights Violations).

99. By the time President Habibie made his announcement on 27 January 1999 that the people of Timor-Leste would be allowed to choose their political future, the

short-lived "Dili Spring" was already over. Following the TNI attacks on civilians in Alas (Manufahi) in November 1998 and the increase in recruitment of militia, TNI and militia violence increased in the territory while negotations continued to finalise the modalities for an act of self-determination.

100. At the end of March, negotiations broke off while Indonesian representatives returned from New York to Jakarta to seek final approval of the Agreements. The month of April saw an escalation of violence by the Indonesian military and the militias under its control, targeted against civilians. The massacre of civilians in the Liquiçá Church on 6 April was one of the most notorious attacks on civilians, coordinated by TNI, the police and militia (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

101. With the UN yet to arrive in the territory, this violence was openly organised, to the extent that on 17 April a mass rally in front of the government building on Dili's waterfront was held with the senior leadership of the militias and the TNI present. The Commission has examined film footage of this rally, identifying the presence of TNI members as well as militia leaders such as Eurico Guterres and João Tavares. Immediately after the attack, militia paraded around the city in trucks and on motorbikes intimidating the civilian population. They attacked and massacred refugees sheltering in the house of Manuel Carrascalão in the centre of the city.

102. TNI and militia also destroyed a house belonging to Filomena da Cruz, a Zone secretary of the clandestine movement.[86] The offices of the only newspaper in the territory, *Suara Timor Timur* (Voice of East Timor), were also destroyed in what was apparently an act of retribution and intimidation due to the normally pro-integration newspaper's relatively open reporting of calls for a referendum on the future of the territory (see Vol. I, Part 3: History of the Conflict).

103. In Liquiçá, the military and Besi Merah Putih [BMP] militia members were implicated in a series of house-burnings, lootings and thefts from early 1999.[87]

104. Similar accounts of direct military involvement in attacks and intimidation of the civilian population during this period were reported to the Commission in different parts of the country. Reports of such violence in this period were received from the districts of Bobonaro,[88] Baucau,[89] Viqueque,[90] Manufahi,[91] Covalima,[92] and Ermera.[93] A former commander of the Darah Merah Putih militia, which operated one of the sub-districts of Ermera during this period, told the Commission:

> *In April 1999, the commander of Kodim 1637 in Ermera, L20, gave me seven machine guns, one truck, two Kijang cars and one Taft car. I had 200 militia members, who were recruited to kill pro-independence supporters in Hatolia. I attacked Hatolia with the 200 militia...We burned houses in the* aldeia *of Kukara and the village of Manusae Kraik. People fled their homes to save themselves.*[94]

105. Many people fled their homes across the territory in fear of such attacks, leaving their houses and property vulnerable to destruction and looting (see Vol. II, Part 7.3: Forced Displacement and Famine).

106. The enclave district of Oecussi was particularly vulnerable, completely surrounded by Indonesian territory and cut-off from the rest of the Timor-Leste. Although the Sakunar militia in this district was one of the last to be established by the TNI, in April 1999, it was to prove one of the most violent. Most of the adult male population was forcibly recruited into the militia, using various forms of violence including arrests, detention, intimidation, torture, and destruction of properties to scare civilians.[95] As in other districts, the militia immediately set about burning property and looting. Those targeted included the general populace, as well as specific pro-independence supporters, CNRT activists and leaders. In addition, reluctant militia members were also targeted by TNI and pro-autonomy supporters. The Commission also received reports that pro-independence supporters were also forced to burn the homes of their leaders.[96]

107. Following the announcement of the 5 May Agreements, pro-autonomy supporters reacted hostilely, publicly threatening terror, murder, detention, rape and destruction of houses and property. Within days TNI and militia conducted joint attacks against civilians suspected of pro-independence sympathies in districts across the country.[97] In an attack in Atara and Lasaun (Atsabe, Ermera) on 16 May 1999, SGI (Joint Intelligence Force) and the Tim Pancasila militia burned houses, destroyed crops, and looted the property of civilians in both villages.[98] There were also several large-scale attacks. On 8 May, three days after the UN announcement, a group of TNI soldiers led over 400 militia members in an attack on the village of Tumin (Oesilo, Oecussi) where they burned houses, slaughtered animals, killed a number of civilians, and forced more than 75 people to go to Imbate (West Timor, Indonesia).[99]

108. With UNAMET deployed from June, together with large numbers of international media and observers, the scale of violence by TNI and militias generally subsided across the territory. However, there were still particular places or periods when the violence increased. This was particularly so during the final lead-up to the ballot. For example, in August the TNI and militia groups intensified the violence in Oecussi, targeting CNRT leaders and supporters. On the morning of 28 August 1999, a joint force of Sakunar and Besi Merah Putih militias from Liquiçá, together with TNI and members of the Indonesian police, attacked the CNRT Office in Oecussi, razing it to the ground and killing two CNRT supporters who were trapped inside the building.[100] On the same day a joint attack by Sakunar, Aitarak and Besi Merah Putih militias, acting together with TNI and the Indonesian police, resulted in the looting and burning of houses in the towns of Cruz, Bobometo, and Oesilo in Oecussi.[101] Three days later, TNI, the militias and the police burned 120 houses in the *aldeia* of Debaha in the village of Bobometo (Oesilo, Oecussi).[102]

109. When the East Timorese people voted overwhelmingly to reject the option of special autonomy and to opt instead for independence the Indonesian military, with the militias, executed a scorched-earth campaign that forced more than 300,000 people to flee to the interior of the territory, and a further 250,000 to West Timor.[103] While some people may have chosen to leave for West Timor voluntarily, in general

it was a military-coordinated campaign of fear and terror to transport the population outside the territory. Inside the territory, the Indonesian military supported and coordinated a massive operation of destruction of private and public property across the territory. The bulk of Timor's infrastructure was also razed to the ground, over 60,000 houses were estimated to have been destroyed with people's possessions, and livestock was slaughtered across the territory.[104] During Community Reconciliation Hearings facilitated by the Commission between 2002 and 2004 across the territory, a common refrain from victims of this property destruction was their continuing plight of extreme poverty caused by these violations (see Vol. IV, Part 9: Community Reconciliation).

110. The Commission received statements and reports during its Community Profile workshops of violence after the ballot by the Indonesian military and militias from every district. Many highlighted the fact that the Indonesian military and the militias conducted operations together, for example in Ermera,[105] Manatuto,[106] Manufahi,[107] Baucau,[108] Viqueque,[109] Covalima[110] and Oecussi.[111]

111. The Commission received the largest number of statements about violations during the post-ballot period from the district of Oecussi.* Hundreds of villagers from the sub-district of Oesilo had been forced to join the Sakunar militia and then subsequently forced by the Indonesian military to burn houses in the sub-district of Bobometo (Oesilo, Oecussi) and other locations.[112] Statements made to the Commission explain that these were often were well coordinated and large operations. As elsewhere, attacks often involved militia members with both police and military assistance.[113]

112. The Commission received over 200 statements from the district of Bobonaro in relation to property crimes during 1999. Many of these included detail on joint militia, military operations and attacks.[114]

113. While the pattern of the burning of houses, the slaughtering of livestock and the destruction of food crops was similar to earlier periods of the conflict, the scale of devastation in such a condensed period of time was unprecedented. As in the 1970s and 1980s, there is no evidence of any meaningful attempts to avert or halt these abuses by the Indonesian police who had responsiblity for maintaining law and order and security, under the 5 May Agreements. Neither is there evidence of the Indonesian military seeking to prevent this destruction once it was given responsbility for law and order under the decree for martial law issued by President Habibie in early September 1999. On the contrary, there is overwhelming evidence that the Indonesian military were primary perpetrators in these violations. Evidence of collusion between the military and the various militia groups across the territory is clear and damning. Contemporaneous reports were reinforced by hundreds of statements submitted to the Commission of people who witnessed the direct involvement of military and police members in this violence (see Vol. I, Part 4: The Regime of Occupation; Vol. II, Part 7.2: Unlawful Killings

* 110 statements referred to 117 cases in which ABRI/TNI and militia groups were mentioned as perpetrators of violence.

and Enforced Disappearances and Part 7.3: Forced Displacement and Famine; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment and Part 7.7: Sexual Violence; Vol. IV, Part 8: Responsibility and Accountability).

114. Allegations of military collusion and direct involvement in the violence were further corroborated by statements given to the Commission by former militia members, as well as statements provided and testimonies made by former militia members made at Community Reconciliation Hearings across the country.[115] In addition, Community Profile reports compiled by the Commission from workshops it conducted in villages across the country also recorded the involvement of the Indonesian military in this massive operation of property destruction across the territory.[116]

115. The Commission also received a submission detailing the looting of the national museum in Dili of hundreds of East Timorese cultural and historical artefacts. The submission outlined that members of TNI prepared trucks, loaded the artefacts and drove them to West Timor, Indonesia, where they remain today.*

Mistreatment of enemy combatants

116. International law provides clear protections for captured combatants. Usually when a combatant falls into enemy's hands he is entitled to Prisoner of War (POW) status. This includes those who fall within any of the following groups:

- members of armed forces;
- people who spontaneously take up arms to resist an invading army, and who have not had time to form themselves into organised units, but who carry their weapons openly (sometimes referred to as a *levée en masse*); and
- resistance fighters or members of militias who have complied with certain rules requiring them to distinguish themselves from civilians.[117]

Status of Falintil

Falintil were not the armed forces of a state party to the conflict, and as they were not merely civilians who spontaneously took up arms against an invading forces they cannot be said to constitute a *levée en masse.* Falintil could therefore be entitled to POW status only if they complied with the requirements set down in the Third Geneva Convention for

* The Commission received a Submission based on an interview with Virgilio Simith, who in 1999 was a senior member of CNRT responsible for cultural affairs. Virgilio Simith recounted that nearly 3,000 cultural artefacts and objects were taken by Indonesian authorities from the museum in Comoro, Dili in September 1999 and have not been returned. [Interview with Virgilio Simith, 7 July 2005 by David Hicks, Maxine Hicks and Phyllis Ferguson, Submission to the CAVR. CAVR Archive. See also Vol. I, Part 3: The History of the Conflict].

resistance movements, militias and other similar groups.[118] These requirements are as follows:

- The group in question must be commanded by a person responsible for his subordinates (that is, the group must have an effective command structure).
- Members of the group must wear a fixed distinctive sign recognisable at a distance. The purpose of this requirement is to enable the enemy to distinguish members of the group (who are legitimate military targets) from civilians (who are not legitimate targets). For this reason it seems likely that under customary law it has been subsumed by the more liberal requirement that members of the group must distinguish themselves from civilians in some way.*
- Members of the group must carry their arms openly.
- The group must generally conduct its operations in accordance with the laws and customs of war.

The Commission is satisfied that the members of Falintil sufficiently complied with the above requirements for them to be considered privileged combatants for the purposes of this Report.

Falintil had relatively strict and enforced command structures and discipline, carried arms openly and generally conducted their operations in accordance with the laws and customs of war. At the commencement of the conflict members of Falintil wore the uniforms of the Portuguese armed forces. By 1978 many of these uniforms had become worn and were at various times replaced with other military fatigues. However the combination of the available uniforms and insignia and other very distinctive features, such as Falintil members adopting an exclusive and uniform policy of wearing extremely long hair, made them easily distinguishable from a distance. Civilians during the conflict cut their hair short so that they would not be considered to be Falintil members by the Indonesian military forces.[119]

117. If it is unclear whether a person is entitled to POW status, he must be treated as a POW until his status is determined by a competent tribunal.[120]

* Article 43(3) First Additional Protocol to the Geneva Conventions 1977. It seems likely that this broader requirement either reflected pre-existing custom in 1977 or became customary soon thereafter: see Christopher Greenwood, "Customary Law Status of the 1977 Geneva Protocols", in Astrid J.M. Delissen and Gerard J. Tanja (eds), *Humanitarian Law of Armed Conflict: Challenges Ahead*, Dordrecht, Martinus Nijhoff, 1991, p. 107.

118. Prisoners of war must be treated humanely.[121] They must not be tortured, killed or subjected to intimidation or insults.[122] They must be provided with food and water and any necessary medical treatment.[123] They must be held away from areas in danger of attack during military activities.[124]

119. Combatants who are not POWs are still entitled to certain standards of treatment. In all cases they must be treated humanely.* They are also protected by human rights law, which forbids extra-judicial killing, torture and arbitrary detention, and guarantees rights to a fair trial. Additionally, the Fourth Geneva Convention provides that persons in occupied territories who are suspected of acts hostile to the occupying power must be treated with humanity and are entitled to a fair trial.[125]

120. The Commission obtained a copy of an official Indonesian document that set out interrogation procedures for surrendering or captured civilians and Falintil soldiers. The document recognises that in order to extract good quality information, it is necessary to ensure the safety of prisoner(s) under interrogation. Techniques included convincing prisoner(s) that ABRI/TNI was aware of the dangers their prisoners faced from Fretilin/Falintil in retribution for divulging sensitive information. The document also highlighted acts to avoid during interrogation, such as forcing the interrogator's will on prisoners, the use of force and threats or drawing rash conclusions.[126]

121. In reality, prisoners, and in particular Falintil soldiers, were invariably subjected to torture during interrogation. Some were deliberately killed and others died as a result of injuries sustained during interrogation. Vol. III, Part 7.4 of this Report, on Detention, Torture and Ill-Treatment, provides detail of these procedures and establishes that the *modus operandi* of interrogation were essentially illegal.

122. The period of Operation Seroja by the Indonesian military, in the years immediately following the invasion in 1975, saw the greatest number of Fretilin/Falintil soldiers being captured or surrendered. The Indonesian military implemented specific operations to try to convince senior Fretilin/Falintil leaders to surrender, such as Operation Skylight (see Vol. I, Part 3: History of the Conflict). In addition, President Soeharto introduced an amnesty for surrendering Fretilin/Falintil members in 1977. Both initiatives failed to ensure the protection of surrendering or captured Fretilin/Falintil members, many of whom were tortured and executed or disappeared (see Vol. I, Part 3: History of the Conflict; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment). It has not been possible to determine how many Fretilin/Falintil members suffered this kind of treatment during the early years of Operation Seroja in the 1970s.

123. Statements to the Commission provide some insight into the treatment of captured Fretilin/Falintil soldiers, including torture and ill-treatment.[127] Many

* More specifically, by application of the Martens Clause (set out in the Hague Convention IV of 1907 and a number of other conventions), the "principles of humanity" apply: see Report of the International Law Commission on the Work of its Forty-sixth Session, 2 May-22 July 1994, GAOR A/49/10, at p. 317; *Advisory Opinion* on the Threat or Use of Nuclear Weapons (1986), ICJ Reports at para 78 and the Dissenting Opinion of Judge Shahabuddeen.

disappeared in custody, were never seen again and are presumed dead.[128] As large numbers of civilians came down from the mountains after massive military operations aimed at destroying the Fretilin bases throughout 1978, the Indonesian military tried to identify those it considered Fretilin/Falintil members. They also interrogated civilians to try to find out information about the remaining Resistance forces in the mountains. For example, the community of the village of Lifau (Laleia, Manatuto) explained to the Commission how ABRI/TNI interrogated a group captured from their village. Three men were exposed as Fretilin/Falintil leaders, and the Commission was told that they were executed by the Indonesian military.[129] Terms such as "re-education" or "bathe in the sea" or "go swimming" became euphemisms for extra-judicial executions by the Indonesian military.[130]

124. In 1980, after the uprising by the Resistance in its attack on the television station in Marabia on the outskirts of Dili, the Indonesian military retaliated with brutal treatment of those suspected of involvement with the Resistance. Hundreds were detained and tortured, and a large number were executed or disappeared (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment). Accounts of similar violations against Fretilin/Falintil were recalled during the implementation of Operation Kikis in 1981.[131]

125. The Commission received a number of reports of ill-treatment as well as the killing of captured Falintil soldiers in the 1980s.[132] In 1984, for example, a battle broke out between Falintil and ABRI in the forest around Manatuto, in which three Falintil soldiers were captured by ABRI/TNI and taken to Dili. One soldier was placed into a drum full of water for two hours, forced to sleep in wet clothes and beaten with a piece of wood in the head, legs and hands every night for a week.[133] The mistreatment of combatants and civilians continued during the 1990s,[134] confirming allegations that ABRI/TNI's treatment of captured combatants violated international legal principles.

126. The Commission recognises that because of the limited time and resources allocated to its work, and its limited access to Indonesian military records, many cases of ill-treatment and killing of captured or surrendering Falintil soldiers were not reported during its information gathering activities. Further research concerning the experience of Falintil/Fretilin forces during this period is recommended to enrich the material collected by the Commission.

Unlawful means of warfare

127. Humanitarian law limits the range of weapons and techniques ("means of warfare") that may be used to cause harm to opposing forces.[135] Two general principles apply:

1. It is forbidden to use means of warfare which cause superfluous injury or unnecessary suffering.[136]
2. It is forbidden to use means of warfare which do not allow the attacker to distinguish between military targets and civilians ("indiscriminate means").[137] This prohibition would include tactics such as the poisoning of water or food supplies,[138] and attempts to starve populations.[139]

128. The Indonesian invasion of Timor-Leste in 1975 was a large-scale military operation, involving thousands of troops using both heavy and light combat equipment. An official military document that the Commission obtained listed weapons and ordinance used during operations in Timor-Leste.[140] Much of this ordinance has a primary purpose of large-scale destruction, yet ABRI/TNI frequently used these bombs in their operations to destroy non-military targets including civilian houses, food crops, rice fields and even civilians, reflecting a disproportionate use of force.

129. The Commission also secured information about the types of ammunition employed by the Indonesian military during its operations in Timor-Leste.[141] Although the law permits the use of the ammunition types listed for military operations targeting the enemy's armed forces and certain military targets, or civilian targets that have been employed for military purposes, these ammunitions cannot be used against civilians during military operations, or in a manner in which it is impossible to discriminate between combatants and civilians. The Commission also received a report claiming that ABRI/TNI planted landmines in or around civilian buildings. The community of the village of Maneluma (Laulara, Aileu) told the Commission that in 1978 many villagers surrendered to the Indonesian military. At this time, one member of the community, Aurelia Daumali, was reported to have stepped on a landmine while searching for food around the church, and died.[142]

130. The Commission received statements relating to 285 aerial bombings by the Indonesian military between 1975 and 1999, 125 of which provided detail on how the bombings caused civilian deaths, the destruction of houses, as well as other buildings and crops. The bombings occurred in all districts with the exception of Oecussi. Most reports received related to bombings that occurred in 1978, as the Fretilin *zonas libertadas* (liberated zones) came under intense attack which caused many civilian deaths and ultimately resulted in destruction of the zones and many thousands of civilians surrendering to ABRI/TNI forces (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances and Part 7.3: Forced Displacement and Famine).

131. Several Commission Community Profile reports confirm that the aerial bombardment killed a significant number of civilians fleeing from the invasion. The Commission received a number of reports confirming the use of chemical or biological weapons by the Indonesian forces against both civilian and military targets.* Village communities in a number of locations told the Commission of large death tolls due to such poisoning after Indonesian aerial bombardments. A Community Profile workshop in the sub-district of Atsabe (Ermera) reported that bombing in their areas during 1976 and 1977 caused limb paralysis and subsequent death, and said that as many as 2,500 are believed to have died from the related poisoning.[143] A similar experience occurred in Laclo (Atsabe, Ermera) and Paramin (Atsabe, Ermera) in January 1977. Approximately 1,500 members of the community who had moved to Cailaco in Lesumau (Atsabe, Ermera) to avoid starvation died after

* Several statements (see for example, HRVD Statement 04078) contained detail about the bombs that indicate that these were more than simply standard ordinance. [See also CAVR Interview with Francisco Barbosa, Manumera Village (Turiscai, Manufahi), 8 September 2003].

consuming vegetables and corn and drinking water. Survivors told the Commission that they believed that this was caused by poison that was dropped by Indonesian bombers.[144] In a subsequent incident in 1978 at the village of Laubono in Lesumau (Atsabe, Ermera) large numbers of villagers from Lasaun (Atsabe, Ermera), along with Falintil soldiers gathered in Lesumau, died of food and water poisoning during a one-month period after ABRI/TNI bombings.[145] Villagers in Guololo (Letefoho, Ermera) also told the Commission that during June 1978 many civilians in Cailaco (Bobonaro) had died of food and water poisoning.[146]

132. Agusto Soares, then aged 17, told the Commission of civilian deaths due to poisoning in Lesumau between 1977 and 1978:

> *This time, TNI did not drop bombs. Instead it loaded poison into water drums, carried them on planes and dropped them on Lesumau. This caused contamination of all food supplies. Villagers would pick leaves and vegetables, cook and eat them, then die. They would drink water and die. They would dig up cassava roots 15 centimetres deep to eat, then die. Around 400 people died. Most who died came from the village of Katrai Kraik [Letefoho, Ermera], including all the villagers from one part of the village except for one elderly woman and her daughter. Now they still live in the village of Katrai Kraik.*[147]

133. Agusto Soares told the Commission that thousands of those who had fled ABRI/TNI advances from Letefoho (Ermera) to Ermera, Ainaro, Aileu and Cailaco (Bobonaro) sheltered at the Fretilin/Falintil base in Katrai Leten, at the foot of Mount Ramelau (Letefoho, Ermera). Falintil troops gathered these civilians behind the firing line, allowing them to grow crops to avoid starvation. In 1978, the Indonesian military attacked Katrai Leten from Atsabe (Ermera), Same (Manufahi) and Bobonaro. They encircled civilian villages and fired mortars, bazookas and cannons from the four directions, while planes dropped bombs that caused many deaths, resulting in the destruction of the Katrai Leten base and the capture of many civilians.[148]

134. The Commission also received reports of helicopters dropping poison, causing over 200 civilian deaths in the villages of Bora and Manelima (Laclubar, Manatuto).[149] The Commission has been unable to verify the types of bombs used to poison food crops and water, due to its lack of access to Indonesian military records. After the completion of Operation Seroja, the Indonesian military continued to use poison which caused the destruction of plants and vegetation. Community members of the village of Kakae Uman (Natabora/Barique, Viqueque) reported that the Indonesian military poisoned food crops during Operation Kikis in 1981. The community also told the Commission that for one month in 1983, the Indonesian military forced villagers to join an operation in the forest and to poison all food crops, which some claimed was done in order to poison and kill Falintil soldiers who may have relied on them for food.[150]

135. Indonesian forces relied heavily on high-powered bombs that had limited accuracy, resulting in significant civilian casualties even if they were aimed at military targets. The Commission was told, for example, that in 1978 up to 800 people

from the village of Guruça (Quelicai, Baucau) who had fled to Mount Matebian, were killed as a result of aerial bombardment.[151] A number of other reports from communities clearly illustrate the devastation wrought by the sustained bombing campaign during this period.[152]

136. According to Lucas da Costa Xavier, a former ABRI soldier based in Same (Manufahi) who participated in a number of military operations, for two weeks in 1978 the Indonesian military fired rockets in all directions every night, including into suspected Fretilin hiding areas in Tutuluro, Kablaki, Roin and Hola Rua (Same, Manufahi). Lucas da Costa told the Commission that a civilian told him about a related operation, explaining that:

> *The trees and grass would burn when the bombs hit them, and the water would become undrinkable because it was contaminated with poison. Many civilians died from drinking the water contaminated with schrapnel from bombs dropped from the planes, and many died of burns...It was the dry season so the grass burned easily.*[153]

137. Given the description provided to the Commission about many bombings, and the strategic objectives of the military's counter-insurgency campaign, the Commission concludes that incendiary bombs were used during the campaigns. The US-supplied OV-10 Bronco planes that were employed[154] were equipped with light weapons, rockets and "Opalm", a Soviet equivalent of Napalm bought by Indonesia during its campaign in West Irian during 1962.[155] The Commission received copies of Indonesian military propaganda film about the campaigns of the late 1970s, including extensive footage of preparations for bombing raids at Baucau Airport, and footage of raids themselves. In this footage, Indonesian military personnel are filmed clearly loading bombs labelled "OPALM" into the OV-10 Bronco planes at the Baucau Airport. The planes are then shown taking off.[156] In addition an Indonesian military secret document supplied to the Commission provides details of weapons employed, including Opalm bombs, bombs with widespread, non-targeted impact, and use of OV-10 Bronco and Sky Hawk airplanes. The tables below are extracted from this secret Indonesian military document.*

Table 1: Capabilities of tactical planes		
Types of Weapon	**A-4 SKY HAWK**	**OV-10F BRONCO**
Machine guns	Two 30 MM cannons (250 bullets)	4 cannons 12.7 (1600 bullets)
Rockets	6 Pods (42 Rx FFAR-2,75)	4 Pods (28Rx FFAR-2.75)
Bombs	8 bombs	5 bombs

* Official Operational Procedure, No.: PROTAP/3/IV/1988, Capabilities of Tactical Planes, 30 April 1988, the Indonesian Armed Forces, Security Operation Command in East Timor.

Ammunition	Bullets 30 MM	Bullets 12.7 MM
	Rockets FFAR 2,75 inch	Rockets FFAR 2.75 in
	Bombs MK-81-130 Kg	Bombs MK-81-130-Kg
	Bombs MK-82-250 Kg	Bombs MK-82-250 Kg
	Bombs FAB-250 Kg	Bombs FAB 25 Kg
	Bombs OFAB-100 Kg	Bombs OFAB 100 Kg
	Bombs TAL-1-250 Kg	Bombs TAL 1-250 Kg
	Bombs ZHB-100 Kg	Bombs ZHB-100 Kg
	Bombs MK-1-130 Kg	

Table 2: Types of ammunition and their safe range

Ammunition	Capabilities	Minimum Safe Range
Bullets 12,7 MM	Anti-personnel, within a 10 m radius	500 m
Bullets 30 MM	Anti-personnel and capable of penetrating steel, within a 35 m radius	500 m
Rockets FFAR 2,75 inch	Anti-Tanks and anti-personnel, within a 130 m radius	700 m
Bombs KM-1-130 Kg	General purpose, within a 400 m radius	1,700 m
Bombs MK-82-250 Kg	General purpose, within a 540 m radius	2,000 m
Bombs MK-5B-250 Kg	Burn targets, with heat reaching +/- 1,725 degrees Celcius for 15 minutes, within a 600 m radius	2,000 m
Bombs TAL-1-250 Kg	Anti-personnel, within a 260 m radius	2,000 m
Bombs FAB-250 Kg	Anti-personnel and soft targets (houses), radius 495 m	2,000 m
Bombs OFAB-100 Kg	Anti-personnel and hard targets (warehouses), within a 370 m radius	1,700 m
Bombs ZHB-100 Kg	Anti-personnel and burned within a 340 m radius	1,700 m
OPALM	Burn targets with heat reaching +/- 1,725 degress Celcius, within a 400 m radius	1,500 m

138. Table One indicates the importance of foreign-supplied airplanes to attacks, and the significant capability of these airplanes. Table Two verifies the supply of "OPALM" for use in Timor-Leste, as well as bombs listed for use on "soft targets (houses)", and anti-personnel bombs with a significant radius and "burn targets" unlikely to be safely guaranteed to impact only upon military targets if used in mountainous regions close to civilian populations. The document is dated 1988, but the testimonies to the Commission verify the use of OV-10 Broncos in the late 1970s operating bombing raids on areas heavily populated by civilians with terrible effect upon civilians (see Vol. I, Part 3: The History of the Conflict; Vol. II, Part 7.3: Forced Displacement and Famine).

139. Although a treaty prohibiting the use of incendiary weapons such as napalm was not created until 1980,[157] and has never been signed or ratified by Indonesia, most uses of such weapons violate the general principles prohibiting indiscriminate means of warfare and weapons that cause superfluous injury or unnecessary suffering.

140. Adriano João, who was the Fretilin Delegado in Cailaco (Bobonaro) until 1979, told the Commission that in 1977 napalm bombs and rockets were fired from Indonesian military Sky Hawk planes, causing severe skin irritation and death to many civilians.[158] Villagers from Obulo and Butamanu (Atsabe, Ermera) also reported that that the Indonesian military dropped napalm bombs on Atasuro in Lesumau, causing 12 civilian deaths in 1979.[159]

Forced recruitment into military activity

141. Humanitarian law prohibits parties to a conflict from forcing enemy nationals to take part in military operations that are directed at their own country.[160] An occupying power must not compel civilians to serve in its armed or auxiliary forces,[161] and must not use pressure or propaganda to encourage enlistment.[162]

142. Following the late 1975 invasion and subsequent military advances to control the territory, the Indonesian military initiated processes to recruit East Timorese civilians to assist them in operations. From late 1974, the Indonesian military had been training members of the pro-integration political party Apodeti, calling them Partisan forces. Members of the UDT political party who fled to West Timor, Indonesia, after defeat in the internal armed conflict joined the Partisans and assisted the Indonesian military in the cross border operations and ultimately full-scale invasion. Having invaded Dili and Baucau, and already occupying territory in the western districts of Timor-Leste, the Indonesian military began a process of conscripting civilians, especially men and boys, to be used for transporting supplies and other military logistical needs. This ongoing recruitment campaign was known as Tenaga Bantuan Operasi [Operation Assistance Force/TBO]. TBOs often accompanied troops to the front line of battle, carrying ammunition and other supplies. At times they also acted as trailblazers for the Indonesian military, and were even infiltrated into Fretilin *zonas libertadas* (liberated zones) as spies for ABRI/TNI (see Vol. III, Part 7.8: The Rights of the Child, specifically the box on the role of TBOs in military operations).

143. Some specific military operations involved the forced recruitment of civilians. Operation Kikis, as discussed above, for example, required forced participation of civilians on a mass scale (see also Vol. I, Part 3: History of the Conflict); the Tombak (Spear) Troops, as discussed below; forced searches for civilians' family members in the forests and hills; night watch duties in specific communities; as well as forced participation in local civil defence and militia structures.

144. Statements given to the Commission, indicate that the Indonesian military's recruitment of civilians, forced and otherwise, was primarily of adult men, though also included large numbers of children (see Vol. III, Part 7.8: The Rights of the Child). Statements also recount that this recruitment began before the invasion, grew shortly

after the invasion, and steadily increased during the Operation Seroja period from 1975 to 1979. Between late 1979 and 1981, before Operation Kikis was introduced, recruitment dwindled. This increased on a large scale with the massive forced recruitment campaign that accompanied Operation Kikis in 1981. After this operation, the number of recruited civilians continued to fall, before rising again in late 1998 and early 1999.

145. The Commission took statements about 405 individual cases of forced civilian recruitment into Indonesian military operations during the 1975-1979 period. A further 292 cases were recorded during the 1980-1990 period, and this decreased further to 143 cases for the period from 1990 to 1999. The number of recruitment cases increased again at the end of 1998 and early 1999 when the Indonesian military began its campaign of forming pro-autonomy militia groups across the territory. The relatively small number of reported cases of TBO recruitment in the period of Operation Seroja and Operation Kikis, when large numbers of civilians were forcibly recruited to support military operations across the territory, is consistent with public opinion that does not generally regard forced recruitment as a serious violation compared to other violations which were widespread during these years including detention and torture, sexual violence, killings and disappearances and other serious violations.

146. The Commission recognises that not all East Timorese people who participated as TBOs or in other capacities to support the Indonesian military were forced to do so. There were clearly people who became TBOs or other support personnel to ABRI/TNI for a variety of economic, security, personal and political reasons (see Vol. I, Part 4: The Regime of Occupation; Vol. III, Part 7.8: The Rights of the Child, section on child TBOs).

Number of reported acts of forced recruitment, 1974-1999



Source: Database of Narrative Statements Given to the CAVR

Patterns of recruitment

147. In each period of the conflict, conscription and forced recruitment of East Timorese civilians were employed for particular strategic military and political objectives. Over and above the practical benefits of engaging and utilising local "manpower", these practices also served to divide, fragment and ultimately weaken East Timorese communities and society at large, as well as providing a basis for Indonesian propaganda that there was significant support for their presence in Timor-Leste.

148. Although recruitment focused on men, the Commission received clear evidence that both women and children were also compelled to participate in a number of locations during various military operations. Forced recruitment was employed as a tactic of consolidating the invasion, and was even used during the pre-invasion phase when Indonesian forces were covertly infiltrating the western parts of the territory. Odete dos Santos told the Commission of forced recruitment as TBOs even before the full-scale invasion:

> *In 1975, L20, (then District Administrator of Bobonaro) from the UDT party, forced my family and me to move to Atambua [West Timor]. There [Atambua], TNI forced two people, Lesu Bere and Alfredo Lopes, to become TBOs.*
>
> *They later went on an operation in Atabae [Bobonaro] with TNI. Lesu Bere was shot dead by TNI in Atsabe [Ermera]. His body was taken and buried near the border with Atambua. TNI also killed and buried Alfredo Lopes in Maliana [Bobonaro]. His grave is still there today.*[163]

149. During the period of Operation Seroja in the years immediately after the invasion, the Commission received statements about forced recruitment by the Indonesian military from every district in the territory with the exception of Oecussi, which had no military operations at this time.

150. Most TBO recruitment took place in the initial years of Operation Seroja between 1975 and 1979, the years when the Indonesian military undertook large scale military operations across the territory in its efforts to defeat the armed Fretilin/Falintil armed resistance. TBOs were recruited extensively from captured and surrendering civilian groups during this period.

151. Testimonies received by the Commission suggest that the Indonesian military deliberately targeted Fretilin supporters or Falintil members to be made into TBOs. Maumali Sarmento, a 31-year old member of Fretilin, was captured by ABRI on the day the invasion was launched and remained a TBO for the next three years. He told the Commission:

> *On 7 December 1975, when the Indonesian military invasion of Dili took place, I was a member of Fretilin. With two of my friends, Mau Mali and Domingos da Silva, I was forced to become a TBO by members of*

Marinir 1, Zipur 10 and Armed 1 troops. We went along with the troops in operations as far as Metinaro [Dili]. During the three years we were TBOs, our tasks included collecting firewood, cooking, getting water and doing laundry.[164]

152. Similar testimony was received from José Nunes de Andrade, a Fretilin sympathiser who had fled to Same in 1975, where he was captured by ABRI when they overran the area. He was used as a porter carrying supplies by foot over the mountains, and remained a TBO until 1979. Flaviano dos Santos was an armed Falintil member when captured in Atabae (Bobonaro) in 1975.[165] He told the Commission that after he was captured he was forced to carry food and ammunition for two military battalions for 9 months. In 1976, when he was permitted to return to his home area, local East Timorese militia and ABRI personnel had seized his home and other property.[166]

153. In January 1976, when ABRI captured Atabae (Bobonaro), many civilians surrendered to or were captured by them. Agustinho dos Santos Barreto told the Commission that about 400 civilians were forced to become TBOs in military operations around Bobonaro, then in Maubara (Liquiçá), before returning to Atabae where some were permitted to return to their families and others were forced to remain TBOs.[167]

154. A similar account was reported to the Commission by the community of Guruça (Quelicai, Baucau). In May 1978, 500 members of the community surrendered to the Indonesian military after coming down from Mount Matebian. Despite many of the men being sickly and weak, they were forced to work for ABRI and Hansip, with around 60 recruited as TBOs for Indonesian military operations, while the women were forced to take part in night watches.[168]

155. Several reports received by the Commission revealed how Fretilin/Falintil members who had surrendered or had been captured during this period were sometimes forced to return to the forest to search for Falintil. In 1978, for example, Horacio Sousa, who had served with Falintil troops operating in Nunululi (Laclubar, Manatuto), was captured with four others. After spending a week in detention at Fatumakerek-Laclubar, they were given Hansip uniforms and weapons and forced to participate in a series of military operations with the Airborne Infantry 100 around Laclubar (Manatuto), Alas (Manufahi) and Maubisse (Ainaro).[169]

156. The Commission received testimony and heard from communities in the east that East Timorese TBOs were engaged in the ABRI/TNI final assault on Mount Matebian.[170]

157. The mass recruitment campaign that provided the civilians used in Operation Kikis was unprecedented, involving the local civilian administrative structures that had been established to complement the militarised administration that effectively controlled the territory. Participation was compulsory, and the Commission received a number of reports of torture against civilians who refused to take part.[171]

158. Similar operations were launched by the Indonesian military during 1982 and 1983, in an effort to find surviving Fretilin/Falintil fighters. However during this period civilian recruitment was relatively limited and military campaigns largely restricted to

search operations in localised areas. During these operations villagers were ordered to destroy, poison and burn food crops they found in order to prevent Fretilin/Falintil from using them.[172]

Work as a TBO–risks and dangers

159. Working conditions for TBOs were dire, and they frequently found themselves in life-threatening situations. Danger and threats came from a number of sources. A poor diet and disease weakened and killed many; TBOs often became victims in battles, captured or killed by Fretilin/Falintil forces; some were killed by the Indonesian military; others did not return from operations and remain missing to this day.

160. Floréntina Santos from the village of Talimoro (Ermera, Ermera) told the Commission that her elder brother, who had been forced to become a TBO in Liquiçá, was captured and killed by Falintil in 1976.[173] Moises da Costa, who was 11 years old when his father surrendered to the Indonesian military in 1978, told the Commission that his father was forced to return to the forest to find his family, but was captured and killed by Falintil who accused him of being a spy for ABRI.[174] The Commission received a number of reports about missing persons who were last seen having been recruited as TBOs, but who never returned from operations.[175]

161. CAVR Community Profile workshops also shed light on the impact of TBO recruitment. Villagers from Defawassi (Baguia, Baucau), for example, explained how they had surrendered to ABRI forces in October 1978 following the attack on Mount Matebian. The Indonesian military forced them into camps, where many died of disease and starvation, and those who still had families in the forest were tortured. The men were forced to work as TBOs. About 40 youths from the village became TBOs, and most were killed in battle.[176]

162. Child TBOs were particularly vulnerable and many are believed to have died from exhaustion, combined with poor health due to lack of food and medicines, due to heavy loads they had to carry during military operations. According to Domingas Freitas, for example, her younger brother Rai Ano and his friend, Zeca, were recruited as TBOs in Viqueque in 1978. Domingas Freitas was told by Zeca that Rai Ano had died in the town of Uatolari (Viqueque) due to his vulnerable physical condition and his being forced to carry heavy battle equipment.[177]

163. Many TBOs were subjected to cruel, inhuman and degrading treatment. Anacleto Pires from Katrai Kraik (Letefoho, Ermera) for example, told the Commission that in 1976 he was forcibly taken to ABRI by the locally appointed head of the *aldeia*, who forced him to work as a TBO for the next two years:

> *My tasks were to make coffee, carry backpacks for TNI Battalion 521 in their operations in the forest. I was subjected to abuse such as being beaten and immersed in a pool of water every night.*[178]

164. With the completion of Operation Seroja in 1979, when the Indonesian military had overrun all the major Fretilin bases in the interior, ABRI concentrated

its operations in areas not yet secured. Statements made to the Commission in the districts of Manufahi, Viqueque, Manatuto and Baucau indicate continued forced recruitment during this period.

165. Several CAVR Community Profile workshops in the district of Viqueque reported that the forced recruitment of civilians as TBOs in 1979 took place following the widespread capture of the civilians who had been hiding in the mountains.[179] The Commission also received a number of individual statements in Viqueque from those who were forced to work for the Indonesian military and its Hansip forces during this period.[180] Domingos Miguel told the Commission:

> *In 1979, we were gathered in the town of Ossu by members of Hansip, who I didn't know. One day I was called to join an operation. During the operation, Hansip captured a Falintil member, Mateus. He was made a TBO right away and they resumed their journey to Uato Carbau. When we arrived to Uato Carbau, members of Hansip executed an unknown member of Falintil. After we returned from the operation, I was called by the Danramil (Sub-district Military Commander) and taken to the Koramil in Ossu where I was detained for one day with 40 others.*[181]

166. Some of those who completed their "service" as TBOs were subsequently imprisoned. Mateus Damazo, for example, told the Commission that in 1979, after ABRI captured him in Alas (Manufahi), he was forced to carry food and ammunition and cook for troops during a series of operations. On completion of these operations he was not released, but was instead detained for one year in Betano Prison (Same, Manufahi).[182] João Baptista S. Martins, who was 11 years old when he was forced to be a TBO in October 1979, escaped after members of ABRI told him that they wanted to take him to Indonesia after he completed his TBO service.[183]

167. Civilians were particularly vulnerable to physical abuse in the context of ongoing hostilities, and were regarded with a high degree of suspicion by the Indonesian military in terms of their loyalties. The Commission received reports of civilians who had surrendered to ABRI being tortured before being forcibly recruited as TBOs.[184] The Commission also received a number of accounts of people being tortured after becoming TBOs, as they were suspected of maintaining links with Fretilin/Falintil. António de Jesus told the Commission about the disappearance of his brother, a young TBO in 1982, who was suspected by the Indonesian military of links with Falintil:

> *In 1982, Battalion 320 took Domingos de Jesus to become a TBO. He and the troops went to Lospalos, to Soru village…He was later suspected [by the military] so they took him back by Indonesian military helicopter straight to Paitamor post. When they arrived in Paitamor, they interrogated and tortured him so that he would confess about his connections with Falintil and Fretilin. After hearing his statement, [they] concluded that he was a member of the clandestine*

network, and quite dangerous. So they took him to a place in Iliomar called Hama-Um to be killed. We still have not been able to collect his remains to this day.[185]

168. By the end of Operation Seroja it was common practice for ABRI soldiers to secure the assistance of civilians to help them with household tasks such as cooking and other individual needs. These TBOs usually lived with the soldiers in camps or barracks, and would sometimes accompany ABRI members on field operations. It was an existence characterised by a variety of abuses. The Commission was told of the vulnerability of young women in these circumstances:

In 1980, I was recruited as a TBO. During those two months, I witnessed my own sister, CM, raped and made into a sex slave by ABRI soldiers. When the troops moved from Fahinehan, she was finally released. But I was taken with them to Same, Kablaki, Ainaro, Mamlau, Ermera and Dili…During my assignment as a TBO, when we were operating in the forest, I had the chance to help a Falintil member by giving him food. Linus, a friend of mine from Aileu, told this to TNI Yonif 643. So I was kicked with army boots and they threatened to shoot me. They then added more to the load I had to carry to Ermera, Railaco and Dili.[186]

169. Some joined up as TBOs as it ensured some measure of socio-economic support, but most did not have any options and were obliged to participate. Some agreed to join out of fear,[187] others because they had been captured,[188] and some because ABRI threatened to harm their families if they did not cooperate.[189]

TBOs in Operation Kikis, 1981

170. During the second half of 1981, the Indonesian military launched a massive operation aimed at sweeping across the territory to flush out surviving Resistance fighters. Operation Kikis mobilised huge numbers of civilians and forced them into this forced march (see Vol. I, Part 3: History of the Conflict). ABRI's territorial troops and civilian officials from *aldeia*, village and district levels were tasked to recruit male civilians aged between 12 and 35 years old. In reality, however, ABRI recruited younger and older civilians in violation of the prescribed policy and they also recruited women.[190] According to several CAVR Community Profile Reports, men forced to join the operation included civil servants, teachers, students, nurses, traders, farmers and the unemployed. The recruitment led to temporary closure of schools, hospitals and community health centres during the operation.[191]

171. The number of civilians forcibly recruited into Operation Kikis remains contested. According to one Indonesian military document published in 1982, the operation involved 60,000 civilians, including members of ABRI-organised civil defence structures such as Wanra (People's Resistance) and Ratih (Trained Populace).[192] According to writer Ken Conboy, the operation involved 33,000

civilians, who marched from two directions with 12 ABRI battalions behind them: Laga Beach and Dili, moving towards the killing site near Aitana (Manatuto).[193] Another Indonesian military source suggests that many more civilians were engaged, claiming that eight battalions accompanied by 120,000 trained militias moved from east to west, complemented by a further seven battalions accompanied by 25,000 trained militias who moved from west to east.[194]

172. The Commission received statements from 80 people in seven districts about civilian recruitment as TBOs during Operation Kikis. In addition, details of recruitment were also provided in a number of CAVR Community Profile workshops from various parts of the country. Villagers from Lelalai (Quelicai, Baucau), for example, explained that in 1981 government officials from the district of Baucau issued instructions ordering all able-bodied men to take part in Operation Kikis for 3 months.[195] Similar reports were received from villagers in Muapitine (Lospalos, Lautém),[196] and from Rasa (Lospalos, Lautém), where hundreds of people were recruited as TBOs during this period. The community of Rasa told the Commission that this included three teenage children who died during the operation.[197]

173. The forced marching of the operation was very demanding, and many civilians forced into the operation by the Indonesian military died in circumstances never fully explained. Francisco António Menezes told the Commission about the death of his older brother:

> *On 20 August 1981, Vicente was sick with malaria and he went to seek treatment in the town of Baguia. When he arrived, there were many TNI troops from Battalion 521 with members of Hansip. A member of TNI, L21, and a Hansip, L22 and his men captured Vicente and other civilians and youths. Battalion 521 ordered the young men to become TBOs, carrying backpacks and weapons to the forest… On 12 October 1981, I heard from a member of Battalion 521, L21, that Vicente and other friends had died in Uatolari [Viqueque]. L21 told me to visit Vicente's grave in Teulale. To this day, I still don't know what caused Vicente's death and where he was buried.*[198]

174. By 1982, TBOs were in the main no longer involved in military operations, but were rather detained as prisoners and personal helpers in ABRI barracks. Those suspected of Fretilin/Falintil connections remained primary targets.[199] From about this time, the process of coerced recruitment was somewhat less arbitrary, and those ABRI soldiers who wanted to "recruit" a TBO were required to contact and arrange this through the local Babinsa.[200]

Forced to look for family in the forest

175. The Commission received 38 statements in relation to civilians who surrendered and were forced by the Indonesian military to return to the forest in order to find

other family members. Orlando da Silva, from Rotuto (Same, Manufahi) told the Commission:

> *In early 1976, ABRI Battalion 509 captured Aniceto Mendes and I while we were looking for food. They brought us to Rotuto and interrogated us at gunpoint about our family who were still in the forest. After being detained for a day, we were given rations of rice and salt then forced to find our family in the forest [and tell them] to surrender. We couldn't find any of our family. Infantry Battalion 509 also forced Rosalina, Angelina, Hermenegilda and Filomeno to go out and find their family who were still in the forest. But they didn't succeed either, so Infantry Battalion 509 detained Rosalina and Hermenegilda at the Yonif Post.*[201]

176. Most of these cases occurred during the period of Operation Seroja until 1979.

177. Civilians who were coerced to go back into the forest to locate family members were not armed. Some eventually returned with their family. Alfredo da Silva Carvalho, for example, told the Commission that after surrendering to the Indonesian military on 29 November 1978, his brother, João do Rosario de Fatima and his three friends were forced to go back to the forest the following day to look for their families. They succeeded and subsequently returned to Dili with their family members.[202]

178. Villagers from Waetami (Quelicai, Baucau) told the Commission that about 1,000 people from the village surrendered to the Indonesian military in June 1979, after the Marines had taken over the area. The men were instructed to return to the forest to catch Falintil guerrillas, but they did not succeed and returned to Quelicai empty-handed.[203] Similar accounts were reported to the Commission in other areas.[204]

179. Former Falintil soldiers who were captured were also often forced to go back to the forest and look for other Falintil members after interrogation and torture. Mateus da Costa told the Commission:

> *In 1979, I was entrusted to be a Fretilin commander. But TNI troops from Battalion 700 caught me in Betun Oan-Alas and took me to Fatuberliu. My friend, Mateus Torrejão, and I were ordered by TNI to go into the forest and look for our relatives who were still there. We went and looked but to no avail. On our way home, we met a company of Linud 100 troops and we were taken to Dili on foot.*[205]

180. Césario de Jesus told the Commission that Indonesian soldiers forced him and his friends to go back into the forest and look for family or Fretilin/Falintil members in March 1979. He said that the Indonesian military took Falintil prisoners away by airplane, never to be seen again.[206]

181. Not all civilians who were forced to look for their family or Falintil in the forest returned safely. Magdalena Pereira from Letefoho (Ermera) was 14 in 1977, when she and her grandmother Laubrani were captured by ABRI and brought to the Koramil in Letefoho. After being interrogated, they were forced to look for their family in the forest. Magdalena did not continue the journey beyond Lauana, but Laubrani was forced by ABRI soldiers and Hansip to continue and when she began walking she was shot in the back and died instantly.[207] In a number of instances, those sent back into the forest simply never returned.[208]

182. Throughout the early 1980s, the Indonesian military continued to force civilians to look for family members who had not yet surrendered.[209] ABRI soldiers also beat and tortured civilians who did not succeed in finding family or Falintil in the forest. Arlindo Fernandes Xavier told the Commission:

> *In 1983, TNI battalion 623 came and called Adolfo Fernandes Xavier and forced him to go to the forest to look for the Falintil member Manuel dos Santos. Because he couldn't find him, they beat Adolfo with weapons until he was bruised all over. Adolfo was held for one day and one night in Post 623 in Lautém. Anibal Fernandes Xavier and Etelvina Fernandes Xavier were also caught and brought to Kodim Lospalos by soldiers from the Kodim. They were interrogated, electrocuted, kicked and beaten with the butt of gun until they were bruised. They were put into a cell for a month. After that, Etelvina was sent home but Anibal was taken away by the perpetrators and is still missing to this day.*[210]

183. In 1983, ceasefire talks were held between Falintil and the Indonesian armed forces. There were also a series of defections by member of ABRI's auxiliary forces such as Hansip in the districts of Lautém, Viqueque and Ainaro. In Lautém after receiving orders from Xanana Gusmao to bring weapons into the forest, a number of Hansip and Ratih captured weapons from the police and the Koramil and fled into the forest. In response, the security forces ordered the women whose husbands had fled to look for their husbands in the forest.* The Indonesian military reacted in the same manner in 1984 after Falintil burned houses in the village of Mehara (Tutuala, Lautém), and again in 1987 in Poros/Herana in the village of Mehara, when ABRI forced the women to look for their husbands who were still in the forest escorted by Hansip.[211]

184. In Kraras (Viqueque, Viqueque), following the *levantamento* (uprising) on 9 August 1983, civilians were attacked and killed by the Indonesian military in a series of massacres, ostensibly in retaliation for the killing of Indonesian soldiers by, and the subsequent defection of, Hansip and Ratih members to Falintil (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). By early 1984, a number

* The *Levantamento Armado* (Armed Uprising) in Ponta Leste took place on 9 August 1983, led by the *liurai* Miguel dos Santos, known also as Cuba Levantamento. It involved Hansip members and clandestine youths who were called Lorico Paicau. The uprising was on the orders of the Commander of Falintil, Xanana Gusmão. [CAVR Community Profile, Mehara Village, Tutuala Sub-district, Lautém District, 27 November 2002.]

of civilians and Ratih members remained in the forest. The community told the Commission that in early 1984 members of the special forces Kopassus abducted 13 people from Kraras and took them to the forest and forced them to look for other civilians and Falintil members. Of the 13 civilians forced into this, only six returned home, the other seven remain missing.[212]

Tombak (Spear) Troops

185. In the 1980s, another form of forced recruitment of civilians into Indonesian military operations were the Tombak, or Spear, Troops. They were named after the only weapon they were allowed to carry, limiting their military capacity in relation to their Indonesian military commanders.

186. Little is known about the origin and evolution of these troops, although the available data suggests that Tombak Troops were only formed by the Indonesian military in districts it regarded as susceptible to Falintil attack after the Operation Kikis in 1981. Following the breakdown of ceasefire talks with the uprising in Viqueque in 1983, and the return of civilians who had been detained on Ataúro since 1980 because of their suspected links to Fretilin/Falintil, Indonesian concern about East Timorese civilian clandestine support for the Resistance was high. It formed Tombak Troops to watch over civilian activity. Civilians were forcibly recruited into Tombak Troops in a number of locations across the country, but they were mostly recruited in areas where Falintil/Fretilin were still known to be active.[213] Recruitment continued in the mid-1980s, often focusing on communities where the men had fled to the hills following the uprisings in 1982 and 1983.[214]

187. The Commission received statements from 19 civilians who were forced to join the Tombak Troops. They were mostly from the districts of Lautém and Viqueque and recounted forced recruitment into these forces between 1982 and 1987.

188. Civilians recruited for Tombak Troops were often Falintil members who had surrendered, though they also included civilians whose families were still in the forest. Some of the statements suggest that the recruitment process followed the capture, detention and torture of civilians and others captured in areas controlled by Fretilin/Falintil.[215]

189. Given this background in terms of recruitment, it is not surprising that ABRI retained suspicions about certain civilians recruited into the Tombak Troops. The Commission received several statements from former Tombak Troops who were detained and tortured for failing to perform their duties or for being suspected of giving information or cooperating with Falintil/Fretilin. Paulino Freitas told the Commission:

> *In September 1983, myself and young men who were strong were recruited as Tombak Troops. I knew some of them: Ernesto, Afonso, Brandão, Faikaik and Joaquim Kainoko. We were recruited by L23, the Babinsa in the village of Uma Oan Kraik, and by L24 and L25, the*

commander of the Babinsa. After being recruited we were trained in Audian Matan in the town of Viqueque. They also told us to do night watch…One day Adelino and I were on a night watch when L23 and L27 beat us with the butt of a gun and kicked us, accusing us of having plans with Fretilin to attack the post we were guarding.[216]

190. After the uprising in Kraras in 1983, many people fled to the forest fearing retribution by the Indonesian military against the civilian population. The Indonesian military conducted operations to force them to return to their villages, and a series of massacres of civilians by the Indonesian military took place (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). Some civilians who returned were forced to join the Tombak Troops as guards for the Indonesian military.[217]

191. Those recruited into the Tombak Troops were also at risk of being killed by Falintil when they were sent into the forest to search for Fretilin/Falintil forces who often saw them as an extension of ABRI.[218] Jacinta Hornay told the Commission of Tombak Troops being placed on the front line with Falintil and as a result being killed:

In May 1984, Jacinto Pinto and Tomás Ramos were captured by 2 members of ABRI, and taken to the Koramil in Luro. Both were suspected of having contact with [a member of] Falintil named Mateus Morreira. At the Koramil, they were held in a cell for three months.

After three months they were released but were still required to report every day at the Koramil. On 8 August 1984, on orders from the Luro Koramil, they and 24 other civilians from Luro were [forced to] go as Tombak Troops into the forest to look for a Falintil member, Mateus Morreira. In the forest, Jacinto was killed by Falintil in Lakira [Lospalos]. His body was recovered by Koramil troops and buried on 5 September 1984 in Luro.[219]

192. Tombak Troops were also used by ABRI to carry out acts of violence against civilians who were suspected of having connections with Fretilin/Falintil.[220]

Forced night watch and patrol

193. The Indonesian military also forced civilians to participate in night watch and patrolling duties in communities throughout the period of the occupation. The Commission received 74 statements which specifically recounted these types of experiences. Especially in rural communities where the Indonesian military feared attack by Falintil, civilians on night watch and patrol duties were effectively placed as a shield to protect members of the Indonesian armed forces.

194. Similar to the other situations of forced recruitment, it was often those who had recently surrendered or had been captured by Indonesian forces who were

forced into these tasks. In a number of cases, civilians were tortured before being obliged by the military to conduct night watches.[221] Forced civilian night watches and civilian patrols were particularly common in communities who had recently come under Indonesian military control, as ABRI remained wary of their authority. Levels of trust between ABRI and these local security structures varied. However from statements received it seems that, as with other forced civilian deployments into military roles, the Indonesian military remained suspicious of civilians continuing links to Falintil. In some instances, villagers who had been tasked with such patrol duties were subsequently exiled with their families to the prison island of Ataúro.[222]

195. Commission Community Profiles indicate that in communities that had surrendered to or had been captured by the Indonesian military, women were often forced to conduct night watch duties and the men were forced to work as TBOs or to look for Fretilin/Falintil and other civilians in the forest. The Commission was told of the torture of women who refused to participate in night watch duties.[223] Ernesto Soares told the Commission of the violent coercion against civilians:

> *In 1977, Battalion 711 troops built a post in the village of Leodato (Hatolia, Ermera) After it was erected, Infantry Battalion 711 forced me and my friends to guard at the post at night. If we refused to come we would be beaten and thrown into the swamp.*[224]

196. It was not uncommon for civilians who were forced to do night watch to be subjected to violence if their ABRI or Hansip handlers considered they had make a mistake. Bernardo Savio told the Commission he had been forced to do night watch duties, and that if he was caught asleep during the watch he would be beaten and tortured.[225] Others described similar treatment to the Commission.[226] Daniel Suban from Caraubalo (Viqueque, Viqueque) told the Commission about his father, Rubigari, who was forced to do night watch.

> *On 14 July 1980, Rubigari, Rai Olo, Rubi Gamu and Loi Gamu were forced by TNI to guard the post at night. My father, Rubigari, fell asleep when it was his turn to do the night watch. He was caught by 3 members of TNI Battalion 202. They shouted at him, kicked and hit him with their weapons until his ribs were broken and he died right there.*[227]

197. Violent abuse from ABRI and Hansip members was arbitrary and remained a possibility at any time, even if there were no grounds for provocation. Alfredo da Costa Freitas, for example, related an incident to the Commission in which Hansip members beat him and three others for no apparent reason while they were on night patrol. They were then thrown into a river, their guard post was set alight and they were instructed to rebuild it the following day.[228]

198. Analysis of CAVR Community Profile workshop reports indicates that the Indonesian military also forced civilians to take part in various other activities at

night, including attendance at dance parties and security patrols if there was a high level of Fretilin/Falintil activity in that area. The presence of East Timorese civilians at such events was supposed to lessen the risk of Falintil attack, and so civilians were effectively used as human shields. Civilians were often forced to prepare food for the soldiers.[229] These practices were common in the Indonesian military-controlled resettlement camps of the late 1970s and early 1980s.[230]

199. Civilians forced to work on night watch were at risk of being shot or killed by Falintil or members of the Indonesian military itself. The Commission received a number of statements which described incidents in which either Falintil or ABRI killed unarmed civilians who were on night watch duty.[231]

200. During Operation Kikis in 1981, with large numbers of able-bodied men forced into the operation, women were forced to conduct night watch duties in some areas.[232] Villagers in Bibileo (Viqueque, Viqueque) told the Commission that during this period, ABRI forced the elderly men and women to build posts around the village, and the women were forced to guard at night.[233]

201. During the 1990s, there were fewer reports of civilians being forcibly recruited for night watch duties. While this reflects a general shift in the context of the conflict and the Indonesian military security priorities and strategy, these practices continued to be employed in certain areas. Some reports received by the Commission for this period showed, however, that the civilians forced to conduct night watch duties were usually those who were arrested for clandestine activities. Some of these were also tortured by members of the Indonesian military or their paramilitary auxiliaries. Attacks by Falintil during the 1990s also resulted in casualties of civilians working on night watch. Mateus Soares told the Commission of a Falintil attack on a post in Carlilo (Aiteas, Manatuto):

> *On 23 March 1990, José Soares Laka, Domingos Ramos, Sebastião Ximenes, António Coli, Domingos Larak, Hermenegildo Soares, Mateus Go'o, and my father, António Celo Soares, and I were doing the night watch in the neighbourhood security post.*
>
> *Around 9.00pm, Fretilin attacked the post. António Coli and Celo Soares were killed instantly in the attack, while Mateus Go'o, José Soares Laka and Domingos Larak were injured from the wild shooting from Falintil.*[234]

202. As in the earlier years, those suspected of working in the clandestine network supporting Falintil forces were often tortured and then set to work on night watch or other tasks.[235] Civilians who disobeyed orders to do night watch were often tortured by the Indonesian military.[236]

203. These practices were revived on a large-scale during 1999 when TNI and its militias forced civilians to do night watch amongst other "duties" in the lead up to the Popular Consultation at the end of August.[237] In Community Reconciliation Hearings in villages across the country, the Commission heard testimony from

former militia members about their activities. Recruitment was often forced or coerced, with the threat of violence or destruction of property by the Indonesian military. Local government authorities were often employed by the military in the recruitment process, as most communities were required to provide members of militia groups. Lower level members of the militia groups, often those who were forcibly recruited, were often required to conduct activities such as night watch and patrols, and manning of guard posts, and were subordinate to the Indonesian military in a manner similar to earlier periods of the conflict (see Vol. IV, Part 9: Community Reconciliation).

Violations of the laws of war by Fretilin/Falintil

204. The Commission received a number of reports of human rights violations perpetrated by Fretilin/Falintil relating to violations of the laws of war. Violations against civilians in this context, however, constituted only a small fraction of those concerning violations by ABRI/TNI. The available evidence indicates that the violations by Fretilin/Falintil were neither systematic nor widespread. Nevertheless, Fretilin/Falintil forces did attack and kill civilians, burned their houses, and committed other serious violations against civilians.

205. The Commission did not find evidence of the use of indiscriminate or disproportionate firepower during Fretilin/Falintil's military operations, nor of large-scale, illegal recruitment of civilians by Fretilin/Falintil to support and supplement its military operations. Despite this, it is clear that Fretilin/Falintil enforcement of its political ideology and policies between 1976 and1978 contributed significantly to the widespread suffering and deaths of civilians whom they prevented from surrendering to the Indonesian military and who became ABRI targets during attacks. Fretilin/Falintil also committed violations of the laws of war in relation to its treatment of prisoners and the killing of civilians.

206. When the Indonesian military invaded Dili on 7 December 1975, Fretilin retreated south to the hills of Aileu where it maintained its headquarters. The leadership decided to take with them large numbers of UDT and Apodeti prisoners it held in the Quartel Geral and Comarca Balide in Dili. Prisoners were forced to carry ammunition and supplies for the retreating Fretilin.[238] In late December 1975, members of Fretilin conducted a series of executions of these prisoners, in Aissirimou in Aileu, then as they retreated further south in Maubisse (Ainaro), and in January 1976 on the south coast in Same, Manufahi (see Vol. I, Part 3: History of the Conflict; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). The Commission interviewed Humberto Martins da Cruz, a Fretilin prison guard in Aileu at the time, who said that almost every night a prisoner was called out to be killed. He also told the Commission that between 23 and 26 of these executions in Aissirimou directly involved Fretilin Central Committee members.[239] He told the Commission that prisoners were ordered to dig graves for execution victims,

and that the Fretilin leadership made no attempt to prevent these executions.[240] At the CAVR National Public Hearing on The Internal Political Conflict, the current President and the current Secretary General of Fretilin, Francisco Guterres "Lú-Olo" and Mari Alkatiri respectively asserted that these killings were not Fretilin policy or done on the orders of the Fretilin Central Committee. They did, however, acknowledge that Fretilin as an organisation must take collective responsibility for these killings and apologised on behalf of Fretilin to the families of victims.[241] The then President of Fretilin, Francisco Xavier do Amaral, was not in Aileu at the time of the killings; however, he explained his understanding of events to the Commission during the public hearing:

> *I can explain it like this. There was no decision. When you write something down, then we can say that it is a decision. Sometimes we share impressions, we talk with friends. And these ideas of ours, people called them – people called them – took them to be the same as decisions. Because our thoughts are just our opinions…*
>
> *We were in the middle of war, in this war…we ran from our enemies, we ran, we took those we had imprisoned, our enemies whom we had imprisoned, with us. Before we even had a chance to catch our breath, the enemy was close. We said, 'What do we do now? We must keep running. We don't have too many choices. There is no transport, no food, not much medicine, none of this.'*
>
> *Some of those we had imprisoned were already seriously sick, many were very weak. So we had to look at this. Do we nurse them? Do we leave them on their own? Or do we kill them and then run? I saw danger in both of these. If we leave a prisoner here alive, a UDT or Apodeti member, he can fall into the enemy's hands. Indonesians will press him and they will find us. They can trick him or maybe he will confess…[Whether we're] in town or anywhere, he can confess. Therefore we came to the conclusion that if they are weak already and can't walk with us, and if we want to carry them but we don't have the strength, there is no guarantee that we can make it to a safe place, then is it better if he dies or we die?*
>
> *Sometimes, a decision was taken to kill them so that the enemy could not endanger us. Perhaps this opinion was commonly held, more or less commonly, by leaders at all levels.*[242]

207. In fact, while there is evidence that some prisoners were weak and sick, or suffered injuries from severe beatings administered while in Fretilin custody, there is no evidence to establish that the prisoners were executed because they were too difficult to move. The evidence indicates that they were executed by members of Fretilin out of fear that they would cooperate with Indonesia.

208. The Commission received testimony of a massacre of civilians in the village of Kooleu (Loré I, Lautém) in January 1976 (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).[243]

209. After the January 1976 executions in Same (Manufahi), the Fretilin leadership decided to stop the executions and exhorted the surviving prisoners to fight with them against the Indonesian military. Taur Matan Ruak, now Commander-in-Chief of the Armed Forces of the RDTL, recalled to the Commission the words of the Fretilin leader Nicolau Lobato, paraphrasing him:

> *We believe in human transformation. The history of struggle in other countries has proven that a person considered a revolutionary today can be seen as a traitor tomorrow, and that a person considered a traitor today could be a revolutionary tomorrow…A man's common sense can improve the man. We have to believe in people's ability to transform themselves.*[244]

210. During the period following the invasion, many people fled their homes to seek refuge in the forests and hills. Many fled voluntarily in fear of the invasion and sought the protection of Fretilin/Falintil forces. However, the Commission also received many accounts of Fretilin cajoling the civilian population to leave the towns and join it in the interior, and the Fretilin ideology of social revolution in these early years of war and occupation was based on the idea of the civilian population living with the political and military cadres where they would be educated and a new social consciousness developed. In this context there was considerable pressure for civilians to flee and stay with Fretilin in the interior, even when the situation became extremely difficult (see Vol. II, Part 7.3: Forced Displacement and Famine).

211. Between 1976 and 1977, civilians established new communities under Fretilin's guidance in the bases in the interior behind the lines of battle with the Indonesian military. They grew communal gardens, conducted literacy programmes and developed basic health services. However, as the war encroached in 1977, it became increasingly difficult for Fretilin to sustain such a large civilian population in the interior.

212. Divisions arose within the Fretilin leadership about the best strategy to pursue the struggle, in particular about whether the large civilian population should surrender and return to the villages and towns. In 1976 in the Eastern Zone, Fretilin captured and executed the Fretilin leader Aquiles Freitas and a number of his supporters (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances).

213. A fundamental and violent split occurred with the arrest and detention of Fretilin President Francisco Xavier do Amaral and those thought to be aligned with him in September 1977. During this time Fretilin/Falintil committed violations against many civilians, including detention, torture and executions (see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).[245]

214. In the wake of this violent purge, suspicion reigned in Fretilin controlled areas and civilian movement was tightly controlled. Fretilin/Falintil required civilians to secure authorised travel passes (known as *guia de marcha*). Those caught outside

authorised areas were accused of treachery and punished. Penalties included detention in very poor conditions, torture and sometimes killing. Fretilin established a system of detention centres known as Renal in bases across the country. They often detained people in underground holes for up to two weeks, and for longer periods, in the Renals (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).

215. Other Fretilin/Falintil leaders who opposed Fretilin's war strategy of maintaining the civilian presence in the interior were also punished or killed.[246] They included Afonso Savio, Zone Secretary for Luro (Lautém) and José dos Santos, a Regional Commander, who were beaten, trampled on and burned to death.[247] According to some reports to the Commission, the Fretilin Central Committee ordered the execution of heads of *aldeias* who were suspected of ordering civilians to surrender to the Indonesian military.[248] Such actions sent a clear message to civilians who harboured thoughts of surrender that they would be labelled as traitors and severely dealt with.

216. The issue of whether civilians should surrender became extremely divisive, with the well-being of these civilians often sacrificed between competing political ideals. Lucas da Costa, a Fretilin cadre at the time, told the Commission:

> *When a political leader spoke, a commander obeyed. But the commanders only saw the war from a military point of view. They said, "We cannot win if we bring the people along with us. If the people keep coming along we will be spending all our energy protecting them, rather than fighting the enemy. It is better to tell them to leave. We will stay in the forest." But this was incompatible with the [Fretilin] concept. If people were sent down [from the mountains], they would reclaim their social status, their social status would grow again. This was ideological suicide [for Fretilin], and the revolution would fail.*[249]

217. Many civilians were effectively trapped in the Fretilin *zonas libertadas* (liberated zones), which then became targets of ABRI/TNI attacks. As restrictions on civilian movements tightened, significant numbers of these civilians died due to lack of food and medicine.[250] As the massive Indonesian military operations overran Fretilin bases in 1978, many civilians fled with Fretilin/Falintil forces to the Fretilin/Falintil base on Mount Matebian. The situation there was little better, with a severe lack of shelter and medicine for sick adults and children. In this situation thousands died of starvation, illness and the relentless Indonesian bombings and attacks.[251]

218. By 1978, scattered and with no alternatives, many civilians began to surrender to Indonesian forces. On 22 November 1978, Fretilin's Central Committee issued a directive, effectively consenting to this reality.

219. Xanana Gusmão, who was at Mount Matebian at the time, told the Commission:

> *On 22 November 1978 we separated on Matebian. Though we were under siege, we kept in contact with the Central Committee in the Central Region. We confirmed that we could not go on any longer, and*

they told civilians to surrender and to maintain one guerilla post in the Eastern Region, to take charge of Baucau, Viqueque and Lospalos....

Then they appointed me commander of the Eastern Region, and on 22 November we mobilised our force and escaped from Matebian. We told civilians to surrender to the nearby towns while Falintil moved towards the Central Region to continue fighting.[252]

220. With the conclusion of Operation Seroja and the defeat of the Fretilin bases, the armed Resistance was nearly decimated. The strategy of the Resistance was completely overhauled in a national reorganisation conference in 1981 (see Vol. I, Part 3: History of the Conflict). Large numbers of civilians no longer lived with the armed resistance fighters in the mountains. People returned to villages and towns, though often after prolonged periods in transit camps, detention centres and ABRI-controlled resettlement villages (see Vol. II, Part 7.3: Forced Displacement and Famine). The Fretilin/Falintil relationship to the civilian population was fundamentally altered, as they aimed to foster a growing civilian clandestine network to support the Resistance. The new leader of the Resistance, Xanana Gusmão, gradually led the Resistance away from the hardened ideological stance that had seen the propagation of "ideological" or "revolutionary" violence against members of the Resistance (see Vol. I, Part 3: History of the Conflict). In his autobiography, Xanana Gusmão recalled the violence he had witnessed or heard about during that earlier period, and his thinking in moving the Resistance away from this approach:[253]

> No! Although I was a member of the Central Committee, I was still unable to understand revolutionary violence. I did not like the concept and I did not practice it. Persuasion and compensation started to become an alternative political principle, which was fundamental for me.[254]

221. In the years that followed the reorganisation of the Resistance after the destruction of the bases which held large numbers of civilians, Fretilin/Faltintil violations of the laws of war, in particular against civilians, decreased significantly. However, the Commission did receive reports of Falintil violence and intimidation against those it considered aligned with the Indonesian military or working against the Resistance. This included the most serious violations, such as execution of civilians. Marta Ximenes testified that on 17 August 1979, three Falintil soldiers shot dead her husband Luis Lopes in their field in Paitaal-Bauro (Lospalos, Lautém) and stole their corn and cassava crops.[256]

222. In cases where East Timorese civilians were forced by the Indonesian military into such roles as conducting night watch and patrols, as discussed above, they sometimes became casualties of Falintil armed action. The status of such individuals may also have been unclear, and may have depended on the specific roles they were forced to fulfill by the Indonesian military. A member of the Tombak Troops patrolling the forest may have presented a real military threat to members of Falintil.* However, the circumstances

* For example the death of a Tombak Troop member, Jacinto Pinto, mentioned above, see HRVD Statement 04439.

of an individual forced to conduct night patrol in his or her home village would have been very different. Whether specifically targeted or whether such casualties were killed due to a disproportionate level of violence compared to the military objectives was not always clear.* The Commission did not receive any evidence to indicate that Falintil generally targeted civilians, and nor is there evidence that Falintil conducted military operations in such a way as to directly result in civilian casualties. However the kind of violence by Falintil troops referred to above, through the 1980s and to a lesser degree the 1990s, caused considerable suffering to communities.

Attacks on civilian objects

223. Statements received by the Commission detail 80 cases of house-burning, destruction of buildings and property as well as looting by Fretilin/Falintil between 1975 and 1979. The bulk of these incidents occurred during 1976, and most were reported by villagers in the districts of Viqueque and Baucau. Several reports provided detail of Fretilin/Falintil violations in later years, including the destruction of civilian houses and other buildings and looting across 11 districts in Timor-Leste. No reports were received from the districts of Liquiçá and Oecussi.

224. Villagers in Obulo and Batumanu (Atsabe, Ermera) told the Commission that in 1977 after the Indonesian military attacked and burned houses in Obulo, a number of villagers surrendered to ABRI. Following this, Fretilin attacked and burned houses belonging to those civilians who had surrendered. Falintil troops were also reported to have attacked and burned houses in Obulo and Atsabe and forced villagers with them to the forest in February 1977. Many civilians taken by them suffered starvation, illness and death.[257]

225. It is clear that Fretilin/Falintil forces were responsible for considerable damage and suffering among elements of the civilian population. It is unclear, however whether official policy directed such attacks on civilians and their property. The fact that these violations were committed across many districts, and over different periods of time, suggest that at the very least the leadership of Falintil must have been aware of the attacks and took no adequate action to prevent them.

Findings

Findings concerning the Indonesian armed forces

226. During the invasion of Timor-Leste members of ABRI/TNI committed systematic violations of the Geneva conventions by failing to discriminate between civilian and

* See for example the case mentioned above of the Falintil killing of António Coli and Celo Soares at a neighbourhood security post in 1990 [see HRVD Statement 06483].

military targets. In addition, on the initial days of the invasion, civilians were targeted by the Indonesian military in massacres and executions.

227. In the large-scale military operations which followed the initial invasion, thousands of East Timorese civilians, including men, women and children who were unarmed and unable to protect themselves, were targeted or indiscriminately killed by the Indonesian military.

228. During these military operations members of ABRI/TNI routinely tortured and killed civilians and prisoners of war who were captured. Prisoners who were executed included pregnant women and children (see Vol. III, Part 7.8: The Rights of the Child).

229. Members of ABRI/TNI routinely killed, detained and tortured individuals suspected of being supporters of Fretilin/Falintil. Punishment for those suspected of resisting the occupation also included burning of their houses, confiscation of land and property for redistribution to political supporters of the occupation, and rape of females suspected of collaboration with the Resistance.

230. Members of ABRI/TNI systematically violated their international legal obligations through the use of collective punishment of civilians in pursuit of military objectives. This included the torture, rape, killing or forced displacement of civilians because they were family members of, or belonged to, the same communities as individuals who were suspected of being members of Fretilin/Falintil.

231. Members of ABRI/TNI systematically destroyed property, including buildings and personal items belonging to civilians as a routine part of military operations. One of the purposes of this destruction was to punish East Timorese people who opposed the occupation, and to produce a climate of terror which it was believed would render the population easier to control, and to deter support for the pro-independence movement.

232. Looting for the personal gain of ABRI/TNI officers routinely accompanied their activities during military operations. This included stealing of vehicles which were loaded onto warships, transport of vehicles, goods and herds of animals to West Timor for sale, looting of priceless and irreplaceable traditional objects of spiritual and cultural significance, and general practices of armed banditry against the civilian population. Local government officials, acting under the protection of the ABRI/TNI, also participated in looting and stealing from civilians suspected of opposing the occupation.

233. Destruction and looting of civilian property was commonly accompanied by other violations, such as beatings, detention, torture, rape and killing of civilians. A common method was the looting of property, killing of the inhabitants of a house, and then burning the house with the victims inside. This method was utilised in order to punish and intimidate opponents of the occupation, and to destroy the evidence of the violations.

234. Members of ABRI/TNI systematically destroyed food sources of members of the civilian population. This included the burning of crops and slaughtering of herds of animals. These violations had dire consequences for the civilian population of Timor-

Leste and directly contributed to the loss of life on an enormous scale in the 1970s due to famine and related sickness.

235. In their military operations in Timor-Leste, ABRI/TNI used weapons which are prohibited by the international laws governing armed conflict. These included chemical weapons which poisoned water supplies, killed crops and other vegetation, and resulted in the deaths by poisoning of hundreds of civilians.

236. ABRI/TNI dropped napalm bombs indiscriminately on civilian targets. The illegitimate use of these bombs caused terrible suffering to civilians, including the death by burning of unarmed men, women and children.

237. ABRI/TNI forcibly recruited tens of thousands of East Timorese men, women and children to assist them in their military operations, particularly during the years 1975-79, and in periods of heightened military operations, across the territory. Those who refused to participate were subjected to beatings and torture. The illegal forced recruitment of civilians into military operations was carried out to provide cheap practical assistance and also to demean the morale of those who opposed the occupation.

238. East Timorese people who had been forcibly recruited to join ABRI/TNI units were routinely forced to carry large loads of food, ammunition and equipment under extreme conditions. They were often subjected to cruel, inhuman and degrading treatment.

239. Members of ABRI/TNI summarily executed East Timorese civilians who had been forced to accompany Indonesian military operations, ostensibly over issues concerning disobedience and discipline.

240. Young East Timorese women who were forced to work for members of ABRI/TNI were routinely raped and forced into conditions of sexual slavery by their military masters (see Vol. III, Part 7.7: Sexual Violations).

241. Many pro-independence supporters who were captured or surrendered were tortured and then forced to perform duties as night guards or other security-related functions. If they failed to undertake these duties they were further tortured or ill-treated. Some Falintil fighters who were captured were forced to act as Indonesian troops against Falintil, armed only with spears, in order to ensure they could not effectively rebel against their ABRI/TNI commanders. This placed them in direct danger in combat situations and resulted in deaths.

242. In a number of cases East Timorese who had been forced to participate in ABRI/TNI operations were killed by Falintil during the operations.

243. Prior to the Popular Consultation in 1999, the TNI formed pro-Indonesia militia groups across the territory. ABRI/TNI implemented a programme of systematic forced recruitment of thousands of East Timorese men into these groups, in addition to those who had voluntarily joined in return for payment. The militia groups who were involved in this organised programme of violence and destruction had been intentionally formed, armed, funded and directed by the Indonesian military. The overwhelming evidence supporting this relationship is set out in detail in Vol. I, Part 4: The Regime of Occupation, and accountability for these actions is considered in Part 8: Responsibility and Accountability.

244. Members of ABRI/TNI committed widespread and systematic violations of human rights, including the laws of war, in the lead up to, and following, the Popular Consultation in 1999. These violations are dealt with in detail in the relevant parts on specific human rights violations, viz Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances and Part 7.3: Forced Displacement and Famine; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment, Part 7.7: Sexual Violations and Part 7.9: Economic and Social Rights.

245. The programme of violence and destruction in 1999 was a systematic attack by heavily armed and organised military and militia groups on generally unarmed and defenceless civilians. It did not involve a conflict between two armed groups, as Falintil was, with very few exceptions, not involved in the conflict. It was a massive military exercise targeting a vulnerable civilian population for the purpose of forcing them to vote to remain with Indonesia, and, following the result, punishing them for not doing so. This military targeting of mass numbers of the civilian population constitutes violations of the laws of war by the Indonesian military.

246. The violations committed by members of the Indonesian security forces and their auxiliary militias during 1999 included:

- Killing of more than 1,400 civilians
- Rape and sexual violation of hundreds of women
- Assault and beating of thousands of civilians
- Forced deportation of approximately 250,000 of civilians out of Timor-Leste and the forced displacement of approximately 300,000 within the territory
- Forced recruitment of thousands of East Timorese into militia groups
- Burning of over 60,000 houses belonging to civilians
- Looting of vast amounts of civilian property in the territory, including almost all motor vehicles and valuable manufactured goods which were removed across the border into Indonesia
- Theft or killing of large numbers of livestock
- Intentional destruction of the majority of public infrastructure for no military purpose, including all hospitals, most schools, water installations, electricity generators and other equipment necessary for the supporting the well-being of the civilian population
- Looting of important and irreplaceable cultural and historical artifacts from the public museum in Dili in September 1999, and their removal to West Timor, Indonesia.

Findings concerning Fretilin/Falintil

247. Portugal was the UN-recognised administering power of Timor-Leste during the period of conflict with, and occupation by, Indonesia. Portugal had ratified the third Geneva Convention.

248. The laws of war applied to Fretilin/Falintil, which could be recognised in international humanitarian law as a resistance movement as it complied generally

with the requirements for such recognition: it had in place a command structure; its members generally distinguished themselves from civilians, and carried arms openly; and it conducted operations in accordance with the laws and customs of war. Fretilin/Falintil was therefore required to obey the Geneva Conventions.

249. During the period of Indonesian occupation, members of Falintil forces were involved in violations of the laws of war, including the targeting of civilians, killing, torture, burning of houses and intentional destruction of private property. Although extremely serious, the scale of the violations committed by members of Fretilin/Falintil was a small fraction of those committed by ABRI/TNI.

250. Members of Fretilin/Falintil summarily executed prisoners in their custody who were members of the UDT and Apodeti political parties, soon after the invasion of the Indonesian forces in late 1975 and early 1976, and civilians in the village of Kooleu (Loré I, Lautém) in January 1976.

251. Members of Fretilin/Falintil summarily executed civilians who were suspected of being collaborators with the Indonesian security forces, members of their own organisation who were suspected of disloyalty, and civilians willing to surrender to ABRI/TNI in contravention of the Fretilin policy that they should remain together with Falintil in the interior. Members of Fretilin/Falintil also detained, tortured and ill-treated large numbers of civilians and Fretilin/Falintil military and political cadres in the 1970s who they suspected of holding views against the policies of Fretilin/Falintil especially in relation to whether civilians should leave the Fretilin/Falintil bases in the interior and return to their villages and towns.

252. Members of Fretilin/Falintil tortured and ill-treated civilians suspected of disloyalty or collaboration with the Indonesian military. Methods of torture employed included being detained in underground holes, beatings, being trampled on and severely burned.

253. Members of Fretilin/Falintil attacked and burned houses belonging to civilians who surrendered to ABRI, and of those who were suspected of collaboration with the Indonesian military. This destruction caused hunger, illness and hardship among the civilian population, and the attacks themselves caused civilian deaths.

Endnotes

1. UNTAET Regulation10/2001, Sections 3 and 1(c).
2. Mário Lemos Pires, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15-18 December 2003.
3. CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
4. See A.P.V. Rogers, *Law on the Battlefield* (2nd ed), Manchester, Manchester University Press, 2004, pp. 3-23.
5. Article 25 Hague Regulations; Article 27 Geneva Convention IV; Articles 51(2) and 57(1) and (2)(a) Geneva Protocol I; Article 52(1) Geneva Protocol I.

6. Article 51(2) Geneva Protocol I.
7. Article 51(4) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports, para 78.
8. Articles 51(5)(b) and Article 57(2)(a)(iii) and (b) Geneva Protocol I.
9. Article 57(3) Geneva Protocol I.
10. Article 26 Hague Regulations; Article 57(2)(c) Geneva Protocol I. (Versi Indonesia: 57 (c) saja)
11. See for example, HRVD Statements 00691, 01301, 01466, 06699, 06976, 08149, 04200.
12. HRVD Statement 00445.
13. HRVD Statement 08200.
14. HRVD Statement 02406.
15. CAVR Community Profile, Laimea Kraik Village, Atsabe Sub-district, Ermera District, 20 August 2003.
16. See for example, CAVR Research Document on Forced Displacement and Starvation, CAVR Archive; CAVR Community Profile, Maubisse Sub-district, Ainaro, May-August 2003.
17. CAVR interview with Agustino Soares, Hatolia, Ermera, 13 August 2003.
18. CAVR Community Profile, Muapitine Village, Lospalos Sub-district, Lautém District, 18 February 2004.
19. CAVR Interview with former ABRI/TNI soldier in Same (name withheld), 13 August 2004.
20. Ibid.
21. Maria José da Costa, testimony to the CAVR National Public Hearing on Forced Displacement and Famine, 28-29 July 2003.
22. See for example CAVR Community Profile, Atara and Salaun Villages, Atsabe Sub-district, Ermera District, 14 April 2003; CAVR Community Profile, Maununo Village, Ainaro Sub-district, Ainaro District, 24 January 2003.
23. CAVR Community Profile, Aiasa, Bobonaro and Malilait Villages, Bobonaro Sub-district, Bobonaro District, 17 December 2003.
24. CAVR Interview with Adriano João, former Fretilin Political Assistant for Cailaco Zone (Bobonaro) between 1975 and 1979, Dili, 6 September 2004.
25. CAVR Community Profile, Aidantuik Village, Suai Sub-district, Covalima District, 1 December 2003.
26. HRVD Statement 00432.
27. See for example CAVR Community Profile, Tirilolo Village, Iliomar Sub-district, Lautém District, 8 July 2003; CAVR Community Profile, Lelalai Village, Quelicai Sub-district, Baucau District, 20 October 2003; CAVR Community Profile, Maluro Village, Quelicai Sub-district, Baucau District 27 October 2003; Uailili Village, Baucau Sub-district, Baucau District, 28 October 2003; and Baduholo and Uai-Kana Villages, Venilale Sub-district, Baucau District, CAVR, 6 May 2003.
28. CAVR Community Profile, Defawassi Village, Baguia Sub-district, Baucau District, 23 September 2003.
29. For example, see CAVR Community Profile, Raihun Village, Tilomar Sub-district, Covalima District, 21 October 2003.
30. CAVR Community Profile Asbilitoho Village, Liquidoe Sub-district, Aileu District, 3 September 2003.
31. CAVR Community Profile, Orlalan Village, Laclubar Sub-district, Manatuto District, 24 August 2003
32. CAVR Interview with Albino da Costa, Dili, June 2003.
33. *Asian Wall Street Journal,* "Is There Enough to Eat in East Timor?", 21 June 1982.
34. Xanana Gusmão, Message to the 37th United Nations General Assembly, in Niner, p. 81.
35. CAVR Interviews with Silvino das Dores Soares, Viqueque, 10 March 2004; and António Soares,(undated). See also José Gomes, testimony to the CAVR National Public Hearing on Massacres, 19-21 November 2003.
36. CAVR Interview with Silvino das Dores Soares, Viqueque, 10 March 2004.
37. CAVR Interview with Gerónimo da Costa Amaral, Viqueque, 10 March 2004.
38. J. Henckaerts and L. Doswald-Beck, *ICRC's Customary International Humanitarian Law, Vol. I:Rules* (2005), p. 46.
39. See World Bank, Final Report of the Joint Assessment Mission to East Timor, 8 December 1999, CAVR Archive. See also Part 3: The History of the Conflict.

40. CAVR Interview with Rui Emeliano Texeira Lopes, Suai, Covalima, March 2003.
41. CAVR Interview with Santina de Jesus Soares Ly, Former OPMT Baucau Coordinator in 1975, Baucau 10 October 2003.
42. HRVD Statement 01741.
43. HRVD Statements 00941, 03558, 02167, 0913. 01043, 09471, 06443; and CAVR Community Profiles: Ponilala Village, Poetete and Mirtutu, Ermera Sub-district, Ermera District, 19-21 January 2004.
44. HRVD Statements 03855 and 04216.
45. HRVD Statements 02246, 02256, 00704.
46. HRVD Statement 07171.
47. HRVD Statement 03892.
48. Album Kenangan Perjuangan Siliwangi [no biblio info], p. 601.
49. HRVD Statement 04044.
50. HRVD Statement 01182.
51. HRVD Statement 03116.
52. HRVD Statement 02589.
53. HRVD Statement 02406.
54. HRVD Statement 05011.
55. HRVD Statement 01352.
56. HRVD Statement 0983.
57. HRVD Statements 01120, 06777, 05643 and 03663.
58. HRVD Statement 00512.
59. Ibid.
60. HRVD Statement 07774.
61. HRVD Statement 03852.
62. HRVD Statements 01348, 04928, 04045 and 05412.
63. HRVD Statement 04178.
64. HRVD Statements 02044, 06322 and 06288.
65. HRVD Statements 03503 and 01063.
66. HRVD Statements 02317, 03111, 04181, 06074 and 07363.
67. HRVD Statement 02813.
68. See for example, HRVD Statement 01348.
69. HRVD Statements 02254 and 01649.
70. HRVD Statement 04045.
71. HRVD Statements 04901, 07235, 07253, 07238, 07085, 03876, 00584 and 07791.
72. HRVD Statements 03695, 08037,09120, 03602, 01022, 05079, 01022, 01702, 08042, 00918, 00298, 00966, 03504, 08042, 00918, 00298, 00966, 03504, 05450, 04599, 04712, 06487, 00625 and 07527.
73. HRVD Statement 0797.
74. HRVD Statement 00427.
75. HRVD Statement 04334 and 08217.
76. HRVD Statement 03462.
77. HRVD Statements 05621 and 02294.
78. HRVD Statement 03366.
79. HRVD Statement 01985.
80. HRVD Statements 01262, 08531, 04285, 05684.
81. HRVD Statement 03845.
82. HRVD Statements 08077 and 08044.
83. HRVD Statements 02520, 06248, 08375, 08342, 06418, 06369, 06408, 02512 and 08290.
84. ETHRC, 28 February 1999, "Escalating Violations in East Timor: Is a Peaceful Solution Possible?" See also HRVD Statements 01531, 01581, 01583, 01603 and 01518.
85. HRVD Statement 09022.
86. HRVD Statements 00456, 02326, 00082, 05881, 00289 and 02990.

87. HRVD Statement 00082.
88. HRVD Statements 02573, 04240. See also CAVR Community Profile, Lebos-Gidapil Village, Lolotoe Sub-district, Bobonaro District, 9 September 2003.
89. HRVD Statement 00561.
90. HRVD Statements 00449, 00458, 00427.
91. CAVR Community Profile, Liurai Village, Turiscai Sub-district, Manufahi District, 17 September 2003.
92. HRVD Statements 02024, 02034, 08463, 06313, 06324 and 05138. See also CAVR Community Profile, Faholulik Village, Tilomar Sub-district, Covalima District, 21 October 2003.
93. HVRD Statements 03510, 08385 and CAVR Community Profile, Atara and Salaun Villages, Atsabe Sub-district, Ermera District 14 April 2003.
94. HRVD Statement 09031 from former militia leader, Belu, West Timor, Indonesia on 25 April 2003.
95. See for example, HRVD Statement 00309.
96. See for example, HRVD Statement 02950.
97. See for example, HRVD Statements 03685, 01239, 01208 and 01239.
98. CAVR Community Profile, Atara and Salaun Villages, Atsabe Sub-district, Ermera District 14 April 2003.
99. HRVD Statement 02835.
100. CAVR Community Profile, Costa Village, Pante Makasar Sub-district, Oecussi District, 16 February 2004.
101. HRVD Statement 02632.
102. HRVD Statement 02930.
103. CAVR Interview with Manuel Cárceres da Costa, UNHCR Repatriation/Protection Assistant, Dili, 25 November 2002.
104. See World Bank, Final Report of the Joint Assessment Mission to East Timor, 8 December 1999. CAVR Archive.
105. HRVD Statements 01101, 08303, 08312 and 08314. See also CAVR Community Profiles: Leimea Kraik and Samara Villages, Hatolia Sub-district, Ermera District, 20 August 2003; Ponilala, Poetete and Mirtutu Villages, Ermera Sub-district, Ermera District, 19-21 January 2004; Lihu and Railaco Kraik Villages, Railaco Sub-district, Ermera District, 20 February 2003, Laclo and Paramin Villages, Atsabe Sub-district, Ermera District, 26 June 2003; Eraulo Village, Letefoho Sub-district, Ermera District, 2 December 2002; and Hatugau Village, Letefoho Sub-district, Ermera District, 14 October 2002.
106. HRVD Statements 05271 and 08282.
107. HRVD Statement 04079.
108. HRVD Statements 07747, 07811, 03908, and 07089. See also CAVR Community Profile, Gurusa Village, Quelicai Sub-district, Baucau District, 21 November 2003.
109. HRVD Statements 04194 and 04129. See also CAVR Community Profiles: Ahic Village, Dilor, Lacluta Sub-district, Viqueque District, 22 November 2002; Luca Village, Viqueque Sub-district, Viqueque District, 10 June 2003; and Uaibobo Village, Ossu Sub-district, Viqueque District.
110. HRVD Statements 05173, 06351, 02046, 06263 and 08560.
111. HRVD Statements 02807, 02828 and 02630. See also CAVR Community Profile, Bobometo Village, Oesilo Sub-district, Oecussi District, 31 May 2003.
112. See for example, HRVD Statements 02930, 00853 00859; and CAVR Community Profile, Usitaqeno Village, Oesilo Sub-district, Oecussi District, 24 July 2003; Suni Ufe Village, Nitibe Sub-district, Oecussi District, 17 January 2003.
113. HRVD Statement 0831.
114. HRVD Statement 02418.
115. HRVD Statements 0140, 01391, 01392, 01307, 01312, 01334, 01335, 01381, 01382, 01392 and 03310.
116. See, for example, CAVR Community Profiles from: Asbilitoho Village, Asbilitoho Village, Asumano Village and Manukasa Village taken in Liquidoe Sub-district, Aileu District, between 11 July and 3 September 2003.
117. Article 4 Geneva Convention III; Article 44 (1), (3) and (4) Geneva Protocol I. (This includes combatants who are sick or wounded: Article 14 Geneva Convention I.)

118. Article 4A Geneva Convention III.
119. CAVR Interview with Jacinto Alves, former assistant to the Falintil chief-of-staff, Dili, 3 May, 2005.
120. Article 5 Geneva Convention III; Article 45 (1) Geneva Protocol I.
121. Article 4 Hague Regulations; article 13 Geneva Convention III.
122. Articles 13 and 17 Geneva Convention III.
123. Articles 15, 26, 30 Geneva Convention III.
124. Articles 19 and 23 Geneva Convention III.
125. Article 5 Geneva Convention IV.
126. Carmel Budiardjo & Kiem Soei Liong, *The War Against East Timor,* Document 8 Military Regional Command XVI, Udayana, Established Procedure for Interrogation of Prisoners, PROTAP/01-B/VII/1982.
127. HRVD Statements 01440 and 06571. See also CAVR Community Profiles, Fatuloro Village, Fatululik Sub-district, Covalima District, 20 November 2002; Tapo Village, Maliana Sub-district, Bobonaro District, 24 November 2003.
128. HRVD Statement 0485. See also CAVR Community Profile, Tapo Village, Maliana Sub-district, Bobonaro District, 24 November 2003.
129. CAVR Community Profile, Lifau Village, Laleia Sub-district, Manatuto District, 17 June 2003.
130. CAVR Interview with Zeferino Armando Ximenes, (undated).
131. HRVD Statement 07331 and 05069.
132. For example, HRVD Statement 00716.
133. HRVD Statement 06515.
134. HRVD Statement 01267.
135. Article 22 Hague Regulations; Article 35 (1) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports, para 77.
136. St Petersburg Declaration 1868; Article 23 Hague Regulations; Article 35 (2) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports, para 78.
137. Article 51 (4) Geneva Protocol I; A*dvisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports, para 78.
138. See also Article 54 (2) Geneva Protocol I.
139. See also Article 54 (1) Geneva Protocol I.
140. Official Operational Procedure, No.: PROTAP/3/IV/1988, Capabilities of Tactical Planes, 30 April 1988, the Indonesian Armed Forces, Security Operation Command in East Timor.
141. The Official Operational Procedure, No.: PROTAP/3/IV/1988, 30 April 1988, Ammunition Capability and Safe Range, the Indonesian Armed Forces, Security Operation Command in East Timor.
142. CAVR Community Profile, Maneluma Village, Laulara Sub-district, Aileu District, 12 December 2002.
143. CAVR Community Profile, Laclo and Paramin Villages, Atsabe Sub-district, Ermera District, 16 June 2003
144. Ibid.
145. CAVR Community Profile, Atara and Lasaun Villages, Atsabe Sub-district, Ermera District, 14 April 2003.
146. CAVR Community Profile, Guololo Village, Letefoho Sub-district, Ermera District, 25 November 2003.
147. CAVR Interview with Agusto Soares, in Hatolia, Ermera, 13 August 2003.
148. Ibid.
149. CAVR Community Profile, Bora and Manelima Villages, Laclubar Sub-district, Manatuto District, 3 September 2003.
150. CAVR Community Profile, Kakae Uman Village, Natarbora/Barique Sub-district, Manatuto District, 11 April 2003.
151. CAVR Community Profile, Guruça Village, Quelicai Sub-district, Baucau District, 21 November 2003.
152. CAVR Community Profiles in Darulete Village, Liquiçá Sub-district, Liquiçá District 13 Febuary 2003 ; Leimea Kraik and Samara Villages, Hatolia Sub-district, Ermera District, 20 August 2003; Souro Village, Lospalos Sub-district, Lautém District, 24 Febuary 2004; Lebos and Guldapil Villages, Lolotoe Sub-district, Bobonaro District, 9 September 2003 ; Fatuloro Village, Faululik Sub-district,

Covalima District, 21 November 2002; and Lifau Village, Laleia Sub-district, Manatuto District, 17 June 2003.
153. CAVR Interview with Lucas da Costa Xavier, former ABRI/TNI soldier, Same, Manufahi, 13 August 2004.
154. Official Operational Procedure, No.: PROTAP/3/IV/1988, Capabilities of Tactical Planes, 30 April 1988, the Indonesian Armed Forces, Security Operation Command in East Timor.
155. Conboy, p. 276.
156. Indonesian military film footage, obtained by the Commission from anonymous sources, Jakarta 2005. CAVR Archive.
157. Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons 1980.
158. CAVR Interview with Adriano João, Dili, 21 September 2004.
159. CAVR Community Profile, Obulo and Butamanu Villages, Atsabe Sub-district, Ermera District, 13 May 2003.
160. Article 23 Hague Regulations.
161. Article 51 Geneva Convention IV.
162. Ibid.
163. HRVD Statement 02491.
164. HRVD Statement 05720.
165. HRVD Statement 03412.
166. HRVD Statement 01105.
167. HRVD Statement 04012.
168. CAVR Community Profile, Guruça Village, Quelicai Sub-district, Baucau District, 21 November 2003.
169. HRVD Statement 05685.
170. See HRVD Statement 07752, and CAVR Community Profile, Mehara Village, Tutuala Sub-district, Lautém District, 27 November 2002.
171. See for example, HRVD Statement 06081.
172. See for example, CAVR Community Profiles in Leber Village, Bobonaro Sub-district, Bobonaro District, 24 November 2003; Guda Village, Lolotoe Sub-district, Bobonaro District, 26 August 2003; Leohito Village, Balibó Sub-district, Bobonaro District, 21 January 2004; and Lourba Village, Bobonaro Sub-district, Bobonaro District, 25 January 2003.
173. HRVD Statement 08365.
174. HRVD Statement 03403.
175. See for example, HRVD Statement 04763.
176. CAVR Community Profile, Defawassi Village, Baguia Sub-district, Baucau District, 23 September 2003.
177. HRVD Statement 03101.
178. HRVD Statement 01071.
179. CAVR Community Profiles, Bibileo Village, Viqueque Sub-district, Viqueque District, 5 June 2003; Irabin de Baixo Village, Uatu Carbau Sub-district, Viqueque District, 26 August 2003; Assu da Cima Village, Ossu Sub-district, Viqueque District, 20 March 2003; and Manulesu Village, Liquedoe Sub-district, Aileu District, 27 August 2003.
180. HRVD Statement 03135.
181. HRVD Statement 03093.
182. HRVD Statement 03421.
183. HRVD Statement 00168.
184. HRVD Statement 01990.
185. HRVD Statement 03963.
186. HRVD Statement 03474.
187. HRVD Statement 06044.
188. HRVD Statement 04351.
189. HRVD Statement 05687.
190. Instruction – Operation No. INSOP/03/II/1982.

191. See for example, CAVR Community Profile, Asumano Village, Liquidoe Sub-district, Aileu District, 11 July 2003.
192. Instruction – Operation No. INSOP/03/II/1982, p. 8.
193. Conboy, p. 298.
194. See Korps Marinir TNI AL, 1970-2000, Marine Information Department, Jakarta, 2000, p. 274.
195. CAVR Community Profile, Lelalai Village, Quelicai Sub-district, Baucau District, 20 October 2003.
196. CAVR Community Profile, Muapetini Village, Lospalos Sub-district, Lautém District, 18 February 2004. (Apakah sama dengan Muapitine yg disebutkan sebelum ini?)
197. CAVR Community Profile, Rasa Village, Lospalos Sub-district, Lautém District, 1 July 2004.
198. HRVD Statement 06057.
199. HRVD Statement 05224.
200. Kepala Intelejen Mayor Willem Da Costa, Petunjuk Teknis Tentang Kegiatan Babinsa, (Juknis/06/IV/1982) [Head of intelligence Major Willem Da Costa, Technical Guidelines Regarding the Activities of the Babinsa], 10 September 1982. Budiardjo dan Liem, *The War Against East Timor*, Zed Books, 1984, p. 201.
201. HRVD Statement 04107.
202. HRVD Statement 05040.
203. CAVR Community Profile, Uaitame Village, Quelicai Sub-district, Baucau District, 12 December 2003.
204. See for example, CAVR Community Profile, Fahisoi Village, Remexio Sub-district, Aileu District, 29 May 2003.
205. HRVD Statement 03465.
206. HRVD Statement 04071.
207. HRVD Statement 01022.
208. See for example, HRVD Statement 03252.
209. HRVD Statement 04756.
210. HRVD Statement 02283.
211. CAVR Community Profile, Mehara Village, Tutuala Sub-district, Lautém District, 21 November 2003.
212. CAVR Community Profile, Bibileo Village, Viqueque Sub-district, Viqueque District, 5 June 2003.
213. CAVR Community Profiles, Uairoke Village, Luro Sub-district, Lautém District, 7 October 2003; Mehara Village, Tutuala Sub-district, Lautém District, 11 November 2002.
214. CAVR Community Profile, Mehara Village, Tutuala Sub-district, Lautém District, 27 November 2002.
215. HRVD Statements 05317, 05365 and 05389.
216. HRVD Statement 04129.
217. HRVD Statement 00155.
218. HRVD Statement 05316.
219. HRVD Statement 04439.
220. See for example HRVD Statements 04251 and 06817.
221. HRVD Statements 01429 and 07696.
222. HRVD Statement 04386.
223. CAVR Community Profile, Guruça Village, Quelicai Sub-district, Baucau District, 21 November 2003.
224. HRVD Statement 01036.
225. HRVD Statement 05825 and 01313.
226. HRVD Statements 04793 and 01752.
227. HRVD Statement 03078.
228. HRVD Statement 07665.
229. CAVR Community Profile, Bualale Village, Quelicai Sub-district, Baucau District, 16 December 2003.
230. CAVR Community Profile, Namalesu, Liquidoe Sub-district, Aileu District, 27 August 2003.
231. See for example, HRVD Statements 00638 and 00427.
232. See for example, CAVR Community Profile, Uaimori Village, Tula (nama desa juga?), Viqueque Sub-district, Viqueque District, 19 June 2003.
233. CAVR Community Profile, Bibileo Village, Viqueque Sub-district, Viqueque District, 5 June 2003.

234. HRVD Statement 06483.
235. HRVD Statements 03408 and 04748.
236. HRVD Statements 06293, 00762 and 01425.
237. HRVD Statements 02934, 01958 (versi Indonesia 018958) and 00243.
238. António Serpa, testimony to the CAVR National Public Hearing on The Internal Conflict 1974-76, 15-18 December 2003.
239. CAVR Interview with Humberto Martins da Cruz [undated].
240. Ibid; see also HRVD Statement 09081.
241. Francisco Guterres "Lú-Olo", testimony in his capacity as President of Fretilin, and testimony of Mari Alkatiri in his capacity as Secretary General of Fretilin, to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15-18 December 2003.
242. Francisco Xavier do Amaral, ibid.
243. Angelo Araújo, testimony to the CAVR National Public Hearing on Massacres 19-21, November, 2003
244. CAVR Interview with Brigadier General Taur Matan Ruak, Dili, 9 June 2004.
245. CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
246. CAVR Interview with Agostinho Boavida Ximenes (Sera Malik), Soe, West Timor, Indonesia, 28 August 2004.
247. CAVR Interview with José da Conceição, Kupang, West Timor, Indonesia, 24 August 2004.
248. CAVR Community Profile, Faturasa Village, Remexio Sub-district, Aileu District, 20 June 2003.
249. CAVR interview with Lucas da Costa, Dili, 21 June 2004.
250. CAVR Community Profile, Fahisoi Village, Remexio Sub-district, Aileu District, 29 May 2003.
251. CAVR Community Profile, Guruça Village, Quelicai Sub-District, Baucau District, 21 November 2003.
252. CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
253. Xanana Gusmão, *Timor Leste: Um Povo Uma Pátria, Edicões Colibri,* 1994, p. 31.
254. Ibid.
255. See for example, HRVD Statement 04149.
256. HRVD Statement 07612.
257. See CAVR Community Profiles from these sub-districts. CAVR Archive.



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Part 7.6.

Political Trials

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7.6. Political Trials

Introduction

1. This part examines the trials of Timorese prisoners for political crimes by the Indonesian state during the period of Indonesian occupation in Timor-Leste. The Commission acknowledges that Fretilin also tried people for political crimes, including treason, under its system of administration in the late 1970s. Fretilin trials are considered in Vol. I, Part 5: Resistance: Structure and Strategy and Vol. III, Part 7.4: Detention, Torture and Ill-treatment by Fretilin, 1976-79.

2. The Indonesian courts in Timor-Leste began to conduct criminal cases from 1977,* but the criminal law was not used to target political opponents to the claimed integration of Timor-Leste into Indonesia in the early years of the occupation. Instead of being put on trial, political prisoners in this period were either held in indefinite arbitrary detention or killed. In 1983, a new policy of "normalisation" led to a decision by the Indonesian government to charge people suspected of assisting the movement for independence with offences such as treason and subversion, and to prosecute them in the courts. Hundreds of East Timorese were tried and convicted of these offences during the next 16 years.

3. The Commission has read and considered the contents of several hundred of the Dili District Court files in relation to these trials. In addition it has interviewed and received statements from a variety of individuals who were defendants in trials, witnesses to events and lawyers, both East Timorese and Indonesian, who were involved in the cases.

4. The picture that emerged from these inquiries is that the trials did not necessarily signal a reduction in the human rights violations that were occurring, but to some degree

* As early as 24 July 1976, the Kodahankam (Komando Daerah Pertahanan Keamanan, Regional Defence and Security Command) Commander, Colonel Dading Kalbuadi, issued an arrest warrant for the governor's driver, Tito Dos Santos Baptista (22), for violation of Article 359 of the Indonesian Criminal Code (KUHP) in connection with a fatal car accident. [Interview with Mario Carrascalão, 30 June, 204]

altered their form. The killing, arbitrary detention, and torture of political opponents continued. In addition a range of actors including military intelligence officers, police, prosecutors, defence counsel and judges were involved in other violations related to the conduct of political "show trials".

5. These trials were intended to demonstrate to the world that a change in policy had produced a new commitment to human rights and the rule of law. In fact the trials were a sophisticated production designed to produce an illusion of justice and due process. This veneer hid the reality that the trials were a tool that ensured the conviction of political opponents whilst providing a response to international critics.

6. The trials involved a range of violations of both the Indonesian criminal code and international law. Suspects were routinely tortured and intimidated into signing Records of Interrogation (RoI), which contained confessions and evidence against other co-accused. These Records of Interrogation were the basis for many convictions. Indonesian military and police officers consistently gave false evidence under oath in court, and intimidated other witnesses into doing the same or not providing testimony at all. Defendants were refused the right to select lawyers to defend them and in most cases were appointed with lawyers who did little more than speed up the prosecution case. Judges ignored indications of unethical behaviour and evidence that had been fabricated, and handed down judgments of guilty in all cases. The sentences were disproportionately harsh and often did not take into account lengthy periods of time already served in military detention. The Commission did not find a record of complete acquittal of a single defendant in any of the hundreds of case files examined. Appeal proceedings provided a rubber stamp of higher authority on the tainted decisions of the trial judges.

7. Because of the large number of political trials that were conducted, the Commission was unable to report in depth on all violations. It has therefore included in this part an analysis of some of the most significant political trials that occurred during the Indonesian occupation. The violations apparent from the conduct of these trials are generally consistent with the patterns found to exist in other trials examined by the Commission.

8. The section begins with a survey of the first wave of political trials from 1983-1985, then provides specific analysis of four high-profile sets of trials: the trials in 1992 of the organisers of the Santa Cruz demonstration; the 1992 trial of the organisers of the Jakarta demonstration; the trial of Xanana Gusmão in 1993; and the trial in 1997 of the organisers and participants in the Mahkota hotel demonstration.

Legal framework

9. As discussed in detail in the Mandate Part of this Report the purported integration of Timor-Leste into Indonesia was invalid according to international law. Indonesia was an occupying power in Timor-Leste.

10. Geneva Convention IV states that the penal laws in force in the territory immediately before the occupation shall "remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention".[1]

11. Civilians in the occupied territory may be tried for criminal acts designed to harm the occupying power.[2] However, the laws of armed conflict expressly state that the civilians in an occupied territory may not be required to swear allegiance to the occupying power.[*] Indonesia was therefore not permitted to persecute or punish the inhabitants of Timor-Leste for political opposition to the occupation, including for the crimes of subversion or treason.

12. Notwithstanding the above, the Commission accepts that, as a matter of fact, the Indonesian government applied the laws of Indonesia in their entirety to the territory of Timor-Leste during the relevant period. The Commission has found that not only was there no right to try individuals for political opposition, but the manner in which the trials of political opponents were carried out was in violation of many of the applicable provisions of Indonesian law and international law.

13. This section considers the extent to which the trials of East Timorese political opponents during the occupation violated either Indonesian law and/or international standards of a "fair trial". This includes reference to specific violations of the Indonesian Criminal Code (Kitab Undang-undang Hukum Pidana, KUHP), Indonesian Criminal Procedure Code (Kitab Undang-undang Hukum Acara Pidana, KUHAP) Indonesia's express treaty obligations under Geneva Convention IV, customary international law, and violations of international human rights standards included in the International Covenant on Civil and Political Rights (ICCPR).

Indonesian law

14. The vast majority of political defendants were charged under the Indonesian Criminal Code (KUHP) with *makar*[3] or under the Anti-Subversion Law 11/1963 with overthrowing, destroying or undermining the power or authority of the state.[†] "*Makar*" is defined as an attempt undertaken with intent to bring the territory of the state wholly or partially under foreign domination or to separate part thereof.

15. The Indonesian Criminal Procedure Code (KUHAP) governs all criminal trials in Indonesia. Although it does not provide extensive fair trial guarantees, it does contain provisions that protect the rights of suspects and defendants. These include:

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* Article 45 of the Regulations Annexed to Hague Convention IV (under which it is prohibited to force the population of the occupied territory to swear allegiance to the occupying power); see also Geneva Convention III, Article 87 (in sentencing prisoners of war, the courts or authorities must take into consideration, to the widest extent possible, that the accused is not a national and owes no duty of allegiance).

† Article 1(1)b Anti-Subversion Law 11/1963: It is a punishable offence to overthrow, destroy or undermine the power of the state or the authority of the state or the authority of the lawful government or the machinery of the state.

- Access to independent lawyers (Article 54, 55), family (Article 60,61) and doctors pre-trial (Article 58)
- The right not to give evidence (Article 66)
- The right to a public trial (Articles 64, 153)
- The right to call witnesses (Article 65) and state a defence (Article 182 1b)
- The right of defendants and witnesses to be free from intimidation (Article 117)
- The right to appeal (Article 67).

International humanitarian law

16. A number of legally binding obligations in relation to the guarantee of a fair trial arise from the legal status of Indonesia as an occupying power according to international humanitarian law. As a party to the Fourth Geneva Convention from 1958, Indonesia was bound to observe the following obligations, among others:

- Article 67: "The courts shall apply only those provisions of law which were applicable before the offence, and which are in accordance with general principles of law, in particular the principle that the penalty shall be proportionate to the offence. They shall take into consideration the fact the accused is not a national of the Occupying Power."
- Article 71: "No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial. Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible."
- Article 72: "Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence."

International human rights standards

17. The minimal standards of the right to a fair trial are set out in Articles 14 and 15 of the International Covenant on Civil and Political Rights (ICCPR). The relevant guarantees may be summarised as follows:

- The right to be promptly informed of the nature and cause of the charge. The information must enable the accused to understand what is being alleged so that they are in a position to prepare a defence.
- The right to adequate time and facilities to prepare a defence, and the right to communicate with counsel of the accused's choice. This includes access to relevant documents, and the ability to communicate freely and in confidence with counsel.

- The presumption of innocence. This means that the accused is presumed innocent until proven guilty. The burden of proving the offence lies with the prosecution.
- The right to a fair and public hearing by a competent, independent and impartial tribunal.
- The right to be tried without undue delay.
- The right to be tried in one's presence.
- The right to defend oneself in person or through legal counsel of one's choice. The accused cannot be limited in choice of available defences recognised by law.
- The right to have legal assistance provided by the State if the accused is not able to pay for legal assistance.
- The right to examine witnesses.
- The right to have the free assistance of an interpreter if the accused cannot understand or speak the language used in court.
- The right not to testify against oneself or implicate oneself.
- The right not to be tried for something that was not criminal at the time it was committed.
- The right not to be tried for something for which one has already been tried.

Analytical framework

18. Based on Indonesian law, international humanitarian law and customary international law, Indonesia was obliged to guarantee a fair trial to those charged with criminal offences in the occupied territory of Timor-Leste. The following analysis considers five critical moments during the occupation: the first wave of political trials in 1983-85; the Santa Cruz trials in the early 1990s; the Jakarta trials; the trial of Xanana Gusmão; and the Hotel Mahkota trial. It uses the procedural guarantees identified above to determine the extent to which trials in each of these five situations complied with Indonesia's obligations under domestic and international law.

The first wave of political trials, 1983–1985

Background

19. The Indonesian civil justice system was operational in Timor-Leste from at least 1977.[4] However, formal trials of Fretilin (Frente Revolucionaria de Timor-Leste Independente) supporters and others linked to the independence movement did not begin until 1983.* The period 1983-85 saw a surge in "political trials" of individuals charged with treason, subversion or similar offences.

* There are reports of informal proceedings taking place in detention centres such as Sang Tai Hoo.

20. The first four trials of individuals charged on the basis of their membership of "GPK"[*] /Fretilin took place in December 1983. A letter from Indonesian Foreign Minister Ali Alatas to Amnesty International, dated 30 April 1984, noted that a further 200 trials were planned. By the end of 1985 there had been at least 232 verdicts handed down in relation to political trials – all of them guilty.[†] In 1986 a further 70 individuals were prosecuted. By 1987 the number of political trials being held had decreased significantly. In contrast, the number of trials for ordinary criminal offences remained constant throughout this period.[‡]

21. The move towards formal trials for those accused of treason or similar offences signifies a shift in policy on the part of the Indonesian authorities. This policy involved adding the use of the formal justice system to the methods employed in the fight against the pro-independence movement.

22. However, this does not mean that the policy involved moving away from the previous practices of subjecting pro-independence activists to arbitrary detention, torture, and extrajudicial killings. Analysis of the violations reported to the Commission confirms that these practices continued after the decision was made to also use the formal justice system (see Vol. I, Part 6: Profile of Human Rights Violations and Vol. III, Part 7.4: Detention, Torture and Ill-treatment).

23. Indeed defendants in several of the cases will have been aware that people who had been detained with them had been killed, disappeared or had died in detention as a result of ill-treatment. In some of the cases brought to trial, people alleged in court to have conspired with a defendant were themselves unable to appear as witnesses because they had been killed or had disappeared.[§] The fate of these people was never

* Indonesian abbreviation for *gerombolan pengacau keamanan*, "band of security disruptors", the New Order name for resistance movements in Aceh, Papua and Timor-Leste.

† One former prisoner described Balide, where most political detainees were held, as full until 1983, with about 200 people. Interview with David da Conçeicão (Aleon), The Neil Barrett Comarca Video Project, Submission to CAVR, August 2002; Caetano Guterres estimated there were about 300 prisoners, see CAVR interview with Caetano Guterres, Dili, 22 May 2004, p.5.

‡ According to Judge Siregar, "GPK" trials began in 1983 with five defendants, increasing to 82 in 1984, and 69 in 1985 through to 13 August 1985. In June 1985, the government issued a list of 154 people from December 1983-March 1985, later revised upwards to 157. A second government list obtained by Amnesty International dated 28 May 1985 listed 31 dossiers submitted to the Public Prosecutor (Jaksa Penuntut Umum, JPU). A third list, dated 23 July 1985, has eight names tried in July (including one from the previous list). Taken together these lists indicated as many as 185 East Timorese tried for political offenses by July 1985. Amnesty International, *Unfair Trials and Possible Torture in East Timor*, December 1985.

§ Thus, for example: in the David Ximenes case two people alleged to have participated in meetings with the defendant, João Christorei and Danilo da Silva, both disappeared, along with many others, after being arrested following the Marabia attack of 10 June 1980; in the case of Zé Roberto Seixas Miranda Jeronimo, four people alleged to have attended meetings with the defendant, Francisco Serpa Rosa, Manuel Jeronimo, Manuel da Costa and Filomeno da Gama were reported to have been killed or to have disappeared at or around the time of Zé Roberto Seixas's arrest in November 1983. Several defendants, including Aitahan Matak, Henrique Belmiro, Fernando da Costa and Rogerio Pinto, were part of a group of 69 prisoners who were arrested in August 1983 and shortly afterwards taken to Penfui prison in Kupang. Only 14 of the 69 survived their year of imprisonment in Kupang. The rest either disappeared or died as a result of the deplorable conditions in which they were held. For more on all these cases, see Vol. II, Part 7.2: Unlawful Killings and Disappearances.

mentioned in court, but could not have failed to prey on the minds of the accused as they faced trial.

24. The shift in policy also did not produce a situation in which pro-independence figures were granted fair trials on charges relating to their activities. What in fact took place was that a portion of those who were arrested for pro-independence activities were dealt with through trials, and these trials were manipulated to ensure that the defendants would be found guilty of treason and subversion.

25. Guilty verdicts for defendants were guaranteed through the use of physical torture and sleep deprivation during the interrogation process, intimidation of witnesses who might be able to testify on behalf of defendants, fabrication of evidence, collusion and fabrication of statements by prosecution witnesses, not allowing defendants to choose the lawyers who would defend them and manipulation of the trial process.

26. The trials therefore supplied the Indonesian government with a superficial answer to the increasing volume of international criticism over human rights violations in Timor-Leste. The trials created a basis for arguing that the program to suppress the pro-independence movement was no longer based on gross violations of the rights of those suspected of pro-independence activities. However, in fact it was only the form of some of the violations that had changed. The systematic use of torture, arbitrary imprisonment and killing continued at the same time as political opponents were subjected to unfair trial processes which violated many of their fundamental rights.

27. It may be that the violation of the rights of some of those suspected of pro-independence activities was less severe than it would have been had the policy shift to include trials as a tool in the program not taken place. The detentions, interrogations, unfair trial process and imprisonment may be argued to be an improvement on the previous practices, which were conducted almost totally "in the dark". At least the trials were public, they probably involved less violence, and defendants were less likely to be killed or disappeared following public trials. But this does not detract from the fact that the trials themselves, and the terms of imprisonment that inevitably followed, involved serious violations of the rights of all the accused persons who were prosecuted.

28. The trials were, in effect, a sham that provided an illusion of a policy shift towards more respect for fundamental rights. This illusion, to some degree, diverted attention away from the violations that were still taking place

29. In 1985 Amnesty International noted that:

> In 1984 and 1985, the Indonesian Government pointed to trials of political prisoners in Dili, East Timor as evidence that the human rights situation in the territory had improved…Press accounts have quoted Indonesian officials as stating that all prisoners either have been tried or are scheduled for trial. [5]

30. Indonesia's efforts proved a somewhat effective means of gaining international approval, particularly as international observers were not able to monitor the trial

processes and conditions of imprisonment of defendants. In 1984, the US State Department wrote:

> Many East Timorese detained in earlier years were tried in civilian courts this year. Represented by government-provided civilian attorneys and charged with criminal code violations, seventy persons were convicted and sentenced to terms ranging from one to eighteen years.[6]

31. The Commission, through its examination of over 200 court files and by interviewing many of the persons tried and others involved in the trial process, has been able to establish a clear picture of what actually transpired in relation to the political trials.

Formal legal processes

32. Documents examined by the Commission show that a policy change, initiated by the Indonesian military, took place in September 1983. Orders were given for cases previously under the control of the military to be handed over to district police commanders to be processed as criminal cases in the courts.[*] This policy was designed to reinforce the legitimacy of Indonesia's presence through an impression of normality and application of the rule of law.

33. While this change in policy ostensibly meant that responsibility was handed over to police, prosecutors and judges, an active role continued to be played behind the scenes by senior military figures.[7]

34. Documents in a case file examined by the Commission indicate that in 1984 a Special Police Task Force was established to work on the investigations.[8] This team seems to have replaced the earlier Regional (ie Provincial) Police Task Force 11.3 of East Timor (Kowil 11.3 Timor-Timur) and the Operations Implementation Command (Komando Pelaksanaan Operasi, Kolakops) Investigation Team. On 21 February 1984, the Chief of East Timor Regional Police (Polisi Wilayah, Polwil), Drs. Soenardjadi, issued an order (No. Pol: Prinlak/69/Ii/1984/Polwil Tims) to "facilitate the tasks of the East Timor Police, within the framework of improving the efficiency of the Nusa Tenggara Police Task Force".[9]

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* The document TR/130/1983, dated 26 September 1983, reads: "Aaa…many criminal cases were previously handled by the Kodim Commanders [.] Bbb…it is ordered that all recipients [of this order] immediately reassign their cases to the relevant Sub-district Police Commanders (Danres) [,] for the immediate processing of the cases [.]"
The document was sent by the commander of the military command for East Timor province (Korem 164/Wira Darma) to the commanders of all district military commands (Kodims 1627 to 1639) in Timor-Leste. Copies of the document were sent to the Kodam commander-in-chief (Pangdam) XVI/Udayana, who had direct command responsibility for Kolakops from 1978 to1990, the Police Commander of the provincial police of East Timor, Deputy Commander of the Nusa Tenggara Region Tactical Command of the Special Implementer (Wapa Kotis Laksusda Nusra), Korem 164/Wira Darma heads of sections one, three and five (Kasi 1, 3, And 5 Rem 164/WD).
This document was found in several files, including that of David Dias Ximenes, No. 22/Pid/B/84/PN.DIL. There are also references in the files to a TR and Kolakops No:TR/661/IX/1983 dated 28 September 1983 regarding the hand-over of the detainee to be processed following the prevailing procedure of law that is likely to be an implementation of the order.

35. Within three months of this order being issued, at least 15 persons were handed over to the police for judicial processing.[10] The Commission has examined a document addressed to the Dili District police commander from the Dili District Military (Komando Distrik Militer, Kodim) commander, Lieutenant Colonel Rohiat Wiseso. The document lists the handover of 15 suspects. Another such handover took place on 21 February 1984. The Korem commander, Colonel Rudito, in his capacity as Kolakops commander, handed over seven detainees to the police to be processed by law. Clearly, these were the cases considered "ready" for processing and did not represent the totality of operational detainees held.[11]

Informing defendants of their basic rights

36. The Commission has seen no evidence to suggest that those accused of political crimes were informed of their basic rights before trial. The Indonesian Criminal Procedure Code states that on arrest, a person may request assistance from a lawyer of his or her choice (KUHAP Articles 55 and 60) or from a lawyer designated by the state. In cases where the individual may face the death penalty or a sentence of five years or more, legal assistance is compulsory from the time of arrest.

37. All of the cases examined fell within the category of compulsory legal assistance. However, none of the Records of Interrogation (RoI, in Indonesia known as Berita Acara Pemeriksa or BAP) examined by the Commission from this period indicate that the accused was informed of this right, or provided with an opportunity to have defence counsel of their own choice present.

38. Under Indonesian law, there is a basic presumption of innocence until guilt is proved (KUHAP Article 6). Detained persons were not advised of this, nor were they told that they had a right to challenge the legality of their arrest and detention (Articles 77 to 83). Those accused were not advised of their right not to incriminate themselves (Article 66).*

39. Before being transferred to police custody for trial, suspects were often held for long periods of time in military custody. This was so despite international human rights standards requiring that persons detained on criminal charges be brought promptly before a judge, and the requirement under Geneva Convention IV that accused persons prosecuted by the occupying power must be brought to trial as rapidly as possible.[12] During the period of the Soeharto military dictatorship members of the military forces were granted the authority to investigate, arrest and detain individuals who were deemed to be a threat to national security.† (This authority was withdrawn after the fall of the

* The suspect and the defendant shall not be obliged to prove his/her innocence.

† This power was based on the formal letter given by President Soekarno to Soeharto on 11 March 1966. This "11 March Instruction", known as Supersemar, was used to establish the Command for the Restoration of Law and Order (*Komando Pemulihan Keamanan dan Ketertiban, Kopkamtib*) with Soeharto as its first leader, which replicated the military territorial structure. The authority of the Kopkamtib was extended by the Transitional People's Consultative Assembly (MPR) Decree (*Ketetapan Majelis Permusyawaratan Rakyat Sementara*, TAP MPRS No IXMPRS/1966), further extended by MPR Decree (*Ketetapan Majelis Permusyawaratan Rakyat*, TAP MPR NO X/MPR/1971) and given official recognition by President Soeharto's Presidential Decree No 9/1974. In 1988 the Kopkamtib was dissolved and replaced by the Bakorstanas (Agency for the Coordination of Support for the Development of National Security).

Soeharto regime). However many of those who were detained did not in reality pose a threat to national security, and the treatment of suspects in detention violated a wide range of international human rights standards.

40. In addition, the Criminal Procedure Code required that specific rules must be complied with if evidence were to be used against defendants in trials. These rules included that suspects be warned of their rights and be given the opportunity to have a lawyer present from the time of their arrest, particularly during interviews and interrogation. In the RoI of cases examined by the Commission not a single defendant was provided with this information at the time of interrogation. Accordingly the admissions made and evidence allegedly provided during interrogation should not have been admitted against the defendants at their trials. Despite this, these RoI formed the basis of conviction for the majority of defendants brought to trial.

41. David Dias Ximenes's file indicates that he was held in ABRI custody from 16 June 1980. On 21 February 1984, he was transferred to the police for processing. His RoI is also dated 21 February 1984. It is clear that he was held in military detention for over three years before being moved into the formal justice system. The file reveals that David Ximenes was transferred to the formal justice system together with six others, of whom three had been held in detention since November 1976.[13]

42. Domingos Seixas's RoI of 6 February 1984 records that he was arrested on 15 August 1983 by members of the Kodim, and was handed over to Sub-regional Military Command (Korem) 164/Wira Darma. On 16 August 1983, he was moved to Denpasar, Bali and then was moved back to the Comarca prison in Balide (Dili) on 9 November 1983. He appears to have entered police custody on 1 February 1984. In total, he was held in military detention for between three and six months before entering the criminal justice system.

43. Zé Roberto, the former sub-district administrator (Camat) of Illiomar, was arrested by the military in November 1983, but was not handed over to the police until 23 March 1984.[14] He was therefore held for between four and five months in military detention before entering the criminal justice system. The Commission's interviews with former political prisoners confirm that there were often periods of arbitrary detention before individuals were handed over for legal processing. Caetano Guterres informed the Commission that he was arrested in September 1983 and taken to the Dili Kodim where he was beaten and interrogated.[15] Guterres recalls being held for three months by Kopasandha/Kopassus in Colmera (Dili), where he was questioned every night. Maria Immaculada Araújo was arrested by the military on 12 June 1980 and taken to Balide prison. After one year she was moved to Ataúro, where she spent three years. She was then brought back to the Kodim for a month, followed by more time in the Comarca and then interrogation at the Office of Social and Political Affairs (Sospol)* in preparation for her trial in August 1984. She was therefore detained for over three years before being formally charged.

44. The degree to which the military illegally and arbitrarily detained suspects, and the way that suspects were treated while in military detention before trial, should have

* An office in the Ministry of Home Affairs.

been raised with concern and examined by police, prosecutors, and the trial judges. Apart from the violations this treatment discloses on the part of military officers, it also throws considerable doubt on the value and admissibility of evidence supposedly given by defendants during periods of military detention. However, the court files (including standard documents such as those dealing with transfer of custody, detention, interviews and summaries of the case) indicate that police, prosecutors, and judges did not consider that prior arbitrary military detention was relevant.

Torture and ill-treatment in detention

45. Torture was especially common in the first days or weeks of detention, but in some cases continued for months or years leading to trial. (For further detail see Vol. III, Part 7.4.: Detention, Torture, and Ill-treatment). In many cases there was no other evidence apart from confessions given while being subjected to torture and intimidation in custody and from other persons who had also been detained by the military and themselves faced trial.

46. Abilio Tilman was one of the first clandestine members to be tried. He told the Commission that on 12 September 1983 he was taken to East Dili Sub-district Military Command (Komando Rayon Militer, Koramil) in Becora by the head of *aldeia* Mota Ulun in Becora, Dili, who was then given money as payment for handing him in. From there he was taken to the Kodim where soldiers punched and kicked him in the nose and forehead until his skin was torn and bleeding. The next day he was interrogated by soldiers, who beat him if he did not give the answers they wanted until he passed out. This procedure was repeated every day. He was fed once each day and his injuries were left untreated.

47. According to Abilio Tilman, on 12 November, after 30 days of this treatment, he and his cellmates were moved to the Comarca prison, where the men were stripped and tortured by military police. A visit from the International Committee of the Red Cross (ICRC) stopped the torture, and he was taken to Sospol for interrogation. He was not tortured there but the beatings resumed after he returned to the Comarca. After his trial he was sentenced to seven years imprisonment and was sent to Cipinang prison in Jakarta to serve his sentence.[16]

48. A clandestine member arrested in the same group as Aquelino Fraga Guterres remembers:

> *First they destroyed my body, for example, they reduced the food ration for one year. After this difficult time, they interrogated me: "How many times have you met with Falintil? What kind of assistance have you given to Falintil?" During interrogation they beat me with their guns, crushed my toes with chairs and electrocuted me. In the interrogation they couldn't care less about what I did wrong. Instead they told me what my crimes were and forced me to admit to them. This included sending ammunition, instant noodles, batteries…if you admitted all of these, you could be put on trial and released quickly (Kopassus insisted on these crimes). This went against my beliefs, so I refused to obey their wishes.*

Only Kopassus [members] interrogated me. In SGI detention only certain people (ABRI) could come and conduct the interrogation. I only saw one intelligence officer, Antonio (Manatuto) from Timor-Leste. Kopassus formed two groups to conduct interrogation and torture. The interrogations usually took place at night and each person would be in their cell. During the interrogation, the questions they asked had to be answered and admitted to, otherwise they beat and electrocuted me until I [felt like] dying. When I regained consciousness, they continued the torture.[17]

49. Amadeo da Silva Carvalho told the Commission that his father Luis, a clandestine member, was arrested on 20 June 1980 in Lecoto (Balibar, Dili) and detained at the East Dili Koramil in Becora. There, he was tied to the upper branches of a tree each day. He was then moved to the former Colmera village office (Dili) and tortured. He was placed in water tanks with sharp-toothed lizards. The Commission has received similar evidence of the use of lizards during torture from a number of victims (see Vol. III, Part 7.4: Detention, Torture and Ill-treatment). Luis was also forced to fight another detainee. He was sent from Dili to be detained on Ataúro on 4 August 1980. In 1983, Luis was one of eight detainees brought from Ataúro to be tried.[18]

50. Antonio Tomas Amaral da Costa (Aitahan Matak) reported being hung upside down from a tree until his leg joints broke, as a form of torture:

The justice procedure was: they would [bring us for] interrogation as far as Kupang, then back to Dili Korem, then they tied me to the banyan tree (at the former Military Police headquarters), my head below, feet above, I broke my legs this way and to this day I cannot walk straight.[19]

51. Indonesian officials claimed that prison conditions were adequate, indeed better than during Portuguese times. A security official told a visiting Indonesian parliamentarian in 1985 that for arrests and interrogations, a humanitarian approach was always adopted. An Indonesian reporter who visited Dili that same year wrote:

In Balide prison, which has 129 criminals and 29 detainees including three women, there is no impression of a prison. The door is always open, supervision isn't strict, and with the humanitarian approach, there is mutual trust between prison officials and criminals. When this correspondent asked: "Aren't you afraid of escapes?" Major Mustari answered: "Even less so now. They're more secure here, and there are even some who don't want to go home."[20]

Record of Interrogation (RoI)

52. Following interrogation, a RoI would be drawn up to be signed by the suspect. The Commission has received testimony, discussed below, that in many cases the RoI did not reflect what was said by the accused during interrogation. Not one of the cases examined

indicates the presence of a lawyer representing the suspect during interrogation and at the signing of the RoI.

53. In addition to the torture during detention described above, there are reports of intimidation and coercion at the stage where suspects were required to sign a RoI. This ranged from the withholding of family visits to threats of lifelong imprisonment. Aitahan Matak was brought back from Kupang on 24 August 1984 but his trial was delayed because he refused to cooperate. After months of pressure, he agreed to sign an RoI and appear as a witness:

> *And they said gently that you, Antonio Aitahan Matak, have to accept it so that you can see your family, you are still young, so you can marry. If you refuse the trials you will die in prison; you cannot escape prison.*[21]

54. This account is consistent with contemporaneous reports by international human rights organisations. In 1988, Amnesty International noted:

> Many of the released prisoners appear to have been tried on the basis of false or coerced testimony after long periods of *incommunicado* detention during which some were reportedly told that signing a confession and being brought before a court would enable them to receive visits from their families.[22]

55. Some detainees signed an RoI willingly as a way of maintaining secrecy about other clandestine operations. Aquelino Fraga Guterres agreed to sign the RoI when he saw that it included mostly minor offences, and did not refer to leadership of Dili's clandestine networks or the sending of sensitive information overseas. Similarly, Marito Reis voluntarily signed his RoI so that he could go to trial, rather than being held secretly in detention for an indefinite period. At least being brought to trial meant that the public could become aware of the whereabouts of the suspect.

56. Some prisoners refused to cooperate or sign false confessions despite threats and the uncertainty of what might happen to them. After nearly two years in detention, 50 detainees, including 19 from Baucau, were released on 27 April 1985 in a public ceremony. One member of this group, Cristiano da Costa, told the UN Human Rights Commission:

> Many political prisoners were made to sign false confessions which were then used to stage sham trials...I myself and 49 others refused to sign these false confessions so we were never tried. On 27 April 1985 after 20 months in prison, those of us who had refused to take part in the trials were released. We then had to report every week to the Indonesian military command.[23]

57. Translation was an issue in many of the trials. Defendants were interrogated without interpreters and signed documents containing admissions of guilt, which were written in a language they did not understand.

58. In one example, the court file reveals that the RoI of Domingos Seixas, written in Indonesian, was admitted as evidence in his trial even though no interpreter had been present at the time he was interrogated and signed the RoI. The court transcript in the same file reveals that at trial, the judges determined that his Indonesian was inadequate and that he required the assistance of a translator, who served throughout his trial. Despite the fact that they ordered that Domingos needed a translator during this trial, neither judges nor defence counsel questioned the legitimacy of the signed RoI, which was the basis of the evidence against him, although it was written in Indonesian without the assistance of an interpreter.

Trial

59. While most trials took place in Dili, there are reports of trials being held in Baucau, Suai, and Bali.[24]

60. In political trials held during the period 1983-85, defendants ranged from rural farmers to urban clandestine leaders. The youngest defendant in the cases examined by the Commission was 14-year-old Sabino Barreto, and the oldest was 72-year-old Caetano Ximenes, but most defendants were males in their twenties or thirties. The average sentence declined slightly over the period, from seven years and eight months in 1983, to two years and nine months in 1985.[*]

61. The average age fell slightly from 37.8 in 1983 to 31.4 in 1985. This trend may indicate that towards the end of this period, prosecutors were focusing on rank and file members of the clandestine movement, rather than leaders.

Indictment

62. Those tried for political crimes during 1983-85 were almost universally charged with treason, based on Articles 106, 108 and 110 of KUHP.[25] Fifty one of the cases carried a similar primary charge. Several defendants faced subsidiary charges under provisions such as Article 169 (membership of an illegal group).[†] The only defendant not charged with any of the treason provisions was João Soares.[26] He was charged under Article 134 for insulting the President.[‡] The court often did not consider subsidiary charges if the primary charge was proved.[27]

63. Most charges stemmed from one or two incidents, usually meetings at which the alleged crime of treason had occurred. In most cases the prosecution acknowledged that the arrest had prevented the planned acts of violence, and even planned non-violent

* Calculations are based on the spreadsheet of trials prepared by CAVR from files found in court archives. Figures for 1986 are similar to 1985.

† Calculations are based on the spreadsheet of trials prepared by CAVR from files found in court archives. In one other exception, Amnesty notes that the defendant was charged with violating the duties of a civil servant, another with slandering the President.

‡ Section 134 reads: "Deliberate insult against the President or Vice President shall be punished by a maximum imprisonment of six years, or a maximum fine of four thousand five hundred Rupiah."

acts, from taking place.[28] Consequently, it was not necessary to show that the planned acts had taken place in order for the crime to be made out.

64. In some cases the court noted that it was common knowledge that Timor-Leste had already been integrated into Indonesia and that Fretilin's purpose was to separate Timor-Leste from Indonesia.[29] Therefore any action in support of Fretilin amounted to an act of treason.

65. Some persons arrested and tried were in fact directly involved in organising the clandestine movement supporting independence. Others were only peripherally involved, having given food or other minor support to pro-independence fighters. Some others had in fact not participated in supporting the independence movement in any material way. The manner of conducting the interrogations and fabrication of evidence during the trials meant that it was impossible for the court to ascertain exactly what participation the various defendants had actually played. Their decisions were based on the picture formed during the distorted interrogations and trial preparation and conduct.

66. Many of the suspects were charged for holding secret meetings and supporting independence, as well as for providing direct assistance to an emerging urban guerrilla movement. Others were charged for past activities such as David Ximenes and Mariano Bonaparte, who were charged in connection with the 1980s Marabia attack. The very first political trials in December 1983 involved several defendants charged for recruiting company commanders with plans to obtain weapons and mount attacks in the cities, although they were arrested before they made much progress. Defendants were accused of planning for the arrival of the UN or even seeking foreign soldiers who would help Fretilin attack Dili.

67. Clandestine activity was taking place mainly in urban areas during this period. According to Aitahan Matak, when Falintil fighters were prevented from returning to the mountains after visiting families in the towns during the ceasefire, the underground moved to rebuild clandestine structures in case Xanana Gusmão was captured.[30] Examples of trials connected to urban clandestine networks include:

- Marito Reis, recently freed from detention on Ataúro and working as a driver for the Korem intelligence section head (Kasi I Korem) Willem da Costa. He was also working to revive Dili's clandestine network after the Marabia attack in 1980. According to Marito Reis, the authorities became suspicious after an underground newspaper began to circulate and arrested him together with other clandestine members. They were taken to Bali but were later returned to Dili and put on trial.[31]

- Henrique Belmiro, charged with treason for his involvement in a meeting in 1982 that led to an agreement to look for new members sympathetic to Fretilin, to create groups to support Fretilin activities, and to send logistical support to the mountains, with the final goal of separating Timor-Leste from Indonesia and creating an independent Timor-Leste.[32]

- Armindo Florindo, charged with treason for meeting Albino Lourdes on 15 December 1982, and being named leader of a clandestine group with the task of looking for additional members.[33]
- Caetano Guterres, a Fretilin leader who surrendered in 1979 and was then given the task of setting up clandestine activities in Dili. He spent several years smuggling documents out of the country to the Frente Diplomatica. He received a letter in mid-1983 telling him to take a break from his clandestine activities. However, three days later he was arrested. The primary charge was treason; specifically that Guterres had met with Albino Lourdes at his house together with José Conceicão, and had separately had discussions with Jacinto Alves in their office. A witness testified that Guterres was given the job of couriering letters from the Resistance in the mountains to destinations abroad, through Monsignor Martinho Lopes. He was accused of sending letters to Portugal, Australia, Mozambique, and the UN. He was also accused of sending notebooks, envelopes and blank cassettes to a clandestine leader in Baucau.[34]
- David Dias Ximenes, whose primary charge was derived from meetings with Mariano Bonaparte Soares, Januario Ximenes, Danilo da Silva, João Cristo Rei, and Mateus Amaral, between July 1979 and June 1980 at the house of Januario Ximenes and Mariano Bonaparte. The participants were accused of treason for planning to gather fighters for an attack on Dili, with the ultimate goal of separating Timor-Leste from Indonesia.[35]
- Domingos Seixas,[35] accused of chairing two clandestine meetings in November and December 1982 at which he reported the killing of 15 members of ABRI in the east of the territory, discussed Radio Australia broadcasts about Australian and Portuguese assistance arriving by Christmas time, and reported on a possible referendum for which people should prepare. Those present agreed to help Fretilin in its struggle. According to the authorities: "The accused, Domingos Seixas, eagerly agreed to carry out the assignment hoping that, should Fretilin win, he could work again in the hospital with a good salary."

68. Many of the more than 200 people tried between 1983 and 1985 were not clandestine leaders and had only limited, if any, contact with the guerrillas. Defendants included those who allegedly supported Falintil by their attendance at rural meetings. In many other cases the evidence alleged that the defendants had supported the independence movement through provision of items such as cigarettes, palm wine, or rice.* Trials of local supporters of the Resistance include those of:

- Francisco Mendes, alleged to have perpetrated treason on or about 15 July 1983 in Kolorau (Same, Manufahi) by meeting with members of the Resistance and

* Case file No. 99/Pid/B/85/PN.DIL. Maria Amelia Sousa was charged with participating in an illegal meeting and providing GPK with sago, corn, cassava, and notebooks (see Indictment against Maria Amelia Sousa and Bill of Charges against Maria Amelia Sousa in Case File No. 30/PK/1985); Joki de Sousa was charged with providing cassava and palm wine (*tuak putih*), as well as information on ABRI strength in the area (Case file No. 25/PID/B/1985/PN.DIL).

agreeing to support them, and that to show his support, the suspect gave items consisting of one packet of Ribbon brand cigarettes and Timorese tobacco and or tobacco of another kind.[37] He was also accused of agreeing to support "GPK" efforts, while knowing with certainty that Timor-Leste had integrated with the Republic of Indonesian in 1976.[38] A witness testified at the trial that the defendant gave material support to the Resistance but never said anything about supporting independence.

- Gil Fernandes, accused of meeting with Fretilin members four times between March 1984 and April 1985 in Maupitene (Lospalos, Lautém) to provide information on military strength in the area and the locations of posts and patrols, as well as providing several kilograms of corn and rice, items of clothing and a notebook. The assistance was considered particularly serious because in May 1984 Falintil attacked an ABRI post, resulting in the deaths of nine Indonesian soldiers.[39]
- Maria Immaculada Araújo was charged with treason on the basis of a meeting in May 1980 in Lecoto, East Dili, where, according to the indictment, she, along with three other women, was "formally inaugurated as a member of OPMT [Organização Popular da Mulher Timor, Popular Women's Organisation of Timor]…with the task of gathering information on ABRI strength in Dili, looking for food, drink and medicine…the defendant understands that the OPMT organisation is an illegal movement with the goal of supporting the struggle of GPK/Fretilin through violence/war into the Fretilin women's organisation, the OPMT. According to Maria Immaculada she was arrested "because at that time we together formed a clandestine structure in order to assist the armed Resistance. But we only helped them with information, guidance and logistics".[40]
- Zé Roberto Seixas Miranda Jeronimo, the sub-district administrator of Iliomar (Lautém), was charged with being a threat to national security and conspiracy to commit a crime. The subsidiary charge was violation of Article 108 of the KUHP.[41] It was alleged that, as a civil servant, he had been in contact with the Resistance during the ceasefire, attempting to persuade them to surrender. But after the breakdown of the ceasefire he remained in contact with and assisted the Resistance, for example by sending them cigarettes and medicine. He was accused of plotting to kill the local Hansip (Pertahanan Sipil, Civil Defence) commander and his deputy, and of acting as a conduit between the Resistance in the Lospalos jungle and those in Dili.

Courtroom conditions

69. The trials were first held at the former Portuguese high school building (the Liceu), across from the former Benfica sports club, where the prosecutor's office was located. The court was later moved to the current Dili District Court building in Mandarin. Trials might be concluded in one day, or held over three or four sessions several weeks apart. Different cases involving the same witnesses were often held on the same day.

70. Each trial began with an announcement from the judge that the court was open to the public. In practice the presence of military and intelligence created an intimidating atmosphere that prevented people from attending. Caetano Guterres told the Commission that at his 1984 trial everyone close to him was too afraid to attend except his wife and children. Aitahan Matak reported that even family members were intimidated from attending his trial by the military police guarding the courtroom.

71. The government rejected Amnesty International's request to send observers in 1984, declaring the trials essentially a matter of domestic jurisdiction.[42]

72. During the first years after the invasion, defendants spoke little or no Indonesian and required interpreters. Interpreters were typically Timorese members of the police department.

Witness testimony

73. KUHAP requires a minimum of two pieces of evidence in order for a conviction to be recorded. The authorities adhered to this rule in form, if not in substance. In all the cases examined, there were two items of evidence, usually in the form of statements by witnesses and sometimes in the form of physical evidence.

74. However, evidence provided to the Commission shows that many witnesses were coerced into testifying, and in doing so many were forced to provide incriminating evidence in relation to their own trials. Many detainees had been held for months or years, subjected to torture and deprived of access to family and lawyers. As a result, they were vulnerable to coercion to sign false confessions in their own case, and also to bear witness against others.

75. The Commission accepts, on the basis of strongly corroborated evidence, that there was a consistently followed discipline among those involved in the clandestine movement for independence which included using code names at all times. This discipline was designed to ensure that people in fact did not know each other if they had never met. They had heard about different persons but always referred to by the code name, and so could not, in reality, say who these persons were.

76. Many defendants stated at trial that they knew co-defendants, thus incriminating them, although in fact they had never met them and could not in reality say whether the others were those persons referred to by code names. This false evidence, which was the basis of numerous convictions, was the result of torture and intimidation. Aitahan Matak, who said he did not know the witnesses against him, described how the detainers were grouped:

> *When we went to court, between nine and 12 people were tried in one day. Those tried were put into groups of three, sitting side by side, and each gave testimony against the other [two]…But how could I know your name? Because we had taken an oath in the jungle to never say anyone's [real] names. I am just I, you are just you. But [ABRI] had a way to counter our strategy, they put us in groups of three. Say one brother had never met*

me. After being beaten and tortured, he knew me and he was part of the first trial and got sentenced to five years imprisonment. The following day I came for my trial, two friends were witnesses and all were incriminated at once. The day after, another friend was put on trial and the two of us were the incriminating witnesses…I got five years in prison, while my two friends got four years, and another friend got three years.[43]

77. Under pressure, Aitahan Matak agreed to testify against the other two in his group of three, even though he did not know them:

> *I also was forced by them to admit that the two of them had done wrong. I did not know Agusto of Dili, I did not know José Agusto of Quelicai [Baucau], I was in Viqueque working with Daniel João Batista. But they forced the three of us.*[44]

78. Clandestine leaders Caetano Guterres, Marito Reis and Albino Lourdes all testified at each other's trials. In one of the earliest cases, José Simoes's witnesses were defendants in other trials in which he was a witness: those of Antonio José Eduardo (Simoes's brother-in-law), Abilio Tilman, and Fernando Pinto Baptista.

79. Amnesty International received reports of these practices at the time and made specific reference to them at the United Nations Committee on Decolonisation. The Amnesty International report focused on the case of Agapito da Silva who was sentenced to six years in August 1984 after having spent four years in detention.[45] The only witnesses were two other accused, who had also been detained and tortured during their four years imprisonment. They were told to sign statements or there would be no trial, and their imprisonment and torture would continue indefinitely. If they were tried their cases were at least brought into the open, there was a public record of their imprisonment and an end date to their detention.

The right to defence counsel of choice, and to an effective defence

80. In a 1984 letter to Amnesty International, Indonesia's Foreign Minister Ali Alatas wrote:

> In accordance with Indonesian civil and criminal procedural law, each defendant may retain on his own legal counsel (attorney-at-law), or in case of inability to pay lawyers' fees, the defendant is provided free counsel by established legal consultant groups.[46]

81. In practice defendants were not advised of their right to have a lawyer, let alone allowed the lawyer of their choice. In fact, there were no independent lawyers practicing in Timor at the time. The lawyers provided by the state were selected from the Trisula Legal Aid Institute in Kupang, West Timor. Court documents reveal that the accused was not given an opportunity to select his or her own counsel.

82. For example, in the case of Domingos Seixas, the Court appointed Merry S Doko and Saartje Seubelan as defence counsel on 9 March 1984 of its own initiative and without any consultation with the accused. On 13 March 1984, the court appointed Merry S Doko and Saartje Seubelan as defence counsel for David Ximenes, again of its own initiative and without consulting the accused. Francisco Mendes's file notes that he was officially detained on 10 December 1984, but was not appointed a lawyer until a judge's decision on 3 January 1985.[47] José Simoes, in detention since August 1983 and under interrogation since October of that year, was not appointed a lawyer until 7 January 1984.[48] Nearly every defendant was represented by any one of two of the same three lawyers – Merry S Doko, Asmah Achmad, and Saartje Seubelan – despite the fact that not one of the persons whom they defended had been acquitted of all charges. When Marito Reis refused to accept his lawyer, Merry S Doko attended but did not participate in the proceedings and no alternative was offered.[49]

83. In many cases the defendants met their lawyers for the first time at trial.[50] A review of the court proceedings, while not necessarily accurate or complete, confirms that there was little effort to cross-examine witnesses or otherwise disprove the elements of the prosecution. Some defence statements are remarkably similar to statements produced by the prosecution.

84. For example, the defence statement for Henrique Belmiro reviewed the witness statements, many of which had negative implications for the defendant, and appear to be arguments that the defendant should be found guilty, rather than not guilty. These include statements on behalf of the defence such as: "The ultimate goal of this covert meeting was to secede Timor-Leste from the Unitary State of the Republic of Indonesia and form a separate State of Democratic Republic of Timor-Leste." The only argument actually made in defence of the accused was that he was merely a disappointed job-seeker, who did not have a strong reason to demand separation from Indonesia.[51]

85. The defence statement filed by David Ximenes's lawyers began with profuse expressions of respect for the court. This is in sharp contradiction to the evidence to the Commission that the defendant did not recognise the sovereignty of the court or their right to try him. Counsel then read through the evidence and the charges, only to conclude that the prosecutor had successfully proven all of the elements of the crime against his client.[52] The only issue left, therefore, was possible mitigation of the sentence. Counsel made no mention of the fact that the accused had been held in arbitrary detention for over three years, nor did counsel complain that David Ximenes had not been advised of his absolute right to be assisted by a lawyer or about the nature of the evidence being brought against the accused.

86. Exactly the same situation arose in the defence of Zé Roberto Seixas Miranda Jeronimo. Defence counsel agreed with the prosecution case and then raised mitigating factors on behalf of his client. Nothing was said about arbitrary detention, the treatment of the accused or witnesses, or that the client had been interviewed without a lawyer being present.

87. The court transcript of the trial of Domingos Seixas summarised the efforts of his defence counsel in the following terms: "The Defence Team basically states that they agree with the charges from the General Prosecutor, that is that it is proven that there

was a violation of Article 110(1) and Article 106 of KUHP and submit the accused and the future of the accused into the hands of the Court."[53]

88. Unlike later trials, many of the files and the records of proceedings from this period do not include the second round of statements normally made by the prosecutor and the defence team in Indonesian trials (the *replik* and *duplik*). One of the few prosecutorial replies on the record contains a revealing evaluation of the quality of the defence. The one page statement notes:

> After listening to and then assessing the plea of the Defence, we are now of the opinion and conclude, that because the Defence is of the same view as us and in principle has only pleaded for a reduced sentence for the accused so we as the General Prosecutor in the case of Abilio Tilman consider that there is no need for further response.[54]

89. The enormous caseload taken on by defence lawyers would also have compromised the quality of representation. The three Kupang lawyers represented all 232 political defendants from 1983 to 1985, as well as taking on many ordinary criminal cases during the same period. Given that they reportedly divided their time between Dili and Kupang, there would have been little time to familiarise themselves with the details of each case, and this may explain why their submissions are virtually identical in the many cases in which they acted. In 1985, the *Far Eastern Economic Review* (FEER) reported that defence lawyers practicing in Timor-Leste claimed that guilty pleas saved time.[55] Furthermore, there were obvious conflicts of interests for these three lawyers, who between them were dealing with cases where their clients were appearing as the accused in one case and as a witness in other cases, including as a witness against other clients.

90. It appears that the control of the military over the process leading to trial, including torture, intimidation and fabrication of evidence extended to the courtroom itself, in ensuring that in fact defence counsel never produced a real defence of their clients, thus guaranteeing convictions. Caetano Guterres remembers being told by his court appointed defence counsel, Merry S Doko:

> *We can just help you, but we've already received direction from the military. We just follow the military's wishes. This means if they say A, it's A, they say B, it's B…We just followed the direction from the military. We can't do anything but just sit there.*[56]

91. In addition to the evidence received by the Commission of an overwhelming inability or lack of will of defence counsel to properly defend their clients, some defendants claimed that their lawyers did try to help them despite the difficulties of overcoming the fabricated evidence and influence of the military in the trial process. Caetano Guterres, who ultimately received a sentence of six years, remembers:

> *The defence lawyer was provided by them. My defence lawyer was Merry from Kupang. She was very nice and did all she could to defend my case, because the judge(s) wanted life imprisonment.*[57]

92. Cristiano da Costa, who refused to confess and was freed after 20 months in detention, told the UN Human Rights Commission about those who were not so lucky:

> *Two Indonesian lawyers from Kupang were appointed by the court to defend them, but they had no contact with the prisoners. In fact, they worked closely with the prosecutor and the judge to produce guilty verdicts and sentences that had already been decided upon by the military.*[58]

93. The evidence provided to the Commission that defendants were not free to choose their own defence counsel, that the court appointed counsel despite their objections and that these lawyers in most cases worked with the military and prosecutors to ensure prosecutions, rather than acquittals, is strongly supported by the objective facts which are drawn from an examination of the court files. Of the 232 political prisoners tried between 1983 and 1985 not one entered a plea of not guilty to the serious charges against them, and not one was acquitted.

94. The Commission's examination of the files reveals that the defence case was generally limited to raising mitigating circumstances. A *Far Eastern Economic Review* article from the time notes that the prosecutor simply establishes the circumstances of the alleged crime and the defence seeks only to lighten the sentence.[59] Arguments based on mitigating factors were repeated almost verbatim in all defence statements. Defence lawyers would invariably argue that the defendant was a polite, honest, remorseful, family man with no prior record.[60] One 1985 case took a somewhat different tack. As described by the judges' panel in their decision, the defence was of the opinion that:

> After studying the witnesses' testimonies and the defendant's own statements, it has been juridically established that the defendant is proven guilty. However, there were non-juridical issues that influenced and pushed the defendant into committing the crime(s), or at least [made him] susceptible to GPK/Fretilin influence, with whom the defendant, who is a farmer, met in the forest while searching for food.[61]

95. The non-juridical factors referred to included the defendant's low level of education, which meant that he was incapable of telling the difference between freedom/independence in GPK/Fretilin propaganda and independence with Indonesia; his low social standing made him vulnerable to high-sounding promises and psychological pressure because of frequent encounters with GPK.[62] Another defence used in several cases was that the defendant was disappointed that he or she could not find a job or other government promises of support.[63] David Ximenes was one said to have been embittered by the failure to advance professionally through the Indonesian army, despite what he felt to have been substantial personal sacrifice.[64]

96. There was some degree of flexibility in sentencing. There may have been negotiation on what the prosecutor asked for in the list of charges and defendants were also given

the opportunity to accept or reject the sentence. Caetano Guterres says he was initially sentenced to 20 years, but rejected this sentence, arguing that he was an only child and his parents were getting old. The sentence was subsequently lowered to 15 years, then ten, and finally six. Even Marito Reis, who had no lawyer, saw his sentence reduced from 20 to 17 years (eventually serving 12).

The presumption of innocence

97. As stated above, review of court documents relating to the 232 cases examined by the Commission found no acquittals. Despite this, the 1984 US Department of State Human Rights Report noted that in addition to those sentenced to prison sentences that year, several dozen other persons were tried and acquitted, while prosecutors released still others for lack of evidence.[65] The Commission has not been able to identify any of these acquittals from its investigations of the surviving files and records of the District Court of Dili. It therefore doubts the truth of the material contained in the US State Department report, which was probably compiled without the benefit of being able to refer to court records. The Commission found evidence that in one November 1984 case, Markus Assis was accused of meeting with the Railakan company commander where some charges were dropped but others proceeded with. Prosecutors dropped the primary charge because it could not be proved. However the subsidiary charges were pursued and Assis was sentenced to one and a half months in prison.[66]

98. In addition to the outcomes of these trials, there are further indications that the presumption of innocence was routinely flouted. As noted above, those accused were not advised of their rights on arrest, including the right not to self-incriminate (Article 66 of KUHAP). There is no express right to silence guaranteed under KUHAP, but it clearly forms an element of the right not to incriminate oneself, and the right to a presumption of innocence. The prosecution bears the burden of proving guilt, and cannot prove guilt by coercing the accused into an admission.

99. Most defendants did not have an opportunity to assert their right not to self-incriminate at trial, having already confessed to the alleged offences in their RoIs made before the trial. Many of these confessions were made under duress or threat.

100. The few public comments made by judges during this period indicate that the presumption of innocence was not upheld in trials in Timor-Leste. The head of the Dili District Court, Judge LP Siregar, told a reporter in 1984 that defendants acknowledged their guilt because they were honest, and for the same reasons they declined to appeal: "When they're asked if the accusation of the prosecutor is correct, they always say yes."[67] The article continues:

> If all trials could be like those in East Timor, the task of the legal profession would be easy, he said. Those who come before the green baize [those who are tried] are all honest. If they've done something, they readily admit it. And they never deny anything in their interrogation depositions, so the whole process goes smoothly.[68]

101. These facts led Amnesty International to express concern in December 1985 that the presumption of innocence was not maintained and that there was pressure on defendants to plead guilty.[69]

Independence and impartiality of the tribunal

102. There were no East Timorese judges or prosecutors during the Indonesian occupation of Timor-Leste. Judges from other Indonesian courts spent time on rotation in Timor-Leste (usually for several years) and then were moved elsewhere.

103. Indonesian judges in Timor-Leste were civil servants, employed by the Ministry of Justice and therefore lacked true independence. The results of the judgments in the trials were an overwhelming demonstration of support for the political goal of suppressing the movement for independence. The Commission is satisfied that the judges involved in these cases colluded and collaborated, directly or indirectly, with those who manipulated the trial process for a preferred political goal. Not one finding of "not guilty" was handed down in over two hundred cases despite the legal presumption of innocence. There was almost a total absence of rigorous judicial scrutiny in the face of evidence, which indicated that witnesses and defendants had been subjected to torture and ill-treatment, and that evidence had been fabricated. An Indonesian lawyer active in Timor-Leste in the 1990s gave his opinion that factors such as bribery may also have affected whether and how a case went to trial.[70]

104. In the Indonesian civil law system, the judge controls proceedings, taking an active role in questioning witnesses. However, the court records indicate passivity by the court in these political trials, and a reluctance to interrogate the prosecution case. When they did take an active role, judges tended to ask questions of a political nature, inquiring as to the defendant's attitude towards integration and independence and asking if the accused knew that Timor-Leste was lawfully part of Indonesia and that what he did was against Indonesian law because it sought to separate the territory.

105. Defendants and their lawyers consistently describe the trials as operating under military control, with judges unable to exercise any independence. The governor of Timor-Leste during this period, Mario Carrascalão, described the trials as set up by the military.[71] According to Marito Reis:

> *They came to the Comarca prison after the sentence was handed down... They told me that it had all been set up by the army, and they could not do much. [The judges and prosecutors] have been set up by the military, they had been ordered to ensure that this person be punished this way, that person that way, so it had all been set up by the military.*[72]

Right to appeal

106. In his 1984 letter to Amnesty International, the Foreign Minister of Indonesia, Ali Alatas, asserted:

> Each defendant is entitled to appeal the sentence to a higher court (appellate court) and all the way up to the Supreme Court. So far none

> of those already convicted have opted to take a recourse to such an appeal, although this right has been made explicitly clear to them by the panel of judges at each sentencing.[73]

107. The Commission is not aware of any appeals in the 232 trials it has examined, which took place from 1983 to 1985.[74] A contemporary press account corroborates the views expressed by Judge Siregar. These views are totally opposed to the information which the Commission has received from those defendants who were tried and sentenced:

> If they are sentenced, they never make an appeal, even if their defence counsel urges them to do so. The reason, they say, is that everything they are accused of is true, and they admit their error. After the sentence is announced, these criminals even express their thanks and ask for a joint photograph![75]

108. Once sentenced, defendants were pressured to sign a document indicating that they accepted the judgment of the court and did not wish to appeal. Some, such as Marito Reis, said that they acceded to this, and declined to appeal because they did not believe any of the proceedings to be legitimate in any sense. More often, defendants stated that they did not appeal against their conviction and sentence because they received threats that if they did not accept the results harm would come to their families or they would continue to be tortured and kept in terrible conditions with no access to family or friends and no hope of ever being released:

> *If we don't accept it, we don't see our families, we stay in the darkened cells, and at night we're threatened with death. If you agree you will go free.*[76]

109. Amnesty International concluded that many defendants apparently did not understand that they had the right to appeal their sentences and in some cases were told that if they did not accept their sentences without appeal, it would be increased.[77]

Conclusions

110. Before 1983, East Timorese suspected of involvement in the pro-independence movement were routinely arbitrarily detained, tortured and killed (see Vol. II, Part 7.2: Killings and Vol. III, Part 7.4: Detention, Torture and Ill-treatment). In 1983, a policy decision was made to use the courts as well as the military in the fight against the opposition to the occupation.

111. Although this could have resulted in a change in the Indonesian government's approach to the Resistance towards one based on justice and the rule of law, in fact the approach was manipulated so that there was little justice involved. The trials during this period were not an opportunity for a fair hearing before an independent decision maker. They were instead a tool that the Indonesian authorities manipulated to achieve a political goal.

112. The conditions of detention and interrogation, the manner in which the prosecution and defence cases proceeded, and the judgments delivered were part of a combined

strategy intended to provide an illusion of justice being done and also ensuring that all defendants would be found guilty of political offences.

113. The bare facts relating to the political trials of East Timorese conducted by the Indonesian government between 1983 and 1985 which were examined by the Commission produce a startling summary which reflects the degree to which the trials were fair and conformed with the requirements of due process. The Commission examined 232 political trials. These resulted in:

- 232 convictions on charges involving treason and subversion
- 232 defendants being represented by government appointed defence counsel
- 0 defence witnesses being called
- 0 cases of acquittal of all charges being recorded
- 0 appeals against conviction being lodged.

114. The trials violated not only international human rights standards but also the applicable provisions of Indonesian law in relation to many of the most fundamental requirements for a fair trial. These included the following:

- Individuals were arbitrarily detained by the military before trial for up to seven years before trial.
- Members of the Indonesian military forces systematically tortured and abused suspects in order to produce false confessions and seek information.
- Accused persons were not informed of the right to counsel, nor provided with an opportunity to have a lawyer of his or her choice present during trial.
- Government appointed lawyers represented hundreds of defendants accused of similar charges in many cases related to the same facts, creating a serious conflict of interest. Defence lawyers failed to vigorously defend their clients. They did not raise the issues of arbitrary detention nor physical abuse and torture during trial proceedings, generally remained passive, did not call witnesses to support the defence case, and often agreed with submissions made by the prosecution.
- Judges did not act impartially and independently. They participated in or acquiesced to, the manipulation of the trial process to guarantee verdicts of guilty for all defendants.
- Due to direct and indirect intimidation by members of the Indonesian security forces, members of the public were not able to freely observe trial proceedings.
- Penalties imposed in general ranged from between five and seven years. Judges failed to take into account prior periods of military detention when determining sentences, which in some cases were periods up to seven years.

The Santa Cruz trials, 1992

115. The killings at the Santa Cruz cemetery (Dili) on 12 November 1991 provoked an international outcry, largely stimulated by film footage showing soldiers shooting unarmed civilians, which was smuggled out of the territory. In response the Indonesian government conducted a number of inquiries related to the events. An internal military investigation and National Commission of Inquiry were conducted. An Honorary Military Council heard misconduct allegations against 6 senior officers. Ten lower ranking officers faced court martial.

116. However, the strongest response of the Indonesian government was not focused on disciplining those Indonesian military officers who were responsible for shooting hundreds of unarmed demonstrators, killing many. Rather it focused on bringing to trial and imprisoning the East Timorese who had organised the demonstration that had brought the protesters to the Santa Cruz cemetery.

117. After the National Commission of Inquiry submitted its preliminary report, President Soeharto instructed the Attorney General to take all necessary steps against those who planned and took part in the riot. What resulted were trials against eight individuals, two of whom were charged with subversion, the others with treason. A total of twelve trials were conducted, commencing on 12 March 1992, with eleven trials conducted in the Dili District Court, and one taking place in the Baucau District Court.

118. The following section analyses the trials of Gregorio da Cunha Saldanha, Francisco Miranda Branco, Jacinto das Neves Raimundo Alves, Carlos dos Santos Lemos, Juvencio de Jesus Martins, Bonifacio Magno and Filomeno da Silva Ferreira. The analysis is based on case files from the Dili District Court, witness statements, secondary sources and interviews conducted by the Commission. For the purposes of this Report the Commission has focused on the major trials, those of Francisco Branco and Gregorio Saldanha, although it has researched and analysed the other relevant trials and reference is made to them where relevant. The analysis of the judicial processes related to the Santa Cruz incident is based on material relating to all trials.

Factual overview

Background

119. In late 1991, a Portuguese government delegation was due to visit Timor-Leste. Human rights and pro-independence activists intended to use the visit as a means of notifying the world about the massive human rights abuses that were being committed against the East Timorese people.

120. The executive committee of the resistance network, called the National Council of Maubere Resistance (Conçelho Nacional da Resistencia Maubere, CNRM), disseminated political information about the visit and were planning to deliver a petition to the

delegation.[79] All but one of the Santa Cruz defendants were members of this Executive Committee.

121. In the lead up to the planned Portuguese visit there was an increase in anti-government political activity. The Indonesian military responded to this activity by seeking out, arresting an imprisoning an increasing number of young men in Dili, during October and November 1991. As a result around 20 young activists took refuge in the Motael Church, in Dili.

122. Members of the Indonesian military responded forcefully to the action of taking shelter in the church, and during a clash with the activists on 28 October 1991, one of the young East Timorese men, Sebastião Gomes Rangel, was killed.[80] Afonso Henriques, an intelligence agent, reportedly sustained fatal injuries from a sharp implement.[81]

123. Five East Timorese were tried and convicted of acts of violence leading to the death of Afonso Henriques.* No official action was taken against security forces involved in the killing of Sebastião Gomes Rangel.

124. The Executive Committee of the Resistance planned a peaceful demonstration to draw attention to the killing of Sebastião two weeks after his death. This plan included a peaceful march from the Motael Church to the Santa Cruz cemetery, where he was buried.

Findings of fact as determined by the court during the trials

125. The following briefly summarises the facts of the Santa Cruz massacre as determined at trial. Plans for the Santa Cruz demonstration commenced on 8 November 1991, and the preparations included the creation of pro-independence banners and determining the route the demonstration would take. On the morning of 12 November 1991, a procession led by Gregorio da Cunha Saldanha left from the Motael Church. Pro-independence chants were shouted along the way and participants carried pro-independence banners.

126. Major Andi Gerhan Lantara and Private Domingos da Costa were attacked by protesters on the way to the Santa Cruz cemetery. The following extract from the Gregorio da Cunha Saldanha decision details the court's version of what later occurred at the cemetery:

> [T]here were gunshots coming from the direction of the protesters, followed by warning shots from the Security Agents, then from the direction of the protesters came a scream: "Forward. Attack", and the protesters attacked the security agents, and a riot ensued between protesters and security agents, followed by gunshots from security agents; the riot claimed victims on the part of protesters.[82]

* The defendants in the Motael trials received the following sentences: Aleizo da Silva Gama 2 years, 3 months; Boby Xavier 3 years; Jacob da Silva 2 years; João dos Santos 1 year 8 month; Bonifacio Barreto 1 year, 8 months.

127. The quotation above contains the only discussion by the court concerning the events at the Santa Cruz cemetery. The facts in issue at trial focus on clandestine meetings and preparations leading up to the demonstration. The killings at the cemetery, and in particular the actions of Indonesian soldiers, are not detailed.

128. The fact that the demonstration did increase tensions, and by implication justified the massacre that followed, however, was at issue before the court. To justify this position, much weight is given to the official statements of Brigadier General Theo Syafei, Kolakops Commander of Timor-Leste, written on 31 January 1991 and Drs A B Saridjo, Vice-Governor of Timor-Leste, written on 25 February 1992. The contents of both these statements are exactly the same:

> That the demonstration on 12 November 1991 in Dili caused:
>
> a. damage or undermining of State authority or the authority of the legal Government or State Agents;
>
> b. animosity or enmity, division, conflict, chaos, shock or restlessness in the community on a large-scale.[83]

Facts according to independent sources

129. After careful consideration of the material produced by agents of the Indonesian government and independent witnesses, the Commission finds the following account of what actually occurred to be more credible than that accepted by the court. Around 3,000-4,000 people, mainly students, took part in the demonstration from the Motael Church to the Santa Cruz cemetery.[84] The procession was generally peaceful, with protestors carrying pro-independence banners and shouting pro-independence chants along the way. Approximately 1km from the cemetery a major and a private in civilian dress were injured by demonstrators.[85] Some five to ten minutes after the protestors arrived at the Santa Cruz cemetery, hundreds of soldiers armed with M-16 automatic weapons arrived.[86] Eyewitnesses report that soldiers marched to the entrance of the cemetery and opened fire without warning or provocation. The shooting reportedly lasted for 10-15 minutes. Independent estimates put the number killed as high as 271. [See Vol. II, Part 7.2: Unlawful Killings and Enforce Disappearances]

Arrest

130. Immediately after the massacre, the Indonesian security forces began arresting those suspected of involvement in the demonstration. The Commission has found that on 13 November 1991, 308 people were arrested and 49 were detained. Of those arrested or detained, 259 were subsequently released. According to the Indonesian Government, however, by January 1992, just 32 people had been detained in Dili in connection with the incident. Gregorio Saldanha, after being shot and wounded at the cemetery, was taken into custody from the military hospital:

> *On the second day I was visited by an Indonesian Army officer called Captain Made from Kopassus. He said to me, "Are you Gregorio?" I said,*

"Yes." He said, "We have been looking for you for a long time." He then took a photograph of me. The next day two other Indonesian Army officers came to see me. They were from Kopassus also. One of them was called Lieutenant Eddy. He questioned me and wanted to know the names of the organisers of the demonstration. I told him I was the organiser.[88]

131. Intelligence agents uncovered the names of the other organisers of the demonstration and they were issued with warrants to appear at the Polwil police station, some as witnesses for the investigation of Gregorio Saldanha.[89] From this moment on, the defendants were officially detained as suspects, with some allowed to return home on the condition they reported to the Polwil every day. During this period the defendants were subjected to intense interrogation. Francisco Miranda Branco describes what occurred:

At that time, after the 12 November tragedy, the military arrested many people for interrogation. During investigation they found out our names… During that interrogation the Police concluded that the 12 November incident was not spontaneous, instead it was organised, and planned from the beginning.[90]

They suspected us so they told us to report daily to Polwil. They found out that we were to be suspected, because they already had information [on us], but not evidence. So while we reported daily, they wanted to confirm that we were members of the Executive Committee, Komisaun Eksecutivu, and as soon as they got the confirmation needed, they arrested us.[91]

132. The defendants were then issued with what appear to have been valid arrest warrants by police in early December 1991. Detention orders and extensions appear to have been issued in accordance with the correct procedure.

133. The arrest procedure was generally similar for all defendants, with the exception of Bonifacio Magno. He was detained late on 11 November 1991, around midnight, before the massacre occurring. He was then released at 6am but could not leave his house as it was surrounded by the military. Bonifacio Magno was taken into custody again about one hour after the massacre occurred.[92]

Pre-trial

Conditions at the Comoro Police Headquarters (Polda)*

134. After approximately one week at Polwil, in early December 1991, the defendants were moved to the Regional Police (Polda) headquarters in Comoro, Dili. They remained at Polda until after the trials were completed. Here, conditions for detainees did not meet acceptable standards, including overcrowded cells, poor hygiene, and sub-standard food. Francisco Miranda Branco describes the situation:

* The defendants were imprisoned post-trial in Comarca Balide, Becora prison, and Semarang prison.

Talking about the environment, it was definitely not humane. Friends, who slept in the hall that was actually for exercise, had no mat. They suspected that my other friends and myself were planning to escape, so they put us in an isolation room, but it was not humane.[93]

135. Some defendants stated that physical torture was used. In a statement to the SCU (Serious Crime Unit), Bonifacio Magno said: "I was also brutally tortured by police officers whose name I do not know."[94] Gregorio Saldanha, also in a statement to the SCU, said: "I was also beaten many times by Sergeant Martinus Wae and one other person whose name I cannot remember."[95]

136. It appears, however, that physical abuse of those detained in relation to the Santa Cruz demonstration, who were eventually tried, was not widespread.* However, treatment intended to create psychological distress, including threats to family members and intimidation, were used to extract information. According to Francisco Miranda Branco, the relative lack of physical torture was due to international scrutiny of the Santa Cruz massacre:

I was not tortured then. Because they were aware that the world already knew about the Santa Cruz, and that the eyes of the world focused on Timor-Leste at that time.[96]

137. While at the Regional Police (Polda), the defendants were subjected to constant, psychologically damaging, interrogation sessions. These occurred in the absence of a lawyer, the right to which is guaranteed under Art. 54 of KUHAP.

138. The usual practice of the Indonesian authorities was to carry out interrogations when detainees were sleep-deprived:

As they said that a prisoner needed no mattress, bare, this was their way. At other times they interrogated for hours, even for a full day or 24 hours, this was against international standards.[97]

They started the interrogation from 7 am…ended at 12 midnight, 1 or 2 am and only then let us sleep. At 7 am they opened the door and called me again for interrogation. This was the daily routine, no time to rest for a prisoner…[98]

139. Jacinto Alves describes how his family was intimidated and harassed while he was detained:

During trials, were there threats from the Police? No, but [there were threats] against my family.[99]

* Other detainees, who did not eventually go to trial, reported beatings and torture. See Vol. III, Part 7.4: Detention, Ill-treatment and Torture.

Investigation

140. The investigation combined three distinct approaches: information seeking, confession seeking and the falsification of evidence.

Information seeking

141. The primary investigation strategy of the Indonesian authorities consisted of constant interrogation of the suspects by investigators, prosecutors and various members of the security forces, including Kopassus. Francisco Branco specifically remembers being interrogated by members of the State Intelligence Coordination Agency (Badan Koordinasi Intelijen Negara, known as BAKIN, which was Indonesia's civilian intelligence agency from 1967-2000) from Jakarta, who used intimidation tactics aimed at extracting information:

> *A group of intelligence officers from BAKIN, Jakarta, was assigned to investigate my case.*[100]
>
> *Like putting the guns on the table and displaying the guns in the holster, and it was not just one person but one to four people conducting the interrogation simultaneously… for hours.*[101]

142. It should be noted that KUHAP provides no legal basis for the interrogation of the defendants by intelligence agents or any members of the security forces. Jacinto Alves further describes the stressful environment during interrogation:

> *[T]here were five or six interrogators at one time, one person asked, and before we could answer, two others cut in with more questions, and this was a way to confuse us and drain us and I thought, daily interrogation from November, December, January, February until March and April, that was a very long time.*[102]

143. These oppressive investigation techniques resulted in untruthful statements being recorded in records of interview. Gregorio Saldanha describes this in relation to what appeared in his RoI:

> *The truths I told, I said it with an open heart. The lies, I was forced to say. I tried to say things which sometimes were unecessary, just to help my case, and I told lies to protect people outside, so that our network survived.*[103]

144. Intimidation and psychological torture were not only used to produce fabricated evidence in the words of the defendants. It also extended to produce false evidence by witnesses which was used against the defendants at their trials.

145. In the trial of Gregorio Saldanha a witness, Agusto Felipe Gama Xavier (Teky), informed the court of the manner in which he had come to produce his evidence against the defendant.

Judge I: Do you verify all statements in the Proceedings?

Witness V: In general yes, but there are some parts that I did not know anything about, because they were forced on me by the investigator[s], who said: "Help me (investigator) so that all the crimes committed by the defendant could be verified, to wrap this case quickly."[104]

146. In the same trial, beatings of witnesses during the investigation period were alleged in the written closing statement of the defence:

> [T[he testimonies of witnesses in the Investigation Proceedings prepared by the Investigators were not voluntary, they involved coercion and the beating of witnesses.[105]

Illegal methods of seeking confessions

147. Under Article 54 of KUHAP, suspects have the right to legal representation during interrogation, while there is no such provision for witnesses. This is in accordance with the basic rights of all persons not to be forced to incriminate themselves.

148. A method used by the Indonesian authorities in relation to all of the Santa Cruz defendants was to interview them as witnesses in the cases of their co-accused, for example on the structure and strategies of the clandestine network. The material gained from those interviewed was intended to be used against that person in their own trial. By pretending that the defendant was only a witness, ignoring the fact that each was intended to be tried in his own right, the Indonesian authorities sought to illegitimately subvert the provisions of the Indonesian criminal code and commonly accepted human rights standards. The fact is that those interviewed were to be defendants. They were therefore entitled to only be questioned in the presence of a lawyer.

149. Lawyers were not present during any of these witness interrogations. For example, six out of the eight defendants were interviewed as prosecution witnesses for the case of Francisco Branco. This is consistent with an Amnesty International report at the time which claimed that some defendants were asked to sign statements that amounted to confessions without being advised by a lawyer, or with the benefit of a lawyer's presence to help to avoid possible pressure, force or intimidation related to confessions.[106]

Fabrication of evidence

150. There are numerous allegations of investigators attempting to falsely obtain statements and fabricate evidence. Jacinto Alves describes techniques used in an attempt to force the suspects to sign statements:

There were times when we did not like what they wrote in the proceedings and I would often refuse to sign the proceedings and they usually pulled up their shirt to show their handguns or they opened the drawer to show the gun inside.[107]

151. Gregorio Saldanha was quoted by Amnesty International as having given false names due to the pressure applied by interrogators:

> [B]ecause I could no longer bear this inhumane treatment, and because I was weakened by a gunshot wound, I carelessly gave names of high officials, priests and business owners who knew nothing and had no link with me, following the saying "as long as the boss is happy.'[108]

152. Another example of illegitimate investigation techniques is the fabrication of evidence. Jacinto Alves describes being forced to choose Gregorio's gun – as a piece of evidence – in front of a judge:

> *Then they tried to reconstruct the 12 November incident. They [Police and intelligence officers] said that the protesters used guns. There was a long box with guns inside.... Some of these guns were rusted from not being used for a long time. There were Police, and intelligence officers, and they said: "Let's go and check the guns used by the protesters". The way they asked was like this, "come on, choose, which guns they used there." The odd thing was that this theatre proceeded in front of the judges, and they believed it. Some of these guns were presented at the trials, so the judges were convinced.*[109]

153. Jacinto Alves describes two further examples of fabricating evidence:

> *They took several photographs during the Santa Cruz protest. The photos contained images of wood, people with banners, and we were forced to acknowledge that the wood was a weapon. Or they came to your house just like what happened to Saturnino from Baucau, they grabbed a knife and machete from the kitchen, confiscated them and used them as evidence.*[110]

Access to a lawyer

154. In the pre-trial investigation period, the defendants were prevented from appointing their own defence counsel and were effectively forced to accept the appointment of a lawyer chosen by the Indonesian Government. The defendants were initially represented by Ponco Atmono, a Dili based Indonesian lawyer.[*] Letters signed by defendants in December 1991 can be found on court files and these provide official authorisation for Ponco Atmono to act on their behalf.

* At trial Francisco Branco and Gregorio Saldanha were represented by a collaborative team from Indonesian Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia, YLBHI) and Indonesian Bar Association (Ikatan Advokat Indonesia, Ikadin). The team was led by Luhut M.P. Pangaribuan and Artidjo Alkostar. Juvencio Martins and Filomeno Perreira were represented at trial by Nur Ismato from the Legal Aid Institution (LBH) Yogyakarta. Carlos Lemos and Bonifacio Magno were represented by Ponco Atmono from the beginning to the end of their trials.

155. It appears, however, that at least some defendants did not wish Ponco Atmono to represent them and may have been forced to sign these letters. Accordingly, Ponco Atmono was effectively appointed by the Indonesian authorities as the defendants' counsel against their wishes. This is in clear breach of Articles 54 and 55 of KUHAP,* which provide that defendants be represented by lawyers of their own choosing from the very first stages of investigation.† The investigation period is a crucial time to have independent lawyers protecting a suspect's rights and interests. Without an independent lawyer present, suspects can be forced to sign statements and evidence can be falsified, as occurred in the Santa Cruz trials.

> *From the very outset, Gregorio da Cunha did not accept Ponco Atmono as his counsel and was dissatisfied with not being able to choose an independent lawyer:*
>
> *He always played the role of a defence lawyer, no not like the defence lawyer we chose, but one working for the authorities. Normally, he would not be present during investigation, unlike other lawyers who would have been present during investigation, and although they may not have been physically present but at least they defended us.*[111]

156. Some defendants, dissatisfied with having a lawyer imposed on them by the government, had family members contact legal aid lawyers. According to Francisco Branco:

> *We were forced to choose one of the government's lawyers, but I flatly refused. His name was Ponco and I told my family to choose a truly independent team of lawyers who could take on a big case. They came from the Jakarta Legal Aid Institute (LBH Jakarta), but they were obstructed by the intelligence officers and the judges. The intelligence agents terrorised them and the judges were told by BAKIN to refuse them.*[112]

157. As referred to earlier in this chapter, the records of interrogation of defendants were routinely fabricated. There is a direct contradiction between the words of Francisco Branco, above, stating that he did not agree to a court appointed lawyer, and his record of interrogation, which stated the following:

> *Investigator: Do you need a legal advisor for this interrogation?*

* Article 54 KUHAP: In the interest of defence, a suspect or defendant has the right to get legal assistance from one or more legal advisors during the period and at every level of examination… Art 55 KUHAP: [T]he defendant has the right to choose his legal advisor.

† Article 56(1) KUHAP requires that officials appoint a lawyer at all levels of examination for crimes which attract the death penalty or a sentence of more than 15 years or for those who cannot afford a legal adviser with crimes punishable for more than 5 years, when they have no legal advisers of their own. It could therefore be argued that the appointment of Ponco Atmono was justified as there were no lawyers selected by the defendants at the time Ponco Atmono was appointed. However, this does not recognise the pressure placed on defendants and goes against the intention of Article 56(1) which is to ensure that those in serious cases that cannot otherwise receive legal representation, have lawyers appointed for them.

Francisco Branco: For this interrogation, I do not need a defence counsel, but later in court I may need to be represented by a legal advisor.[113]

158. As a result of the complaints by defendants over having a lawyer effectively forced on them, a team of lawyers drawn from both the Indonesian Legal Aid Foundation (YLBHI) and the Indonesian National Bar Association (Ikadin) came from Jakarta to represent the lead defendants. At the commencement of the first trial (that of Francisco Miranda Branco), Luhut M. P. Pangaribuan, a lawyer with YLBHI, appeared before the Court but was refused permission to represent the defendant. According to the presiding judge:

> When a lawyer from Jakarta or elsewhere wants to defend a case in another jurisdiction, he/she is required to seek permission from the Chief Justice of the High Court in the jurisdiction where the lawyer wants to defend.[114]

159. According to YLBHI the lawyers who had been sent were authorised to practice in any Indonesian province, including Timor-Leste. Although the defence team had also sent a letter of request to the High Court in Kupang two days before the trial commenced and had not yet received a reply, they were refused permission to act. In light of this, the judge reappointed Ponco Atmono to represent the defendant in court. The YLBHI newsletter from the time summarises what occurred:

> All lawyers on the legal team hold the position of senior advocate, which allows them each to practice in any Indonesian province. Despite the legitimacy of the legal team to represent the eight East Timorese charged with subversion in a Dili court, the Dili judge claimed the YLBHI-Ikadin team did not have authority, based on their procedural failure to secure permission from the High Court of the Eastern Provinces in Kupang, West Timor, to practice in Dili…The Dili judge refused to allow the team to represent the defendants on grounds of procedural flaws and instead appointed a Dili lawyer…to represent the defendants. Under the Indonesian Criminal Procedural Code, a defendant has the right to choose his representation. However, given that the Dili judge refused to allow the YLBHI-Ikadin team to practice, the judge claimed that by law a substitute lawyer must be appointed whether or not the defendants agreed with the appointed lawyer…In protest at the decision of the judge which violated the rights of the defendants, the director of YLBHI requested that the Indonesian Supreme Court correct the error of the Dili judge. The Supreme Court received the request of YLBHI and sent a telegram directing the judge of the Dili Court to honour the YLBHI-Ikadin team and allow them to represent the defendants in Dili court of Timor-Leste.[115]

160. The telegram referred to above was read out at trial:

> The refusal by Dili Court to grant permission for the lawyers from Jakarta to represent the defendant: Francisco Miranda Branco in the Dili Court; the refusal read among other things, that the judges in the Dili Court shall withdraw the appointment of legal counsel for the defendants in this case.[116]

161. The intervention of the Supreme Court in sending this telegram was instrumental in ensuring that some defendants received independent legal assistance.[117] A large amount of direct lobbying from YLBHI to representatives of the Supreme Court, drawing their attention to the fact that what was occurring was contrary to the rules governing the court and the rights of defendants, led to this intervention

162. Amnesty International reported that relatives of the defendants felt pressured by Indonesian authorities to withdraw applications to obtain independent legal counsel and that on arrival the legal aid lawyers were subject to surveillance by intelligence officials.[118] Thus although the defendants were eventually allowed to appoint their own lawyers, their defence suffered due to the lack of independent legal counsel from the beginning of their cases and the intimidation of the legal aid lawyers once they arrived in Dili.

Trial

Indictment

163. The indictments were, in general, well drafted and logically set out, detailing a long list of factual allegations. The indictments of Francisco Branco and Gregorio Saldanha contained primary charges under Indonesia's Anti-Subversion legislation, Law 11/1963. The maximum penalty for these offences was the death sentence carried out by firing squad. Subsidiary charges based on KUHP were also included against the two main defendants, such as treason and publicly expressing hostility towards the Indonesian Government. Indictments against the other six solely contained KUHP charges.

164. The defendants not charged with subversion were prosecuted under the treason provision, Art. 106 KUHP, generally first as a principal who perpetrated or caused others to perpetrate the act,[119] and then under a subsidiary charge of involvement in a conspiracy to commit treason.[120]

Courtroom conditions

165. All defendants were tried individually, with all but one trial held in the Dili District Court. The main deficiency of the courtroom was a lack of transparency, with court proceedings theoretically open but in practice closed. Gregorio Saldanha describes the situation:

> *[It was both] open and closed, meaning the door was open but guarded. But evidently it was a closed session and no one was granted entry, and my friends were brave but they waited in the street.*[121]

166. Members of the public who did want to enter were prevented from doing so. According to Francisco Branco:

> *Friends who wanted to follow the trial were terrorised and obstructed so it was not open. During the trial, all intelligence officers were present, in civilian clothes, but we could see that there were more of these officers than other people; most of them were Police intelligence officers in civilian clothes.*[122]
>
> *The trial was always closed and most attendees were intelligence officers or their collaborators.*[123]

167. International monitors were allowed to view court proceedings. The International Commission of Jurists (ICJ) attempted to send two observers, but found it difficult to obtain visas. One observer's attempts to monitor the cases were thwarted by a lengthy visa application process.[124] In the end, the ICJ had one trial monitor present in court.[125] Asia Watch also had a trial observer present. The monitors were critical of the trials, and conveyed this message to the UN Commission on Human Rights.[126] Despite the presence of these monitors there was insufficient transparency of process, as members of the public were not free to attend the proceedings. To that extent, the process breached Art. 153(3) of KUHAP, which requires that trials should be open to the public. Accordingly, decisions made by the court in these circumstances should arguably have been annulled under Art. 153(4).

Witnesses

168. The information considered by the Commission leads it to an inescapable conclusion that much of the evidence given by witnesses in the trials was the result of intimidation and force applied to pro-independence supporters, (many of whom were in custody at the time they gave evidence), or collaboration and collusion by members of the Indonesian security forces. Many prosecution witnesses were intimidated, through threats to them and their families, into providing false evidence. Defence witnesses, on the other hand were intimidated not to appear in court or to provide any evidence that might assist the defendants.

169. The lack of capacity for the defendants to call witnesses to support their cases is reflected in the fact that in all but two trials no defence witnesses appeared. The cases in which defendants did call witnesses to support their cases were those of Jacinto Alves, where two defence witnesses appeared, while the prosecution called 10 witnesses, and Gregorio Saldanha's case, where two defence witnesses appeared, and the prosecution produced 24 witnesses.

170. Almost all prosecution witnesses were serving members of the Indonesian security forces who, it should be remembered, were centrally implicated in the shootings of the civilians at the Santa Cruz cemetery, and East Timorese civilians who were held in custody and subjected to threats, intimidation and psychological or physical torture. The serious conflict of interest raised by the security force witnesses giving evidence was

not recognised, explored or considered in any real way by the trial judges. Statements of different witnesses for the prosecution often included evidence which was exactly the same, word for word, or so strikingly similar as to lead to the inevitable conclusion that they were not independent testimonies but the result of collusion and collaboration.

171. There are also serious doubts that the few prosecution witnesses who were not detained by, or working for, the Indonesian security forces gave independent and reliable testimony. Rather, they appear to have been coerced into supporting the version of events put forward by the prosecution.

172. In some cases, where a witness strayed from this predetermined concocted story during the trial, steps were taken to ensure that this was remedied. For example, a prosecution witness in the Gregorio Saldanha trial was Agusto Xavier who later claimed in a related trial that he was forced to give false information by interrogators. When the evidence given by this witness differed from that included in the prepared record of interview, the judge did not allow him to continue giving the testimony he was relating, which was his own personal account of what had taken place, to the best of his recollection, or to refer him to his prior statement, which is normal practice. Instead the judge automatically adjourned the hearing.

173. Article 163 of the KUHAP required that judges investigate a discrepancy between written and oral testimony.* These duties are directed at inquiring into the circumstances in which a written statement may have been concocted, fabricated or been the result of force or intimidation, or any other reason why the oral testimony may be different from the statement. However, the judges considered that the previous documentary evidence should be the basis of the evidence, not the words of the witness. They ordered adjournments and during the adjournments steps were taken to ensure that the witnesses gave evidence that accorded with the previously written testimony.

174. In addition to the fact that witnesses were interrogated concerning issues of their own guilt, and their purported answers recorded without being informed of their rights, nor provided with the opportunity for a lawyer to be present, witnesses also were asked incriminating questions during trials without being warned of their rights. Every single defendant gave evidence in the trials of other co-accused and each of them was asked and answered questions in a way that incriminated them. An examination of the court files in each of the cases does not reveal any notation or evidence that the suspects were informed of their right not to answer questions which might incriminate them, as required under Article 66 of KUHAP.†

175. One major obstacle faced by the defence was the difficulty in finding people willing to testify in court to their experiences, which differed markedly from the version of

* Article 163 of KUHAP: If the testimony given by a witness during a session is different from his recorded information, the judge/chairman of the session shall remind the witness about this fact and ask him to explain the difference which shall be noted down in the record of the session.

† See for example Article 14(3)(g) of the ICCPR: In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (g) Not to be compelled to testify against himself or to confess guilt.

events that was officially endorsed by the Indonesian government. Potential witnesses were either threatened, or were unwilling, to testify because appearing in court would attract the attention of intelligence officials and raise the possibility of intimidation and reprisals from the Indonesian authorities.

176. A common practice in relation to prosecution witnesses who were unable to appear before the court was to accept written statements as evidence. This did not occur with defence witnesses, who, despite the difficulties, were expected to attend.

177. With defence witnesses either too afraid to speak the truth or even appear before the Court, there was little to balance the evidence provided by members of the Indonesian security forces who were themselves implicated in the massacre. For example, in the Gregorio Saldanha trial, PT3, a member of Mobile Police Brigade (Brimob) 5846, was questioned by the Presiding Judge and provided evidence which is totally contradicted by the facts which the Commission has found to be true. Yet this witness account was not seriously questioned during the trial:

> *Judge I: Did the protesters panic after the initial warning shots?*
>
> *Witness XII: No, they became more ferocious and brutal.*[127]

178. The Commission has received many reliable eyewitness accounts that contradict PT3 testimony, stating that the crowd at the Santa Cruz cemetery was generally peaceful and the Indonesian soldiers opened fire without provocation (see Vol. I, Part 3: History of the Conflict for a more detailed account of the demonstration). There were hundreds of survivors of the actual attack who could have attested to this before the court, many of who have given such evidence to the Commission. However it appears they were too afraid to do so. Article 65 of KUHAP grants defendants the right to seek and put forward witnesses. The Commission has found that in the cases examined many potential defence witnesses were intimidated into not giving evidence or pressured into providing false evidence, in violation of this right.

Evidence

179. The Commission has found that in addition to the witness testimony material evidence was fabricated and manipulated to support the prosecution case. It is interesting to note that the prosecution introduced a range of material evidence, such as guns and knives, which were allegedly used by the demonstrators. The available film footage of the demonstration, taken by Max Stahl, which showed the demonstration to be generally peaceful and the massacre unprovoked was not sought by the prosecution to be used in evidence, despite the fact that it was freely available and being shown on television around the world. This footage included Indonesian military officers firing directly at unarmed men and women who were not threatening in any way, and in fact running away in some cases.

180. The improper practices regarding evidence are best illustrated in relation to weapons. According to the prosecution case the defendants either owned or condoned the use of powerful weapons. According to Gregorio Saldanha:

There, [they] prepared various guns and 8 grenades, and there were boxes of knives. They said I carried all those weapons myself. This is one example of their lies.[128]

181. The defence counsel in Gregorio Saldanha's trial pointed out that the prosecution had produced guns and alleged that they belonged to the defendants, but had not provided witnesses who could state where they had found those guns and knives, and therefore they were only objects with no link to the defendants. The defence also relied on the argument that any use of guns during the demonstration was the work of Indonesian military intelligence agents who had dressed as young male civilians and pretended to be part of the demonstration, in order to give an excuse for other military officers to respond against the demonstrators with force.

182. The evidence relating to guns or knives or gunshots from the direction of the protesters establishes that it was planned and was the work of Intel agents who infiltrated among the protesters.[129]

183. There was no valid and convincing evidence presented to the Dili District Court, because there were no statements or witnesses that could verify without any doubt from whom those guns and knives came and when they were confiscated.[130]

184. Much of the evidence produced by the prosecution in the trials had been fabricated to support a claim that the demonstrators had been heavily armed and violent, that they had attacked members of the security forces, who had been forced to respond by firing at them. The Commission has examined the film footage taken of the incidents, which clearly shows Indonesian military officers firing at unarmed boys and girls, who were cowering and trying to escape. It has also interviewed and taken statements from many witnesses to the incidents. It is clear to the Commission that the evidence produced by military and police witnesses and delivered to the court by the prosecution in relation to this version of events had been fabricated.

Prosecution

185. The work of the prosecutors during the formal aspects of the trial appears to have been satisfactorily carried out. Indictments were drafted comprehensively and questions at trial, although few, pursued arguments established in the indictments. However, the evidence which was produced at the trials was not a compilation of independent sources which the prosecution presented to the court in order to ascertain the truth of what had occurred. It appears to the Commission that the result of the trials had been decided before they were in fact conducted. The duty of the prosecution was to provide sufficient material to substantiate the predetermined guilty verdicts.

186. Under the civil law system practiced in Indonesia it is the duty of the prosecution to present both incriminatory and exculpatory material to the court. However, in the Santa Cruz trials the prosecution did not seek to introduce exculpatory material, despite the fact that there were abundant witnesses who had seen what in fact had taken place, and it had been captured on film by Max Stahl, who was not contacted to give evidence for

the prosecution concerning the circumstances surrounding the filming of the events. Little effort was made to ensure that those witnesses who were available could give evidence in an environment free from intimidation, or that there was a balanced view presented at trial.

187. The evidence was in general a collection of materials and witness testimony which was strongly controlled and manipulated in order to produce the predetermined outcome of a guilty verdict against the accused. This guilty verdict was an important political goal, viewed as necessary to answer the international outcry over the massacre and to suppress any future will to demonstrate against human rights abuses in Timor-Leste, or to support the right to self-determination. The process of justice for the individuals charged was a tool used to achieve this goal. The evidence on which the desired outcome was reliant was therefore manipulated to remove any possibility that the political goal might not be achieved.

Defence

188. Members of the Indonesian legal aid team who assisted in the trials stated that for Indonesian human rights lawyers defending Timorese prisoners, their point of reference was the Indonesian Constitution, in which the right of self determination is enshrined. They also noted that international human rights law is also formally part of the Indonesian legal system, and that they struggled to uphold these values. However, they were faced with intense opposition in pursuing the ideals of justice by officials who were pursuing the New Order political objectives without regard for the requirements of the Indonesian Constitution or the legal protections over the rights of suspects. This was particularly so for those suspected of political opposition, who were kept in much worse conditions than common criminals:

> *It was shocking, when I was in Dili, how impossible the Indonesian officials were at this time … when we requested to meet with the Chief of the Sub-district Police (Kapolwil) in Dili…he asked a straightforward question…"Are you Indonesian?"…It was as if those of us who defended (prisoners) were not Indonesian. It should be clear that our commitment was to the law and human rights…we did not see nationality, the problems behind a case, political or otherwise. We see that everyone who is arrested, detained, tried has the right to be defended. Every person on trial has the right to a lawyer to be present.*[131]

189. The Commission recognises the courage and dedication of the Indonesian defence counsel who risked their safety and careers by defending the East Timorese defendants in the Santa Cruz trials. Domi Yos Atok, Artidjo Alkostar, Luhut M. P. Pangaribuan and Nur Ismanto are commended for their demonstrated commitment to the ideals of justice and human rights in the face of threats, intimidation and obstruction. The Commission also recognises that reform and improvement of the judicial systems of both Indonesia and Timor-Leste is dependent on the contribution of individuals such as these, who hold to their commitment, principles and integrity no matter what the political context, threats or cost. There can be little hope for reform or improvement unless these qualities and the individuals who demonstrate them are extended the

high respect that they deserve, and are able to provide an example for others to follow. According to the defendant Jacinto Alves:

> *Our lawyers from LBH received threats, so their hotel was closely watched and so on, but threats also came from the Prosecutors, ie the title of defence lawyers' argument was "coercion" and the Prosecutor demanded that the defence lawyers dropped that title. If they didn't, they would be taken to court. So threats like that were common.*[132]

190. According to defendant Francisco Branco:

> *The lawyers were really kind to the family, kind because they visited the family for moral support. The military were suspicious of them; they were followed wherever they went.*[133]

191. The defence lawyers appearing for the defendants were accused of being unpatriotic during the proceedings in the courtroom. Prosecutors were allowed by judges to be diverted away from the issues before the court, such as whether the defendants had committed the alleged offences, to attack the integrity of defence counsel and suggest that their work in defending the charges was contrary to the goals of their shared nation. The following quote from the transcript of the trial of Gregorio Saldanha provides a clear indication of a belief on the part of the prosecution that the efforts of both prosecution and defence counsel were directed to ensure the political goal of integration, rather than ascertaining the truth in relation to the charges.

> It is unfortunate that the defence lawyer's argument did not benefit the security and stability in East Timor, [it] could lead to loss of confidence about the history of integration of East Timor into The Unitary State of the Republic of Indonesia.[134]

192. Not only do such remarks deny the importance and independence of the judicial process, they also reflect a clear failure to recognise that the exercise of every defendant's right to rigorously defend allegations brought against them is the foundation of the justice system within which they were working. It is important to note that political attacks on defence counsel, such as the above, were frequently allowed, with no intervention from the presiding judge.

193. A small number of Indonesian citizens also assisted the political prisoners during the terms of their imprisonment, visiting and monitoring their conditions. The Commission highly commends the contribution to humanity of these individuals who placed universal values of fairness, justice and compassion over threats to their own safety. Ade Sitompul was one person who provided an outstanding example of how these universal values produced individual, selfless action:

> *Our conversations opened my heart and mind about why these people were fighting for independence, for their country and nation, and how they feel occupied by Indonesia. Their stories were similar to my experience when I was young and fighting for independence from the Dutch.*

194. In response to attacks on their integrity, defence counsel sought to explain that they were motivated by universal principles, and a patriotism for their nation, Indonesia, and as civil servants had a duty to try to improve the performance and status of the government of Indonesia.

> [W]e love truth and freedom...[S]o the people of Timor-Leste be given the freedom to stand on their own feet like other nations and be given the universal right to self-determination, as prescribed in the United Nations principles and Resolution 1514 (XV), 14 December 1960.[135]

> As civil servants for the Indonesian Government, we are obliged morally to contribute in improving the image of the Republic of Indonesia, which has plummeted in the international Community since the TNI invasion of Timor-Leste.[136]

195. The defence team generally had to work to unreasonable deadlines and were often not given even basic access to their clients. For example in Francisco Branco's case, the defence was granted only three days to draft the written defence response to the indictment after they were officially allowed to act. Also

> *As their prisoner (their client), they tried to visit me, but were always denied…they were not given permission to see the detainees.*[137]

196. Legal argument by defence teams were based on the claim that Timor-Leste's integration into Indonesia was illegal, and would continue to be so until the East Timorese were given an opportunity to participate in a free and fair choice concerning their political status. This was argued in a number of ways, for example through detailed accounts of East Timorese history from the pre-colonial period up until the Indonesian invasion and occupation; by disputing the validity of the Balibó declaration; by arguing that self-determination was supported by the 1945 Indonesian Constitution; as well as arguments based on international law and UN Security Council resolutions. If the Indonesian claim over Timor-Leste was illegal then there could be no substance to charges that East Timorese had committed treason by not supporting the sovereignty of Indonesia in Timor-Leste.

> *The core of their defence, they [the defence lawyers] said that: "The right to self-determination, the Timor-Leste issue, is an ongoing process. The Indonesian government's presence in Timor-Leste is a breach of international law, because the people of Timor-Leste were denied the opportunity for self-determination and the Indonesian presence was imposed on the people of Timor-Leste."*[138]

197. In the trial of Gregorio Saldanha defence counsel provided written submissions which argued:

1. That the Balibó Declaration, followed by the joint Petition for Integration by four political parties: UDT, Apodeti, KOTA and Trabalhista, was illegal because

it represented a minority of Timorese who fled to Atambua [Nusa Tenggara Timur, Indonesia];

2. That the East Timor issue was an international issue, not a domestic Indonesian issue.[139]

198. Political arguments were also taken up by some defendants. The statement by Jacinto Alves, entitled "Struggle is the Discovery of a Nation that has never Died", drew parallels between the struggles for East Timorese independence and Indonesia's own struggle for freedom.

> History is a constant and irreversible march, it continues to move forward, never backward, and shapes the human self across generations of people who tune into its rhythm. From this point of view, we revisit the history of Timor-Leste and draw parallels with the history of the Indonesian Nation.[140]

199. Statements written by defendants also raised arguments based on international law:

> All international laws and agreements passed by the UN regarding Timor-Leste are valid and apply to Indonesia because they are based on the international law which is the basis for the Indonesian law.[141]

Judges

200. The Commission is satisfied that the panels of three judges did not act independently and impartially. It appears the judges were in close collaboration, either directly or indirectly, with intelligence agencies and police investigators for the purpose of securing the politically motivated conviction of the defendants. All of the defendants and many other witnesses interviewed by the Commission were strongly convinced of the guiding role of the military in the conduct of the trial. Francisco Branco told the Commission in his interview:

> *[B]ecause the judges were on the side of the military authority the trial which should have been fair and independent, was manipulated by the military and they just waited for BAKIN's instructions, closely watched in whichever direction it went.*
>
> *They were not independent, but manipulated by the authorities. Their competence, they waited for instruction from BAKIN even regarding the Articles, they looked for Articles to incriminate the defendant. How did they give instruction? Within the police, the interrogation was controlled by BAKIN. The judges, too, could do their work but not independently.*
>
> *CAVR: Do you believe that all judges were controlled from the Centre or by the military?*

FB: Yes, that was obvious, even the judges did not know the decision, the decision was handed down by the intelligence to be read by the judges.

CAVR: What about the judges' decision?

FB: As I said, the intelligence officers who were present at the trial(s) gave them the decision just before the judges read those decisions.

CAVR: What did the intelligence officers give them?

FB: One note to the Prosecutor, then the decision was given to the judges.

CAVR: You saw it with your own eyes?

FB: Yes I saw it with my own eyes.[142]

201. In the trial of Francisco Branco, there was the following exchange which reveals how judge's sought to reinforce the legitimacy of the occupation through the trial:

Judge 1: Witness named Catherina. Who gave you that name?

Witness 2: My parents gave me that name.

Judge 1: Why don't you change your name now?

Witness 2: I can't, that is my baptismal name according to the Catholic religion.

Judge 1: I explain to the witness that the name is a fact, just like the integration of Timor-Leste is a fact. [143]

202. Under Art. 188 (3) of KUHAP, the evaluation of evidence by judges shall be wise and prudent, after he or she has accurately and carefully conducted an examination on the basis of his conscience. In relation to witness testimony, according to Art. 185(6) of KUHAP, judges must take into account its reliability, motivation and possible influencing factors.* There is no indication that judges weighed up the reliability of testimony and evidence. Rather, in general the judges did not question the evidence put forward by the prosecution, nor did they give reasons why they found it to be compelling.

203. By inhibiting defence cross-examination, encouraging pro-Indonesia political testimony and not questioning the reliability of evidence, the judges in effect supported the prosecution case and restricted the possibility of evidence favourable to the defence being raised at trial.

204. It appears that because of the political motivation to convict the defendants the judges, in several instances, required the defendants to prove that they had not broken

* Article 185(6) KUHAP: In judging the truth of a testimony by a witness, a judge must seriously take into account: … c. the reason which might have motivated a witness to give a certain testimony; d. the way of life and morality of a witness and any other things which can be of influence for determining whether or not the information he has given can be trusted.

the law. The fact that the defence could not produce sufficient evidence to prove their innocence was a reason given for conviction. This is a fundamental misunderstanding of the basic principle of the presumption of innocence.

205. In the Jacinto Alves decision, the judges convicted the defendant despite the following statement in the judgment: "During trial, the Panel of Judges could not find evidence to support the indictment that the defendant broke the law."

Decisions

206. Most defendants were found guilty of the primary charges on their indictments (see Vol. V, Annexe 3: Indictments Summaries). The exceptions were Juvencio Martins, Bonifacio Magno and Filomeno da Silva Ferreira who were acquitted of the treason charge as a principal but convicted of the subsidiary charge of conspiring to commit treason.[144]

207. The sentences handed down to the defendants were severe. They ranged from five years and eight months for Filomeno da Silva Ferreira to life imprisonment for Gregorio Saldanha (see Annexe I: Tables and Convictions on Indictments). Those acquitted of the primary charges and convicted of conspiracy to commit treason received the shortest sentences.

208. The judges based their decisions on pages of justifications of Timor-Leste's supposed integration into Indonesia, providing further evidence that the role of the trials was partly to legitimise the Indonesian occupation.

209. The general reasoning in the decisions was as follows: Timor-Leste was legally a part of Indonesia; Indonesia had contributed to the development of Timor-Leste; and as the Santa Cruz demonstration went against Pancasila and failed to appreciate the development brought about by Indonesia, the actions taken at Santa Cruz could therefore be justified by the need to uphold Pancasila ideals.

210. An initial premise of all decisions was that Timor-Leste has been legally integrated into Indonesia. The Jacinto Alves decision illustrates this:

> The integration of Timor-Leste into the Republic of Indonesia was not the initiative of the Indonesian Government or the Indonesian People. The basis was the will of the East Timorese themselves…the will of the people of Timor-Leste has been reflected as a whole in the Balibó Proclamation.[145]

211. At trial, defence counsel argued that the Anti-Subversion Law breached Indonesia's 1945 Constitution and that accordingly, the Law must be repealed and that any indictments based on this law were unlawful.[146] This argument was rejected in both trials involving charges of subversion.

212. The form of the indictments and the judgments were not overly problematic. It is only on a deeper consideration of the totality of factors relevant to the trial that it becomes obvious that witnesses who could have given true evidence concerning the

events were prevented from doing so, others were threatened and intimidated into supporting the prosecution case, material evidence was fabricated, exculpatory material was ignored, and military officers and police colluded and fabricated their evidence. The seeming rationality of the indictments and the judgments provided a veneer of fairness, which covered a deeply flawed process.

213. The decisions generally imply that the defendants were not only guilty of subversion by organising the demonstration, but also bear some degree of responsibility for the killing of the East Timorese protestors at the Santa Cruz cemetery, even though the victims were the friends and colleagues of the defendants who had been shot by Indonesian military officers. According to the Francisco Branco decision:

> [T]he demonstration had:
>
> 1. Claimed victims, which according to KPN (the National Investigation Commission) totalled 50 deaths and more than 91 injuries.
> 2. Caused anxiety in the community.[147]

214. Gregorio Saldanha's life sentence was considered appropriate due to aggravating circumstances, including the fact that his actions were designed to draw the attention of the United Nations Human Rights Commission to what was taking place in Timor-Leste:

> The defendant's actions that confronted the government, by leading and directing a demonstration on 12 November 1991 during a visit by UN Human Rights Commission, clearly aimed at undermining the government's credibility in the international community and may provide a false picture of the integration process.[148]

215. For the majority of the defendants, their positions as Indonesian civil servants were considered aggravating circumstances.[149] Mitigating circumstances were included, however these were generally formulaic, with factors such as the defendants' behaviour in the courtroom and the needs of their families apparently taken into consideration.

216. The decisions are remarkable for the high level of detail included. In this respect, they reflect efforts throughout the trial to give an appearance of due process and legality, which covered the manipulation, torture, intimidation and fabrication which characterised the interrogation and prosecution of the defendant.

Appeal

217. Most defendants appealed their cases to the High Court in Kupang.[150]

> *My lawyer(s) and I rejected the judges' decision, then we appealed to the High Court, then Supreme Court, until we got a final decision.*[151]

218. They therefore exercised their right under Article 67 of KUHAP to have their case reviewed by a higher tribunal.[152] However it is doubtful that the appeal added any value

to what had been a flawed trial. The appeals appear to have been a "rubber stamping exercise" of the decisions of the lower court and were generally dismissed without reasons being given.

219. All of the appeal decisions from the High Court in Kupang opened with a lengthy procedural history of the case. In all but one decision, the court then affirmed the entirety of the decision made by the Dili District Court without any reasons or justification. In the case of the exception the appeal court only modified the wording of the Dili court's judgment in relation to the charges.

220. The following example from the Gregorio Saldanha case is typical of how the High Court justified its decisions:

> [T]he considerations and reasons given by the judges in the district court were deemed accurate and correct, and the High Court, therefore, will apply the same decision for this case.[153]

221. Thus there was no description of prosecution or defence submissions and no written analysis, merely an affirmation of the trial court's decision. This cannot be considered a genuine appeal. The prosecution and defence presented lengthy appeal submissions, primarily mirroring the arguments raised at trial, and these were not even referred to in the appeal decisions.

222. All defendants who appealed to the Kupang High Court then applied for cassation to the Supreme Court, to have their cases reviewed once again. All applications were refused without reasons, with the Court merely stating that the request for a Supreme Court appeal was refused.

223. The only defendants tried in Dili who did not appeal were those represented by the Indonesian-appointed lawyer Ponco Atmono. Rather than file for appeal, Carlos Lemos and Bonifacio Magno, made applications to President Soeharto to grant clemency.[154] In both cases, the defendants requested and were granted a two year reduction in their sentences. The decision, dated 10 August 1993, was personally signed by President Soeharto. No similar applications appear on the files of the other defendants, and it appears that the appeal for clemency was a successful strategy employed by Ponco Atmono.

Imprisonment

224. Following the handing down of their sentences the defendants were sent to Comarca Balide in August 1992. From there all defendants were moved to Becora prison (Dili) around the time of a visit from a UN delegation led by Amos Wako. After two weeks in Becora, Carlos Lemos and Bonifacio Magno were sent to serve their sentences in Kupang. Gregorio Saldanha, Francisco Branco, Jacinto Alves, Juvencio Martins, Filomeno Ferreira, and Saturnino Belo were flown to Semarang (Central Java, Indonesia) after two years in Becora. In September 1999, Gregorio Saldanha and Francisco Branco were transferred to Cipinang Prison in Jakarta and remained there until they were both released on 10 December 1999.

Trials and punishment of Indonesian security personnel involved in the Santa Cruz massacre

225. A useful illustration of the injustice of the Santa Cruz trials is found in a brief comparison with the court martial in Bali of ten low-ranking Indonesian officers in 1992. All but one were charged with minor disciplinary offences in relation to the Santa Cruz massacre. No officers were charged with criminal offences such as murder or torture, despite the existence of extremely strong evidence to show these crimes were committed.[155] The sentences handed down ranged from 8-18 months. Thus the East Timorese defendants received up to life imprisonment for their role in organising the demonstration, while the many soldiers and officers who were involved in the mass murder of over 200 non-violent protestors effectively received impunity. According to the International Commission of Jurists, who monitored both sets of trials:

> [T]he charges brought against the military officers and personnel subsequent to the 12 November incident are patently inappropriate to the crimes involved…It may fairly be said that "justice" has been turned on its head in this case.[156]

Conclusions

226. The Commission has examined the court file for each of the defendants tried in relation to the events surrounding the Santa Cruz massacre, interviews with those who participated in the trials as witnesses, defendants and lawyers, statements of scores of individuals who were present during the events at Santa Cruz, and secondary material such as reports of organisations such as the International Commission of Jurists, who monitored the trials, and Amnesty International.

227. Elsewhere in this Report the Commission provides an in-depth account of the demonstration and the subsequent massacre at the cemetery. It has found incontrovertible evidence that the demonstration was intended to be peaceful, that an unplanned incident took place during the march which involved an attack and wounding of a member of the Indonesian security forces, and that the angry response to this incident led to heavily armed Indonesian military officers randomly shooting into the crowd of demonstrators, killing over 200 persons and wounding many others (for further detail about the victims see Vol. II, Part 7.2: Unlawful Killings and Forced Disappearences). In addition to scores of corroborating witness statements the Commission has viewed video film clearly showing the Indonesian troops at the cemetery shooting unarmed young men and women without provocation.

228. Before the incident at Santa Cruz journalists were banned from entering Timor-Leste and information concerning the massive human rights abuses committed by security personnel was suppressed. The film footage of the massacre was secretly shot and smuggled out of Timor-Leste. It was released internationally and provoked world-wide outrage and calls for justice for those involved. The response of the high-ranking Indonesian government and military officials to this international outcry was to formulate a sophisticated strategy aimed at creating the impression that:

- The demonstrators were violent and had attacked the security forces
- The demonstrators were led by subversive elements who intended the violence
- The security forces had been forced to defend themselves and during this defence a small number of officers had committed disciplinary offences
- The Indonesian government was intent on complying with international principles of human rights and had therefore given each of the East Timorese defendants a fair trial
- The Indonesian government was even-handed and had therefore not only tried and punished the East Timorese but had also targeted members of its security forces who had been involved in the massacre.

229. The strategy included using trials to support these claims, although not one of them is true. The trial process was manipulated to ensure an outcome that both confirmed the claims and created a veneer of respectability, which could be defended against allegations of inaction. There was no real intention of uncovering the truth, punishing those responsible or providing a fair trial for those charged. In this way the Santa Cruz trials were typical of "show-trials" conducted by other dictators under authoritarian regimes.

230. The Commission, by investigating the conduct of the trials more deeply, has found that the military officers most centrally involved in the massacre were not punished, and those who had ordered the attack on unarmed civilians enjoyed total impunity. A few junior officers were charged with non-criminal offences and given light penalties. Once again the strategy behind this step is to provide an illusion that a serious attempt had been made as a basis for answering critics, which in fact hid rather than revealed the truth.

231. In the same way, the trials of the East Timorese defendants held a veneer of superficial respectability. Although the written indictments and judgments might indicate that the process had been respectable, almost every step in between was fundamentally defective. Evidence was fabricated, witnesses intimidated into lying or not appearing, defendants tortured into signing confessions. If the evidence before the court is biased, selected only to favour one side, then the court must "legitimately" come to a decision that is in accordance with the material that it has considered. The Commission finds that the strategy employed in the Santa Cruz trials was to ensure that the evidence produced to the court supported only one possible conclusion. To ensure the desired outcome, evidence was manipulated and fabricated, which required the participation and compliance of everyone involved in the trials.

232. The Commission finds that the investigating police, military personnel, prosecutors, government appointed defence counsel and judges involved in the trials colluded, both directly and indirectly, to subvert the cause of justice in order to produce a predetermined political result.

233. The police and military officers who carried out the investigations tortured and intimidated witnesses so that they gave a version of events that suited the political goals

of the trials. They threatened and intimidated other witnesses and their family members so that they would be too frightened to give evidence of the truth. The courtroom was effectively closed to the public to avoid scrutiny, including the intimidating effect of large numbers of military in attendance at the trials. They also collected false evidence, such as guns and knives, and intimidated witnesses into falsely declaring that they had used them.

234. Prosecutors did not look behind this evidence, although it was obvious that much of it had been fabricated or obtained through coercion, nor did they pursue or provide to the court freely available information that controverted the evidence that they presented to the court. Judges accepted this evidence at face value, despite obvious discrepancies, and did not give any weight to material produced by the defence. They did not fulfil their duty to enquire into discrepancies between written and oral statements. The government appointed defence counsel failed to present evidence that could have acquitted their clients and presented arguments that in fact supported the prosecution case.

235. Of all persons officially involved in the trial process only the independently appointed Indonesian defence counsel demonstrated integrity, honesty and commitment to principles of justice. They alone should be proud of their contribution to the ideals contained in the Indonesian Constitution to which they referred, and their contribution towards achieving these ideals. The other officials, police and military involved, demonstrated the tendencies of corruption and collusion which undermine any hope of establishing a legal system which can provide justice to the citizens it serves.

236. The political motivation for conducting these "show-trials" included three distinct objectives. First, the trials offered a means of punishing those who organised the Santa Cruz demonstration, through the mechanism of the criminal law. Second, the trials paraded the captured leaders of the clandestine network, thereby demonstrating and potentially deterring others from becoming involved in clandestine activities. Third, the trials supported the defensive version of the Santa Cruz massacre that the killing of civilians was provoked by protestors and that the inappropriate reaction involved only a small number of ill-disciplined officers.

237. By holding individual trials, instead of a single joint trial, the Indonesian Government was able to re-assert in each case that anti-government action would be punished. By holding repetitive separate trials, the threat presented by the defendants appeared greater, thereby further justifying the extreme actions of the military. Finally, the trials created the impression that the Indonesian court was lawfully established, embodied the judicial arm of a legitimate sovereign government, and was fully authorised to convict and punish those who participated in anti-government activities. All of these factors contribute to an attempt on the part of Indonesian authorities to legitimise the Indonesian occupation of Timor-Leste.

238. It is clear that the cost of achieving this political goal was great injustice suffered by each of the eight defendants. They did not receive a fair trial or due process, and were given extremely severe punishments.

239. The penalties which were handed out for actions relating to the events at Santa Cruz included harsh sentences of up to life imprisonment for East Timorese defendants

for actions which basically involved organising a peaceful demonstration against the government sponsored killing of a colleague. The harshest penalty handed out to a member of the Indonesian security forces, which were implicated in the killing of over 200 unarmed civilians, was 18 months imprisonment.

240. The major procedural flaws in the Santa Cruz trials include the following:

- The pre-trial detention conditions at Polda Comoro, which included the torture of civilians, prolonged interrogation with minimal time for rest and psychologically damaging techniques such as the harassment of defendants' families.
- Investigation techniques, which included violence and threats of violence when taking defendant and witness statements, seeking incriminating testimony, as well as the fabrication of evidence.
- The initial failure to uphold the right to an independent lawyer. Although the defendants were eventually allowed to appoint their own counsel, this occurred after the commencement of trial and meant that independent lawyers were not present during the crucial investigation and interrogation period.
- Failure to guarantee a fully public trial. Although the court sessions were theoretically open to the public, the fact that Indonesian intelligence officers and sympathisers filled the courtroom as well as an atmosphere of fear perpetuated by the Indonesian authorities meant that many East Timorese were too afraid to observe trial proceedings.
- The failure to guarantee the safety of potential witnesses. This prevented potential defence witnesses from testifying and resulted in vast inequality in the number of prosecution as opposed to defence witnesses. Further, the manner in which the trials were conducted prohibited defence counsel from asking effective questions to prosecution witnesses and the few defence witnesses who testified.
- Intimidation and interference in the defence team's work, both inside and outside the courtroom, combined with minimal access to clients and inadequate time to prepare the defence. Despite the oppressive conditions, legal aid lawyers generally performed admirably, providing solid submissions and well-reasoned arguments. Yet, on balance, there was not a level playing field between the defence and prosecution from the very outset of the trials.
- A lack of impartiality and independence on the part of judges. Judges appeared to be in collaboration with intelligence officials, conducted courtroom proceedings to favour the prosecution, and cut short any statements criticising integration that were elicited from witnesses by defence counsel. Witness testimony and evidence were not considered impartially and the judges often appeared to be promoting the official Indonesian government position, rather than acting as impartial arbiters.
- A lack of a meaningful appeal process. Although appeals were granted to the High Court in Kupang, the High Court's rejection of appeals cannot be considered to constitute a meaningful appeal process, due to a lack of transparency and failure to give reasons,. The decisions of the High Court in Kupang appear to have been a rubber stamp, approving the decisions of the Dili Court without detailed

examination of the many procedural and substantive flaws in the trials. Further, given that the Supreme Court rejected all applications for cassation without reasons in all but one case, it appears that these applications may not have been treated on their merits.

- Disproportionate sentences. The sentences were overly harsh, particularly when compared with the treatment handed down to military officers found to have breached their duties at the site of the massacre.

The Jakarta trials, 1992

241. The massacre of civilians at the Santa Cruz cemetery on 12 November 1991 and the repercussions of that incident were of great concern to East Timorese students studying in Indonesian cities. As a protest against the massacre, student leaders organised a demonstration in Jakarta on 19 November 1991, to raise awareness about the actions of the Indonesian military and to demonstrate to the international community that intervention was crucial to resolving the conflict in Timor-Leste.

242. The Jakarta protest was the first major political demonstration held by East Timorese students in the Indonesian capital.* It followed increased political activity in Timor-Leste, for example the protest in Tacitolu, Dili, during Pope John Paul II's visit on 12 October 1989 and the demonstration at the Turismo Hotel during the visit of John Monjo, the US Ambassador to Indonesia, between 17 and 19 January 1990.

243. On 19 November 1991, at around 10.30am, two groups of East Timorese students gathered in Jakarta to hold a peaceful and orderly demonstration. Protestors chanted pro-independence slogans, displayed political banners and delivered a petition to UN representatives and to the Australian and Japanese embassies. The contents of the posters and petition, aside from referring to the Santa Cruz massacre, also addressed issues regarding the initial invasion and forced integration of Timor-Leste into Indonesia, for which the protestors sought immediate UN intervention. One of the posters was directed at the Indonesian Foreign Minister:

> Mr. Alatas! The question is not Development but Invasion and Self-Determination.[157]

244. The petition stated that:

> Indonesia's invasion of East Timor is a despicable action and…the Indonesian invasion and occupation of East Timor is comparable to the Iraqi invasion of Kuwait in 1991.[158]

245. Following the demonstration, five student leaders were arrested and faced trial for their roles in the demonstration: João Freitas da Camara, Fernando de Araujo (Lasama), Virgilio da Silva Guterres, Domingos Barreto, and Agapito Cardoso.

* One prior, although unsuccessful, action in Jakarta was the attempt by several East Timorese students to gain asylum in 1987.

They faced charges of either subversion or treason for opposing integration and rebelling against the Indonesian Government. The following analysis is based on trial documents,[159] interviews with defendants[160] and lawyers[161] as well as a number of secondary sources.

Arrest

Arrests in Jakarta

246. Approximately 100 people, mostly East Timorese students, participated in the demonstration on 19 November 1991 in Jakarta. The students were studying in universities in large cities such as Denpasar, Surabaya, Malang, Yogyakarta, Semarang, Solo, Salatiga, Bandung and Jakarta. Police arrested 71 protesters.

247. The protesters were arrested by police officers from Regional Police of Greater Jakarta Metropolitan (Kepolisian Daerah Metropolitan Jakarta Raya, Polda Metro Jaya). Domingos Barreto described the lead up to the arrest:

> *We showed our solidarity that the shootings by the Indonesian army in Dili on 12 November was a violation [of human rights] so we launched an action to protest the 12 November incident…We the students in Java, that is, in all large cities in Indonesia, held an emergency meeting to launch a protest against the events in Dili. We held a series of meetings on 14,15 and 16 November. Finally on 19 November 1991 we took to the streets and submitted our petition to the UN representative in Jakarta. After our first demonstration in front of the UN Representative Office, we met a delegate from the UN and he said that the time of our demonstration had been approved. So at that time we felt that what we wanted to say would come true, but the approval of the UN delegate was not given in writing, only verbally. After that we held a demonstration at the Australian and Japanese embassies. We were going to continue on to the British embassy, but were arrested by the Jakarta police. It was not only the police, there was also a joint team of Special Forces Command (Komando Khusus, Kopassus), Mobile Police Brigade (Brigade Mobil, Brimob), and Regional Police of Greater Jakarta Metropolitan (Polda Metro Jaya), so these three components arrested us.*[162]

248. One of the defendants, João da Camara, said about the arrest:

> *The police arrested us, I don't know which team, but it was the police for sure. We were arrested in front of Hotel Indonesia (HI) and were taken to Central Jakarta TNI near St. Carolus [hospital], there was a police precinct there.*[163]

249. Following the arrests some of the defendants were beaten. They were not informed where they were being taken and were subjected to sleep deprivation and continuous interrogation. Domingos Barreto stated the following:

After our arrest we were immediately beaten, and a few friends had lesions on their faces…Then for three days we were kept in a secret place, we were questioned, or investigated at all sorts of times–at midnight, 3.00am, so they did things their own way.[164]

250. According to an investigation by the Indonesian Legal Aid Foundation (YLBHI), the arrest of the defendants occurred in the context of a widespread round up:

> In the Jakarta demonstration, of the 71 people arrested only four became suspects. The rest were released after a period of detention at Polda Metro Jaya. Following intensive examination, one week later the detention of 49 people was suspended. Then after nearly 120 days of detention, 18 more people were released. After the second phase of suspension of detention only four people remained detained, namely: João Freitas da Camara, Virgilio da Silva Guterres, Agapito Cardoso and Domingos Barreto.[165]

The arrest in Denpasar, Bali

251. As arrests were occurring in Jakarta, suspects were also being detained in Bali. On 24 November 1991 at around 6:00am, security forces raided a house in Denpasar. The security forces, wearing traditional Balinese clothes and without any official warrant, arrested six students: Fernando de Araujo, José Pompeia, Anito Matos, Clemente Soares, Aniceto Guterres Lopes and José Paulo.[166] On the following day, Aniceto Guterres Lopes and José Paulo were released as the two students' presence at the place of arrest was considered coincidental.

252. Fernando de Araujo elaborates on the background and reason for his arrest and that of his friends in Denpasar:

> *I was arrested because I was the Secretary General of Renetil (Resistentia Nacional Estudantes Timor-Leste), actually because of the Renetil problem, it was directly related to the Santa Cruz Massacre on 12 November 1991, after the massacre on 12 November, I coordinated my friends to hold a demonstration in Jakarta, in front of embassies to oppose and to protest the 12 November massacre. At that time of all the friends participating in the demonstration 72 were arrested; also all our friends of the clandestine front executive in Dili were arrested. I was arrested on 24 November 1991 in Denpasar, Bali at my boarding house with five others.*[167]

253. The following, written by defendant Fernando de Araujo in his defence pleadings, describes how during the arrest process, the police apparently fabricated evidence:

> Once they returned to Clemente Soares' room they immediately produced two grenades and two sticks of explosives and confiscated all my documents and personal letters. None of the people involved in the search understood Portuguese, so all writings in Portuguese were taken

> because they thought they were [incriminating] documents, even books in Portuguese were all taken.
>
> During the arrest and house search the officers did not produce either an Arrest or Search Warrant from the police. When we were all in the living room, they threatened to handcuff us and said that they would shoot anyone who moved.
>
> At that time my friends and I argued with them that we would admit ownership of all our possessions but not the grenades and explosives, because we had never seen them before and we never even contemplated the possession of those things. This was slander. The officers intentionally tried to compromise us by alleging that we possessed forbidden material in the house. During the argument the officers just said that we would settle it at the police station. We were taken to Polda Nusra in three separate cars and on arrival we were interrogated separately. There too we continued to deny ownership of the grenades and explosives.[168]

254. The arrests conducted in Denpasar appear to constitute breaches of Indonesian law. Arrests were conducted by the military and without first obtaining a warrant. This is in breach of Articles 16 and 18 of KUHAP. In relation to the Jakarta arrests, it is arguable that warrants were not required at the time of arrest as the suspects were caught in the act.

255. In a report issued after the incident, the Indonesian Legal Aid Foundation supports the view that the arrest in Bali did not follow the procedural rules established by KUHAP:

> For example in Fernando's arrest, the [arresting] officer was not from the police. First of all, the arresting officers proceeded without showing any identity or Arrest Warrant, and they also didn't leave a copy of the Arrest Warrant for the family or [house] occupants of the arrested person nor [any information on] the place of detention.
>
> The fact was, officers that were not from the police arrived at Fernando's house and immediately proceeded to search the house looking for reasons to make things appear as if he was in possession of grenades and other forbidden material without ever giving him a chance to explain. In short, he was taken away with the documents found during the search, which were not known because no Record of Interview was made at the time.[169]

Pre-trial detention

256. After the police conducted an initial investigation of the 71 detainees, three categories emerged: organisers of the demonstration, coordinators, and those who had just participated. A few days after the arrest some demonstrators from the second and third categories were released, while those considered to be responsible for organising

the event, João da Camara, Virgilio Guterres, Domingos Barreto, Agapito Cardoso and Fernando de Araujo,* remained in custody in Jakarta and awaited trial.

Conditions of detention in Jakarta

257. The defendants were detained for approximately three months in Jakarta before being brought to trial. They spent only three days in Polri headquarters, spending most of the three months in Polda Metro Jaya. The defendants were not subjected to physical torture but had to endure psychological pressure. During their detention, the police interrogated them in turns from night until the afternoon. João da Camara, the demonstration leader, described the situation:

> *In Polda Metro Jaya and, Polri, I was kept up all night...I was so tired, I just sat there in the chair until around 3.00 in the morning. They would take me outside for a walk while asking where my house was, and I would say I didn't know because I was too tired. They always took me outside at night: "We want to go to your house" [they would say]. "What for?", "We just want to." I wouldn't tell them.*[170]

258. Domingos Barreto experienced similar treatment:

> *I was tortured, not beaten; it was a form of indirect torture, like being interrogated from midnight till morning, I think that was torture, not physical but psychological, then we were awakened at three in the morning when people are supposedly sound asleep, but we would be called up one by one and taken outside.*[171]

259. João da Camara further elaborates on the conditions:

> *In Polri I endured not physical torture but mental torture, because they didn't let me rest. I was so tired, two nights they didn't let me sleep. The first night they kept asking me the same questions. I was upset [as] they kept repeating the same questions I had already answered, they kept asking, then they would grow tired because there were questions I refused to answer. I just kept silent. Then they would get bored and just let me be. There were desks around, so they would all sit around at their desks playing cards but making noises as well…to keep me from resting…I wasn't tortured physically but mentally like I said before, they didn't give me a chance to rest. So when they came back to ask again we were not given the time to rest, to think and answer coherently, so it was mental torture…they fed me, but only a little.*[172]

Conditions of detention in Denpasar, Bali

260. Fernando de Araujo, one of the defendants detained in Denpasar, Bali, was treated differently. During interrogation, he experienced the following:

* Fernando Araujo who was the only defendant to have been arrested in Bali.

I was detained in a dark, large and filthy room. I was detained alone away from the others and before I was put in that filthy place, full of mosquitoes, I was stripped naked. They took all my clothes and I slept only in my underwear, for almost a month in Nusa Tenggara Regional Police (Polda Nusra) headquarters. Every night I would be interrogated until midnight by several people. People in the first two weeks, it wasn't clear where they were from, they were intelligence or military, [they] threatened to shoot me, held a pistol to my head and I was interrogated [in a room] with electric cables used to give electrical shocks and to torture people. After I was sent back to my cell, some more people would come like thugs and yell and curse, that dog, stupid, idiot, East Timor will never be independent. So it was a dreadful situation, although I was never tortured physically but the psychological and mental torture was plentiful. I said that they tried to break us.[173]

261. During detention in Denpasar no one had access to the detainees, as is made clear in Fernando's defence statement:

During my detention in Denpasar from 24 November to 22 December 1991, officers never allowed my friends to visit me in my cell although they had requested permission through the formal channels. I was forbidden to keep reading and writing material. At nights people in civilian clothes came to my cell to threaten me. Throughout my detention I wasn't treated as a political prisoner. We were taken to Jakarta handcuffed. The handcuffs were only opened after we arrived in the Serse room at Polda Metro Jaya.[174]

262. These forms of psychological abuse endured by the prisoners, both in Jakarta and in Denpasar, constitute breaches of fundamental human rights guarantees, including the right not to be tortured. Further, although Indonesian criminal procedure does not guarantee proper standards of detention, interrogation in the absence of legal counsel and restrictions on visits to detainees, constitute breaches of KUHAP.

Access to a lawyer

263. In Polda Metro Jaya, the defendants were not allowed access to legal counsel. Although they requested legal representation, the police rejected their request. No counsel were present during the investigation and interrogation processes, which is a breach of the duties under KUHAP.

Often I asked the prosecutor to call LBHI to request legal representation, but the response was always negative, citing as a reason: "I want to speed up the examination process so you can be released faster. If we wait for a legal counsel it would take too long". So, as many of my friends were becoming ill, I reluctantly accepted the situation.[175]

264. The record of interview of João da Camara stated that he had declined to request a lawyer whilst being interrogated when in fact he had not. The following is an extract from his RoI:

> In this interrogation do you need the presence of a legal counsel/ lawyer?…For this examination, I do not need the presence of a lawyer.[176]

265. In his defence statement, João da Camara said:

> The statement "I do not need the presence of a lawyer" was the prosecutor's statement and not my own. Before the interrogation started I had refused to be interrogated if my lawyer wasn't contacted to be present at the interrogation. This happened on 22 February 1992, Saturday, around 5:00pm: the prosecutor prevented my legal counsel from attending by using as an excuse: "Your friends are waiting in a room upstairs, [they are] waiting to be released. If you act like this, next week things could change, it could prevent or slow down their release."[177]

266. Fernando de Araujo stated:

> One investigator even said that cases of subversion do not necessarily require the presence of a legal counsel. He said it [a lawyer] was not guaranteed by law…The examination must be concluded quickly so there would be "hope" for you [the defendant]…Legal counsel will be present at the trial.[178]

267. Indonesian law, under Articles 54 and 55 of KUHAP, stipulates that suspects have the right to legal representation of their own choosing from the very first stages of investigation. It is clear that these fundamental guarantees were not upheld in relation to the defendants. Further, under Article 56 if a suspect or defendant does not have a lawyer of his or her own, a legal adviser must be appointed.

Investigation

268. It appears that the Records of Interrogation during pre-trial interrogation contained false allegations. According to João da Camara:

> *I looked at the list of accusations. It was all there, like, for example, my relationship with Xanana. I never had any direct contact with Xanana, we had many people coming here, but they insisted I had contacts with Xanana Gusmão in the forest to do this, do that, and they said I was the leader of Renetil, which I wasn't, and they made up things to incriminate me.*[179]

269. Defendants were then forced to sign inaccurate records of interrogation, as Fernando de Araujo explains:

[T]hey forced us to sign it, by saying the trial was about to commence so in frustration I signed it, hoping that the case would be tried in an open court so we could turn it into a political campaign.[180]

270. Fernando de Araujo raised the issue in his demurrer defence plea:

> On 27 April 1992, I was examined (defendant examination). I said before the Panel of Judges that what was written in the Record of Interrogation was mostly untrue, and because I had no legal representation I was forced to answer all questions although I never knew about or did what they asked.[181]

271. The approach by investigators and interrogators in forcing and coercing defendants to sign false statements clearly breaches Article 117 of KUHAP which guarantees that information by a suspect and/or witness to an investigator shall be given without pressure from whomsoever and/or in any form whatsoever. It also violated Article 52 of KUHAP which gives defendants the right to give statements freely to the investigators or the judges. Apart from being grossly unethical, from the very outset this greatly reduced the possibility of a fair trial. RoIs play a large part in an Indonesian trial as they provide the factual basis for the indictment. Any difference between oral testimony given in court and a statement recorded in a RoI should be investigated by judges and recorded. The original false statements obtained during interrogation remained the factual foundation of the trials.

Trial

Indictment

272. The main defendants, João da Camara and Fernando de Araujo, were indicted for subversion under the Anti-Subversion Law, and for subsidiary charges under KUHP. Three others faced charges under Article 154 KUHP for crimes against public order.

The charges against João Freitas da Camara[182]

273. The primary charge against João da Camara was that he violated Article 1(1)(1)(b) and Article 13(1) of the Anti-Subversion Law (UU No. 11/PNPS/1963) in that he engaged in actions aimed at or which could be expected to overthrow, destroy or undermine the power of the State, the authority of the lawful government, or the machinery of the State. It accused him of unspecified criminal activities in the clandestine movement from 1983 until 19 November 1991 or at any other times where day, date and month cannot be exactly determined and of having conducted unidentified illicit activities in at least five locations in Jakarta and in the form of meetings, forums, public displays and demonstrations using banners, posters and declarations. João da Camara was accused of having committed or having been involved in committing continuing crimes. Thus the prosecution attempted to link the most recent occurrence (the demonstration on 19

November 1991) to the accused's activities in the clandestine movement that appear to have begun in 1983 or 1984.

274. A number of factual allegations are made against João da Camara. These include that he agreed to receive information from Timor-Leste and send it abroad, to organisations such as ACFOA (Australian Council for Overseas Aid) in Melbourne and Amnesty International in London. He also allegedly received funding from these and similar organisations. The information he disseminated allegedly spread feelings of hostility, opposition and concern and originated from sources that were anti-government and the facts of which he failed to check with competent authorities. It was also alleged that on 20 June 1988, an underground organisation called Renetil (Resistencia Nacional Estudantes de Timor-Leste) was formed in Denpasar, Bali, led by Fernando de Araujo, with the defendant as the leader of the Jakarta chapter. Also, the defendant took every opportunity to demonstrate and distribute declarations and petitions to foreign visitors in Indonesia. Finally, as president of Renetil in Jakarta and as leader of the Movimento Nacional dos Estudantes de Timor-Leste, João da Camara allegedly used the excuse of human solidarity for the events of 12 November 1991 to shield his true intent of gaining world sympathy for his political campaign to see Timor-Leste released from Indonesia. The indictment further lists the inception, planning and execution of the demonstration on 19 November 1991.

275. The first subsidiary charge against João da Camara was the dissemination of feelings of hostility or aroused hostility, or causing splits, conflicts, chaos, disturbances or anxiety among the population or broad sections of society or between Indonesia and a friendly state. The second subsidiary charge was that the defendant publicly declared his feelings of hostility, hatred or contempt towards the government of Indonesia in violation of Article 154 of the KUHP.

The charges against Fernando de Araujo[183]

276. Fernando de Araujo was accused of being the president of Renetil and faced primary and subsidiary charges that mirrored those of João da Camara. He was also charged with committing a continuing criminal act based on factual allegations, commencing in 1986.

277. A summary of the factual allegations against Fernando de Araujo are as follows. In 1986 in Denpasar, Bali, Fernando de Araujo received instructions from Xanana Gusmão calling on the Catholic youth of Timor-Leste in Indonesia to organise and form associations aimed at furthering the struggle to free Timor-Leste from Indonesia. In connection with this, the accused received a telephone call from José Ramos-Horta in Australia. On 20 June 1988, in Bali, the defendant was present at a meeting which established Renetil, and was subsequently elected its leader at its first congress. From 1988 to 1991, he established many branches of Renetil across Java and was the point of contact for information about Timor-Leste, whether provided by Constancio Pinto or Xanana Gusmão, to the outside world and Renetil branches. The indictment details numerous Renetil meetings and communications. Also, the defendant allegedly received funds and medicines from abroad and chanelled them through the clandestine network.

278. On 12 November 1993, Constancio Pinto informed Fernando de Araujo of the killings at Santa Cruz Cemetery and instructed him to organise a demonstration in Jakarta. At 1.00pm, Fernando de Araujo telephoned João da Camara, leader of the Renetil branch in Jakarta and instructed him, among other things, to notify foreign media and embassies in Jakarta, ACFOA and Amnesty International about what had happened in Dili. His further instructions were to carry out a demonstration using banners and posters at the UN Representative Office, and the Embassies of Japan and Australia, and contact other Renetil branches so they would send demonstrators.

279. Fernando de Araujo alleges that his indictment contained false allegations. His said that he had never received the open letter from Xanana Gusmão, nor acted in furtherance of it.

280. Like other political trials conducted under the Indonesian occupation, the Jakarta trials were based on inherently unjust charges under the Anti-Subversion Law and KUHP. The charges against the defendants in the Jakarta trials further illustrate the wide range of options available to prosecutors when seeking to prosecute and punish not only peaceful public protests, but also gatherings of East Timorese students to discuss the situation in their homeland. Also notable was the lack of detail in relation to allegations about the long-term clandestine activities of the defendants, which remained vague and unsubstantiated. Allegations spanned as much as a ten year period and often did not contain specific detail as to dates, places and persons involved.

Courtroom conditions

281. All defendants were tried individually in the South Jakarta District Court. The trials took between two and six months. Before trial, the defendants were detained in prisons in Salemba and Cipinang in Jakarta and were taken to the courthouse under heavy guard. The judge stated at the beginning of the hearings that the trials were open to the public. The only spectators who were allowed into the courtroom, however, were intelligence agents, police, or military, all of whom were part of the Indonesian security forces. Thus, the trial had the appearance of being open, but in practice it was not.

282. According to Fernando de Araujo, the presence of the Indonesian security forces was partly to intimidate the defendants:

> *The situation during the trial, full of police, military in uniform and in civilian clothes, they were there too. They showed up before the trial. During the trial and at the end of it they sat at the back of the courtroom, and until the end they sat at the back of the courtroom for security reasons, but [they were there] to terrorise and intimidate us, like I said, they [said they] would crush our heads and we should get heavy sentences and all that.*[184]

283. Under Article 153(3) of KUHAP, trial proceedings should be open to the public. This was clearly not the case in relation to the Jakarta trials, and accordingly, the decision issued by the court should arguably have been annulled under Article 153(4).

Witnesses

284. Similar to previous trials, the number of witnesses was weighted strongly in favour of the prosecution. In fact, the Commission is unaware of any defence witnesses who testified. Further, a large number of prosecution witnesses were also current or former detainees, who were either about to face trial or who had been held on suspicion of having committed a crime related to the Jakarta demonstration. According to João da Camara:

> *[T]hose witnesses came from the 70 friends who were arrested, most of whom were released, leaving the 22 of us. Then most [of those] were released, leaving 5 of us. At the trial 17 people returned as witnesses and we testified against each other."* [185]

285. Article 65 of KUHAP grants defendants the right to seek and put forward witnesses. Given the complete lack of defence witnesses, there are strong indications that this provision was breached.

Evidence

286. Physical evidence obtained both during and after the demonstration was submitted to the court. Among these were:

> Banners and petitions, carried by the defendants during the demonstration, [evidence of] financial aid and [of] meetings held by the defendants. Evidence was submitted regarding their role as leaders of student clandestine organisations like Renetil and of their relationship with Timor-Leste struggle figures.[186]

287. Other examples of the physical evidence tendered by the prosecution come from the Virgilio da Silva Guterres trial:

> [O]ne copy of the petition/declaration dated 18 November 1991, titled Declaracão Do Movimento Nacional dos Estudantes de Timor-Leste Na Indonesia; posters written on yellow-coloured manila paper, saying "We are testament to 16 years of Indonesia brutality!"; "Integration is the total extermination of our people!"; "Mr Alatas! The question is not development but invasion and self determination!"; "Where are our Martyrs? We want them to be buried according to our tradition!"; "Better death than integration!"[187]

Performance of defence counsel

288. After initially being refused legal representation, at trial the defendants were represented by a team of lawyers from YLBHI-Ikadin, Jakarta. Those two institutions formed a team called the Joint Committee for East Timor, the purpose of which was to provide legal assistance to the East Timorese defendants in Dili and Jakarta. Similar to other political trials, the lawyers were obstructed and prevented from representing their clients without interference. Given the political situation in Indonesia at the

time, it was highly controversial and possibly dangerous to defend East Timorese defendants. Nevertheless, despite these impediments to their work and unfair treatment by the Indonesian military, the defence team continued to represent the East Timorese defendants.

289. According to Fernando de Araujo:

> *Towards the end of February 1992, the lawyers from LBH-Jakarta, they usually visited us in prison. Their coordinator was Mr Luhut Pangaribuan, SH, LLM. I really admire him, he was so kind although at the time he was afraid himself because the military government decided everything, but they fought for their clients' rights to speak and write their defence plea.*[188]

290. According to João da Camara:

> *The lawyers attempted to defend us, to defend our position as students, as young students who should be given consideration to return to campus and continue their studies, not give them harsh punishment, but the prosecutors demanded harsh punishment.*[189]

291. The Commission commends the integrity and courage demonstrated by the Indonesian legal aid lawyers who defended their clients rigorously despite extremely adverse conditions. In particular Mr Luhut Pangaribuan should be commended for his commitment to the ideals of justice and the principles of the Indonesian Constitution when faced with actions orchestrated by members of the military forces which were illegal, immoral and intimidating.

Substance of the defence

292. The arguments raised by defendants in their defence statements were generally that human rights issues and international law must be upheld without discrimination. They claimed that they had the right to organise a peaceful protest and should not be punished for this. They also relied on international legal principles which demonstrated that the Indonesian occupation of Timor-Leste was illegal, the questionable legality of trying East Timorese in an Indonesian court and Portugal's rights over the territory of Timor-Leste.[190]

Decisions and sentences[*]

293. Both João da Camara and Fernando de Araujo were found guilty of subversion as a continued action. They were sentenced to 10 and 9 years imprisonment respectively. The other defendants, Virgilio Guterres and Domingos Barreto were convicted of crimes against the public order under Art. 154 KUHP for publicly expressing feelings of hostility, hatred or contempt against the Indonesian Government. Virgilio da Silva Guterres was sentenced to 2 years and 6 months imprisonment, Agapito Cardoso to 10 months and Domingos Barreto to 6 months.

* No documentation on judgments could be obtained by the CAVR.

Appeal

294. João da Camara, Fernando de Araujo, Virgilio Guterres and Agapito Cardoso appealed to the Jakarta High Court to review the decisions of the Central Jakarta District Court.

295. João da Camara's appeal was based on a number of grounds: first, that Indonesian Courts did not have the authority to determine his case; and second, that the ruling of the Central Jakarta District Court had violated the prevailing law because the court had ignored essence and purpose of the KUHAP, which was to seek the material truth and uphold the appellant's rights. Specifically, João da Camara's lawyers alleged that:

1. All indictments against the appellant were groundless, unproven and illegitimate, because all appellant's actions were within his rights as an East Timorese protesting against the perpetration of major human rights violations in Timor-Leste by its government and apparatus including ABRI, that [his actions were deemed] legitimate and legal by UN resolutions issued between 1975 and 1982;
2. Law 7, 1976 on the Integration of Timor-Leste into Indonesia was illegal because it did not reflect the wishes of the East Timorese people and that therefore it was more of an annexation than an integration and that Law 7, 1976 resulted from the Indonesian government's political manipulation after Timor-Leste's annexation into Indonesia. With this action the Indonesian government violated those basic principles clearly stated in the preamble [of the Indonesian 1945 Constitution] and violated the second and fifth tenets of Pancasila by terrorising and oppressing the people of Timor-Leste.[191]

296. On 30 July 1992, the Court of Appeal in Jakarta rejected João Freitas da Camara's appeal.[192] On 29 October 1992, João da Camara proposed filing an appeal to the Indonesian Supreme Court. On 27 February 1993, the Supreme Court rejected this application, holding that the objections to the Court of Appeal ruling had not been proven. No justification or reasons for this decision were given.

297. The appeal application by Fernando de Araujo to the High Court was based on the following grounds: first, the defendant was denied access to legal assistance during the investigation even though legal assistance is required by law in serious cases of this nature; second, although some of the witnesses were not present at trial, nonetheless their RoIs were submitted as evidence by the prosecutor in violation of Article 185 (1) of KUHAP, and finally the indictment was based on the Anti-Subversion Law, which he claimed was unconstitutional. His appeal was rejected without reasons.

298. Virgilio da Silva Guterres similarly appealed to the High Court and the appeal was rejected without justification. On 30 January 1993, his appeal to the Supreme Court was also rejected. In his application, the defendant asked that the court's ruling be in accordance with the values enshrined in Pancasila, while it should also comply with the principles stated in the UN Charter. The Supreme Court rejected all objections filed by the appellant.

299. Agapito Cardoso specifically appealed the 10 month prison sentence handed down by the Central Jakarta District Court. He considered it unfair, disproportionate and lacking objectivity. In his appeal, he further claimed that the Central Jakarta District Court preferred the presumption of guilt over the the presumption of innocence and that the District Court was more interested in knowing whether the defendants were the recipients of government scholarships rather than whether they were connected with the demonstration. The appeal also claimed the judges ignored the reasons why the demonstration was held, preferring to compare the level of development during Portuguese times to development under Indonesian occupation. Like all other appeals, it was rejected.

Conclusion

300. There are many similarities between the trials of those prosecuted for demonstrating in Jakarta and those tried in relation to the demonstration in Dili. The major procedural flaws and violations of the requirements of both international legal standards and the particular applicable sections of KUHAP were present during both sets of trials. In both situations it is clear from the inquiries conducted by the Commission that the trials were organised and conducted not because of a real desire to pursue justice but in order to achieve political goals. The fabrication of evidence, distortion of answers recorded in the records of interview, false evidence given by members of the security forces, forceful prevention of other defence witnesses from appearing were all tools designed to achieve the foregone conclusion of the conviction and severe punishment of the defendants.

301. The following procedural violations took place during the Jakarta trials:

- Pre-trial conditions did not include physical torture, although all defendants complained about the use of sleep deprivation as a means of interrogation. It should be clearly understood that this may constitute a form of torture. Keeping subjects of interrogation awake for prolongued periods of time is an extremely traumatic experience, the effect of which should not be underestimated because it leaves no residual physical markings. The treatment was more severe in the case of Fernando de Araujo, who was placed naked in a darkened cell and interrogated in the presence of machinery used to deliver electric shocks and was threatened by loaded guns being placed to his head. All of these actions are outrageous distortions of the legal process which destroyed any hope of a legitimate trial process based on evidence and testimony recorded under these conditions.

- Interviews conducted using these illegitimate and illegal pre-trial practices led defendants to give certain information to their interrogators. Because these responses are the result of improper practices they should not have been relied on at trial. Moreover a large proportion of the Records of Interview was not information that the defendants had supplied but was fabricated by their interrogators.
- The trials were held in conditions that were not open to the public, thus violating not only international human rights standards but also the provisions of KUHAP.
- Defence counsels were not able to conduct their work freely and professionally due to intimidation by agents of the Indonesian military. They were blocked from pursuing certain lines of inquiry which were relevant to the defence of their clients. Despite this the independent defence counsel should be commended for their dedication and commitment to the ideals of justice.
- No defence witnesses were called in any of the trials. The intimidation of potential witnesses distorted the trial process to such a degree that it cannot be said that what ensued was free and fair, as there is no way of knowing what evidence would have been led from those witnesses had they not been forcefully dissuaded from appearing at trial.
- Members of the security forces fabricated evidence and colluded in giving false evidence to the court.
- The defendants right to appeal was denied to them in a practical sense as the arguments and evidence which the defendants raised during the appeal process were not considered on their merits. In this manner, similar to the Santa Cruz trials, the appeal process was merely a "rubber-stamping" of the trial court decision, designed to achieve a political goal.

The trial of Xanana Gusmão, 1993

302. The Indonesian authorities regarded the capture of the Falintil commander, Xanana Gusmão, in November 1992 as an historic moment in its campaign to subjugate Timor-Leste. From the arrest, to his detention in Bali and Dili, through to the trial and its aftermath they sought to control and manipulate the process for maximum propaganda effect. The Indonesian military had a cameraman on hand to film the arrest, which was then broadcast throughout Indonesia. While in detention, Xanana Gusmão was forced to give several interviews. The Indonesian media followed the trial from start to finish, providing highly selective coverage.[193]

303. The Commission was unable to gain access to the court documents for Xanana Gusmão's trial. As a result, this case analysis relies heavily on secondary accounts, in particular a trial report by Asia Watch, as well as other reports and newspaper articles. The Commission conducted an interview with Xanana Gusmão himself, and analysed those documents that were available to it, such as Xanana's defence plea and a letter he

wrote to the International Commission of Jurists (ICJ). These sources form the basis of the analysis below.

Pre-trial

Arrest

304. Xanana Gusmão was arrested on the morning of 20 November 1992 by members of the Indonesian armed forces. He was hiding in a specially built room, only accessible through a trap door concealed under a wardrobe, at the house of Augusto Pereira in Lahane, Dili.[194] According to Gusmão, intelligence officials arrived at 4.00am:

> *And I had three alternatives: surrender, commit suicide, or offer resistance. If I surrendered, as the person in command of the struggle, I would have an opportunity to speak; if I had been a thief, suicide would have meant the end to my problems; if I had resisted, all the innocent people around me would have become victims. So when they came to to arrest me, I said: "Here I am."*[195]

305. From the house, Xanana Gusmão was immediately taken to the home of Brigadier General Theo Syafei, commander of Kolakops.[196] Later on the same day, he was flown to Bali where he was detained at the Regional Military Command (Kodam) headquarters for three days and three nights.[197]

306. Xanana Gusmão describes his arrest:

> *The arrest warrant, let's not make an issue of it, because this was an operation and I was the guerrilla commander, but when they arrested me, they did it with respect. If they had done it violently, then it would have been different, because they were afraid I would have made a run for it.*[198]

307. Gusmão appears to have been arrested as a civilian rather than as a prisoner of war. There were no procedural formalities such as the production of a valid arrest warrant. The filming of the arrest and evidence that the Xanana's whereabouts had been disclosed by a civilian informant both suggest that the military had had time to plan the arrest, and if they wished to do so, to have gone through the prescribed legal formalities.[199]

308. Gusmão's arrest was followed by the arrest of several of his relatives and associates. By 4 December 1992, some two weeks after his arrest, at least 20 of his close associates and relatives were reported to be in detention.[200] Nine family members, including his sister, her husband, and two of their children, were among those detained.[201] Amnesty International alleged that several of those detained in Dili were subject to serious maltreatment and torture.[202] These arrests increased the leverage the Indonesian authorities were able to apply against Xanana Gusmão when they pressured him to make statements and cooperate with their investigation.

Pre-trial detention

309. For the first 17 days in detention, Xanana Gusmão was not allowed contact with the outside world. His place of detention was unknown, there were great fears for his safety and the lack of information led to much speculation about his treatment.[203] During this period Gusmão was not allowed contact with family or lawyers.[204] This ended on 7 December 1992 when the ICRC was given permission to see him after considerable international pressure and high-level negotiation between the UN, the Indonesian Minister for Foreign Affairs and the ICRC.[205] The visit occurred at the National Police Headquarters (Mabes Polri) in Jakarta.[206]

310. Following the visit, it became apparent that Xanana Gusmão had in the meantime been transferred from Bali to the custody of Kopassus in Jakarta[207] before being taken to the Mabes Polri. He told the Commission that that he received the worst treatment during his three days in Bali. Sleep deprivation was commonly employed:

> *The first method they used, when I was in Bali, was not to let me sleep. If I was sleepy during the day, they screamed at me. If I was sleepy, at night, they screamed at me some more. They would talk to me at 2 in the morning. One I remember is PT4, because I knew him from 1983 when he was a major. So he spoke about this and that. He banged the table and I banged the table. We each banged the table!*[208]

311. It appears that during this initial period of detention, sleep deprivation was used to gain information and force Gusmão to make positive statements about the Indonesian presence in Timor-Leste:

> *I was in there for three days and three nights, and was not given a chance to sleep. I was afraid that I would pass out, and I conceded that integration was better, I [thought] better to move to a better place where I could regain my strength.*[209]

312. This type of treatment during pre-trial detention constitutes a serious breach of Indonesian law. Under Article 59 of the KUHAP, the family of a suspect has the right to be informed about his detention at each stage of investigation leading to trial. Clearly this did not occur as no one was aware of Xanana Gusmão's place of detention for 17 days. Suspects also have the right to be visited by family members (Articles 60 and 61); a doctor (Article 58); and a spiritual counselor (Article 63). By holding Gusmão incommunicado for an extended period, the Indonesian authorities breached these fundamental guarantees.

313. In a statement that was video-taped in Jakarta and broadcast widely, Xanana Gusmão renounced Timor-Leste's struggle for independence and encouraged other East Timorese to do the same.[210] The tape was made five days after his arrest. In the defence statement he prepared, Xanana Gusmão stated that he had not made the video-taped statement of his own free will:

> [I]n Jakarta I stated, in conformity with specific instructions from Abilio Osorio, the puppet governor of Timor-Leste, that I was prepared to surrender.[211]

314. Xanana Gusmão explained his reasons for making this statement:

> *I forget a lot of what I said. I was a guerilla fighter. And a guerilla wants – he refuses to give up. That's just me. If I die, it's just me. They wanted me to make a lot of statements. I felt like passing out and that I couldn't continue. Everything I said made them happy.... But after half an hour I said to them "I can't accept this" ... and so I said in my defence statement, "General, we have said a few things that they believed. What happened to their powers of analysis."*[212]

315. In his defence statement, Xanana Gusmão opened by saying that the video-taped statement was elicited under coercion:

> I wish firstly to take this opportunity to express myself with complete freedom – that is, without coercion of any kind…I have always affirmed that the circumstances under which my earlier statements in Jakarta were made were such that they could not be viewed as credible.[213]

316. Xanana Gusmão was also forced to make a statement to the government of Portugal:

> *I said Portugal doesn't need to bother. Indonesia has a large military force that encircles the Island of Timor. If you (Portugal) want to come, you'd better come fully equipped just like the Indonesians are.*[214]

317. At the 50th session of the UN Commission on Human Rights, the Portuguese government referred to these statements, claiming that Xanana Gusmão was:

> [E]xhibited a number of times in televised "conversations" and "interviews", carefully watched and censored, in which he reneged on his long-standing convictions and expressed "repentance", appealing to his companions in Timor-Leste to surrender.[215]

318. These statements seemed to be part of an Indonesian strategy designed to use the capture of Xanana Gusmão to demoralise his supporters in Timor-Leste and to demonstrate to the Portuguese Government that Timor-Leste was now firmly under Indonesian control. In that sense they are at one with the underlying objective of the trial. The trial was more than just the prosecution of the commander of a separatist rebellion; it was also intended to be a carefully orchestrated attempt to bolster Indonesia's claim that it had gained full control over the territory and that with its leader broken, pro-independence forces should accept that further resistance was futile.

319. Just before the trial began, Xanana Gusmão was returned to Dili where he was subjected to new forms of intimidation:

> *At night I could see from their attitude that they were becoming threatening, so I called the ones that were being threatening – some of them spoke Tetum – and I told them that if they wanted to kill me, they were welcome – my voice was raised with emotion – "because you have killed so many people". Then I went to sleep and no one bothered me anymore.*[216]

320. During the period between Xanana Gusmão's *incommunicado* detention and his trial, he did not experience ill-treatment other than isolation, sleep deprivation and psychological pressure. In his defence statement Xanana states that this comparatively mild treatment had a sinister purpose:

> I have been getting all sorts of flattering treatment aimed at making me into a docile Indonesian and as such I had to appear, just as the witnesses brought to this court had to appear, that way.[217]

Investigation

321. Following his arrest, Xanana Gusmão was subjected to intense interrogation from Strategic Intelligence Agency (Badan Intelejen Strategis, known as BAIS, Indonesia's military intelligence agency created in 1983), Bakin and Kopassus. In Bali he was interrogated by Brigadier General PT4, the head of BAIS at that time:

> *PT4 was in Bali, the head of BAIS. I forget his name, he was a general. Hendropriyono went to Bais later. Then they ordered me to go to Bakin to make a statement, and then Bakin asked a Kopassus soldier to keep an eye on me.*[218]

322. During interrogation, because of Gusmão's limited knowledge of Indonesian, an interpreter was present.[219] It appears that interrogation was not restricted to gathering information that might form the basis of charges against Xanana Gusmão, but also had the broader purpose of obtaining intelligence about Falintil's troop strength, deployment and plans.[220] This unfocused approach strengthens the impression that at this stage of his detention, Gusmão was not treated as a civilian.

323. A central theme throughout the interrogation process was to make Xanana Gusmão acknowledge his responsibility for the actions of Falintil guerrillas:

> *The most important thing was that I admitted responsibility, that it was all my responsibility as I opposed Indonesia, my men killed them, it was all my responsibility, because I was the supreme commander. Once I admitted responsibility, they were happy, and then they moved me to Mabes Polri (police headquarter).*[221]

324. This attempt to extract a confession from Gusmão probably amounted to a breach of his right not to provide evidence under Article 66 of KUHAP.

325. Throughout his interrogation, Xanana Gusmão was not offered or provided with legal representation as required under Article 54 of KUHAP. According to Asia Watch, an official from BAIS stated that Xanana was interrogated without a lawyer present because he was a prisoner of war.[222] This is partly supported by the fact that he was interrogated about military topics.* Yet from the time Gusmão was moved to Mabes Polri in Jakarta and allowed contact with the outside world, the Indonesian authorities appeared to be treating Xanana as a civilian subject to criminal law, rather than as a soldier. Xanana ultimately appeared before a civilian court, facing civilian charges.

Access to a lawyer

326. As stated above, for 17 days after his arrest Xanana Gusmão was denied contact with the outside world, including with a lawyer. Only in mid-January, some two months after his arrest, did he receive legal representation. However, he was not allowed to appoint counsel freely, but was provided with a lawyer who had strong ties to the Indonesian military and intelligence agencies. Before the appointment of this lawyer, the Indonesian Legal Aid Foundation (YLBHI) attempted to represent Gusmão. Xanana's wife and parents had obtained power of attorney and requested YLBHI to act as his lawyer.[223] From this point on, however, the Indonesian authorities repeatedly interfered with efforts by Xanana Gusmão to communicate with YLBHI in apparent breach of Gusmão's right under Indonesian law to appoint an independent lawyer.

327. While detained at police headquarters in Jakarta, Xanana Gusmão received a letter from YLBHI offering to take up his family's request that its lawyers represent him.[224] Around this time the legal aid lawyers also sent a letter to General Try Sutrisno, the commander of the Indonesian Armed Forces, requesting him to allow Gusmão to appoint counsel of his own choosing in accordance with KUHAP.[225] In clear violation of KUHAP provisions, on 17 December, Police Colonel Ahwil Lutan, the head of the General Sub-directorate of Police of the Republic of Indonesia (Kepala Sub Direktorat Umum, Kasubdit Umum Polri), refused the YLBHI lawyers permission to meet their prospective client.[226] The justification given was that the legal aid lawyers had not produced a document demonstrating that their interest in the case was because they had been approached by Xanana Gusmão's family.[227]

328. Despite being refused permission to meet him face to face, YLBHI sent a letter to Gusmão offering to represent him. In his defence statement Xanana Gusmão described what happened:

> On 22 December last I was given a letter sent to me by the LBH. On 23 December I replied to them, accepting a lawyer. But I was forced to withdraw my acceptance, and on 30 December I had to write a letter to

* It should be noted that interrogation by military and intelligence was commonplace throughout trials during the Indonesian occupation.

the LBH, rejecting their offer. My first letter, which had been intercepted, was returned to me.[228]

329. The only explanation given in Xanana Gusmão's letter refusing the assistance of the YLBHI lawyers was that he would not require their services.[229] Indonesian officials interviewed by Asia Watch claimed that he had decided himself that he did not want the assistance of the legal aid lawyers. They claimed that by following his instructions in this matter, they had been upholding his rights.[230] Xanana denied this, claiming instead that he had been pressured to reject the legal aid lawyers:

> [The Indonesian authorities] tried to convince me to be careful about my choice [of lawyer] and used many arguments to this effect.[231]

330. Xanana Gusmão was also informed that no one could trust the LBH.[232] This criticism was based on the way in which YLBHI had represented defendants in the trials arising from the demonstration in Jakarta on 19 November 1991 after the Santa Cruz massacre (see section on Jakarta Trials, para 241-301). In the event, under pressure from the Indonesian authorities, Gusmão turned down the legal aid lawyers' offer: "What choice did I have?"[233]

331. After Xanana Gusmão was forced to reject the assistance of YLBHI in late December 1993, the Indonesian authorities attempted to appoint Sudjono, an Indonesian lawyer, as his counsel. In a letter to the International Commission of Jurists (ICJ), Xanana described what occurred:

> In the second half of January, (when I was) already in the custody of the Attorney-General, (Major-) General Hendro came to seem me, accompanied by Sudjono. I had no choice but to sign the declaration acknowledging him as my counsel.[234]

332. Accordingly, Sudjono was officially appointed Xanana Gusmão's lawyer on 26 January 1993.[235] Xanana discusses the situation:

> *They tried to find a way to communicate with me to urge me to drop LBH, then they sent a police lawyer, a military lawyer. LBH sent a letter and the military also sent a letter to show that they could undertake my defence. Fortunately, they (the military) was rather stupid, they did not send the data on time. I saw all this and they called me. I said: "Ethically speaking, if I don't know you, then, I don't know any of you, if I don't want you, then I don't want any of you." Others said: "I can defend you." With this, they made me go all over the place. When Hendropriyono told Sudjono that I did not want him, they wanted to make a Record of Interrogation and all that. Then they said if I didn't have a lawyer, then I wouldn't go [to court]. But I wanted to go to court. That's why I agreed to get on the plane and go through all that to-ing and fro-ing. So I accepted Sudjono as my lawyer.*[236]

333. It appears then that Gusmão resigned himself to being represented by Sudjono to ensure that his case went to court. Nevertheless, it is clear that he was not happy with this outcome. Just before the two of them left for Dili to prepare for trial, he told Sudjono: "I do not really want you, but it's all right I'll sign."[237]

334. From the very beginning, it was clear that Sudjono was not an independent lawyer. Major-General Hendropriyono of BAIS was present when Xanana Gusmão signed the letter appointing Sudjono as his counsel. Sudjono was a personal friend of Colonel Ahwil and it was common knowledge in the Indonesian legal community that Sudjono was friendly with the police and prosecutors.[238] Members of the Indonesian Association of Advocates (Ikatan Advokat Indonesia, Ikadin) reportedly voiced concerns about the ethics of Sudjono's selection.[239] The Asia Watch report on the Gusmão trial summarises an interview with Sudjono conducted by the *Jakarta Jakarta* magazine, in which the lawyer explained how he became involved in the case:

> Colonel Ahwil had been Sudjono's student at Pancasila University in Jakarta and they were close friends. When Sudjono saw Colonel Ahwil on television, accompanying the ICRC to see Xanana, he rang him up, and Colonel Ahwil said: How would you like to handle the Xanana case? Sudjono said it would be difficult, but Ahwil pressed him. Sudjono wavered, but he ran into a prosecutor who also urged him to take the case, and then Colonel Ahwil rang him again. He finally agreed to take it. (This was all presumably done without consultation with Xanana.) When the interviewer said: "You're known as a lawyer famous for being close to the police and bureaucracy", Sudjono responded: "What's wrong with that? Why should they be the enemy? Hey, that's how I make my living." Sudjono later said the magazine was factually correct but he was unhappy with the way he was portrayed.[240]

335. Indonesian Criminal Code Procedure (KUHAP) provides that suspects have the right to legal representation at every stage of the investigation process (Article 54 KUHAP), the right to choose their own legal adviser (Article 55 KUHAP) and the right to contact their lawyer (Art 57 KUHAP). By intervening to make sure that Xanana Gusmão was not able to have a lawyer of his own choosing and by foisting on him one who was widely seen as being close to the military, the Indonesian authorities were clearly violating the rules laid down in the KUHAP. This aspect distinguishes the Gusmão trial from others, such as the Santa Cruz trials in both Dili and Jakarta, where legal aid lawyers were eventually able to represent East Timorese political prisoners (see the discussion of the Santa Cruz trials par. 115 ff above). The determination of the Indonesian authorities to engage a defence lawyer sympathetic to their interests was just one of several indications of their determination to control the Gusmão trial to an even greater extent than it had controlled some of the earlier trials. It is likely that the Indonesian authorities were aware that the Gusmão trial would receive international scrutiny. As a result it felt the need to ensure that he had a lawyer appointed by the state rather than one of his own choosing.

Trial

Indictment

336. Xanana Gusmão's indictment was drafted on 25 January 1993. He was charged under the treason provision, Article 106 of the Indonesian Criminal Code (KUHP). Interestingly, this charge was made in conjunction with a charge of conspiracy to commit treason under Article 110 of the KUHP. It is likely that the prosecutor thought this was necessary because Xanana was not present at most of the events which formed the basis of the charges against him. In any event, both treason and conspiracy to commit treason attract a maximum sentence of life imprisonment. Gusmão was also charged with illegally owning and storing two firearms,[241] which carried a maximum penalty of death under Law No 12/1951.

337. It is noteworthy that prosecutors did not charge Xanana Gusmão with subversion. The Anti-Subversion Law had been employed in previous political trials (see e.g. the trials of Gregorio Saldanha and Francisco Branco, par. 163 ff above), and it arguably has greater political impact than conspiracy to commit treason and the illegal possession of firearms. The official reason given to the Asia Watch trial observer for the decision was that subversion could only be charged in cases where underground activities were alleged. Because Xanana Gusmão was leading open military attacks, subversion was not applicable.[242] The indictment, however, does allege clandestine activities, including the establishment of an underground communication network.[243] This seems to undermine the official explanation of why subversion was not charged. It is possible that the Indonesian Government did not want such a high-profile case to attract attention to the controversial Anti-Subversion Law or that it was responding to international criticism of the law.[244] Xanana Gusmão himself adds weight to this possibility. He told the Commission:

> *Initially it was subversion, but we talked. I let him because I was preparing my letter. I was preparing my letter that I wrote for discussion, they discussed with me…they could not say subversion because before they invaded UDT and Fretilin had already taken up arms…so I just let him and I agreed because what I was concerned about was that I would be able to speak...I was the one defending my case, wasn't I? I let everything be prepared so that I could win. So they did not present another indictment, apart from unlawful possession of firearms. They withdrew the subversion charge.*[245]

338. As the indictment did not in the end include subversion charges, it appears that the Indonesian position must have changed.

339. The indictment contains a number of factual allegations relating to both Xanana Gusmão's military and organisational activities. The allegations start from 17 July 1976, the day that the Indonesian parliament formally approved the annexation of Timor-Leste.[246] The indictment alleges that Xanana Gusmão was appointed commander of Falintil at the National Fretilin Conference on 3 March 1981 in Viqueque, and was

responsible for approximately 25 attacks conducted against Indonesian soldiers and civilians between 1981 and the date of his arrest.[247] These attacks included Falintil ambushes and the Kraras massacre. Gusmão was accused of direct involvement in only one attack – an ambush of Indonesian soldiers at the Laclo River between Alas and Fatuberliu in Manufahi in December 1988.[248] The role he played in the other attacks is not explained but there is implied responsibility due to his position as overall commander of Falintil. His organisational activities were alleged to include forming the National Council of Maubere Resistance (Concelho Nacional da Resistencia Maubere, CNRM) on 31 December 1988, with the Steering Committee as the political front, Falintil as the military front, and the Executive Committee as the clandestine front.[249] Under CNRM, Xanana Gusmão also allegedly established the clandestine network, the National Student Resistance of East Timor (Resistencia Nacional Estudantes Timor-Leste, Renetil) and the Catholic Students Organisation of East Timor (Organização da Juventude Catolica Timor-Leste, Ojectil).[250] Among the specific charges was one alleging that he instructed Constancio Pinto to organise the Santa Cruz demonstration on 12 November 1991.[251]

Court-room conditions

340. The trial began on 1 February 1993. Although the trial was attended by observers from Asia Watch, the International Commission of Jurists (ICJ), members of the diplomatic community and local and international journalists, it was not freely open to the general public.[252] Amnesty International was refused permission to send an observer and delays in granting the observer from Asia Watch a visa meant that he attended only one session of the trial. During his stay in Dili, the Asia Watch observer was under military intelligence surveillance and was always accompanied by a representative of the Indonesian Ministry of Foreign Affairs. Journalists were warned not to report on an incident where a witness shouted pro-independence slogans in the courtroom (see par. 350 ff, below).[253]

341. The restrictions on members of the public were even more stringent. All people who attended the trial had to have prior approval, have their name checked against a list and pass through two checkpoints before they could enter the courtroom.[254] Members of Xanana's family were not allowed to attend, and the court was mainly filled with Indonesian intelligence agents.[255] Xanana describes his impressions of the courtroom:

> In the rooms of this building which they call a court, I see only Indonesians, and above all Indonesian military personnel from Kopassus or BAIS...In Indonesian law trials of this kind are, or should be, held in public. But when I come into the room the only public I see are military authorities, some of whom are the ones who conceived this trial.[256]

342. According to one trial observer, his taxi driver was so intimidated by the atmosphere around the courthouse that he did not wish to drive near the building.[257]

343. It should be noted that a public speaker system was set up outside the courtroom to enable the public to listen to trial proceedings.[258] The speaker, however, was reportedly turned off on perhaps the most controversial day of the trial, when Xanana

was due to read his defence statement.[258] This incident was just one example of how public access to the proceedings was most restricted when they were expected to be potentially unfavourable to Indonesian interests. According to an aide-memoire that the Government of Portugal presented to the UN Secretary-General:

> It is curious to note how the access [to the courtroom] was facilitated at the beginning of the trial and how it was obstructed in its final phase, when Xanana Gusmão had given clear signals that he was going to denounce the political manipulation of the entire trial and recant his initial declarations of repentance which he considered he had been forced to make.[260]

344. The fact that towards the end of the trial, a representative of the UN, Mr Tamrat Samuel was prevented from attending two trial sessions and foreign diplomats were prevented from listening to proceedings lends further weight to the Government of Portugal's proposition.[261] It appears that the trial was orchestrated to such an extent that some observers were allowed to be present at stages in the proceedings that were expected to show the Indonesian government in a favourable light and excluded when there was a danger that it might be embarrassed.

345. There were clear deficiencies in relation to the openness of the trial. Articles 64 and 153(3) of KUHAP require that court sessions be open to the public. If this requirement is not fulfilled, as appears to have been the case in the Gusmão trial, according to Article 153(4) of the code the decision of the court should be annulled.

Language

346. Unlike some of the defendants in other political trials, Xanana Gusmão had a limited understanding of the Indonesian language. Accordingly effective translation was crucial if he was to be able to follow the proceedings. At trial there were two court-appointed interpreters who translated between Indonesian, Portuguese, and Tetum.[262] Not all proceedings were translated, and the translations provided were not always accurate.[263] In one session, the Asia Watch trial observer noted, testimony of one witness was not translated at all.[264] The general pattern was that communications between the judges and the defendant were translated, while the rest of the proceedings were not.[265] The inadequacies of translation are supported by Xanana Gusmão's account: "I listened through the translation which was often wrong."[266]

347. Xanana observed that rather than ensure the translation was to an acceptable standard or simply appoint a more proficient interpreter, the judges made fun of the interpreter:

> *He would ask them something and they would tease him. I understood that they were teasing him because they were laughing.*[267]

348. Indonesian law requires that the judges appoint an interpreter if a defendant or a witness cannot understand Indonesian (Article 177 of KUHAP). Although an interpreter

was appointed, his proficiency was not sufficient to ensure that the defendant could fully understand the proceedings.

Witnesses

349. In an apt indication of the unbalanced nature of the trial, 20 witnesses testified for the prosecution while no witnesses testified for the defence.[268] Serious questions must be asked about the independence of many of the prosecution witnesses. Four of the witnesses scheduled to appear were on the Indonesian official list of detainees, and Asia Watch reported that other witnesses were also in detention but their names were not on the official list.[269] These witnesses who were not on the official list were not entitled to have a lawyer present during interrogation. This is of particular concern given the reliance placed on RoIs at the trial.[270] At trial, witnesses' RoIs were read out and appeared to be given equal weighting to oral testimony provided in court. As interrogation occurred without lawyers being present, this reliance on RoIs gives rise to a concern that the court accepted testimony that could have been elicited by intimidation or that simply did not reflect what witnesses had actually said during interrogation. Concern about this latter possibility is given further weight by at least one witness's evident ignorance of Indonesian. Mariano da Silva, an illiterate witness, was questioned on his RoI, but his knowledge of Indonesian was insufficient to understand the contents of his statement, although he had signed it.[271] The fact that some prosecution witnesses were detained, interrogated without lawyers present, and could not understand the contents of their RoI, raises questions as to whether prosecution witnesses felt free to give truthful testimony during interrogation and at trial. According to Xanana Gusmão: "There were witnesses but they were all manipulated. The witnesses were there just to facilitate the process."[272]

350. The prosecution witness, Saturnino da Costa Belo, illustrates this point. Saturnino was convicted of treason for his involvement in the Santa Cruz demonstration and at the time of the Gusmão trial was serving a nine-year sentence. He was called as a witness on 4 March 1993. When he entered the courtroom, he shouted:

> Viva independencia! Viva Timor-Leste! Viva Xanana! ....
>
> I ask the government of Indonesia to respect human rights in Timor-Leste![273]

351. He was then hastily removed from the courtroom, the hearing was suspended, and a doctor was called to examine him. Forty five minutes later the doctor informed the court that the witness had a mental disorder and was unfit to give testimony.[274] Following this episode, Saturnino's RoI was read to the court.* Amnesty International reported that after his outburst Saturnino was told by the military that should he try

* *Suara Timor Timur* newspaper reported the incident as although Saturnino was unable to attend, and that with the permission of the (Court), his statement from the interrogation report was read out. See International Commission of Jurists "Report on the Trial of José Alexandre Gusmão" reprinted in ETRA, *A Travesty of Justice, East Timor's Defence,* May 1996, p. 43.

something of that kind again, he would be shot on the spot.[275] Further, after the incident, access to Saturnino and the other Santa Cruz detainees was restricted.[276]

352. Amnesty International, in a statement to the UN Decolonisation Committee, referred to a letter written by a confidential source inside Becora Prison about the treatment of Saturnino:

> Recent information confirms earlier fears that he was subjected to threats and ill-treatment in retaliation for his remarks. According to the letter from prison cited above:
>
> "Because of the demand he made to the Indonesian Government while at the court to respect human rights in Timor-Leste he was severely beaten and interrogated by the military police. They threatened him by placing the barrel of a pistol in his ear and he was put in a cell and left there in total darkness...Since he continued to refuse to apologise to the judge and did not admit to any wrongdoing, he was never again brought to the court as a witness on the grounds that he was ill, when in fact he was not ill at all." [277]

353. In his defence statement, Xanana Gusmão referred to the incident:

> The witness Saturnino da Costa Belo is a crystal-clear example of the heroism of this people. The farce of the hastily drafted medical document stating that Saturnino was ill should make you gentlemen ashamed because you know full well that this case rests here with you.[278]

354. Although Saturnino's behaviour was unruly, it clearly did not preclude him from giving evidence, and efforts could have been made to calm him down and allow him to give testimony. Further it was in the court's interest to do so, as Saturnino was a witness who might have shed light on Gusmão's involvement in planning the Santa Cruz demonstration.

355. As already mentioned, no witnesses appeared for the defence. Although it is not known whether Gusmão's lawyer, Sudjono, tried to find any defence witnesses, it is quite possible that the reason none appeared was that prospective witnesses were too afraid to testify. The atmosphere of fear generated by the actions of the authorities before and during the trial, from the treatment of Xanana, and his family and associates, after arrest to the tightly controlled proceedings themselves could well have been sufficient to deter any potential defence witnesses. In addition specific steps were taken to ensure that no defence witnesses appeared. The Governor of Timor-Leste, Abilio José Osorio Soares, said that he himself would not appear as a defence witness and announced a prohibition on any other public servants testifying for the defence.[279]

356. Article 65 of KUHAP guarantees the right of defendants to seek out and call witnesses. It could be argued that this right was not breached, as it is possible that no witnesses were willing to testify. The prohibition on civil servants testifying and the atmosphere in which the trial was held all served to produce this outcome. Without defence witnesses present, the defendant's lawyer could not raise fundamental issues

such as the legality of Indonesia's occupation of Timor-Leste and whether the court had jurisdiction in this matter. The trial appeared one-sided and there seemed to be little concern with establishing a truthful account of events.

Performance of defence counsel

357. As stated previously, there were serious reservations about Sudjono's professionalism and independence from the moment he was appointed as Xanana Gusmão's lawyer. These concerns were not lessened by his performance during the trial. The Asia Watch report lists a number of instances where Sudjono failed to exercise due diligence in his representation of Gusmão. First, he appears not to have inquired into the circumstances of his client's arrest, detention and interrogation, even though there were strong suggestions of impropriety.[280] Second, six weeks after the beginning of the trial Sudjono stated he had not discussed his strategy with Xanana Gusmão.[281] Third, Sudjono stated that his lack of a common language with his client was not important because Xanana's ability to understand Indonesian was improving.[282] This is despite Xanana Gusmão's constant requests for interpreters throughout the trial process. Finally, as will be described in more detail below, it appears that Sudjono made false representations about his client's appeal for clemency.

358. In his defence statement Xanana Gusmão gave an example of Sudjono's political viewpoint: "Mr Sudjono claims that Timor-Leste has always accepted that it is a part of Indonesian territory."[283] This belief raises serious doubts about Sudjono's impartiality and independence. Further, in his letter to the International Commission of Jurists, Xanana discussed the relationship between Sudjono and military intelligence officials:

> During the whole process, it was noticeable that there was close cooperation between Sudjono and BAIS. He told me that he had a duty to report to the authorities the details of each session.[284]

359. An example which illustrates both Sudjono's lack of professionalism and lack of independence is the defence response to the indictment, known as the *eksepsi* (exception). According to the Asia Watch observer, the judges suggested that Sudjono should have a week to prepare the *eksepsi*. Sudjono responded saying he would need only five days, and then both parties settled on three days.[285] This was an extraordinarily short time, especially in view of the fact that Sudjono was officially recognised as Xanana's lawyer only six days before the trial opened.[286] Further, the *eksepsi* he submitted was perfunctory and relatively short at nine pages.[287]

360. The *eksepsi* failed to raise the issue of the violations of KUHAP that had occurred during Xanana's arrest and detention or to make substantive legal arguments.[288] No arguments based on the status of Timor-Leste under international law were made. Instead Sudjono argued that because Fretilin was a pro-independence group that did not recognise the authority of Indonesia or its legal system, the court had no authority to try defendants.[289] The illegality of Indonesia's occupation under international law appears not to have been raised. When the *eksepsi* was rejected, Sudjono reportedly wanted to appeal the decision and told the press:

> I am appealing to the High Court over the Judge's decision because integration is not valid juridically and is still an issue at the United Nations. [290]

361. However, as far as the Commission is aware, no such appeal was submitted. Sudjono made this statement not in court, but to the media. This suggests perhaps that Sudjono was intent on impressing the press by presenting himself as an ethical and professional lawyer, but was not prepared to follow through on these words in the courtroom by acting in his client's best interests.

362. It should be noted that not all reports of Sudjono were negative. He was praised for his willingness to take on the case *pro bono* and to pay his own expenses.[291] There were almost certainly real difficulties in finding defence witnesses to testify, as he himself claimed. During the trial he managed to discredit some prosecution witnesses by establishing that their testimony was second-hand.[292] Finally, Sudjono raised in mitigation his client's general cooperativeness and his readiness to accept responsibility for the actions of Falintil guerrillas.[293]

363. However, Xanana Gusmão was dissatisfied with the performance of his lawyer. In his letter to the International Commission of Jurists, he wrote:

> The only thing on which he helped me, at my insistent request, was to convince the Judges to avoid confrontation with me during the session in which I was cross-examined.[294]

364. The inadequacy of Sudjono's performance was most apparent in his failure to intervene when Xanana Gusmão was prevented from reading his defence statement. Xanana was initially prevented from reading his defence plea on 13 May 1993 because it had not been translated into Indonesian.[295] The decision prompted him to announce that Sudjono was no longer his counsel.[296] Proceedings were then adjourned so the two could discuss the problem and the defendant laid down the conditions under which Sudjono could continue to act as his lawyer. According to Xanana Gusmão, faced with these conditions, Sudjono agreed that Xanana would be given the opportunity to read his statement.[297]

365. When Xanana Gusmão began reading out his defence plea, the prosecution objected after he had read only three pages, arguing that the statement was irrelevant to the charges.[298] The judges agreed.[299] Despite his earlier guarantee and the fact that the right to state a defence is provided for in Article 182(1)(b) of the KUHAP, Sudjono did not intervene on his client's behalf. Instead, he took Xanana's document from him and handed it to the judge.[300] In the words of Gusmão:

> *The judges interrupted [my defence], and then they did not give me any chance to ask [why they were doing this], Sudjono took [my statement from me] and gave me no chance [to read it].*[301]

366. In his letter to the International Commission of Jurists, Gusmão elaborated on this incident:

> We had arranged that in the final session I would have the opportunity to express my opinion on the verdict which would be pronounced that day. Since the prosecutor and the judge described me as an Indonesian citizen, I pointed out to Sudjono during the break that he should object to this and that, at the end, I would clarify this point as well. I was just about to start speaking when the Judge declared the trial was finished, without any reaction from Mr. Sudjono.[302]

367. Regardless of the relevance of Xanana Gusmão's defence statement, Sudjono should at the very least have objected to the judges forcing his client to stop reading it after such a short period and should have ensured that the defendant's rights under the KUHAP were upheld. Sudjono did protest to reporters afterwards that the decision was unfair and against Indonesian law, but it appears he failed to do so in the courtroom.[303]

368. Incensed by the actions of Sudjono during the trial, after being sentenced Xanana Gusmão wrote to the International Commission of Jurists on 1 December 1993 from Cipinang prison in Jakarta telling them that he wanted another lawyer.

> I appeal to the ICJ and all international bodies connected with international law to launch a protest, including through using this document, and to campaign for the annulment of the previous trial process. As a foreigner, as a Timorese citizen before my own conscience, and as a Portuguese citizen under international law, I request the intervention of a Portuguese counsel, in order to facilitate communication, who will be assisted by lawyers of LBH.[304]

Xanana Gusmão's defence plea

369. Even though Xanana Gusmão was allowed to read out only three pages of his defence plea in court, the document was smuggled out of prison and published abroad gaining widespread publicity.[305] The document was handwritten in pencil in Portuguese by Xanana and was drafted in difficult conditions:

> *At that time, they did not let me sleep. They kept me busy to deny me time to think, playing cards from early morning to late at night. Even after I was fed up with it, they forced me to go on playing. I suggested that from now on perhaps we could play some other game like basketball. Often we played cards until midnight, then I said to them that it was time to sleep. Some of them slept in the room while others slept on the floor, and I used such moments to drink coffee and write. Towards dawn I hid my writing. I made two copies of my defence.*[306]

370. In his defence statement, Xanana Gusmão relied heavily on appeals to international law, arguing that Timor-Leste's status as a non-self-governing territory and the illegality of the Indonesian invasion entailed that an Indonesian court had no jurisdiction to try him:

> The case of Timor-Leste is the responsibility of the international community, a question of international law. It is a case in which universal principles are at stake, a case in which the UN provisions on decolonisation have been manipulated, a case in which Indonesia has flaunted its disrespect for the resolutions of the UN and which therefore constitutes a flagrant violation by Indonesia of the principles of the Non-Aligned Movement and of the universal standards of law, peace and justice.[307]

> The UN continues to this moment to refuse to legitimise Indonesian sovereignty over Timor-Leste, a sovereignty won by the use of force and violence, and through the systematic violation of the most fundamental human rights.[308]

371. Xanana Gusmão also argued that the process through which Timor-Leste had been integrated into Indonesia was plainly invalid. He based his argument on a detailed account of the process itself, from the Balibó Declaration to the Popular Assembly's petition to the Indonesian government, and on the refusal of the international community to recognise that process. But he also appealed to his audience's common sense:

> Could it possibly have been this people who suffered in the bush, who saw their homes and possessions destroyed by the Indonesians, against whom they carried out a scorched earth policy, was it really this people who "of their own free will" requested integration with Indonesia, without a referendum?[309]

> Thousands and thousands of citizens of Timor-Leste were slaughtered by the forces of occupation throughout virtually the entire territory. The only politics has been the law of terror, imposed to scare the Timorese into saying that they're happy about integration.[310]

372. In keeping with the logic of these arguments, at the end of his plea he appealed over the heads of the court to a variety of bodies and individuals, including the international community, the governments of Indonesia, Portugal and the US, and all friends of Timor-Leste that could play a part in bringing about a just resolution. He also appealed several times to the sense of justice of the Indonesian people, in particular to its younger generation:

> It is my hope that the new generation in Indonesia, or rather, the youth of Indonesia, will appreciate the significance of law and liberty, two fundamental components of human life today and of the society in which we live.[311]

> I appeal to the Indonesian people to understand that in conformity with universal principles and international law Timor-Leste should be considered a non-self-governing territory in accordance with the provisions governing the process of decolonisation.[312]

> I appeal to the new generation of Indonesians to understand that the People of Timor-Leste attach much more value to freedom, justice and peace than to so-called development.[313]

373. At the same time he accepted the logic of the situation he described where his fate depended not on the merits of his arguments to the court, but on whether he was willing to submit to the political demands of those who, in his words, had staged his trial. He told the Commission: "Everything was engineered. The trial followed a strategy, and so it became political theatre."[314] His response to this situation was as much one of political defiance as of legal rebuttal:

> Never could I legitimise the criminal annexation of Timor-Leste, just so as to be able to live a few more years of life. My struggle is of greater value than my own life. The People of Timor-Leste have sacrificed their lives and continue to suffer.[315]
>
> As from today I am starting a hunger strike as a practical way of appealing to the EC and the governments of the United States and Australia. No agreement can be reached between a prisoner and his gaoler…[316]
>
> As a political prisoner in the hands of occupiers of my country it is no consequence to me whatever if I am sentenced to death today in this court. They have killed more than a third of the defenceless population of Timor-Leste; they are killing my people and I am worth no more than the heroic struggle of my People.[317]

374. Xanana Gusmão's defence statement is a significant document in the history of the Timorese struggle for independence. From a prison cell, Xanana Gusmão crafted a range of arguments that were legally, politically and emotionally powerful. The judges, however, considered this statement to be irrelevant before they had even heard its contents.

Judges

375. There are many indications to suggest the judges were not independent or impartial. This is most apparent in their refusal to allow the defendant to read the entirety of his defence plea. As described above, after three pages, the presiding judge considered the statement irrelevant. In fact, although controversial and passionately worded, Xanana's defence statement raised legal issues that went to the very heart of the fairness of the trial.

376. It appears the judges may have considered that the arguments raised by Xanana Gusmão, rather than being irrelevant, broached matters that were too sensitive to be allowed a public airing. When defendants in previous political trials had made similar arguments (though in less forthright terms), their relevance was not questioned (see e.g. the trials of Gregorio Saldanha and Francisco Branco in the Santa Cruz trials, paras 115-240). When it became apparent that controversial arguments would be raised in his

defence statement, however, Xanana Gusmão was silenced. His own standing and the publicity surrounding the trial may well have been factors in this decision. Whataver the reason for their decision, the judges breached the defendant's right to state a defence under Article 182(1)(b) of the KUHAP.*

377. Interviews conducted by *Asia Watch* suggest that there were other areas in which the judges displayed a lack of professionalism. The judges were apparently unaware that some of the witnesses were in detention and might face face trial themselves.[318] They further stated that it was beyond their role to investigate allegations that witnesses had been ill-treated, maintaining that the treatment of witnesses had no bearing on the weight to be given to their testimony.[319] Witness testimony and RoIs are the foundation of an Indonesian criminal trial. By failing to consider that coercion may have influenced witness statements, the judges not only breached Indonesian law, but also greatly reduced the possibility of statements favourable to Xanana Gusmão being raised in court. Article 153(2)(b) of KUHAP requires that the judge shall see to it that nothing shall be done or that no question shall be asked that will cause the defendant or witness not to give his answers freely. If this Article was breached, the decision should have been annulled under Article 153(4) of the KUHAP. As there are doubts as to whether witness testimony was given voluntarily, the judges appear not to have fulfilled their obligations under the KUHAP.

378. Xanana Gusmão's impression was that his trial was staged and that the judges were heavily influenced by the military, intelligence and the Indonesian Government:

> In my case both the BAIS and the Indonesian Government decided to take the least possible risks by manipulating the whole process of my trial.[320]
>
> I know that the Bais made the arrangements necessary to spare me the death penalty and that if I were to praise integration I would be acquitted.[321]

379. Xanana Gusmão told the Commission that in his impression the judges were heavily influenced by the military:

> *I saw their faces [the judges]. They seemed afraid of the Kopassus.*[322]

380. The judges found Xanana Gusmão guilty of all charges on 21 May 1993, and sentenced him to life imprisonment. Given the extensive indications of military and government influence throughout the process from arrest to sentencing, questions must be asked about the independence and impartiality of this decision.

* Article 182(1)(b) KUHAP: The defendant and/or his legal advisor shall state their defence which can be replied by the public prosecutor with the stipulation that the defendant or his legal advisor shall always be given the last turn.

Application for clemency

381. Xanana Gusmão has accused his lawyer, Sudjono, of deceit by acting against his wishes in pursuing an application for clemency (*grasi*). Sudjono visited his client in June 1993 to discuss clemency, and once Sudjono explained the nature of an appeal to the president for clemency, Xanana rejected the proposal: "I refused straight away and told him I did not accept any sentence from the Indonesian Court."[323]

382. Xanana Gusmão explains the situation further:

> *Then Sudjono came and talked to me. He talked about executive clemency, I asked what it was, he explained it to me. We did not agree. I said that I did not acknowledge him [as my lawyer], because I had wanted LBH and I did not get them. Then we talked again. I asked him to defend my political crime(s). Then he said that we would appeal, and would go back to court to present an appeal, and would not ask for clemency.*[324]

383. In the end Sudjono seems to have convinced Xanana Gusmão to lodge an appeal for clemency, after assuring him that there would be no publicity, that Xanana's political views would not be twisted and that Sudjono was acting on his own initiative rather than at the prompting of the military. On the basis of these assurances, Xanana Gusmão said that he was persuaded to sign a letter drawn up by Sudjono that gave the latter the authority to apply for clemency. Since the letter was written in Indonesian, there is a strong presumption that Xanana Gusmão did not fully appreciate its implications and may not have wished to apply for clemency. Nevertheless on 4 June 1993, Sudjono breached his agreement with his client by publicly announcing that he had lodged an application for clemency.

384. In August 1993, President Soeharto granted clemency to Xanana Gusmão by reducing his sentence to 20 years imprisonment.[325] Gusmão was entirely dissatisfied that he had been granted clemency: "I was annoyed with the executive clemency, I didn't care if I didn't get it."[326] In a letter to YLBHI later that year, he reiterated his rejection of clemency: "I reject that clemency because it contradicts my principles since it implies that I accepted my sentence."[327]

385. Reports of the incident in the Indonesian media shed light on the motives of Sudjono and the Indonesian authorities. On 5 June 1993, the newspaper *Kompas* ran an Article entitled "Xanana: I beg forgiveness", which stated that Xanana Gusmão wrote a private plea for clemency of his own volition.[328] On 6 June, the *Surya* and *Surabaya Pos* newspaper ran articles entitled "Xanana admits the benefits of East Timorese integration." In a letter to YLBHI on 30 November 1993, Xanana denied the media version of events:

> I have found out about the manoeuvres/tricks surrounding this clemency which resulted in an intensive, widespread propaganda campaign through the radio and the press.[330]

386. The media's portrayal of the clemency application as an admission by Xanana Gusmão of the defeat of the Resistance and acceptance of the Indonesian occupation is consistent with earlier efforts to use his arrest and trial for a similar purpose. The application for clemency may well have been contrived to embarrass the East Timorese leader and demoralise East Timorese still struggling for independence. Towards the end of the trial, the Indonesian authorities appear to have lost control over the proceedings, especially when Gusmão began to read out his defiant defence statement. By characterising the clemency application as an admission of defeat by Xanana, it appears the Indonesian authorities were attempting to regain control over the trial process.

Judicial review

387. After clemency was granted, Xanana Gusmão once again tried to obtain independent legal counsel with a view to applying for judicial review of his case. Yet again, the Indonesian authorities attempted to prevent this from occurring. When LBH lawyers were restricted from visiting Xanana in prison, Indonesia's director-general of corrections reportedly said:

> What is Xanana's interest in meeting lawyers of the LBH? If all people who want to [are allowed to] visit him, his cell will be full.[331]

388. The minister for justice took a similar position stating that anyone except lawyers from LBH could visit the prisoner. The reason given was that the purpose of their visits was not clear.[332] Gusmão was finally allowed to meet LBH lawyers in March 1994. At this time he signed a letter authorising LBH lawyers to act on his behalf and instructed them to seek judicial review.[333] Subsequently, the lawyers filed an application for judicial review. The minister for justice justified the rejection of the application by stating that the legal process against Xanana had been completed and that in granting a retrial, the Indonesian Government would set a bad precedent.

The sentence

389. After the trial, Xanana Gusmão was taken to Semarang, where he was held for about two and a half months.[335] Amnesty International reported on 27 May 1993 that Xanana was on a hunger strike and had been allowed no visitors except Sudjono since he was taken from court six days earlier.[336] According to Xanana:

> *I went on a hunger strike. After 12 days I almost couldn't bear it anymore. Then they got scared that I was getting ill, so they took me to Cipinang [prison in Jakarta].*[337]

390. In August 1993, Xanana was moved to Cipinang. On 9 April 1994, he wrote to Amnesty International complaining of being humiliated, vexed and threatened every day from morning until night.[338] He further stated that criminal prisoners in Cipinang were encouraged to insult and harass him constantly:

> If I avoid speaking it's because "I'm frightened"; if I leave the cell and then return it's "from fear". If they speak to me and I respond it's because "I'm frightened'; and then there's the distortions of my words and phrases, the manipulation of what I say to provoke and make fun of me, etc. They invent "stories" to tell the guards who laugh at my expense.[339]

391. In his interview with the Commission, Xanana Gusmão confirmed that he was persistently harassed after his transfer to Cipinang:

> *They told other prisoners in my block to provoke, threaten and insult me by calling me a murderer…They continuously provoked me. In the end I asked the prison authorities to move me close to my friends, but they took no notice. Only after I hit two people did they move me to another block, I was put in a steel cage and not allowed out for five days. Then they gave us a little bit of freedom to move around the prison.*[340]

Conclusion

392. The trial of Xanana Gusmão involved extensive breaches of due process.

- The pre-trial detention conditions in Bali and Jakarta, which included no contact with the outside world for 17 days, and the use of sleep deprivation and psychological pressure to extract information and force Xanana to make a televised statement renouncing his commitment to the independence cause and calling on his comrades-in-arms to surrender.
- Being denied a lawyer during the first 17 days of detention and interrogation. Xanana was then prevented from appointing independent counsel and was forced to accept an Indonesian lawyer known to have close ties to the military and the police.
- During this period of pre-trial detention Xanana's status as a prisoner was undefined, He did not enjoy the protections available to either a civilian detainee or a prisoner of war, and was placed in a juridical no-man's land where he was denied the status of being either.
- East Timorese were denied free access to the trial in Dili. Some international observers were denied permission to monitor the trial; those that were allowed in as observers were given only limited access to the trial.
- The interpretation provided was inadequate.
- As a result of the failure to create an environment where potential defence witnesses felt secure in testifying not a single witness appeared for the defence. There is reason to believe that the fact that several of the witnesses for the prosecution were in detention when they testified may have coloured their testimony.
- The counsel who was appointed to defend Xanana showed a lack of professionalism and independence at several crucial points in the trial, which often, such as in

his handling of Xanana's application for clemency, was indistinguishable from unethical conduct.

- The judges displayed a lack of independence and impartiality, which as in their ruling that Xanana's defence statement was irrelevant, resulted in the infringement of the rights of the accused. As the defendant was facing the death penalty, it was particularly crucial that he be granted the full protection of the law.

393. By virtue of the defendant's eminence and his symbolic status as the leader of the Resistance, the trial of Xanana Gusmão was the most politically significant trial to be run during the Indonesian occupation of Timor-Leste. The Commission concludes that because of this, the Indonesian authorities conducted it in such a way as to derive the maximum political capital from it. That this outcome was not always achieved does not detract from the fact that in staging the trial the authorities comprehensively failed to carry out their obligations to the defendant under Indonesian law.

The Mahkota trial, 1997

394. In March 1997, the UN Secretary General sent his personal representative, Mr. Jamsheed Marker, to Timor-Leste. When they learned of the coming visit, the resistance commander-in-chief, Xanana Gusmão, who was serving a prison sentence in Cipinang prison in Jakarta, asked David Ximenes (Mandati) to deliver a letter to all clandestine organisations. The letter instructed Vasco da Gama (Criado) and Andre da Costa (L-4) to organise a public demonstration and to lobby the UN through the Secretary General's representative.[341] Indonesian security agents in Timor-Leste found out about the plan and on 22 March 1997 assigned a military police unit to seal off the Hotel Mahkota (Dili), where the envoy was staying, in anticipation of the demonstration.*

395. According to Celina Pires da Costa, the demonstration's objective was to "lobby Jamsheed Marker, for a peaceful solution to the issue of Timor-Leste."[342] Vasco da Gama said that Xanana Gusmão had sent a letter through a courier network calling for a demonstration:

> *[T]o show the world that regardless of the murders and arrests of resistance and or clandestine leaders by the Indonesian military, the people of Timor-Leste would never accept Indonesian rule. That was the objective, national independence.*[343]

396. Pro-independence supporters held preparatory meetings on 17 and 22 March 1997 at Andre da Costa's house to plan the 23 March demonstration.[344] Olga Amaral, Celina da Costa, Thomas A Correia and others were present at the meeting. Between 5.00 and 8.00 on the morning of 23 March, a demonstration took place in front of the Mahkota Hotel, East Dili. Between 50 and 100 protesters displayed banners and Fretilin flags,

* Proceedings of Witness Investigation, Suhaedar, 29 March 1997, p. 3: Tight security measures at Mahkota Hotel; Proceedings of Witness Investigation, Soliquin, 29 March 1997, p. 3: Tight security measures 22 March 1997

while shouting: "Viva Xanana Gusmão, Viva Ramos Horta, Viva Timor-Leste, Viva Povo Maubere!"[345] The demonstration was intended to peacefully convey the people's hopes to the UN representative. But when the Indonesian security forces came they fired shots, beat protesters and then arrested a number of people. After the protest 33 people faced trial, primarily for treason. Unfortunately many of the documents from the trials of the 33 defendants were destroyed and the Commission has been unable to obtain sufficient information to analyse all of the trials and verdicts in detail. The focus of the following analysis will therefore be the joint trial of 16 of the 33 defendants.

Arrest

397. The presence of between 50 and 100 protesters at the Hotel Mahkota prompted the arrival of the Indonesian police, the mobile police brigade, intelligence agents (in civilian clothes) and the anti-riot unit. They attempted to deter people from participating in the demonstration. As the demonstration continued, the mobile police brigade and intelligence agents began firing revolvers in the direction of the protesters and several protesters were wounded.

398. The security forces arrested between 43 and 60 people.[346] These were mostly students, youths and farmers. All were taken to the Dili District police headquarters (Polres) at Mercado Lama (Dili) and detained in prison cells.[347] Some of the injured protesters, like José Sarmento Boavida, were arrested. Some managed to escape and sought refuge in the Motael church. Others ran to the convent of the Canossian sisters in Balide (Dili) and to Manuel Carrascalão's house. Abel José Ximenes and other protesters who hid in the Motael church were later arrested and taken to the Mercado Lama Polres.

399. Some of the protesters were beaten by police and intelligence agents at the site of the protest, like Miguel Alves and Celina Pires da Costa, who were beaten with wooden rods and kicked unconscious.[349] Anacleto da Silva was brutally assaulted by being beaten with an iron rod until he bled profusely from his head and was kicked in the mouth until his mouth was torn and bleeding. He was subsequently locked up in a toilet of the Mahkota Hotel. While there, he saw an Indonesian police officer shoot José da Silva in the buttocks. He also witnessed the police stripping victims, throwing them into a truck and taking them to the Dili Polres.[350]

400. Indonesian security agents used brutal tactics to counter what they considered to be a criminal act against the Indonesian government. All of the arrests were made without an official arrest warrant. Under KUHAP this may have been lawful as the detainees were allegedly in the act of committing a crime. The police issued arrest warrants after the protesters had been taken to the Dili Polres on 23 and 24 March 1997.[351]

401. In July 1997, a few months after the Mahkota Hotel demonstration, the Garuda Task Force, made up of members of Rajawali (codename for the Army Strategic Reserve Command, Komando Cadangan Strategis Angkatan Darat, Kostrad), Kopassus, police and the Koramil, arrested Vasco da Gama (alias Criado) at his house in Becora. Captain PT5 from Kupang, head of the police operational unit, and his deputy, PT6, made the arrest.[352] Vasco da Gama described his arrest:

From the time of my capture at home in Becora till the Polres, my feet and hands were tied, the then I was beaten until I fell and lost consciousness rolling over on the ground. They asked [me questions] but I did not know anything, so in the end they pushed me into a drum full of water, and I swallowed some of it.[353]

402. According to Vasco da Gama (Criado), the police did not produce an official arrest warrant at the time of his arrest, however he was informed of the following reasons for his arrest: [354]

First, because I was clandestine in Dili. Second, because I organised the masses and contributed Rp9,000,000 towards the demonstration at the Mahkota Hotel. Third, I attacked the Mobile Police Unit with a M-16 rifle and three grenades. Fourth, I continuously sent news or information overseas. Fifth, I always contact rebels such as Konis Santana, David Alex, and Matan Ruak. And finally, that all the demonstrations are under my leadership.[355]

403. On the day of the demonstration, protesters who suffered serious gunshot wounds and beatings at the demonstration or injuries from torture and ill-treatment when they were detained, were taken to the Wirahusada Hospital (Lahane, West Dili) for medical treatment. Some of the uninjured protesters were interrogated while others were taken to Polda. Some were subsequently released because their participation was considered marginal while others were released after their families intervened on their behalf. After their discharge, those treated at the Wirahusada Hospital were taken to Polres and interrogated along with the other detainees.

Pre-trial detention

404. The arrested demonstrators were taken by police, intelligence agents, and the Mobile Police Brigade to the Dili Polres. Here, more officers from the police and the Police Mobile Brigade were waiting. It is alleged that these officers started beating and kicking the protesters as soon as they alighted from the truck and then put them into cells. Celina Pires da Costa recalls:

We were put into the cells and after one hour or two we were taken out for interrogation. We were beaten, kicked and burned with cigarettes.[356]

405. Sixty people were detained at Polres. The police stripped them of their clothes before handing them over to the intelligence agents for interrogation in their cells. The names of the agents were not given. The agents interrogated and beat Amaro Pereira from 1.00am until daybreak.[357] After that, Amaro was moved to Polda at Comoro, and from there to Becora Prison some weeks later. The prison warden refused an earlier transfer for Amaro as he was seriously injured and needed intensive medical care. Amaro therefore

spent three days at the Wirahusada Hospital in Lahane and when discharged, returned to Polres, where he spent a week in detention before being moved to Becora Prison.[358]

406. Thomas Correia's account illustrates the extent of the violence detainees were subject to:

> *Eleven [colleagues] were injured and taken to Wira Husada. On 23 March 1997, we were arrested and taken to Polres where, on the same day, we were tortured and then taken to Wira Husada. The ICRC came immediately after we arrived at the hospital, and recorded our names. Three days later, when they noticed that our condition had improved, we were taken back to the Polres. Actually I was not one of the 11 detainees who were taken to Wira Husada [immediately after the demonstration] because I was not wounded when they opened fire. However, when I was taken to Polres I was tortured and beaten with an iron rod. Because of the injuries I sustained I was sent with them to Wira Husada.*[359]

407. After three days of treatment, Thomas Correia and others were taken back to the Dili Polres for interrogation. According to Thomas Correia, during interrogation, detainees were tortured:

> *They continued the interrogation. They also used torture, such as electrocution, burning our skin with cigarette butts and beatings.*[360]

408. Vasco da Gama (Criado) was arrested and taken to the Polda headquarters. Here he was subject to physical and psychological torture. He also saw others tied up:

> *They dragged me into a prison cell. As I stood in front of it, I saw Agustinho Carvalho from Hatolia (Ermera), his hands and legs were tied up separately. I entered the cell, and the police interrogated me. Soon after they tied my hands behind my back. They put me into a 50 kg rice bag, tied my legs to the chair, and kicked and beat me.*[361]

409. Vasco da Gama described additional torture techniques such as where the interrogators spun detainees around while saying "feel this" until they almost collapsed. He added:

> *There, a man standing next to me hit me and I fell. I do not know how long I stayed on the floor. I was unconscious. [As I came to] they were untying my hands and told me to sit on a chair. Then they spun me again until I fainted. When I regained consciousness, they put me in cell number five at the Polda.*[362]

410. The suspects were held in police custody for 15-20 days. During this time, detainees were tortured physically and mentally, especially during interrogation. After 15-20 days,

between ten and 17 detainees were released and 33* were transferred to the Becora prison to await trial.[363] In Becora Prison the detainees were kept in a dark cell for a week.[364] Clementino Dos Reis Amaral and a colleague, in their capacity as members of the Indonesian National Commission on Human Rights (Komisi Nasional Hak Asasi Manusia, known as Komnas HAM), visited the detainees at Becora Prison.[365] Thomas Correia said:

> *Mr Clementino dos Reis Amaral came but he did not say anything. He looked at our physical condition, and at the time some of us still had wounds not fully healed and bloody. They photographed us.*[366]

411. Thus before the trial commenced the 33 defendants had been detained at three different locations – the Polres, the Polda and Becora Prison – and had spent between three and four months in pre-trial detention.

Access to a lawyer

412. At the Dili Polres detainees were not granted access to an independent lawyer. The Indonesian authorities offered Abdul Hakim from Trisula Legal Aid Institute (LBH) in Kupang to defend Olga Amaral and Celina Pires da Costa but both refused the offer.[367] Abdul Hakim from LBH Trisula was often appointed by the Indonesian government and many defendants and independent lawyers did not trust him. Thomas Correia said:

> *The military offered a lawyer, but we did not want him. We only accepted Aniceto Guterres because he was a good lawyer and independent.*[368]

413. After their transfer to Becora Prison, the detainees had access to independent lawyers through the Rights Foundation (Yayasan Hak). Lawyers from Yayasan Hak approached the detainees and offered their assistance.[369] Yet even though Aniceto Guterres Lopes had a power of attorney from families of the defendants, he was often refused access to his clients:

> *[T]hey made it difficult for me to see my clients. This was particularly true of the police. They said that the defendants already had a lawyer, but I had to do my job as a lawyer who had been given a power of attorney from the defendants and their families. So I said, "Today, as a representative*

* The 33 detainees were: Thomas A. Correia (Baucau/Laga), Mateus da Costa Belo (Baucau/Venilale), Olga Amaral (Turiscai), Celina Pires da Costa (Baucau/Laga), Hermenegildo da Costa (Baucau/Laga), Cancio A. Henrique Guterres (Baucau/Venilale), Bendito Amaral (Liquiçá), Miguel Alves (Viqueque/Uatolari), Mariano da Silva (Baucau / Laga), José Sarmento Boavida (Baucau/Quelicai), Abel José Ximenes Baucau/Laga), Rafael de Almeida (Baucau/Laga), Moises Felisano Soares (Baucau/Venilale), Alipio Soares (Viqueque / Uatolari), Anacleto da Silva (Viqueque/Ossu), Mositu Fraga Soares Viqueque/Uatolari), Crispin da Silva (Anino) (Viqueque/Ossu), Alberto da Costa (Viqueque/Ossu), Amaro Pereira (Aileu), João Henrique (Aileu), Celestino Manuel Pereira (Baucau/Laga), Nelson Pereira Dili), Luis Bonanca (Dili), Constancio G. Leite (Maliana), Carlos Gusmão (Baucau/Laga), Aleixo da Silva Ximenes (Baucau/Laga), Domingos da Costa (Baucau/Laga), José Gabriel (Baucau/Laga), Agusto Raimundo (Baucau/Laga), Jito Borges (Aileu), Mateus Ignacio da Costa (Baucau/Laga), Domingos Sarmento (Viqueque), Romaldo Brazil Januario (Lospalos).

of the defendants' families, I want to see the defendants." I intended to go inside, meet the defendants and ask them whether they accepted the government-appointed lawyer voluntarily or whether they had been forced to accept and sign the power of attorney or whether a lawyer had simply been assigned to them. I became aware that they had signed a power of attorney following some sort of psychological pressure, pressure by the police or simply through ignorance [of the law]. In the end, the defendants revoked the power of attorney and appointed me instead as their lawyer. So I went to the police, the magistrate and the judge and showed them the power of attorney. They accepted it fully.[370]

414. Once the Indonesian authorities accepted him as the defendants' legal representative, Aniceto Guterres Lopes was allowed weekly access to his clients in Becora Prison: "[Our] lawyer [Aniceto Guterres]…visited us to assess our condition once a week."[371] Aniceto Guterres Lopes confirmed that "this was a scheduled regular visit".[372]

415. For those detained at Polda, however, obtaining access to an independent lawyer was far more difficult. Aniceto Guterres Lopes, who also represented Vasco da Gama, went to the Polda to meet his client, but was refused access. Similarly, Johnson Panjaitan, a lawyer from Jakarta, was refused access to his clients.[373]

416. Articles 54 and 55 of KUHAP clearly provide for the provision of a lawyer of a suspect's own choosing from the very beginning of legal proceedings. Similar to previous political trials, this provision was breached.

Investigation

417. The police investigator's record of interrogation, or RoI, appears to have involved a degree of coercion. If questions were not answered to the satisfaction of the interrogators, defendants were threatened with being shot. According to Celina da Costa:

I said, I don't know, I don't know, but they continued to hit me and threatened to hang and shoot me if I did not give honest answers.[374]

418. Further, detainees were forced to sign untruthful and inaccurate RoIs, which were principally prepared by the police investigators, with some involvement of special forces personnel. Vasco da Gama, the leader of the Mahkota Hotel demonstration, elaborated:

*Regarding all the information we gave during the interrogation, we were forced to speak (*obrigatorio*) although none of us wanted to say anything. We told them what they forced us to say. We were forced to accept all the things written in the RoI already in their hands. In other words, the statements contained in the document were not our statements...They planned it all and when the time came for us to sign the document, we*

just signed it. During interrogation at the police station, I did not know why some special forces personnel were there to investigate and interrogate us.[375]

419. This is in breach of the right to silence, which is guaranteed under Article 66 of KUHAP.

420. Thomas Correia told the Commission that his RoI was false, with the investigators adding their own opinions and torturing him to illicit favourable answers:

> *I answered their questions, but my answers were not included in the RoI. Instead, they added their own opinions. In the end, they handed the document to me and I signed it without reading it. Besides, there was a police officer standing next to me [name not given], and he hit and burned me with a lit cigarette every time I gave the wrong answer.*[376]

421. Indeed, he claimed that his RoI was prepared before the interrogation:

> *[T]hey had already written it and I just signed. I did not refuse, I immediately accepted, its content I forget. The RoI was made when the Soeharto regime was still in place so they prepared everything. We signed in June 1997.*[377]

422. The blatant disregard for human dignity in torturing detainees and doing so in order to obtain particular information, as well as the preparation of RoIs before interrogation, clearly breaches the guarantees in KUHAP that suspects be allowed to give information freely without pressure of any kind. Thus the actions of interrogators were not only brutal, but they also set the tone for the proceedings that followed: a trial process where the factual basis for conviction was inherently flawed.

The trial

423. The joint trial of 16 of the 33 detainees commenced on 24 July 1997 and, after numerous postponements, concluded on 20 September 1997.

Indictment

424. The primary charge was that the defendants committed treason:

> [T]he [16] defendants together with other defendants whose cases were submitted separately or who remained at large, on Sunday 23 March 1997 between 6.30 and 7.30 in the morning at the Mahkota Hotel, in Colmera, West Dili, district of Dili or in another place still under the jurisdiction of the Dili District Court, committed an act of rebellion (*aanslag*) with the objective to either subjugate all or part of Indonesia's territory (i.e. Timor-Leste) and to surrender it to a foreign country with

> the intention to secede from Indonesia, or to establish an independent and sovereign state.[378]

425. Subsidiary charges of expressing hostility towards the Government of Indonesia were also included under Articles 154 and 155 of KUHP.[379]

426. The indictment listed a number of meetings that took place to prepare for the demonstration in front of the Mahkota Hotel on 23 March 1997. The alleged purpose of the demonstration was:

> [T]o show the UN envoy and the foreign press staying at the Mahkota Hotel that anti-integration groups remained active in Timor-Leste and that the people of Timor-Leste wanted independence from Indonesia.[380]

427. The indictment alleged that during the demonstration the defendants shouted chants such as: "Viva Xanana Gusmão, Viva Timor-Leste, Viva Ramos-Horta, Viva Fretilin, Viva Maubere." This was done with great zest with people enthusiastically raising their fists and accordingly disturbed the public order. Olga Amaral, José Gabriel, Agusto Raimundo Matos and others allegedly displayed Fretilin flags and 19 banners. These banners contained anti-Indonesian slogans, including demands for independence from Indonesia.

428. The 17 other defendants who were tried separately were indicted with similar charges. Vasco da Gama (Criado) was charged with treason while three defendants, Marito Brafas Soares, Cancio Henrique Guterres and Alberto da Costa (Barreto) were charged with publicly expressing feelings of hostility towards the Indonesian Government under Article 154 of KUHP.

429. The other defendants, including Luis de Fatima Pereira, Domingos da Costa, Nelson Pereira, Anaro Pereira, Mateus da Costa Belo, Mariano da Silva, Muises Feliciano Soares, Alipio Soares, Hermenegildo da Costa and Thomas Correia faced a primary charge under Article 154 and a subsidiary charge under Article 155 of KUHP.[381]

430. The policy shift from individual to joint trials should be noted. In the Santa Cruz and Jakarta trials, large groups of defendants were tried individually, despite it being far more efficient to try them jointly. In the Mahkota trial, however, it appears that as the majority of defendants were mainly ordinary people (students and farmers) rather than senior clandestine members, there was little benefit in trying them individually. This would also explain why Vasco da Gama, the main organiser of the demonstration, was tried individually. Thus it appears that the Indonesian authorities preferred individual trials for the defendants who represented the greatest threat.* The lenient sentences that the defendants later received lends further weight to this notion.

* The Commission is aware of another political trial where East Timorese defendants were tried jointly – the 1997 trial for an attempted bombing in Semarang. The fact that the four co-defendants in this case were all ordinary students and were all acquitted of the illegal possession of explosives lends weight to the theory that individual trials were preferred for the defendants considered most dangerous by the Indonesian authorities.

The openness of the trial

431. On 24 July 1997, the presiding judge declared the trial open to the public stating that tight security measures had been put in place for the duration of the trial. The heavy presence of police, Kopassus, Korem, military personnel and other government agents meant that many Timorese were too afraid to attend. Thus although the trial was not closed, the tense environment due to the prevalence of members of security forces effectively prevented members of the public from observing trial proceedings.[382] The failure to guarantee a trial open to the public in a meaningful sense breaches Article 153(3) of the KUHAP.

Witnesses

432. Out of 15 witnesses interrogated during investigation, only five gave oral testimony at trial. They all testified for the prosecution, with no witnesses appearing for the defence. Most prosecution witnesses were members of the police or military who were present at the demonstration. The quality of the evidence given by the witnesses was very general and unspecific. In particular witnesses could not provide detail on the specific actions of the accused. An example of a witness account is that of Suhaedar, a military police officer:

> *At the time of the incident, I was in the Mahkota Hotel, in security room no 246 on the second floor. A friend told me a demonstration was taking place. After I came down, I witnessed the demonstration from a distance of about two metres. There were around 50 people. I also saw some colleagues from the navy and the intelligence unit there. I heard the protesters shouting, "Viva Timor-Leste, Viva Xanana Gusmão, Viva Maubere, Viva David Alex." I also saw four banners, one of them a big white banner about two by one metres in size. I could not see it clearly because I was behind it. There was also a piece of cloth resembling a yellow, red and black flag with a star on it.*[383]

433. Another witness, police officer Soliquin, testified that:

> *In general he recognised the faces of the protesters…. except those whose faces were covered with material.*[384]

434. Other witnesses claimed that Falintil fighters were among the protesters.[385]

435. The five prosecution witnesses were Dede Kuswandi, I Ketut Sudarma Wiasa, Muhamad Saleh, Suhaedar and I Gede Redama.[386] Explaining why only five witnesses were called, Aniceto Guterres Lopes said:

> *[A]t the trial the presiding judge told the prosecutor he was satisfied with the witnesses called [thus far] and that the prosecutor did not need to call other witnesses.*[387]

Evidence

436. A large amount of physical evidence was confiscated from the defendants at the time of the demonstration:

> During the 23 March 1997 demonstration, the authorities confiscated 19 banners of various dimensions with messages [written] in a foreign language, 2 Fretilin flags, 15 multi-coloured items of clothing, 10 multi-coloured pants.[388]

437. The messages written on the 19 confiscated banners were in Portuguese and at trial Carlos Boromeu translated them under oath into Indonesian. Below are a few examples of the banners submitted as evidence:

> Free Xanana Gusmão and all East Timorese political prisoners. Long live Xanana Gusmão the defender of the young Maubere generation.
>
> A Tri-Partite dialogue under the auspices of the United Nations: Include Xanana Gusmão for a peaceful Timor-Leste solution.
>
> A permanent UN Human Rights Commission Delegation in Timor-Leste.[389]

Performance of defence lawyers

438. The defence team from Yayasan Hak faced serious obstacles in its attempts to defend its clients. One significant issue, according to Aniceto Guterres Lopes, was that he did not have a strong relationship with the military:

> *As a lawyer, I had a good rapport with the police, but not with the military and the intelligence.*[390]

439. Aniceto Guterres Lopes mentioned other impediments he faced while representing the defendants:

> *I had to deal with continuous attempts by the court (judges and prosecutors) and the police to refuse or obstruct independent lawyers. They always appointed the defence lawyer*
>
> *They always politicised my defence…my clients did not understand this so they twisted the arguments a little bit and my clients accepted the lawyer(s) they appointed. The judges and the prosecutors even asked the police to urge the defendants to refuse independent lawyer(s) or they said something like "Mr Aniceto Guterres Lopes is not good enough. You may get heavy sentences.'*
>
> *I dealt with an unfair process, filled with violence and disrespect of the defendants' rights and when the independent lawyers intervened on behalf of the defendants or their families, they created obstacles, such as*

> *threatening or imposing a more complicated procedure. For example, I had a power of attorney from the defendants and their families and that should have been sufficient, but they (the police) prepared a separate power of attorney appointing the lawyer that the police recommended, visited the defendants in jail and asked them to sign the document.*[391]

440. Aniceto Guterres Lopes added that the lawyers did all they could to ensure the defendants' rights were upheld but that many of the defendants' rights were ignored:

> *They had already coached "witnesses" who had not seen the incident, but who, in the RoI testified that they had seen the Mahkota Hotel incident. The law prohibits such practices, yet they happened.*[392]

441. Thus when independent lawyers were allowed to act, after numerous interrogations had taken place, there were constant attempts by the Indonesian authorities to disrupt and undermine their work. Such intimidation undoubtedly impacted on the ability of the defence lawyers to represent their clients and accordingly impacted on the fairness of the trial.

The defence case

442. The substance of the defence case focused on both procedural aspects as well as broad historical arguments. The procedural flaws and breaches of rights included:

> [T]he violence that the defendants experienced during the preliminary investigation, and on the defendants' rights to obtain the RoI.[393]

443. In addition, it was argued that the arrest, the detention and the judicial process were illegal, as they did not comply with the applicable laws at the time. In regard to this, the defendants' lawyer, Aniceto Guterres Lopes, states:

> *Those involved in clandestine movements were known to the security forces. Subsequently they were arrested. The process of arrest, detention and [ultimately] justice was unfair as it did not comply with the stipulations of the Criminal Procedure Code (KUHAP) on arrest and detention of suspects. In the defence, their clandestine activities and demonstrations had a legitimate justification because they did not recognise Indonesia's annexation of Timor-Leste. Therefore their struggle was legitimate based on the right of self-determination, recognised by the international community.*[394]

444. As highlighted in the previous quote, international legal issues were also raised to argue the defence case:

> That international law stipulates that recognition is but one requirement in a nation's claim of sovereignty. In this case the integration of Timor-

> Leste into Indonesia became legitimate with the recognition of at least one sovereign country. Therefore all objections submitted by the lawyers about Timor-Leste's integration into Indonesia need to be dealt with by the United Nations, and therefore should not need to be considered in this court.[395]

445. Despite the validity of many of the defence arguments raised, they were rejected and by and large not even directly responded to.

Performance of judges

446. It appears that the independence and impartiality of the judges in the Mahkota trial should be questioned. There is evidence to suggest that there was communication between the judges and Indonesian security officials which may potentially have influenced the outcome of the trial. Rui Pereira, a lawyer, revealed that:

> *Before the case went to trial, the judges received phone calls from the Korem, Kodim, and the intelligence task force. These calls certainly impacted on the judges' performance.*[396]

447. This statement was confirmed by Aniceto Guterres Lopes who stated that intelligence agents:

> *…made contact with the judges outside or before the trial to sway the judges' judgment.*[397]

448. Furthermore, Aniceto Guterres Lopes questioned why intelligence officials needed to be present at court sessions every day:

> *Why were intelligence officers in court every day? To monitor the trial, to signal or to remind the judges to watch out, this is an important case! We will watch closely. Your decision must comply. Intelligence officers from the police, the Kodim and the SGI attended the hearings almost daily. What business did intelligence have at the trial? None! They were there to intimidate and manipulate the Court's decision.*[398]

449. The conduct of the judges at trial lends further weight to their lack of impartiality. According to Aniceto Guterres Lopes:

> *Usually, we submitted our objections during or outside of the hearings but the judges never even considered them. For example, the prosecutor read the charges during the trial and, as a defence lawyer, I responded to the charges by saying that I did not understand them, but the presiding judge continued the trial.*[399]

450. Other aspects of the judges' performance that suggest a lack of impartiality include a failure to ensure that the trial was completely open to the public and a failure to take

into account the impact that the absence of lawyers at the time of interrogation may have had on the reliability of the RoIs. This may have breached the judges' obligation under Article 185(6) of KUHAP to weigh up the reliability of evidence.

451. Further, according to Vasco da Gama (Criado), there was never any prospect of an impartial trial as the judges were the enemy of those on trial:

> *[F]rankly, we were enemies, and enemies never forgive each other unless there is a process undertaken [of forgiveness]…only then would things change. I saw myself that the court was under the control of the pro-integrationists. In other words, no mouse would dare put up a defence against a cat and seeing a defenceless mouse, obviously the cat would eat it. This is a fundamental problem.*[400]

Decision and sentences

452. On 20 September 1997, the presiding judge Agustinus Loto Runggum handed down a verdict for the sixteen co-defendants. All were found guilty of the primary charges in the indictment, namely treason:[401]

> Based on evidence and the above considerations, this panel of judges believes that the primary charge has been proven beyond reasonable doubt.[402]

453. Due to the primary charge being satisfied, the judges saw no need to consider the subsidiary charges.[403]

454. The following 16 defendants were sentenced to one year imprisonment for rebellion and attempts to secede from Indonesia:

1. Celina Pires da Costa
2. Olga Amaral
3. José Gabriel
4. João Henrique (Elias)
5. Costancio G. Leite
6. José Sarmento Boavida
7. Mateus da Costa Inacio
8. Bendito Amaral
9. Crispin da Silva (Anino da Silva)
10. Agusto Raimundo Matos
11. Domingos Sarmento
12. Rafael de Almeida
13. Zito Borges
14. Aleixo da Silva Ximenes
15. Anacleto da silva
16. Abel Ximenes.[404]

455. The following 17 defendants who faced separate trials were also found guilty and received a one-year jail term:

17. Masitu Fraga Soares
18. Cancio A. Henrique Guterres
19. Alberto da Costa (Barreto)
20. Luis Bonanca
21. Domingos da Costa
22. Nelson Pereira
23. Amaro Pereira
24. Miguel Alves
25. Ronaldo Brazil Januario
26. Carlos Gusmão
27. Celestino Manuel Pereira
28. Mateus da Costa Belo
29. Mariano da Silva
30. Moises Feliciano Soares
31. Alipio Soares
32. Hermenegildo da Costa
33. Thomas A Correia.[405]

456. Vasco da Gama (Criado) was also convicted on his primary charge and received a one-year jail sentence. For all defendants, time already served in detention was subtracted from the one year sentence.

Appeal

457. All defendants accepted the verdict of the Dili District Court and expressed no intention to appeal. [406] Vasco da Gama elaborated:

> *We accepted the court's decision. My friends and I accepted the decision immediately. I told the judges that I would accept any decision even if it involved years of jail, because it [what I did] was my right. So we did not say much, we just accepted it. What we did was our right. Then they asked me whether on my release I would continue with clandestine activities. I replied that it would depend on their attitudes, which were merely a reflection of the New Order.*[407]

Conclusion

458. The trial of those involved in the Mahkota Hotel demonstration in March 1997 represents the most extensive trial of ordinary civilians (as opposed to clandestine leaders) during the Indonesian occupation. In previous sets of trials, the Indonesian authorities focused on the organisers or instigators of pro-independence activity, who were usually senior pro-independence leaders. The intention was to make an example of the leaders

in an attempt to deter future action. The Mahkota trials, however, demonstrate a shift in policy. The trials targeted ordinary participants in a non-violent protest and tried them jointly. There appear to have been serious instances of maltreatment and torture during pre-trial detention, yet defendants received a comparatively lenient sentence of one year.

459. The reasons for this change in policy are not entirely clear, however it may signify an acceptance that the previous approach of targeting leaders was ineffectual. Despite the harsh sentences for the organisers of the Santa Cruz and Jakarta demonstrations, political protests still took place. To repeat that approach in relation to the Mahkota demonstration, for example by prosecuting only Vasco da Gama and a number of other senior clandestine members, would be likely to be similarly ineffectual. By putting a large number of participants on trial and subjecting them to torture, the objective may have been to attack the rank and file clandestine members, and send a message that anyone, not only leaders, who expressed anti-Indonesia sentiment, would face trial. The relatively low sentences handed down also illustrate that despite the brutal treatment of detainees, the Indonesian Government wished to appear lenient, perhaps in response to the international criticism of the extremely harsh sentences previously handed down to people such as Gregorio Saldanha. This could therefore be characterised as a double-edged approach: on the one hand, to put ordinary people on trial for political crimes and thereby demonstrate the increased reach and legitimacy of Indonesian law and courts; on the other, to grant lenient sentences to maintain an appearance of a fair administration governed by the rule of law.

460. The most significant breaches of due process in the Mahkota trials include the use of torture, especially in relation to Vasco da Gama and Thomas A Correia; the falsification of RoIs by interrogators; the failure to let lawyers be present during interrogation; deficiencies in the openness of the trial; and a lack of impartiality on behalf of the judges. The 33 defendants therefore faced a process in which their rights to a fair trial were systematically abused. In the Mahkota trials, for the first time, the Indonesian authorities convicted a large number of ordinary citizens of political crimes, for participating in a non-violent protest. The expression of their fundamental rights to freedom of expression and association resulted in a one-year prison sentence on the basis of an unfair process, and in some cases, physical torture.

Findings

461. The Commission finds that:

1. Although the Indonesian legal system was functioning to some degree in Timor-Leste from 1977, political opponents of the occupation only began to be prosecuted in 1983. At this time the Indonesian security apparatus developed a policy of using the criminal law and the courts as tools to crush resistance to Indonesian rule in Timor-Leste.
2. The implementation of this policy did not mean that previous methods, such as killing, arbitrary detention and torture of political opponents were discontinued.

Rather the courts were used as a complementary tool, added to other means already employed, in order to achieve the political goal of crushing resistance.

3. The new role of the criminal law and courts did not mean that there was a movement towards respect for human rights and the rule of law. The trials were not fair trials. They were in general "show trials" similar in many ways to those which had occurred under other military dictatorships in other countries. The verdicts of those who were accused were never in doubt. The function of the trial was largely as a propaganda tool, calculated to provide the illusion of justice which would cover a vicious victimisation of political opponents.
4. The major method used for guaranteeing that the court found defendants guilty but ensuring that the proceedings did not appear to be totally corrupt was to fabricate and limit the evidence that the court was able to consider. To fabricate the evidence, interrogators tortured and intimidated defendants into making confessions, military and police witnesses concocted their evidence and created false material evidence, defence witnesses were prevented from appearing, and defence counsel who would not strongly contest a prosecution case were appointed.
5. The degree to which the trial process was corrupted in order to paint a veneer of legitimacy over predetermined guilty verdicts dictated by political goals is demonstrated by the following summary in relation to the first wave of political trials, from 1983-85. Two hundred and thirty two (232) political trials were examined by the Commission. These resulted in:
    - 232 convictions on charges involving treason and subversion
    - 232 defendants were represented by government appointed defence counsel
    - 0 defence witnesses were called
    - 0 cases of acquittal of all charges were recorded
    - 0 appeals against conviction were lodged.
6. The intelligence services of the Indonesian military forces were involved in guiding the outcome of the political trials at every stage of the interrogation and trial process.
7. The military officers who used terror and torture in interrogating prisoners, the police who prepared the cases, the prosecutors who presented the cases in court, the court appointed defence counsel who failed to rigorously defend their clients and the judges who acquiesced in allowing profound and repeated travesties of justice to take place were involved in a collaboration and collusion designed to ensure that defendants did not receive a fair trial.
8. Indonesian military officers arbitrarily detained political opponents of the occupation and held them for long periods of custody, often years, before trial, even though in many cases there was little or no evidence against them.
9. Indonesian military officers routinely used torture and intimidation as tools during interrogation in order to obtain confessions and other information. The results of the torture and intimidation were used as evidence at trial.

10. Many of those who were tortured were also threatened that if they did not cooperate and admit their guilt they would be detained indefinitely and continue to be tortured and mistreated. As a result they signed confessions of their involvement in the pro-independence movement, whether that was the truth or not. They also provided evidence against other persons, many of whom were actually unknown to them.

11. Members of the Indonesian security forces routinely signed false statements that provided evidence against persons accused of political crimes, and perjured themselves in the trials of those persons.

12. Members of the Indonesian security forces also routinely fabricated material evidence, for example producing weapons with no connection to the particular case, to substantiate the evidence relied on for prosecution.

13. Members of the Indonesian security forces failed to inform suspects that the information they provided would be used against them at trial, and that they were entitled to the presence of a lawyer, according to Indonesian law and international law.

14. Members of the Indonesian security forces routinely interrogated suspects and forced them to sign Records of Interview that had been fabricated and produced without interpretation in Indonesian, a language that the suspects did not fully understand.

15. Defendants were regularly refused the right to appoint lawyers of their choice to defend them at trial. The defence counsel appointed in most cases supported the prosecution case, did not call any defence witnesses and did not in reality provide a defence for their clients.

16. In a small number of cases independent defence counsel, from Indonesian legal aid non-government organisations and East Timorese lawyers, courageously provided a professional defence of their clients. They did this in pursuance of the principles of justice, despite intimidation and allegations of a lack of patriotism levelled at them both inside and outside the court, and other hindrances such as a lack of time to prepare cases.

17. During trials of political opponents prosecutors routinely ignored ethical issues that arose in relation to the evidence they presented to the court. This included confessional evidence obtained through torture and obviously fabricated evidence.

18. Judges presiding over the political trials failed in their duties to provide an independent and objective adjudication. These judges significantly contributed to the overall corruption of the legal system by allowing their positions of authority to be manipulated as a political tool of the military intelligence services.

19. The judges who presided over the political trials allowed obviously fabricated evidence to be admitted without objection. They did not consider allegations of torture and intimidation of witnesses to be a serious issue. They routinely based their verdicts of guilty on Records of Interview that had been signed as a result

of torture, under illegal conditions. The judges also ignored defendants' requests to be represented by counsel of their choice.

20. Judges handed down sentences to persons convicted of political crimes that were disproportionate to the degree of criminality of the acts allegedly perpetrated. In some cases this involved sentences of years of imprisonment for actions such as supplying cigarettes or small quantities of food to persons suspected of being opponents to the occupation. Time served in military detention, up to seven years in the most extreme case, was generally not taken into account when determining sentences.

21. There was no meaningful appeal process available for persons who were convicted of political crimes.

Endnotes

1. Article 64, Geneva Convention IV
2. See eg Article 68 Geneva Convention IV
3. Article 106 of the Indonesian Criminal Code (KUHP).
4. CAVR interview with Mário Viegas Carrascalão, Dili, 30 June 2004.
5. Amnesty International, *Unfair trials and possible torture in East Timor*, December 1985.
6. *Country Reports on Human rights Practices for 1984*, Report submitted to the Committee on Foreign Relations, U.S. Senate, February 1985.
7. Case file of Zé Roberto S.M.J: No: 57/Pid/B/B4/PN.DIL.
8. Case file of Zé Roberto S.M.J: No: 57/Pid/B/B4/PN.DIL. The documents indicate that this was through the Warrant of Chief of Nusa Tenggara Regional Police No. Pol. Sprin/33/II/84 dated 14 February 1984 regarding assignment of a member of the Indonesian National Police (Polri) on the Polri Task Force in the Sub-district police of East Timor (Polwil Tim-Tim).
9. Case file of Zé Roberto S.M.J: No: 57/Pid/B/B4/PN.DIL.
10. See Record of Interrogation dated 9 April 1984 in Case file of Henrique Belmiro, No. 83/Pid/B/84/PN.DIL.
11. Case file of David Dias Ximenes, No. 22/Pid/B/84/PN.DIL.
12. See for example Article 9(3) of the International Convention on Civil and Political Rights, which reflects customary international law; and Article 71 Geneva Convention IV.
13. Wanseslan G.Carvalo, Balenti Nunes and Salestino Dalosesat. See case file of David Dias Ximenes, No. 22/Pid/B/84/PN.DIL.
14. Letter of the Kolakops Intelligence Task Force of East Timor (Satgas Intel Kolakops Timor Timur) No: R/463/III/1984, 24 March 1984.
15. CAVR interview with Caetano de Sousa Guterres, Dili, 22 May 2004.
16. HRVD Statement 8055.
17. CAVR interview with Aquelino Fraga Guterres, Dili, 17 May 2004.
18. HRVD Statement 6983.
19. CAVR interview with Antonio Tomas Amaral da Costa (Aitahan Matak), Dili, 28 April 2004.
20. "Is it Wrong for a Child to Return to the Mother who Gave it Birth?" *Sinar Harapan Newspaper*, 3 September 1985, excerpted and translated in Amnesty International, *Unfair trials and possible torture in East Timor*, December 1985.
21. CAVR interview with Antonio Tomas Amaral da Costa (Aitahan Matak), Dili, 28 April 2004.
22. Amnesty International, East Timor: *Unfair Trials and Further Releases of Political Prisoners*, (summary) April 1988.

23. Cristiano da Costa, Statement to the Human Rights Commission, 44th Session (item 12), 1988.
24. Neil Barrett, interview with David da Conçeicão, The Neil Barrett Comarca Video Project, Submission to CAVR, August 2002
25. For example, see case file of Abilio Tilman, No. 72/Pid.B/1983/PN.DIL, and case file of Martinho Soares, No. 119/Pid/85/PN.DIL
26. Case file of João Soares, 24/Pid/B/84/P.N.DIL.
27. Bill of Charges José Simoes, No:01/PK-23/1984, 23 January 1984.
28. For example Case File of Henrique Belmiro, No. 83/Pid/B/84/PN.DIL and Notification of Decision of Dili Court in relation to Armindo Florindo, No. 43/Pid.B/1984/PN.DIL.
29. Case file of Henrique Belmiro, No. 83/Pid/B/84/PN.DIL.
30. CAVR interview with Antonio Tomas Amaral da Costa (Aitahan Matak), Dili, 28 April 2004.
31. CAVR interview with Marito Reis, Baucau, 17 November 2002.
32. Case file of Henrique Belmiro, No. 83/Pid/B/84/PN.DIL.
33. Case file of Armindo Florindo, No. 43/Pid.B/1984/PN.DIL. See especially Bill of Charges No. 41/PK/1984, 12 May 1984.
34. Notification of Decision of Dili District Court in relation to Caetano de Sousa Gutteres, No. 51/Pid/B/1984/PN.DIL, 29 May 1984.
35. Notification of Decision of Dili District Court in relation to David Dias Ximenes, No. 22//Pid/B/1984/PN.DIL.30 March 1984.
36. Notification of Decision of Dili District Court about Domingos Seixas, No. 18/Pid/B/84/PN/DIL. pp.3-5, 31 March 1984.
37. Case file of Francisco Mendez No. 170/Pid/B/84/PN.DIL., see especially Indictment No. 49/B/12/1984, p.1; Bill of Charges No. 49/B/2/1985, p.1; and the Notification of Decision No. 170/PID/B/1984/PN.DILi.p.2.
38. Notification of Decision of Dili District Court about Francisco Mendez, No. 170/PID/B/1984/PN.DIL. p.2.
39. Case File Jil [sic] Fernandes, No. 179/Pid/B/85/PN.DIL.
40. "*Hau hakarak hatoo, too ohin loron, hau tama iha komarka, tamba iha tempo ida nee hau, ami hamutuk forma duni ami nia estrutura ida hanesan klandestina atu fo ajuda ba resistencia armada. Maibe apoio nebe mak hanesan ami fo ba sira hanesan informacao, estafeta no mos logistico.*" Neil Barrett, interview with Maria Immaculada, Comarca Video Project, Submission to the CAVR, Dili, August 2002.
41. Notification of Decision of Dili District Court in relation to Zé Roberto Seixas Miranda Jeronimo. No: 57/Pid/B/1984/PN.DIL.
42. Letter dated 30 April 1984 from Ali Alatas to Thomas Hammarberg, Secretary-General of Amnesty International.
43. CAVR interview with Antonio Tomas Amaral da Costa (Aitahan Matak), Dili, 28 April 2004.p.12
44. CAVR interview with Antonio Tomas Amaral da Costa (Aitahan Matak), Dili, 28 April 2004.p.16.
45. Amnesty International Statement to the United Nations Special Committee on Decolonization (summary) August 1990.
46. Letter dated 30 April 1984 from Ali Alatas to Thomas Hammarberg, Secretary-General of Amnesty International.
47. Case file No. 170/Pid/B/84/PN.DIL.
48. Stipulation of Dili District Court No. DC.UM 08.04.02, dated 7 January 1984.
49. CAVR interview with Marito Reis, Baucau, 27 May 2004.p.9.
50. CAVR interview with Marito Reis, Baucau, 27 May 2004, p.5; CAVR interview with Antonio Tomas Amaral da Costa (Aitahan Matak), Dili, 28 April 2004, p.13.
51. Defence Pleadings, Case file of Henrique Belmiro, No. 83/Pid/B/84/PN.DIL.
52. Defence Pleadings in Criminal Case No. 22/Pid/B/1984/PN.DIL, 23 March 1984.
53. Transcript of Proceedings in the trial of Domingos Seixas, Dili, 19 March 1984, p.10.
54. The Reply of the Public Prosecutor regarding the Legal Councel Plea in the case No 64/PK/1983 on the accused Abilio Tilman. 14 December 1983.
55. FEER, 8 August 1985, in Amnesty International, *Unfair trials and possible torture in East Timor,* December 1985

56. CAVR, interviewers notes of interview with Caetano Guterres, Dili, 22 May 2004.
57. CAVR interview with Caetano Guterres, Dili, 22 May 2004.
58. Statement by Cristiano da Costa, Commission on Human Rights, 44th Session (item 12), 1988.
59. FEER, 8 August 1985, in Amnesty International, *Unfair trials and possible torture in East Timor,* December 1985.
60. See case files for Abilio Tilman (No. 72/Pid/B/83/PN.DIL), Caetano Guterres (No. 51/Pid/B/1984/PN.DIL), José Simoes (No. 03/Pid/B/84/PN.DIL).
61. Notification of Decision of Dili District Court about Martinho Soares, No. 119/Pid/85/PN.DIL, 1 August 1985. The three-page defence statement was submitted on 27 July 1985 by Merry Doko and Asmah Achmad.
62. Case file of Martinho Soares, No. 119/Pid/85/PN.DIL, 1 August 1985.
63. Case file of Henrique Belmiro, No. 83/Pid/B/84/PN.DIL.
64. Ibid
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384. Dili District Police, Record of interrogation, Soliquin, 29 March 1997, p. 2, in Case File of Olga Amaral et.al., No. LP/81/III/97/PMT
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387. CAVR second interview with Aniceto Guterres Lopes, 27 September 2004.
388. Dili District Court, Decision in the case of Olga Amaral et al, 20 September 1997, p. 11; See also the 16 Records of Arrest of the 16 suspects all dated 23 March 1997 in Police Case File No. LP/81/III/97/PMT.
389. Dili District Court, Decision in the case of Olga Amaral et al, 20 September 1997, p. 22-2
390. CAVR interview with Aniceto Guterres Lopes, Dili, 9 July 2004.
391. CAVR second interview with Aniceto Guterres Lopes, 27 September 2004.
392. Ibid.
393. Dili District Court, Decision in the case of Olga Amaral et al, 20 September 1997, p. 29.
394. CAVR interview with Aniceto Guterres Lopes, Dili, 9 July 2004.
395. Dili District Court, Decision in the case of Olga Amaral et al, 20 September 1997, pp. 30 – 31.
396. CAVR interview with Rui Perreira, Dili, 5 July 2004.
397. CAVR interview with Aniceto Guterres Lopes, Dili, 27 September 2004.
398. Ibid.
399. Ibid.
400. CAVR interview with Vasco da Gama, Dili, 18 May 2004.
401. Copy of the decision of the Court in relation to 16 defendants, 20 September 1997; sp. 32; Amnesty International, *East Timor: Fear of Torture/Ill-Treatment/Possible Prisoners of Conscience*, 24 March 1997
402. Copy of the court decision, quoted from the prosecutor's indictments, 20 September 1997, pp. 32-33.
403. Ibid
404. CAVR interview with Thomas A. Correia, Dili, 29 May 2004; Copy of the court decision: Olga Amaral, Celina P. da Costa, José Gabriel, Constantino G. Leite, José Sarmento Boavida, Mateus da Costa Inacio, Bendito Amaral, Crispin da Silva, Agusto Raimundo Matos, Domingos Sarmento, Rafael de Almeida, Abel Ximenes, Zito Borges, Aleixo da Silva Ximenes, Anacleto da Silva, 20 September 1997; Case file no. 70/PID.B/1997/PIN.DIL, pp. 2 and 37: names of defendants and one year imprisonment for each defendant.
405. Amnesty International, *East Timor: The Hotel Mahkota Demonstration Trials*, June 1997.
406. CAVR interview with Thomas A. Correia, Dili, 29 May 2004; Celina P. da Costa, 12 March 2004; Certificate of Refusal to Appeal, Document No. 70/Akta Pid/1997/PN. DIL, 20 September 1997, in Case File No. 70/PID.B/1997/PIN.DIL.
407. CAVR interview with Vasco da Gama, Dili, 18 May 2004.



Chega!

Part 7.7.

Rape, Sexual Slavery and Other Forms of Sexual Violence

Part 7.7. Rape, Sexual Slavery and Other Forms of Sexual Violence

Tables:

Graphics:

7.7. Rape, Sexual Slavery and Other Forms of Sexual Violence

Introduction

1. As required by its legal mandate (Article 3.4c), the Commission developed a gender-sensitive approach in seeking the truth about human rights violations during the political conflict from 25 April 1974 to 25 October 1999. Men and women have different social roles and status in their communities, and the Commission needed to understand how this might have affected their experience of violations and the impact these violations had on them. Although women were the victims of the same range of human rights violations as men, almost all cases of sexual violence – rape, sexual slavery and other forms of sexual violence – were committed against women.

2. The Commission found that women became the victims of specific forms of violations, which related to their low status and the sexual stereotypes imposed on them. These violations, which include rape, sexual slavery, sexual torture and harassment, can be classified as sexual violence. Although some men were victims of sexual violence, such as those who experienced sexual torture in detention, the majority of victims were women.

3. In Timor-Leste, as in other countries, victims of sexual violation are often unwilling to talk about their experiences. Despite the cultural and personal reasons for such decisions, the Commission received hundreds of direct testimonies of witnesses who were subjected to severe sexual violations by members of the Indonesian security forces during the period of the mandate. There were also accounts of victims being violated by members of União Democrática Timorense (UDT), Associação Popular Democrática Timorense (Apodeti), Frente Revolucionário de Timor-Leste Independente (Fretilin) and Forças Armadas de Libertação Nacional de Timor-Leste (Falintil).

4. These personal testimonies are supported by a larger body of evidence which provides the Commission with a clear and consistent picture of the nature of sexual violations that occurred during the period of political conflict. This part attempts to tell the story of these violations, and the context in which they were committed, largely through the most authentic voice, that of the victims.

5. The vast majority of these victims were young women at the time they were violated. They were middle-aged at the time of giving their evidence to the Commission. Many said that they had harboured their darkest memories in silence during the long intervening years. The process of bringing this evidence to the Commission often involved a difficult emotional process for them and also to a lesser degree for the staff of the Commission who interviewed them.

6. The women who told their stories to the Commission came from different regions and belonged to different communities, yet the details of their accounts were strikingly similar. There was no apparent reason why they would be motivated to mislead the Commission. The fact that they came from such disparate groups would have made any form of collaboration impossible.

7. From its statement-taking process, the Commission documented 853 reported counts of sexual violations. Rape was the most commonly reported sexual violation, at 46.1% (393 out of 853) of all sexual violations documented by the Commission. Rape was followed by sexual harassment and other acts of sexual violence at 27.1% (231/853) and sexual slavery at 26.8% (229/853) of all reported acts of sexual violence. Out of the total violations documented from the statement-taking process 93.3% (796/853) were attributed to Indonesian security forces and auxiliaries, 2.5% to Fretilin (21/853), 1.2% to Falintil (10/853), 0.6% to UDT forces (5/853), 0.1% to Apodeti forces (1/853), and 0.9% to others (8/853).

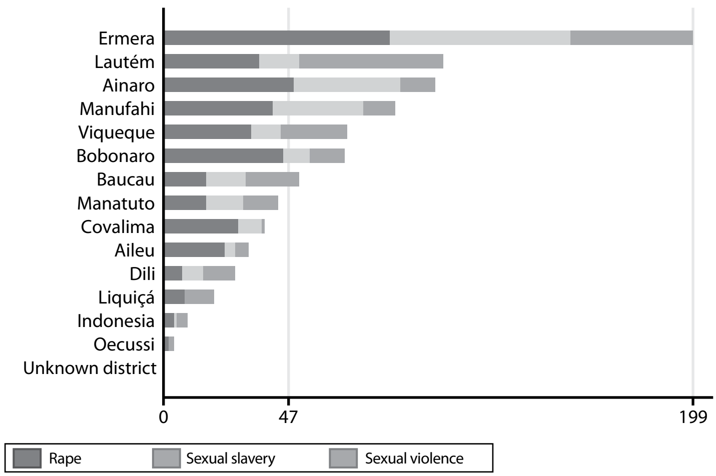
Number of reported acts of sexually-based violations, 1974–1999



Source: Database of narrative statements given to the CAVR

8. Additionally, the Commission interviewed more than 200 victims and witnesses of sexual violence. These in-depth interviews and the statements reporting incidences of sexual violence depicted an overwhelming picture of impunity for sexual abuse. After careful consideration of the evidence before it, the Commission has no doubt that the patterns of widespread sexual violations that the women described represent the truth.

Count of reported sexual violations, by district



Source: Database of narrative statements given to the CAVR

9. By any standards, the contents of this part portray a shameful and disgraceful account of the abuse of power. It became clear that the physically weakest and most vulnerable members of communities were targeted for reasons that have no legitimate connection to either military or political objectives.

10. The voices of the victims in this part provide a clear picture of the widespread and systematic nature in which members of the Indonesian security forces openly engaged in rape, sexual torture, sexual slavery and other forms of sexual violence throughout the entire period of the invasion and occupation. Members of Fretilin, UDT and Falintil also committed violations, although these were isolated incidents and occurred on a far smaller scale. They were neither widespread nor systematic.

11. The evidence also demonstrates how acceptance of abhorrent practices by commanders and officials encourages those under their command and control to continue and expand the use of such practices. The victims' testimonies clearly show that there was a widely accepted practice for members of the security forces to rape and sexually torture women while on official duty, in military installations and other official buildings. These practices were covered by almost total impunity.

12. Acts that commonly and openly took place in these official places included prolonged sexual torture of women, followed by individual or gang rape by members of the Indonesian security forces. This sexual torture often included mutilation of women's sexual organs, inserting of objects into vaginas, burning nipples and genitals with cigarettes, use of electric shocks applied to the genitals, breasts and mouths, forcing detainees to engage in sexual acts, rape of pregnant women, rape of women while blindfolded with their hands and feet bound, and the use of snakes to instil terror in victims.

13. Victim testimony also demonstrates that women were often raped during military operations and that it was commonly accepted practice for military officers to force young women, by threats of direct violence to themselves, their families and their communities, to live in situations of sexual slavery. In these situations, which often continued for years, the officers raped the women under their control at will, day after day. In some cases women were "passed on" by officers to their replacements or to other officers. All of this was not only tolerated by senior officers and officials, but even encouraged. Commanders and officials also participated.

14. Despite the heavy cultural taboos and personal difficulties, a number of women gave detailed accounts of their suffering at public hearings, which were broadcast live by national radio and television services. The Commission recognises the extraordinary courage of these women and all of the victims who provided statements and agreed to be interviewed. It applauds their determination that the story of their abuse should be known, no matter what the personal cost. It also draws the inescapable conclusion that the hundreds of women who gave direct evidence represent only a portion of the total number of victims who did not give statements, because of social or personal pressures or an inability to talk about their experiences due to on-going trauma connected to the violations.

15. Given the prevalence of rape as a form of sexual abuse from 1974 to 1999, the first section of this part is specifically devoted to a discussion of the testimonies related to that crime. It is also important however to understand that there were forms of sexual abuse that involved rape along with other forms of exploitation and violence, where the victim was forced into an on-going relationship with the perpetrator over extended periods of time. To understand this form of violence, the second section of the part concentrates on forms of sexual slavery. This will be followed by a discussion of other forms of sexual abuse that may have occurred in isolation or alongside rape and sexual slavery. The part then considers the long-term impact of sexual violence upon victims and concludes with a summary of the Commission's findings on sexual violence.

Definition and methodology

16. The Commission has employed a working definition of sexual violence as "any violence, physical or psychological, carried out through sexual means or by targeting sexuality."[1] This definition of sexual violence includes rape, sexual slavery and other forms of sexual violence such as sexual torture, public sexual humiliation and sexual harassment.

17. Rape and other serious sexual assaults that occurred during the 25-year mandate of the Commission violated both the international law and domestic law applicable at the time of the offences.

18. These acts were prohibited by the domestic legislation of both of the regimes that ruled in Timor-Leste during the years 1974-99. The Portuguese Penal Code and the Indonesian Penal Code (Kitab Undang-undang Hukum Pidana, KUHP) both prohibited rape. The KUHP also criminalised making someone "tolerate obscene acts". Rape or

other serious sexual assaults were prohibited by the provisions of international human rights law that safeguard each person's fundamental right to physical integrity and protection against torture or cruel, inhuman or degrading treatment.

19. In armed conflict, protection from rape and sexual violence is more precisely regulated. The International Law of Armed Conflict specifically prohibits rape and contains general prohibitions against maltreatment, including provisions that refer to "honour".* Sexual violence of sufficient severity, such as rape, sexual torture and sexual enslavement, may amount to crimes against humanity if committed as part of a widespread or systematic attack against the civilian population.

20. The Commission developed a number of methods to try to overcome the cultural barrier that makes it difficult for women to speak about the human rights violations they experienced. These included gender-balance in the recruitment of statement-takers and victim support staff for each district team; the involvement of women in community-based group discussions on the collective experience of human rights violations; the implementation of a special six-month research project on the violation of women's human rights in cooperation with an East Timorese women's non-government organisation (NGO); a public hearing on women and conflict that included a testimony and submission from women's NGOs; the inclusion of women survivors to testify in other thematic public hearings; a household survey which included separate interviews with adult women to question them about their experiences of human rights violations; and healing workshops conducted in small groups, including one workshop only for women survivors, with the assistance of an East Timorese women's NGO.

21. The Commission collected 1,642 from a total of 7,669 statements from women who were witnesses or victims of human rights violations. This is 21.4% of all statements gathered during the 18 months of operations. Additionally, 260 statements regarding violations reported by women were received as a submission from a women's NGO. A total of 3,482 men and 1,384 women were involved in village-level participatory discussions on human rights violations held in 284 villages in more than 60 sub-districts. Sessions held specifically for women were conducted in 22 of these villages. The Commission's research team conducted more than 200 interviews, mostly with women victims of human rights violations.

22. The Commission's National Public Hearing on Women and Conflict, 28-29 April 2003, provided an opportunity for 14 women survivors of violations to tell their stories. Also during this hearing, four expert witnesses provided background information on these violations. A total of 18 women gave testimonies in other thematic public hearings. In its survey on mortality and human rights violations of 1,322 randomly selected households, the Commission interviewed at least one adult woman in each family on

* See Article 46 of the Regulations Annexed to Hague Convention IV to protect "family honour and rights". Sexual violence constitutes a violation of personal dignity under Common Article 3 of the Geneva Conventions. See also Furundzija Trial Judgment, paragraph 137 which traces the evolution of international law to include the prohibition of rape and serious sexual assaults in armed conflict with reference to the Tokyo International Military Tribunal and the prohibition of "outrages upon personal dignity" as stated in customary international law.

her experience of human rights violations, including questions related to possible sexual violations. In total, 1,718 women were interviewed as part of this survey.*

23. This part gives priority to many previously unknown cases rather than well-known cases. Although most cases of sexual violence towards minors (aged 17 years and under) will be found in the children's part, several cases have also been included here.

Culture of silence

24. "It is a secret between me and God. There is no need to dig any deeper."[2] These are the words of a woman who was detained and tortured in Hotel Flamboyan, Baucau, when asked whether she experienced rape.

25. Many East Timorese women find it difficult to reveal that they were victims of violence, especially sexual violence. In a culture that values a woman's virginity above all, women who have experienced sexual violence, rape and particularly sexual slavery, are vulnerable to discrimination and isolation. Society tends to blame women for the sexual violence they experienced, to see them as "used goods" and stigmatise their children. There is very little social compensation to motivate women who experienced sexual violence to reveal it to others.

26. Some women talked to the Commission of their difficulties in admitting their experiences of rape to their husbands for fear of being rejected. A husband might abandon his wife if she admits to having been raped. A girl might not find a man willing to marry her. A woman raped by the military might become "fair game" for sexual abuse by other men because she has already been dishonoured.

27. Many of the accounts in this part express the shame and humiliation these women experienced once they were known as "military wives" or *feto nona*.† In some cases, even children born from situations of rape and sexual slavery and then abandoned by their fathers were ostracised by their community.

28. Perpetrators took advantage of the stigma of rape as they often relied on the victim's sense of shame to protect their identity as perpetrators. Even in cases where the victim had the courage to speak up, there was usually no punishment for the offender/s. These factors reinforce the culture of silence.

29. The Commission recognises that cases of both sexual and non-sexual violence experienced by women were under-reported. Because of the social and cultural stigma attached to sexual violence, individuals, family and community members were often reluctant to speak about it in a public forum.‡

* All of these sources were drawn on for a discussion of findings in this part. However, the statistical analysis in this part, including graphs, includes only the 1,642 official statements and not the data from community profiles, the mortality survey or the in-depth interviews of the research team.

† *Feto nona* is a hybrid euphemism unique to Timor-Leste: feto is Tetum for woman and nona is Indonesian for a young, unmarried woman. For an East Timorese woman to become an Indonesian "nona" points to the identity of the perpetrator.

‡ For more detailed information regarding the problem of under-reporting, see Vol. I, Part 6: Profile of Human Rights Violations.

30. The Commission further recognises the extraordinary courage shown by the women who voluntarily came forward to tell their stories of sexual violence by offering their statements and by testifying in public hearings.*

Rape

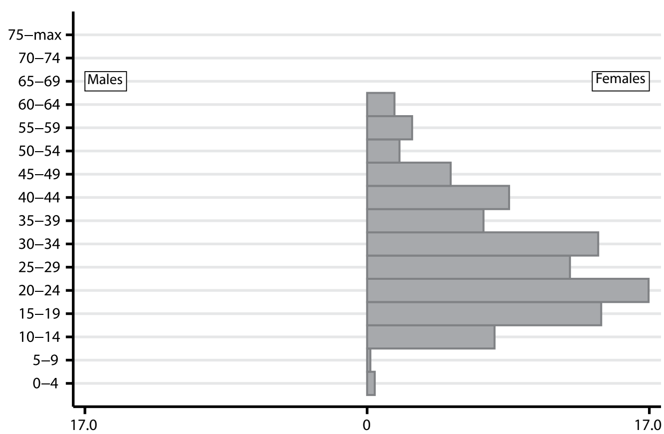
31. In accordance with recent international jurisprudence, the Commission adopted a definition of rape as a physical invasion of a sexual nature, committed on a person under circumstances that are coercive.[3] The elements of rape according to this definition are:

> [T]he sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) of the mouth of the victim by the penis of the perpetrator; by coercion or force or threat of force against the victim or a third person.[4]

32. Rape arises where sexual penetration occurs without the consent of the victim. Such consent must be given voluntarily, as a result of the victim's free will, and is assessed in the context of the surrounding circumstances.[5] In situations in which the perpetrator uses threats, force or captivity a victim is unable to give consent, according to international law. The manifestly coercive circumstances that exist in all armed conflict situations establish a presumption of non-consent.†

33. The above definition of rape applies to both male and female victims. However, the Commission received only three reports of the rape of males. As shown in the following graph, the vast majority of victims were females, particularly those aged 15-24.

Number of reported acts of rape, by age and sex, 1974–1999



Source: Database of narrative statements given to the CAVR
Note: 34.9% of the records are missing age or sex of the victim

* The Commission has created false initials to protect the identity of victims of sexual violence as well as those individuals who are closely linked to them in the accounts.

† In this regard the Commission relies on the principles reflected in the International Criminal Tribunal on the Former Yugoslavia (ICTY) Rules of Evidence, Rule 96.

34. Data gathered through statements, interviews and submissions reveal clear patterns of consistent and widespread rape. Rape occurred every year of the Indonesian occupation (1975–1999) and covered all 13 districts. The Commission also received reports of East Timorese who had been raped in West Timor. Districts with high numbers of rapes also tended to have relatively high numbers of sexual slavery and other forms of sexual violence.

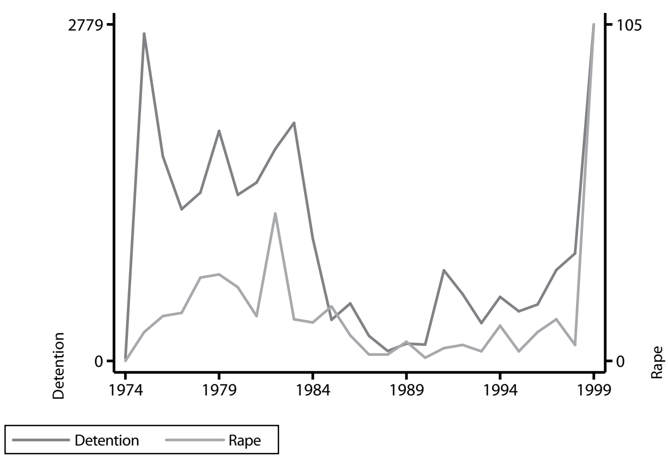
35. Like torture, rape is a violation of personal dignity that was used to intimidate, degrade, humiliate, discriminate against, punish or control the victim. In certain circumstances rape amounted to torture, as when, for example, rape was used to obtain information or to extract a confession from the victim. Another strategy was to inculcate fear in other prisoners who witnessed or heard the victim being tortured. This confirmed and reinforced the perpetrator's position of unregulated power and the victim's helplessness.

36. The data collected by the Commission indicates that there was a consistent pattern of torture and rape of women in detention throughout the period of the conflict. The numbers of women arbitrarily detained varied at times, but the practice of torturing a proportion of those detained remained consistent. This clearly shows that the torture of detained women was not random.

37. Rape was also a form of proxy violence. In other words, the rape victim was a substitute when the main target of violence could not be captured. In many cases members of the security forces raped the wife of a pro-independence figure whom they were unable to detain. The Commission received evidence of similar proxy violence conducted by parties to the inter-party conflict, although on a much smaller scale than that perpetrated by the Indonesian forces.

38. The graph below compares cases of arbitrary detention and rape, showing that these two violations also tend to increase and decrease together over time.

Violations over time, 1974-1999



Source: Database of narrative statements given to the CAVR

39. For analytical purposes this section describes cases of single and multiple rape, including repeated rape in detention, where the perpetrator did not create a condition of ownership.

Rape in the context of inter-party conflict (1975)

40. The Commission received seven statements describing acts of rape in the context of inter-party conflict in 1975, perpetrated by armed members of parties to the conflict. The Commission recognises that this result may reflect the reality that rape simply did not occur in large numbers during this period. However, the small number of incidents reported might also be due to other factors, such as the long period of time since that conflict, the possibility that witnesses and victims may have died in the interim, or a reluctance to raise issues involving individuals and political parties still present in Timor-Leste.

Rape by UDT party members

41. The Commission received three statements from victims of rape by members of UDT in the context of inter-party conflict. AA, a teacher and member of the Fretilin organisation, the Popular Organisation of Timorese Women (Organização Popular da Mulher Timor, OPMT), testified at a public hearing on her capture by members of UDT on 20 August 1975 in Liquiçá:

> *[T]hey captured me and took me by car to their headquarters [in the town of Maubara]. During the journey they verbally abused and hit me, they spat on my face, saying, "Fretilin is useless. They cannot even make a match, but they want independence." They tied my hands behind my back, gagged me with a piece of cloth, blindfolded me and tied my legs. Then they lifted me up and threw me inside the car, trussed like a pig. They hit me, kicked me and burned my knees and thighs with cigarette butts, then made cuts on my thighs with a razor blade.*
>
> *When we got to a river one of the men said to the others, "Let's rape her before we take her to the commander." They laid me down on the bank of the river and a man held me down so that I remained flat on my back, then I felt a man raping me. When they finished I was dizzy and still. Seeing me like that they slapped me. They thought I had fainted and could not feel anything, but at that time I was still conscious.*[6]

Rape by members of Fretilin and Falintil

42. The Commission has evidence of three cases of rape by members of Fretilin that were committed in the context of inter-party conflict.

43. In his testimony to the commission, BA1 gave evidence of the rape of his two sisters, BA and CA from the village of Purogoa (Cailaco, Bobonaro) in 1975. An armed Fretilin party member named PS4 forced BA1 and his two sisters, at gunpoint, to go to Aileu. According to BA1:

Because at the time we were members of UDT, PS4, carrying a Mauser [rifle], threatened my two sisters, forced them to sleep with him. Because they feared for their lives, they surrendered themselves to PS4. He raped them from evening to dawn.[7]

44. After the rape, the two women were set free.

45. Rape also took place in the midst of killing those thought to be traitors. Tito Soares da Araujó told the Commission that in November 1975 Fretilin troops established a post in the *aldeia* of Poerema, Miligo (Cailaco, Bobonaro). According to his testimony, villagers were made to provide them with food and young girls were forced to participate in a dance party. After four days in Poerema, Fretilin troops killed three people they suspected of being spies for the Indonesian army. Later on, the Fretilin commander known as PS5 killed another man and raped his wife.[8]

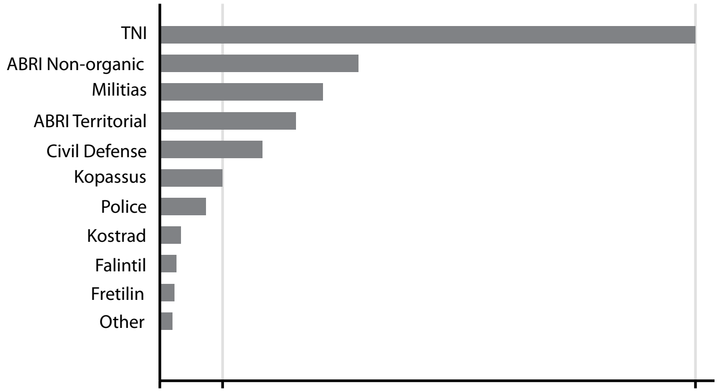
46. In 1976, A1 and her family fled from their house in the village of Leber (Bobonaro, Bobonaro) when attacked by the Indonesian army and wandered from village to village in the neighbouring sub-district of Lolotoe (Bobonaro). Eventually they were caught by Indonesian soldiers and returned to their village. During this time two members of the family died due to food shortages. A1 told the Commission about her older sister, A, who fled back into the forest:

In 1976 my sister, A, ran back to the forest because we had no food. She ran into Falintil forces in the village of Opa [Lolotoe, Bobonaro]. Commander PS6 and his men said that my sister was a spy for the Indonesian forces. They captured her and raped her. After that they beat her to death somewhere in the Tapo area [Bobonaro, Bobonaro].[9]

Rape during the Indonesian occupation (1975–1999)

47. All but a few of the cases of rape documented by the Commission were committed during the Indonesian occupation of Timor-Leste. Of these, 51% (198/393) of rapes were committed during the invasion and the initial years of the occupation, and 23% occurred between 1985 and 1998. The remaining 26% of rapes were committed during the ballot-related violence in 1999. This coincides with data that shows Indonesian soldiers and paramilitary support personnel, such as members of Hansip (Pertahanan Sipil/Civil Defence, Hansip) and militia, were the perpetrators in almost all cases of reported rape. In a number of cases of individual and collective rape, perpetrators were identified by name or by the army or militia unit to which they belonged.

Count of rate by perpetrator, 1974–1999



Source: Database of narrative statements given to the CAVR
Note: Some violations may be counted more than once because responsibility may be shared among perpetrators

Rape by members of Falintil

48. The Commission received six statements relating acts of rape by members of Falintil that occurred from 1975 to 1999.[10] In the armed conflict, women were at risk of sexual violence from all sides. However, the Commission noted that the number of rapes conducted by Falintil was much smaller than those committed by Indonesian military personnel. DA1 told the Commission about the rape of his aunt, DA, in 1978 by a Falintil soldier in Fatuk Makerek (Soibada, Manatuto). PS7, an armed member of Falintil, came to DA's house to force her to have sexual intercourse with him. She relented because she was scared. Although he then promised to marry her, PS7 left the area to be based elsewhere.[11]

49. During the consolidation of Indonesia's occupation from 1985 to 1998, women continued to be in danger of rape from armed men on all sides. For instance, Falintil soldiers continued to rape women in Ermera from time to time up till 1998. EA from Railaco Kraik (Railaco, Ermera) was raped on 16 March 1995 by a Falintil soldier known to her as PS8. She believed she was a target because she had opened a kiosk in her village with capital received from an Indonesian government assistance scheme. One night when her husband was guarding the kiosk, PS8, carrying a knife, entered EA's bedroom and raped her. She reported the case to the local village official (Kepala Rukun Kampung), but her report was not heeded. She became pregnant as a result of the rape.[12]

50. Another Falintil soldier named PS9 was a repeat offender of rape. In 1997, PS9 raped FA in the *aldeia* of Donbati, Lisapat (Hatolia, Ermera). In a tragic statement to the Commission, FA recounted her experience as a vulnerable woman confronted by armed men from both sides of the conflict. PS9 and another Falintil soldier named PS10 raped FA when she brought food for them in the forest. One month later, she was captured

and raped by an ABRI soldier from the Rajawali combat unit * for her involvement in supporting Falintil.

> *On 16 February 1997, I was taking food to Falintil soldiers in Donbati, Lisapat. Two Falintil soldiers, named PS9 and PS10, put a rope around my throat, laid me down on the river bed, and held a knife to me, threatening to kill me. They took off my clothes and took turns raping me, while still choking me with the rope around my neck. They did this for four hours. Then they sent me home, threatening me not to tell anyone if I wanted to live. I went home feeling scared and with a searing headache. I could barely walk. I still took food to Falintil and on 20 March 1997, while taking food to the* aldeia *of Raihatu, I was captured by Rajawali troops. Their commander PS374, who led 10 soldiers, slapped me four times and pulled me into a house. In the house, holding an AR-16 gun, he stripped and raped me. After this he and his troops left.*[13]

51. PS9 was also named by a woman raped in her own home. On 6 December 1998, GA harboured and fed PS9 at her home in Uruhau (Hatolia, Ermera). The following morning her parents left her at home with PS9 while they went to the market to buy food.

> *Suddenly PS9 threatened me with a knife and twisted my arm behind my back. I begged for mercy three times to stop him, but he continued to pull me into the bedroom, took off all my clothes and raped me for one hour. I couldn't scream because he had shut the door and covered my mouth with his hand. I was a virgin at the time, still innocent. After he raped me, I fainted. I did not know myself until he brought a glass of water for me to drink. I saw I was covered in blood. I cried because I was still a virgin. PS9 tried to give me Rp80,000 to go to the hospital for treatment, but I refused.*[14]

52. In March 1997, a member of Falintil named PS11 was staying at the house of HA in Atara (Atsabe, Ermera). Suddenly PS11 threatened her with a knife and raped her. Like EA, HA became pregnant as a result of the rape.[15]

Rape by members of the Indonesian armed forces and their auxiliaries: during the invasion and large-scale operations (1975–1984)

53. Eyewitness and victim reports during the period 1975–1984 describe several patterns of rape practices: rape when those who had fled to the mountains surrendered

* Rajawali was the code name for the Army Strategic and Reserve Command (Komando Strategi dan Cadangan Angkatan Darat, Kostrad) deployed to Timor-Leste in the mid-1990s. Prior to that it was a term that referred to Special Forces Command (Kopassus). All cases in this part in which Rajawali is mentioned as a perpetrator refer to member(s) of the Army Strategic Reserve.

and were taken captive (1975–1979); gang rape during armed attacks; organised rape in military posts or compounds, including the active involvement of local commanders; rape of female detainees; and rape perpetrated by the paramilitary and others who considered themselves protected from the law by their affiliation with Indonesian security forces.

54. Rape, along with other forms of repression, was particularly associated with periods of heightened military operations as led by ABRI/TNI.* As Indonesian military operations escalated, so did cases of rape.

A. Rape at the time of surrender (1975–1979)

55. As described in Vol. II, Part 7.3: Forced Displacement and Famine, a large portion of the civilian population fled to the mountains at the time of the Indonesian invasion in 1975. Many of them eventually surrendered or were captured by Indonesian troops between 1975 and 1979. Upon surrender, many were housed in transit camps or in temporary resettlement camps close to military posts. Women thought to have strategic information about the location of Falintil troops, or who were thought to have links to those in the mountains, became targets of rape. However, there were also cases of random rape of women who had surrendered but who otherwise had no immediate connection to the Resistance.

56. IA was only 17 years old in 1975 when her family surrendered to the Indonesian forces. Her family was allowed to return to their house in the *aldeia* of Kolibau, Rairobo (Atabae, Bobonaro). An Indonesian soldier, identified by the victim as PS12, armed and in uniform, forced his way into IA's house to rape her. At first IA resisted, so he dragged her out of her parents' bedroom, pushed her against a wall of the house and raped her.[16]

57. JA1 of Samaleten (Railaco, Ermera) told the Commission about the rape of her sister, JA, by four Indonesian soldiers from Battalion 512. In December 1975 JA1 and her family fled to an *aldeia* called Fatumaenhun, returning to Samaleten in August 1976 to escape an ABRI advance. Eventually JA1, her husband and sister were captured and taken to a temporary resettlement camp in the *aldeia* of Aitoi, Malere (Aileu Town, Aileu):

> *In April 1977, four members of Yonif [Infantry Battalion] 512 entered the barracks where my sister JA was staying and took turns raping her. Before they raped her, they tore off her clothes. At that time my sister was sick and could not stand up. I just stood there and witnessed the rape of my sister. I did nothing because I was too scared. My sister JA died two days after she was raped by the ABRI [soldiers].*[17]

* The period covered by the Commission's mandate, between 25 April 1974 and 25 October 1999, includes a point of major transition within the Indonesian military when ABRI (Angkatan Bersenjata Republik Indonesia, Armed Forces of the Republic of Indonesia) was separated into two distinct institutions – one the military and one the police. On 1 April 1999, ABRI was replaced by TNI (Tentara Nasional Indonesia, the Indonesian National Army) and Polri (Polisi Republik Indonesia, Police of the Republic of Indonesia). [see Vol. I, Part 4: The Regime of Occupation.]

58. Civilians who surrendered were defenceless not only against Indonesian soldiers but also against East Timorese members of the army and its auxiliary groups, such as members of the Hansip. KA and her husband, KA1, told the Commission about KA's rape in 1977. KA, her husband and two children surrendered in a village called Fahinehan (Fatuberliu, Manufahi). From Fahinehan they were taken to Turiscai (Manufahi) then to the resettlement camp in Edi (Maubisse, Ainaro) where they were forced to dig up taro and sweet potatoes for a member of Hansip, PS13. After a few days PS13 summoned KA1 and asked him: "Now that your wife has become my wife, what are you going to do about it?" PS13 proceeded to beat KA1 repeatedly with a wooden club on his legs, arms and thighs for about one hour until he was covered in blood. KA1 managed to run away to Dili after being beaten. KA also testified about the attempted rape and murder of a woman named B by PS13 who then, in turn, raped KA at gunpoint. The rapes continued for one month.[18]

59. Rape took place during interrogation or when women were forced to join in military operations to find the enemy. LA spoke to the Commission about her rape after she surrendered in Uma Metan (Alas, Manufahi) in 1978. LA and two friends, MA and LA1, were first taken to Betano (Same, Manufahi) by four members of the Hansip – PS14, PS15, PS16 and PS17 – and then handed over to Commander PS20 and two of his soldiers, PS18 and PS19 [Indonesian], at the Battalion 327 Yonif post in Fatukuak, a location in the village of Fatukahi (Fatuberliu, Manufahi). LA and the two other women were interrogated at the post for two weeks. At one point the three of them were tied together and made to stand in the sun. LA1 was sent home with Hansip member PS17 because she was sick, but LA and MA were forced to participate in a military operation in the mountains to find family members. At a place called Wekhau, both women were raped by PS18 and PS19. They were then forced to participate in the search operation for three days and three nights.[19]

60. Sometimes a woman was raped after she was released from detention by men able to take advantage of the situation, as reported to the Commission by NA. When NA surrendered in Dili in 1978, the village head, PS21, took her to the Nanggala* post in Colmera (Dili) because her two brothers were still in the forest. She was detained there for eight months. Days after her release, two men who knew her from her time in detention – PS22, an East Timorese ABRI interpreter, and PS23, who worked as an informer – waylaid NA in her garden. When she resisted she was slapped, held by the throat and finally raped by PS22 in the garden.[20]

61. Women clearly identified as members or supporters of Falintil were also targets of sexual violence. OA was detained, tortured and subjected to repeated rape because she was suspected of providing food to Falintil. In her testimony to the Commission, she describes how she and others surrendered in a place named Aifu (Ermera, Ermera) to members of Battalion 721 in April 1976. At that time OA and six friends were taken

* Nanggala was the code name for a Special Warfare Command (Kopassandha) unit deployed in Timor-Leste for combat operations from about October 1975 to April 1983. Commission research suggests that three companies were sent to Timor-Leste for a period of six months before they returned to their respective bases [see Vol. I, Part 4: The Regime of Occupation].

to the Ermera Kodim. Accused of providing food to Falintil, the seven women were tortured, stripped naked, beaten, kicked and burned with cigarettes all over their bodies. Afterwards OA and two of her friends were held in a dark cell and repeatedly raped for a week. Eventually they were released from the dark cell and made to work in the Kodim yard. Two weeks later they were released.[21]

B. Gang rape as part of military attacks

62. Rapes occurred not only during the time of surrender but also during military attacks. Several reported cases of gang rape, where two or more perpetrators raped a single victim at the same time and place, took place during or immediately after a military attack.

63. PA testified to the Commission about how ten Indonesian soldiers ambushed her family in Lauana (Letefoho, Ermera) in 1976. The soldiers abducted her sister, C, and took her to an area called Katrai Leten (Letefoho, Ermera). There, 10 ABRI soldiers raped her in turns. PA was scared but managed to run back into the forest, leaving behind her mother and sister. Two years later she too was captured and forced into a situation of sexual slavery by an Indonesian soldier, as described in the Sexual Slavery section of this part.[22]

64. QA was not raped on the battlefield, but at a military post after an attack. In 1978, she and a group of villagers were foraging for food near Uatolari Town (Uatolari, Viqueque) where she lived. Suddenly Battalion (Yonif) 732 and Hansip members attacked them. Three villagers were killed during this attack. QA and 11 women were taken to the Battalion 732 post where QA was raped. She told the Commission:

> *In 1978 two Hansip named PS24 and PS25 and soldiers from Yonif 732 captured me and 11 other women in a place called Bubulita. They took us to the military post where they interrogated us. While the interrogation was underway, PS24 and PS25 ordered me to enter the 732 commander's place. They said I was to be interrogated, but that was a lie. They took me there to rape me. The commander raped me for 24 hours. They took turns raping me, all 15 of them. I had to endure this to make sure that they did not kill the 11 women who were captured with me.*[23]

65. RA and her friend were gang-raped by members of Airborne Battalion 100 (Batalion Infantri Lintas Udara, Yonif Linud) on duty in Leulobo, a place in the village of Mau Chiga (Hato Builico, Ainaro) in 1977. The repeated rapes had serious repercussions on their health and led to sustained bleeding over the following weeks.[24]

66. SA1 told the Commission about an attack on 24 December 1979 by Indonesian soldiers in a place called Kiarbokmauk (Alas, Manufahi) when she and her cousin, SA, were bringing food and medicine to Falintil. Indonesian soldiers repeatedly raped SA. Afterwards she was unable to walk and had to be carried home by horseback.[25]

67. TA was a well-known Fretilin figure and friends with Falintil commander, TA1. In 1979, she and TA1 together with two Falintil guards TA2 and TA3 were attacked by

ABRI. TA1 was fatally shot, but TA and the two men guarding her managed to escape. Later Hansip and ABRI forces in Alas (Manufahi) captured her. The soldiers cut off the ears of her two Falintil guards, TA2 and TA3. TA was held at gunpoint and raped for two nights.[26]

C. Rape at military installations

68. Rapes were committed not only by soldiers during battle, but also took place at military installations. The Commission has documented cases where military personnel summoned women for the purpose of rape. In some cases, local commanders not only failed to prevent rapes or to punish the perpetrators, but also were themselves the perpetrators of the crime.

69. UA3 told the Commission about the detention of her husband and father, UA2 and UA4 in the *aldeia* of Maulakoulo, Humboe (Ermera, Ermera) by Infantry Battalion 726 soldiers in February 1976. After their capture, UA2 and UA4 were detained and tortured at Kodim in Ermera. In August that year, the father and sister of her husband, UA1 and UA, were also summoned to the district military headquarters. UA was forcibly taken to a room and raped by the Head of Intelligence, Section 1 (Kepala Seksi I Intelijen, Kasi I Intel) known as PS26. Not yet satisfied, he then instructed a member of the Hansip to arrest UA's sister, VA. Forcibly taken to the Ermera Kodim, VA was then moved to a house of a local teacher where she was raped by PS26. Only after the two incidents of rape were UA, VA and the two detainees – UA4 and UA1 – released. PS26 took UA2 to become an Operations Support Worker (Tenaga Bantuan Operasi, TBO).[27]

70. In her testimony, WA, from the village of Afaloicai (Uatolari, Viqueque) was detained, tortured and repeatedly raped following her surrender in Uatolari in April 1979:

> *PS27 [an East Timorese member of the Partisans] came to my house to tell me that the soldiers wanted me to go to the Koramil [Sub-district command post] and that I would have to hurry. I was scared so I just followed him to the Koramil. I took my youngest child who was just one and a half years old and left the older child with an aunt. When I arrived PS27 left me waiting in a room and went outside. Suddenly a soldier entered and asked me to have sexual intercourse with him. I refused. He became angry, grabbed the child from me and put him on the ground. Then he raped me in front of my child who was crying and screaming because he was scared.*[28]

Rape at the Uatolari Koramil (Sub-district Military Command Post) 1979–1981

WA's rape at the Uatolari Sub-district Military Command Post (Komando Rayon Militer, Koramil) was not an isolated case. On the contrary, the Commission has gathered evidence that shows a high

incidence of rape at the Koramil in Uatolari, Viqueque. XA, YA (see Sexual Violence section in Vol. III, Part 7.8: The Rights of the Child) and ZA gave mutually supporting testimonies about their rape during detention at the Uatolari Koramil from 1979 to 1981 that involved at least nine offenders.

- PS28: member of Hansip and ABRI intelligence; PS29, now dead
- PS30: East Timorese member of the district parliament (DPRD II)
- PS31: village head of Babulu Village
- PS379: East Timorese First Corporal, police
- PS32, PS33, PS34, PS35: members of Hansip.

Around 1979, XA came down from the mountains to Uatolari Town where she was caught by PS30 and a member of ABRI whose name is not known. She was tortured for refusing to provide information on Falintil's whereabouts in the forest. She was stripped naked, burned with cigarettes, poked in the vagina with a wooden stick, beaten, punched and kicked. PS30 then took XA and eight other people, including XA1, XA2, XA3, ZA and YA, to a house the sub-district command soldiers used for detention. There, two Hansip members, PS36 and PS33, tortured all detainees and raped XA in front of the other detainees. The following day, three Hansip members, PS37, PS31 and PS38 came to the detention site. They stripped XA naked and beat, kicked and punched her until she bled. Then the three took turns raping her again in front of the other detainees. XA was detained for 16 days and throughout that period the five Hansip members took turns raping her until her genitals were injured and swollen and she could no longer walk. When the offenders had enough, they forced male detainees to rape XA and her friends. When XA was released, she could not walk because her hip had been broken, so a soldier carried her back to her house. When she arrived home, her family treated her with traditional medicine. From then on XA was always closely monitored by ABRI intelligence and eventually she fled to Dili.[29]

In 1979, YA was arrested with her husband, XA2, and taken to the Uatolari Koramil. On arrival, members of Hansip took off her clothes, and then threw her on the ground. A member of ABRI urinated on her clothes and Hansip members took turns raping YA in front of her husband. Those who raped her included Hansip members PS39, PS32, PS33 and PS34. During her detention at the Uatolari Koramil, members of the Hansip would come and take her every night to rape and threaten her. Afterwards they returned her to the jail at the Koramil.[30]

ZA, whose husband was a member of Falintil fighting in the forest, was arrested in the middle of the night sometime in November 1979 by a group of soldiers. She was forced to take her seven-year-old child with her to the Koramil.

When I arrived at night they gathered us women into a room. Not long afterwards a Hansip member named PS35 came to open the door for the soldiers to take the women to be raped. Every night the soldiers came to take the women. They also came for me but I tricked them by chewing betel nut and smearing the red juice on my inner thighs so that when they came and took off my sarong and looked at my genitals, they thought I was menstruating, but I was not. One night a Hansip member, PS41, forcibly took me to an interrogation room. He hit me, kicked me and burned my body with cigarette butts. Then he tore off my clothes and raped me. At that time my seven-year-old child was left inside the jail.[31]

According to the testimonies of these three women, many other women detained at the Uatolari Koramil had similar experiences of sexual violence, but since they came from other villages their names are unknown. Although AB was arrested several years after XA, YA and ZA, her testimony corroborates evidence about the pattern of sexual violence at the Uatolari Koramil. In 1981, AB was taken from her home by four Hansip members known to her as PS41, PS42, PS43, PS44.[32] They took her to the Uatolari Koramil where she was held for one week and raped in turns by four Indonesian soldiers whose names she did not know. Eventually she was released after being detained for two months in Viqueque.

71. BB's experience was similar to WA's. BB and her daughter-in-law, CB, were arrested in 1981 and detained at an ABRI post in Rotutu (Same, Manufahi) because their husbands were members of Falintil and still in the forest.

They took us both to the ABRI post. Then a commander PS393 raped me and one of his subordinates raped my daughter-in-law who was pregnant at the time. They put us in together with two other women from Hato Udo. They detained my daughter-in-law because her husband was still in the forest…we were continually raped for seven months although I was already old and my daughter-in-law was pregnant. Then we were transferred to jail at Kodim [District Military Command headquarters] 1634 in Manufahi for seven months and there we were not raped again. I was sent to Ataúro with my children, aged four and six. We remained in Ataúro for four years, seven months and seven days.[33]

72. In 1981 in Tutuala (Tutuala, Lautém), a man identified as Koramil commander PS45 raped a woman named DB. On 17 July 1981, during the commemoration of "Integration Day" in Tutuala, DB had to cook with members of the government women's organisation, Guidance for Family Welfare (Pembinaan Kesejahteraan Keluarga, PKK). According to the testimony of her brother, DB1, while DB was busy cooking, Koramil Commander PS45 called her out of the kitchen but "because she did not want to go, he dragged [her] into a room and raped her…her clothes were all torn."[34]

73. EB was the only woman out of eight people captured in 1979 in Seloi Malere (Aileu, Aileu) by an ABRI platoon from the Remexio (Aileu) Koramil. All eight were taken to the Aileu Kodim (District Military Command headquarters), then moved to the Remexio Koramil about a week later. From there they were forced to search for EB1, EB's husband, who had fled into the forest when the others were captured. Eventually, all the men were released but EB continued to be held at the Aileu Kodim. One day she was moved from the Kodim in Aileu and taken to the Aileu base-camp military housing by a second lieutenant. She was raped repeatedly for two days before being returned to Remexio.[35]

74. CB told the Commission about her abduction, detention, rape and forced involvement in ABRI search operations for Fretilin. In 1979, CB was caught in Manulesi by a Hansip member and the head of Rotutu Village (Same, Manufahi) PS237. CB was forcibly taken to the Same Kodim where she told the Commission: "I was repeatedly raped for one month". CB was forced to go into the forest to look for her husband. When she was unsuccessful she was beaten with the butt of a weapon. An Indonesian Sergeant-Major known as PS47 decided to have sexual intercourse with CB. He said if she refused it meant she "still loved her husband who was in the forest". The rapes continued for one month. CB was transferred to Aissirimou (Aileu Town, Aileu) where she was forced to work in the rice fields for six months with another group of people. Eventually the International Committee of the Red Cross intervened and she was able to return to her village.[36]

75. FB1 told about the violations that members of her family experienced in 1981 at the Kodim in Manatuto. FB1 and four members of her family were arrested by ABRI soldiers and taken to the Territorial Combat Battalion (Batalion Tempur Teritorial, BTT) post in Mota Hasoru-Malu, Manatuto. There they were detained and interrogated about Falintil activities. They were then moved to the post in Raemean and finally taken in an ABRI vehicle to the Kodim in Manatuto. At the Kodim the male detainees were tortured while FB's sister was raped every night by PS48, an ABRI soldier.[37]

Rape of male detainees

In accordance with international tribunal case law, men can also experience rape. Some male detainees were raped during the Indonesian occupation. Usually, male rapes took place in the context of torture.

Dulce Vitor, a detainee in the military police compound in Baucau in 1978, gave evidence of the rape of male detainees:

> *When I was detained at the PM [Polisi Militer, Military Police] office in Baucau, sometime around November-December 1978, I saw male detainees who were sexually harassed and raped. Male detainees were tied and stripped, then ABRI soldiers and partisans stuck pieces of wood into their anuses. They screamed because they couldn't stand the pain, but the soldiers ignored them. The more they screamed the harder and faster the soldiers thrust the wood in and out of their anuses. The women detainees were forced out of their cells to watch the rape of the men. Women detainees were also forced by ABRI to hold and massage the sexual organs of male detainees. I know this happened in other detention sites in Baucau, yet what I witnessed with my own eyes happened to five men, whose names I don't know, at the Baucau PM office.*[38]

In 1984, two brothers, GB and HB, were captured by ABRI soldiers from their village in Lore I, (Lospalos, Lautém) and taken to ABRI Command Post 4 in Maluro, Lore I (Lospalos, Lautém). GB, the younger brother, was detained and beaten first. He was forced to confess that his brother, HB, was providing food for Falintil. HB was detained and tortured. He was beaten and made to eat chilli, salt, and human faeces. He told the Commission about the torture and rape he experienced:

> *Several days later they separated my brother, GB, from me and the other detainees. He was taken to a forest close to the command post in Maluro. When GB came back he told me that an Indonesian soldier PS49 had [made him perform] oral sex with him, till he almost vomited. Suddenly PS49 appeared and asked me directly: "Do you want to live or die?" I replied that I wanted to live, so PS49 took me to an old abandoned garden and made me sit on a heap of stones and made me perform oral sex on him. He made me swallow his sperm. [On another occasion] I was still feeling dazed from torture till I [almost] passed out. An East Timorese ABRI commander [sic, rank unclear] named PS50 stuck his penis in my mouth, pissed in my mouth and made me swallow his urine. I was scared so I swallowed.*[39]

76. IB1 gave the Commission a statement about his sister, IB, who was gang-raped by ABRI soldiers at the Ainaro Kodim in 1981. Previously that same year, six soldiers went to IB's house in the *aldeia* of Poelau, Soro (Ainaro, Ainaro). They arrested her and her brother IB2 and took them to Kodim in Ainaro. On arrival, five other women were already there. They were all beaten and burned with cigarette butts by their interrogators. According to her brother's testimony, several ABRI soldiers raped IB because her husband was an active member of Falintil.[40]

77. Information gathered by the Commission indicates that a high incidence of rape occurred along with a rise in mass detentions from 1982 to 1984. For example, detentions related to the Mau Chiga (Hato Builico, Ainaro) and Kraras, Bibileo (Viqueque, Viqueque) incidents. A number of these rape cases took place in military headquarters or posts.

78. JB1 related to the Commission the violations experienced by her and her family in the aftermath of the Mau Chiga uprising. Her daughter JB was captured on 5 September 1982 from their home in Dare (Hato Builico, Ainaro) by ABRI soldiers and three members of Hansip – PS51, PS52, PS53 – and was taken to the Kodim in Ainaro. Her husband, JB2, who was arrested on 30 August 1982, and her son, JB3, arrested on 3 September 1982, were also taken to the Ainaro Kodim where they were tortured. At the Kodim in Ainaro, JB was beaten, kicked, electrocuted, burned with cigarettes on her legs and finally raped by the Kodim commander known as PS394. She was also raped by a Hansip named PS53 and an ABRI soldier whose name she didn't know. Later the same day she was arrested, JB and her brother were moved to Balide Prison in Dili (their father was already there). Two days later she, her father, brother and other detainees were put on a boat to the island of Ataúro.[41]

79. In the Mau Chiga incident, not only Hansip and low-ranking soldiers raped women, but also military commanders as evident in the testimony of KB. On 20 August 1982, KB, KB's sister, LB, and five others were detained in the *aldeia* of Surhati, Mau Chiga (Hatu Builico, Ainaro) by Hansip members PS54, PS55, PS56, PS57 and PS58. They were taken to the Koramil in Dare where they were beaten with rifle butts, belts and stabbed all over their bodies with sharp rocks until they bled. On the day following their release, the same Hansip members assaulted KB at her home. They beat her with a crowbar and clubs, cut her hand with a knife and then jabbed her breasts with the muzzle of a rifle. Two days later, a high-ranking Indonesian commander from the Ainaro Kodim known as PS59 forcibly transported the seven people by minibus to the Kodim in Ainaro. At the Kodim they were detained in the same cell and PS395 participated in electrocuting their cheeks and genitals. PS59 raped KB, who was two months pregnant at the time, and her sister LB in their cell at the Ainaro Kodim.[42]

80. During this same year, Hansip members PS54 and PS380 detained MB and NB in Surhati Mau Chiga (Hato Builico, Ainaro) because their husbands were suspected of being Falintil commanders involved in the Mau Chiga uprising. The two women were taken to Koramil in Dare where the Koramil commander and PS54 raped MB all night long. She was released the following day, but two days after she got home PS60, a member of Hansip, went to MB's house. He threatened her with a weapon and raped her. The rapes continued for one month.[43]

81. OB and PB of Lifau (Laleia, Manatuto) were detained and raped in the Kodim in 1982. As her brother was a Falintil fighter, OB, along with her friend PB, were taken by two members of Hansip named PS62 and PS63, to the Kodim in Manatuto. There they were interrogated by the Kodim chief-of-staff (Kepala Staf Kodim, Kasdim) whose name is not known. After two days in detention, OB was taken into a room and raped by the chief-of-staff. At first OB resisted and so was beaten. In the end she "could do

nothing but cry". One week later the two women were released. Not long after that, OB was almost raped by a Hansip named PS64, who accosted her with a gun when she was on the way to work in the fields. Because a TBO unexpectedly walked by, OB managed to escape. However, her mother and sister, OB1 and OB2, were detained and exiled to Ataúro soon after this.[44]

82. As her husband was a Hansip member who defected and fled to the forest to join Falintil, QB was arrested by two TBOs in March 1984 in her village of Mehara (Tutuala, Lautém). She knew the two TBO from Infantry Battalion 641 as PS65 and PS66. She was taken to post 641 in Herana-Poros (Lautém) together with another woman. On arrival at the Koramil, QB was told to go into a room full of weapons and, in darkness, she was interrogated about her husband. A soldier named PS67 [Indonesian] "started to touch my body, kiss my lips, burn me with a cigarette…[He] hit and squeezed my swollen belly – I was pregnant at the time – to make me have a miscarriage." Then she was raped by PS67.[45]

83. RB told the Commission about her experience at this same military post, Infantry Battalion 641, in October 1984. At that time ABRI had already detained her husband in Lospalos (Lautém). RB and another woman were summoned from a list made by ABRI to the Koramil by a TBO. The commander and deputy commander of the post raped both of them. RB told the Commission:

> *The ABRI did not consider the status of the women they wanted to rape – whether they were married women or still virgins. They targeted East Timorese women. I do not know why they only sought East Timorese women. Usually they instructed their TBO to collect women whose names were on a list – Who knows why? Maybe for being involved in clandestine activities or because their families ran to the forest – to be interrogated and then raped. It is as if these posts which were set up for security reasons, became in fact places where women were raped. I saw many women taken there to be raped but unfortunately I do not know all the names, I only know a few. [12 names listed.]*[46]

Rape of female detainees in the Flamboyan Hotel

The Flamboyan Hotel, in Bahú (Baucau Town, Baucau), was one of the most feared places of torture in the eastern district of Baucau. In addition to the Hotel there were nine other detention centres in Baucau Town, namely the Kodim and Koramil posts, Uma Lima (Five Houses), Rumah Merah (Red House), Municipal Club (Clubo Municipal), the Regimental Combat Teams (Resimen Tim Pertempuran, RTP) RTP 12, RTP 15 and RTP 18, and the District Police station (Polisi Resort, Polres). Male and female detainees were verbally abused, beaten, kicked with military boots, burned with cigarette butts, the fingers of their

hands and toes were pressed under the legs of chairs and they were kept in solitary confinement for long periods of time. The sexual assault of women detainees was the main difference between men's and women's experiences in detention. When women were burned with cigarette butts, their breasts and genitals were often targeted. When they were stripped naked during interrogation, the threat of rape was an added burden to female detainees. At least 30 female detainees known to be held in Hotel Flamboyan and other detention centres in the town of Baucau from December 1975-84 were tortured. Nearly one-third of them were also raped.

For those whose loved ones were detained, lack of information about their location and condition became a daily preoccupation. SB1 was only ten years old when her sister SB, two brothers, her uncle and aunt were taken from their homes in July 1976:

> *They were chained together and made to walk in a line. My cousins and I, all of us aged seven to ten, ran to follow the truck, shouting: "Where are you taking them?" After two days of looking for them at Flamboyan, a soldier told us to look for them at Rumah [Uma] Lima. When we arrived there a TBO from Baucau whispered to us that they were there. We were so relieved and immediately brought food for them. The next day they were no longer there. Only the empty food containers remained at the military post. I asked where they had been taken, but everyone just said they did not know. That day I saw many corpses being loaded onto a vehicle. They were stuffed into rice sacks, but the sacks were too short for the bodies. I saw heads jutting out, hair coming out. They threw the corpses into the vehicle like they were throwing firewood. I also heard screams of detainees being tortured. We went to Flamboyan to look for our family there. The next day, my sister was released and came home. She had changed. She was quiet and kept to herself. She told me that she and the others were interrogated, beaten and put in a room so crowded with other male and female detainees that no one could lie down to sleep. She said she was tied up, face-to-face, with another male detainee. She was also raped by an ABRI soldier. When she told me this she cried hysterically and then started laughing to herself. She was shocked and traumatised. After this, many ABRI soldiers came to our house asking her to marry them, but my parents refused. They only stopped coming after SB got married. She died a few years later, leaving behind two young boys.*[47]

TB was abducted when she was two months pregnant and detained in the Flamboyan Hotel for six months. She was stripped naked, electrocuted and raped in a standing position. The torture and rape she endured were so brutal that in the end she agreed to become the "wife" of a member of Infantry Battalion 744 in order to secure her release.[48]

Sometimes detention, torture and rape of women in Flamboyan Hotel were clearly forms of proxy violence. UB1, daughter of a Baucau Fretilin leader, VB1 and VB2, daughters of another Baucau Fretilin leader, were among the first women to be detained at Flamboyan Hotel. UB1 told the Commission about the repeated rapes of UB whose husband was a Falintil Commander. UB1 took care of UB's three children, aged five, four and two years old, while she was held separately in a room on the second floor of the hotel where ABRI soldiers tortured and raped her. UB1 recalled how the women and children detained on the floor below would hear UB scream whenever she was tortured.[49]

VB1 told the Commission about her aunt who was among those tortured and raped. Her aunt never talked about it until, on her deathbed, she showed VB1 and her family the scars all over her body from the torture she experienced.[50]

According to Zeferino Armando Ximenes, in 1979 soldiers from Battalion 330 raped a woman by the name of WB in her home while her husband was in detention.[51]

Witnesses named the following ABRI units as perpetrators: Battalion 330, Battalion 745, a special forces unit known as Secret Warfare Command Force (Komando Pasukan Sandhi Yudha, Kopassandha), Nanggala (code name for a Kopassandha unit deployed in Timor-Leste from 1975-83), Umi (one of four Nanggala units deployed in Timor-Leste named for its radio call sign), Field Artillery Unit 13 (Batalion Infantri Artileri Medan, Yon Armed), Military Police (Polisi Militer, Pom), Mobile Police Brigade (Brigade Mobil, Brimob), Infantry Brigade (consisting of three battalions) and Hansip members. The units deployed in detention centres were mixed. The first ABRI commander at Flamboyan Hotel was a Kopassandha commander named Major PS68, while the troops stationed there were from Battalion 330. Additionally, members of the Military Police, the Umi team, and Hansip were also at the Flamboyan Hotel. Infantry Battalion 330 and members of the Secret Warfare Command Force were reported to have been present at Red House (Rumah Merah). Members of the Secret Warfare Command, Kodim and Koramil, and the Hansip were seen at the Municipal Club. Infantry Battalion 745 (from Lospalos) and Field Artillery Unit 13 (from Malang) were deployed at RTP-12. Only members of Field Artillery Unit 13 were deployed at RTP-15 and RTP-18 and they did not mix with other troops.

The following ABRI and police officers were identified by victims and witnesses as perpetrators of torture and rape in Baucau (those named were witnesses, not victims of sexual violence themselves):

- Major PS68, Kopassandha commander, perpetrator of four listed torture and rape victims: XB, YB, ZB and UB (named by RJ, Marcelina Guterres, Florencia Martins Freitas, Santina de Jesus Soares Li);
- Captain PS69, a subordinate of Major PS68 [Indonesian], perpetrator of one listed torture victim (named by Florencia Martins Freitas);
- Private Second Class PS70, Battalion 330 [Indonesian], perpetrator of two listed torture and rape victims: YB and D (named by RJ);
- Private Second Class PS71, Infantry Battalion 330 [Indonesian], named as perpetrator of the same two torture and rape victims: YB and D and as perpetrator of listed torture and rape victim: UB (named by RJ, named as a member of Umi by Marcelina Guterres, Florencia Martins Freitas);
- First Sergeant PS72, Battalion 330 [Indonesian], perpetrator of two listed torture and rape victims: AC and UB, and as perpetrator of two listed torture victims: DC and DS (named by Marcelina Guterres, RoRJ, Florencia Martins Freitas, Terezinha de Sa);
- Mobile Police Brigade members PS73 and PS74 [East Timorese], perpetrators of one listed torture victim who named them: VB2
- Chief Warrant Officer PS75 [Indonesian] of the Military Police, perpetrator of one listed torture victim: BR, and perpetrator of one listed rape victim: BC (named by Terezinha de Sa, Miguel António da Costa);
- First Sergeant PS76 [Indonesian] of the Military Police (now deceased), perpetrator of two listed torture victims: BR and DC, and perpetrator of one listed rape victim: CC (named by Terezinha de Sa, Miguel António da Costa);
- First Lieutenant PS77 [Indonesian] and members of Field Artillery Unit 18, perpetrators of three listed torture victims: JG, LMG, and T (named by Zeferino Armando Ximenes);
- PS78 [East Timorese], an informer and staff member of the Flamboyan Hotel (named by Florencia Martins Freitas).

The effects of torture experienced by female detainees in Baucau continued throughout their lives. RJ, Terezinha De Sa and FMDC still suffer from back problems as a result of being beaten with wooden blocks when tortured. Rosa is unable to walk normally. The deaths of at least five women – UB, AC, Ana Maria Gusmão, Mafalda Lemos Soares, and Palmira Peloi – may be related to their torture while in detention.

D. Other rapes

84. As the Indonesian military expanded its control of the territory, rape did not only happen behind military walls by Indonesian soldiers. Many East Timorese who worked with the Indonesian military, such as members of the Hansip and government officials, are also named as perpetrators of rape.

85. This increase in rapes by non-military personnel may be interpreted in different ways. It may point to the expansion of Hansip forces as well as to their increased role in aiding the military. It may also point to the impunity enjoyed by military perpetrators of rape in previous years – that the military could get away with rape may have prompted other men to do it. Testimonies of some victims of repeated rape indicate that the first offender not only enjoyed impunity, but also encouraged others to commit the same crime. The following cases show a pattern of rape where women were handed over from one perpetrator to another.

86. DC said that in 1976 she was raped by PS79, the Sub-district civilian administrator (*camat*) of Lequidoe (Aileu), who went to her house and threatened to kill her father and brothers if she did not comply. Because DC was a virgin, she bled when she was raped and was very sore for a week. Several months later, PS79 sent four Indonesian soldiers – PS80, PS81, PS82 and PS83 – to DC's house and they raped her. According to her testimony, this Sub-district administrator raped many others.[52]

87. EC told of her capture and rape in 1976 by Hato Builico (Ainaro) Koramil Commander PS84 (see section on Sexual Violence in Vol. III, Part 7.8: The Rights of the Child). After EC was seized by the military commander and a village head in Mulo, Hato Builico (Ainaro), PS85, she was taken to the tactical command post (Komando Taktis, Kotis) where she was interrogated by Hansip member PS86 and commander PS84. EC was then stripped naked and raped, first by the head of the village, PS85, and then by Commander PS84. Still naked following the rape, she was ordered to return to her house. She was so ashamed that she had to hide on her way home. Several days later, Hansip member PS87 came to her house. He had just returned from an operation in the forest, so he was carrying a Mauser rifle. PS87 threw down EC, stripped her naked and then called all of his Hansip friends who were with him to come look at EC. When they saw her they laughed and whooped. Then PS87 raped her. He continued coming to EC and raping her until she became pregnant and gave birth to a child. In this case the behaviour of the local Koramil commander gave the "green light" to his subordinate, a Hansip member, to imitate him in his violation of both the law and local cultural mores. The case also shows that offenders who were not legally punished for their violations could become repeat offenders (see section on Sexual Violence in Vol. III, Part 7.8: The Rights of the Child).[53]

88. After Hansip members PS88 and PS89 killed FC's husband in 1979, other Hansip repeatedly raped FC in Aiduk, Leolima (Hato Udo, Ainaro). First, an East Timorese member of the regional parliament (DPRD I) named PS90 raped her. Then PS90 brought two Indonesian members of ABRI, PS381 and PS382, from Battalion 323 and 125, to rape FC again. Later on, PS90 invited his four sons – PS91, PS92, PS93 and PS94 – to take turns raping FC.[54]

89. GC was raped by the Ainaro Koramil commander when she surrendered in Bunaria (Ainaro, Ainaro) in 1979. After she returned to her house in the village of Soro (Ainaro, Ainaro), Hansip members and the Indonesian Village Guidance Officer (Bintara Pembinaan Desa, Babinsa, a non-commissioned military position) of Soro named PS95 often went there and raped her. GC was raped at least twice by PS95 and became pregnant as a result of the rape. Due to her situation, a priest and a Catholic nun took GC to live at the church. The rapes only stopped when she moved to live and work in the church.[55]

90. HC from Guruça (Quelicai, Baucau) gave evidence to the Commission about the repeated rapes she experienced. Fearing Indonesian military attacks, HC and her adopted mother ran to the forest in 1977. In 1978, HC, along with other refugees, was captured by members of ABRI and Hansip and brought to the village of Abafala (Quelicai, Baucau). HC's mother had died in the forest and her brother was a Falintil soldier. In December 1979 two Hansip members took HC from Uaitame (Quelicai, Baucau) to the Abafala Village office, which also served as an ABRI post. On arrival at the post, Hansip PS96 pushed HC towards sleeping soldiers and members of Hansip while shouting: "This woman is a member of Fretilin. Just fuck her!" They gagged her with a hand and said: "If you resist we'll fuck you dead". HC was raped by PS96 in front of the soldiers and Hansip members at the post. She was released after the rape but the following day Hansip PS96 brought her back to the post and raped her again. The rapes continued for four nights until another Hansip member reprimanded PS96.[56]

91. In 1991, a group called Volunteers (Sukarelawan),* which included PS97, PS98, PS99 and PS100 [East Timorese], arrived at the house of IC in Cassa (Ainaro, Ainaro). They came to capture IC's husband, but because he had already fled to Dili, they took IC instead. They brought her to PS98's house and tortured her. Her hands were tied with a cable together with another woman victim whose identity she did not know. They were interrogated about Fretilin activities, especially about providing food to Fretilin. During the interrogation the Sukarelawan members held a machete to IC's chest, beat her repeatedly with a rifle butt and punched her in the face. After two days and two nights the women were finally released. However, two members of the Sukarelawan, PS99 and PS100, followed IC to her house and raped her there.[57]

92. The rape of a detainee's wife, aside from being a violation experienced by the woman herself, was an added strain on the detainee, something that could eventually break his resistance to his interrogators. JC1 told the Commission about his detention and torture as well as the rape of his wife, JC. On 4 October 1984 about 20 soldiers and 10 members of Hansip from the Dili Kodim detained JC1 and his two brothers, who were suspected of providing food to Falintil. Another five men were also detained at this time. They were interrogated and tortured at the Dili Kodim and later moved to the government's Social Political (Sospol) office in Dili. In the end, JC1 and his brothers were held in the Balide jail for three and a half years. JC1's wife told him that while he was in detention she had been raped four times by a soldier whose name she did not know.

* Sukarelawan was a pro-integration group started in Ainaro about 1991 by Cancio Lopes de Carvalho that later received support from ABRI. Members of Sukarelawan later formed the core of the Mahidi militia.

I had a jail sentence of three years and six months. I spent three months of the sentence at the [Dili] Kodim [District Military Command] and on 4 January 1985 they moved me to the Balide prison in Dili. While I was in Balide Prison, my wife visited me and told me that she had been threatened by TNI [ABRI] soldiers and had been raped four times. She didn't know their names.[58]

Rape during consolidation of the occupation (1985–1998)

93. Given the many compelling reasons why people do not speak publicly of their experiences of rape, the Commission has assumed that the under-reporting of sexual violence was relatively consistent across all periods of the conflict. This assumption has allowed the Commission to make some broad observations on the patterns of rape that occurred over the whole period of the political conflict.

94. The number of rape cases reported from the first few years of the occupation ranged between 10 and 47 per year. However, following a sharp increase in 1982 of reported rape cases (48 individual acts of rape from statements collected), there was a significant decrease in the number of cases reported – only 2 to 17 cases a year between 1985 and 1988. Two factors may have contributed to this decrease: the Indonesian military was decreasing its large-scale operations and the civilian government was increasingly in charge of day-to-day life in Timor-Leste. During this same period, victims named police officers as perpetrators of rape. This suggests an increased role of the police in maintaining security. Also during this period, victims' families began to seek legal redress for rape although, as perpetrators were seldom prosecuted to conviction, the judicial processes offered no real justice to victims. Rapes continued throughout the late 1980s and on through 1998, but at lower levels than during the first years of the occupation.

A. Rape in detention

95. Although daily life during this period became increasingly normal, the military still detained and tortured individuals suspected of supporting independence at will. Women were detained either on suspicion of being pro-independence, or because their husbands, brothers or other family members were suspected of being involved in the Resistance. Almost 10% of all women detained during this period were raped on at least one occasion during their detention; many were repeatedly raped.

96. KC1 gave evidence to the Commission about the forced recruitment and rape of his wife, KC, in 1989 in Mehara (Tutuala, Lautém). As KC1 was a Fretilin/Falintil fighter living in the bush, Halilintar paramilitary troops forced KC to join military operations for two months. During this time she was raped by the troops and became pregnant as a result. PS101, a TBO with the troops during this time, later told KC1 that on 30 September 1989 he had personally witnessed soldiers from Infantry Battalion

744, under the command of Captain PS102 [Indonesian],* stab KC in the chest with a bayonet, causing her death.[59]

97. Two sisters, LC and MC, were abducted together with their father in Ermera in 1994. 15 ABRI soldiers, only four of whom the sisters recognised, took them to the Koramil in Atsabe (Ermera). MC told the Commission:

> *In 1984 [East Timorese] soldiers named PS103, PS104, PS105 and PS106, together with 11 Indonesian soldiers, detained me, my father…and my younger sister, LC, at Lasaun [Atsabe, Ermera]. They took us to the Atsabe Koramil, where they separated us. My father was in one room and my sister and I were in another. Both Timorese and Indonesian soldiers hit and kicked us. They immersed their boots in water and kicked us. They put a gun into our mouths, asking for information. They stripped my sister and me naked, blindfolded us, and put us in a tank of water from 8.00am until 12.00 midday. They did this again from midnight until 2.00am. After this they put us in a hole in the ground to kill us that night, but this did not happen and we were brought back to our place of detention. The soldiers, both Indonesian and Timorese, raped my sister in pairs. I could not keep track how many [soldiers raped her] because there were so many. This continued for four days.*[60]

98. NC was detained on 24 January 1996 at the Maliana Kodim 1636. There, she was threatened with a weapon, electrocuted and left to sleep on the wet floor. Members of Joint Intelligence Unit (Satuan Gabungan Intelijen, SGI) raped NC while she was blindfolded and her hands and feet were in handcuffs. After several weeks she was released, but had to report to the Kodim every day for a year.[61]

99. On 10 February 1996, 10 East Timorese soldiers arrested OC and PC in their village of Raiheu (Cailaco, Bobonaro), and took them to the Bobonaro Koramil. They were held in separate cells in the Bobonaro Koramil where they were tortured, interrogated and suffered repeated rape:

> *On 10 February 1996 at about 6.00am in the sub-village of Bada Lesumali, Raiheu [Cailaco, Bobonaro], ten Timorese soldiers carrying guns arrested me and my friend, PC. I knew the name of only one of them - PS107. At the time of our arrest we weren't tortured, but taken to the Bobonaro Koramil where we were put in separate cells. After that a soldier interrogated me about my relationship with Falintil. Because I wasn't honest, five Timorese soldiers slapped me twice and kicked me with their boots four times. They placed a chair on the toes of my left foot and then sat on the chair until my toes bled. Then I was put into a small room until the next morning.*
>
> *On 12 February 1996 at about 7.00pm, five Indonesian soldiers entered my cell. They threatened me, threw me on the floor, stripped me and raped*

* In this case, Halilintar in Lautém in 1989 refers to a particular group of ABRI soldiers rather than to the militia group active in Bobonaro District.

me. While it was dark, the five of them took turns raping me, one after the other, for three hours. I was 20 years old when ABRI raped me. That same night, ABRI also raped my friend PC but I didn't know it at the time. PC told me afterwards.

On 13 February 1996, the Bobonaro Koramil commander delivered the two of us to the Bobonaro Kodim 1637 [in Maliana] where we were handed over to the Kodim commander. Again we were separated and placed in dark cells. I was interrogated by two ABRI soldiers on duty at the Kodim. During this interrogation they took off all my clothes except my underpants, gave me electric shocks and burned my nipples with a cigarette butt. They were kissing me and flirting with me after they'd pushed me up against the wall to rape me, but it didn't happen because they saw [menstrual] blood in my underpants.

On 12 February 1998, three Rajawali soldiers came to my cell and tied my two hands together. [They took me outside], threatened me and forced me against a tree near the detention building. They lifted up my skirt and raped me in a standing position. That same day they released me and ordered me to go home.[62]

100. During this period, perpetrators of rape in detention were not only members of ABRI, but also members of the police. Although cases of rape by police were fewer compared to rape cases by ABRI, the treatment of female detainees by police was similar to the way ABRI treated women detainees, especially women suspected of involvement with pro-independence organisations.

101. In 1993, three women named QC1, QC2 and QC were returning from a meeting with members of Falintil in Atsabe (Ermera). Two East Timorese intelligence officers, PS108 and PS109, ambushed them and attempted to sexually assault them on their way home. A member of Falintil, PS325, was able to prevent the assault by stabbing PS108. The three women ran away but a week later they were picked up again and taken to the police station in Atsabe where they were tortured. An East Timorese police officer, PS110, took QC to an empty room, stripped her and raped her. QC experienced severe pain for three days. After three days they were moved to the district-level police station in Gleno (Ermera) where they were held for one week. They were then sent back to the Atsabe police station where they were held for one month. QC was just 15 years old at the time.[63]

B. Rape without legal recourse

102. Indonesian courts were functioning in Timor-Leste as early as 1977. However, by the 1990s the formal justice system was still not serving rape victims and their families who attempted to use it to obtain some form of justice. Most victims thought it useless or even dangerous to report the fact that they had been violated. Those who did seek legal redress for the violations they suffered received little help.

103. On 4 April 1992, RC of Fatuletu (Zumalai, Covalima) was raped by a member of Hansip named PS111. As described by her sister, RC1, RC's family reported the case to the Koramil commander in Zumalai, but to no avail:

> *PS111 came and threatened us with a gun. He shot in the air three times. We were all scared…He came to force my younger sister RC to have sexual relations with him. Because she was afraid, he raped her. Even though PS111 was a Hansip member and a village official whom we knew was married, he wanted to force my sister to become his mistress, but because she refused he threatened her with a gun and raped her. We reported the case to the Koramil commander, but he just kept quiet. Then he told us just to settle this through 'adat' [traditional customs]. But this did not happen. PS111 just said in a threatening manner: "This is the rule of the gun. We are free to rape Fretilin supporters." My sister RC died in 1999.*[64]

104. SC was raped in 1995 by a police officer known to her as PS396 in Soibada (Manatuto). The police officer entered her house in the middle of the night and fled the scene when SC's parents entered the room. Although clearly a crime under Indonesian law, the police commander who investigated the case beat the officer who had raped her, shaved his head and forced him to pay a small compensation instead of carrying out his duty to arrest him. The treatment of the perpetrator by his commander clearly demonstrates that the police commander accepted that his subordinate had committed a violation. However, he did not arrest him. According to the evidence of SC:

> *He covered my mouth so I could not scream, then he stripped and raped me. I cried at the time and my parents heard me. PS396 fled and jumped the front fence, running towards the police station. My parents beat me up and then reported the incident to the Kapolsek [Kepala Polisi Sektor, Sub-district Police Chief]. The Kapolsek came to my house with his subordinates and beat PS396 in front of my parents. Then he shaved his head and ordered him to pay Rp200,000 in compensation. After that he was transferred to Manatuto.*[65]

105. On 5 November 1996, TC from Lisapat Village (Hatolia, Ermera) was arrested along with seven members of her family in Atabae (Bobonaro) on suspicion of harbouring Falintil. They were brought to the Ermera Koramil where they were detained for about two weeks. They were then held for another two weeks at the Army Strategic Reserve (Rajawali II) military post in Lulirema (Ermera). While TC was in detention, soldiers repeatedly raped her and made her do domestic chores. This case became known to local church workers who successfully advocated for TC's release. The case also was reported to human rights workers in Dili and Jakarta. In a submission to the Indonesian

Human Rights Commission (Komnas HAM) on 22 January 1997, a coalition of Jakarta-based NGOs gave details of the case:

> At about midnight, TC was released from the flagpole and brought to the Koramil headquarters with her hands still in handcuffs. She was put in a separate room by herself…All the time she was there, she was kept in handcuffs except when she ate and went to the toilet. One day (date unknown to the victim) at about midnight, when it was very quiet, suddenly the lights in her room were turned off from the outside. In the darkness, a soldier she could not recognise entered the room. He embraced her while threatening her not to scream. "If you scream it's your own fault. I will take you out tonight and kill you in the forest. If tomorrow you tell my commander, I will kill you the following night," he said. With her hands in handcuffs, TC resigned herself to being raped until she fell unconscious....
>
> In mid-November 1996, the detainees were brought to Rajawali II command post in Lulirema. In this command post there were 50-100 soldiers. They were detained there for two weeks. During the first week, TC was raped twice. The rapes took place at night with her hands still in handcuffs. The perpetrator's name was unknown to her, but she knew that his rank was three yellow chevrons (a Sergeant-Major), that he was dark-skinned and tall with straight hair...In the second week her handcuffs were taken off. The same perpetrator raped her twice more. While she was at the military post, TC was also made to boil water and do other chores.[66]

106. TC was released after the intervention of a local catechist.* TC filed a report with the Military Police in Balide in Dili with the help of two lawyers from the HAK Foundation, a legal aid and human rights NGO, who were supported by senior Indonesian lawyers in Jakarta and Kupang. One of the lawyers, Rui Pereira dos Santos, explained:

> *The [investigation process] took a long time. The main impediment was that the person who committed these crimes at the Rajawali post in Ermera had returned to his base [outside Timor-Leste]. That was…why he could not be brought to the military police (headquarters) in Dili to be investigated. When the investigation was completed we sent the papers to the Korem Commander with copies to the High Military Court in Jakarta, Military Commander-in-Chief, Minister of Defence and Security, the Attorney General and the Head of the Supreme Court in Jakarta. At the end I heard that they completed the indictment in Jakarta, but the indictment was changed from rape to having mutually consenting sexual relations [a lesser charge]. They also took away any mention of TC's domestic chores. I*

* Catechist is a lay position in the Catholic Church that provides for local religious training and guidance for learning the liturgy, preparing families for their children's baptism, preparing children to receive communion, and similar tasks. In Timor-Leste there are Catechists in most village communities.

heard that the perpetrator was sentenced to six months, but as TC's lawyer I never actually received copies of the decision. During the investigation process, TC was already three or four months pregnant.[67]

107. On 9 January 1997, UC and UC1 were arrested in the village of Babulo (Uatolari, Viqueque) because of their involvement in smuggling bullets to Falintil. They were taken to the Uatolari Sub-district police station then moved to the Viqueque District Police Station 1134 in the town of Viqueque. UC explained the events that followed:

When we arrived there, they detained us separately. That night they called me for interrogation then sent me back to my cell. That same night a policeman named PS112, originally from Kupang, came into my cell and raped me until dawn. On 11 January 1997 another policeman named PS396 came into my cell and again I was raped until dawn.[68]

108. After her interrogation UC was released, only to be summoned again on 23 August 1997 for a court hearing. Yayasan HAK provided UC with legal assistance during her trial and she told them about her rape while in detention. She was too afraid for her life to go with her lawyers to the Military Police, so her lawyers reported the crime using their power of attorney. They also forwarded the report to the provincial military auditor. However, according to UC's lawyer, there was no substantial response. The case remained "in the ice box".[69]

C. Rape in and around the victim's home

109. As with cases of sexual violence overall, the number of cases of rape of women reported to the Commission, including rape in detention, decreased markedly between 1985 and 1998. Women, however, still remained at risk of sexual violence. This is particularly clear in cases of rape taking place in areas that have traditionally been regarded as the realm of women: in and near their homes, in their gardens and in their neighbourhoods.

110. In 1989, VC was 15 years old when Indonesian Private First Class PS113 from a field artillery (Artileri Medan, referred to as Armed) unit came to her house in Ililapa, Lore II (Lospalos, Lautém) demanding that VC become his "wife". According to VC, by this he meant having access to her sexually and having her accompany him to parties. VC refused. PS113 threatened her with a gun, then dragged her to the bedroom and raped her. As a result of the rape she became pregnant but continued going to school. Private PS113 was transferred to Laga (Baucau). Later, he turned up again and, this time threatening her with a grenade, tried to force her to come with him to Laga. VC was able to escape.[70]

111. PS114 was the head of the *aldeia* of Talo, Hatolia (Hatolia, Ermera). Owing to his close ties with Infantry Battalion 744, PS114 was able to commit repeated rapes with impunity. In March 1989 he repeatedly raped 14-year-old WC, who described to the Commission how it happened:

PS114 just came in, took off my clothes, sat on top of me and raped me four times that night. He gave my mother Rp30,000…Whenever he found me by myself on the street he would pull me into the coffee bushes, strip and rape me. He even brought an Indonesian man named PS115, the supervisor of the coffee plantation, PT Salazar, in Talo. PS115 called me to the street, pulled me [into the bushes] and raped me. When I got home, PS114 raped me again. I felt like an animal. PS114 raped me many times – on the road, in the coffee plantation, anywhere…until I became pregnant. Then he never recognised the child.[71]

112. XC was another victim of the same offender, six years later. She was raped in her home in Talo in 1995. In her testimony, XC says that PS114 was known to have good relations with Infantry Battalion 744 and she feared for her life if she resisted him.[72]

113. Also in the *aldeia* of Talo, a soldier from Infantry Battalion 726 raped YC. On 12 July 1989 four soldiers, armed and wearing army fatigues, surrounded YC's house. At the time, her father and brother were not at home. One soldier entered the house and raped her.[73]

114. ZC's husband, a member of Falintil, was holding a secret meeting with a Falintil commander named Mau Hunu and Adjunto Mera Putar when the three were ambushed by soldiers in a joint operation comprising members of Infantry Battalion 142, the Ainaro Kodim and *milsas*.* As her husband managed to escape, ZC became the target of proxy violence. She was taken from her house on the same day:

On 8 November 1991, the Sukarelawan [Volunteers], led by PS98, arrived at my home with two of its members, PS116 and PS 117. They asked where my husband was. I replied that he was out working on a project. Then they took me to a place called the Pro-Integration Hall where I was interrogated. I was accused of preparing food for Falintil. I replied I did not know anything. Two days later, members of Sukarelawan tied me up together with 14 other men and women. After one night, PS98 and Second Sergeant PS118, a member of Koramil, untied us and we were forced to sign a statement…Before that we were forced to drink palm wine as part of taking an oath in a ceremony [of allegiance to Indonesia]. We were forced to take this oath in November 1991. After that we were made to dance with PS98 and milsas members until dawn. One night, members of Sukarelawan entered my house with knives, guns – AR 16, FNC, SKS – and samurai swords. PS119 ordered my father-in-law to go buy cigarettes. Then I was dragged into the bedroom, my clothes were torn off and I was raped…Another member, PS120, raped me once.[74]

* Militarisation or *milsas* was a process of military recruitment and training of civilians begun by the Army Strategic Reserve Command (Kostrad) in 1989. Members of civilian groups such as the Hansip (Pertahanan Sipil, Hansip), People's Resistance (Perlawanan Rakyat, Wanra) and Trained Civilians (Rakyat Terlatih, Ratih) were sent from Timor-Leste to Bali or Malang (Java) for three months of military training. Upon completion of their training they were inducted into the army. Both the training and those East Timorese who were trained in this way were commonly called milsas or sometimes three-month soldiers. [See Vol. I, Part 4: The Regime of Occupation for more details of milsas programmes in Timor-Leste].

115. Women were not only raped after being taken from their homes; AD was raped in a kiosk near her house in Laleia, Manatuto. In 1994, on her way to the kiosk to buy biscuits, a group of soldiers – PS123, PS124, PS125 and several others – forced AD into a kiosk. PS123 then raped her while the other soldiers stood guard at the entrance. PS123 threatened AD with death if she screamed.[75]

116. BD1 of Aidaba Leten (Atabae, Bobonaro) gave evidence to the Commission about the rape of his wife, BD. In 1996 Halilintar militia members captured BD1 in Aidaba Leten and tortured him at the Joint Intelligence Unit (SGI) post, which was at the home of PS126. One year later, after BD1 had already fled to the forest, the same group of militia, including PS127, PS128, PS129, PS130, PS131 and PS132, came to his house where his wife, BD, was staying. They threatened they would kill all of BD's family if she did not surrender. PS130 raped BD in her own home.[76]

117. In December 1996, CD watched members of Rajawali army strategic reserve search her house in the village of Batu Manu (Atsabe, Ermera) after receiving information that she was involved in clandestine activities. CD, her brother, her father, together with two other men, CD1 and CD2, were tied up and beaten. In the middle of the night they were made to look for a man called Mateus who allegedly went to the forest to deliver grenades. CD had to climb the hills and cross a river. Two members of the army strategic reserve raped her in front of CD1.[77]

118. E1 was active in the clandestine movement. In August 1997, his sister E was taken from her home by PS133, an East Timorese Babinsa, and three East Timorese ABRI soldiers – PS134, PS135 and PS136. They took her to the village office in Betulau (Liquidoe, Aileu) where E1 was already being interrogated. There, PS133 and another militia member raped E. She kept this a secret until, on her deathbed, she told her brother.[78]

119. DD1 gave evidence to the Commission of the rape of her sister, DD, in the village of Laulana (Letefoho, Ermera) in 1998. Members of Territorial Combat Battalion (BTT) 711 took turns to rape her in her own house. Suspected of cooking for Falintil, DD was forced into the kitchen by three soldiers (one of them an Indonesian called PS137) where she was raped in front of her brother.[79]

Testimony and evidence from Mário Viegas Carrascalão on violence against women from 1982 to 1992

In his written submission to the Commission, Mário Viegas Carrascalão, the Governor of Timor-Leste from 1982 to 1992, identified four groups of perpetrators of sexual violence against women.

"1) **Indonesian soldiers** [who committed violent acts against women] in a more or less organised and systematic way. In these cases, the victims were in general easy targets, as they would pay with their own life, or a relative's life, if they refused to obey the violator/offender. There were

accounts where even the firing of weapons was used [by soldiers] to achieve their goals. These victims included:

a. Close female relatives of Resistance members killed in combat, for instance their widows and/or daughters, as well as sisters, aunts and cousins;
b. Wives and/or daughters of those detained accused of supporting the resistance;
c. Wives and/or daughters of those who still had relatives "in the forest" even if not active [in the Resistance];
d. Female prisoners [detained] for criminal offences and female political prisoners;
e. Daughters of an East Timorese woman and Portuguese man living abroad, or their descendants;
f. Beautiful daughters of common village people, offered to the soldiers by their own relatives in exchange for favours/benefits/ secrecy; in some areas of Timor Leste, such practices were already in use during colonial times;
g. Young women living in "Guarded Villages" (Desa Binaan) that were none other than concentration camps.

"In these cases (a. to g.), [methods] frequently used were threats, intrigue, blackmail and terror. The perpetrators were consistently soldiers with territorial functions (from the provincial, Kodim and Koramil, village-level military and police officers). The women were "gifts" offered by local subordinates to their superiors when they came on working visits. This was a way used by inferiors to attract the favours of their superiors and thus get a faster promotion in their careers.

"2) **East Timorese integrated into the structure of the occupying military power** as informants, members of paramilitary groups or Hansip and Civilian Security, or inducted as part of the regular forces. These offenders acted mainly against the most simple and poor sections of the population. The [methods] they used were usually terror, threat of denouncement to the Secret Service, intrigue, blackmail and night visits to victims' homes (alone or accompanied by members of "Intel" or other military [personnel], in some cases dressed as ninjas, as they did in Dili). They were [also] the link between the Indonesian soldiers and the local victims [and were used to take victims] to serve their hierarchical superiors.

"3) **Civilians, both East Timorese and foreigners, who occupied important positions at all levels of the administration**. This group used the positions they held in the state administration to "facilitate"

bureaucratic procedures for their victims (single, widowed or married women) who needed, for instance, a commercial license, streamlining the provision of pensions to which they were entitled if their deceased husband had been a public servant, or…better chances at a public tender for development projects. In return they [these civilians] would have their carnal desires satisfied.

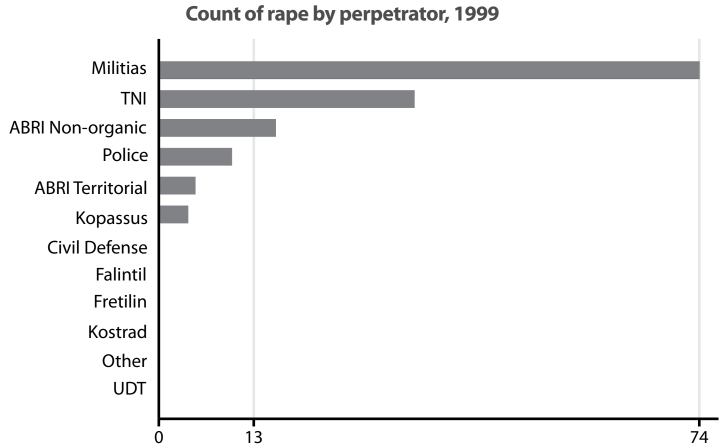
"4) **East Timorese and foreign primary school teachers.** In 1983, when the system of compulsory schooling began in Timor-Leste, not only children aged six started attending school, but also youth aged up to 16 and 17 years old attended primary school. The small number of East Timorese primary school teachers led to the recruitment of many Indonesian teachers. Only male teachers, single or married (but if married, the wives had to stay in Indonesia), were sent to Timor-Leste. The East Timorese who were recruited to teach at primary schools were also mostly male, young - having just finished their degrees - and single or married. If married, their wives were not allowed to go to the countryside with them. The outcome of this situation reached the government in the form of stories about the involvement of "Sirs" or East Timorese teachers with their female students. The districts of Covalima, Maliana, Liquiçá and Baucau registered the most cases. In Baucau, a teacher from Indonesia raped 22 of his female students. The case was taken to court and the rapist was sentenced to only two and a half years in jail. This man ended up being transferred to his homeland without completely serving his time in prison.

"Not all offenders were punished for their offences because the Governor, according to Indonesian law, could not punish soldiers, police officers, district administrators (Bupati) and [others]. Thus, the maximum he could do about these people [perpetrators] was to conduct investigations and, when possible, press charges [against them] through the departments where they worked and that could, therefore, take action."[80]

Mario Carrascalão also described several cases of rape where he took action, either with letters of complaint to the provincial military commander or by speaking with Indonesian government and military leaders in Jakarta. Mario Carrascalão told the Commission that he never received an official response to any of his reports about sexual violence.

Rape and the Popular Consultation

120. Data gathered by the Commission show a sharp increase of rape cases in 1999 with peaks in April and September 1999. Of reported rapes from this year, 19% (20/105) were committed by militia members.



Source: Database of narrative statements given to the CAVR

Note: Some violations may be counted more than once because responsibility may be shared among prepetrators

A. Rapes before the Popular Consultation (April–August 1999)

121. Rape took place as part of the violence that spread throughout the territory before the August 1999 Popular Consultation. Incidents of rape peaked in April and May, before the ballot, in almost all districts. This occurred concurrently with the wave of population displacement caused by house burnings and other acts of violence throughout Timor-Leste.

122. Once again women were often the victims of proxy violence – members of the Indonesian security forces and the militias under their control raped the wives, sisters and daughters of the absent men whom they sought to kill because of their support for the independence movement.[81]

123. The experience of DE is an example of this pattern. DE was assaulted in her own home in Fatubessi (Hatolia, Ermera) on 14 May 1999 by Darah Merah Putih (Red and White Blood) militia. Led by commanders PS138 and PS139, the militia, together with members of Joint Intelligence Unit, attacked DE's house because they knew that her husband, DE1, had already fled to the forest to join Falintil. PS139 went inside the house, threatened DE with a knife and raped her. After that, PS138 and members of the Joint Intelligence Unit took turns sexually molesting her. They tied her hands with cable and took her to the Darah Integrasi (Blood for Integration) militia post in Hatolia where she was detained for two months. While there she continued to be a target of sexual harassment. She said that at least 24 members of the Joint Intelligence Unit and the militia sexually molested her. After two months she managed to escape.[82]

124. In May 1999, a militia group named KMP (Kaer Metin Merah Putih; literally, Grasp the Red and White) conducted a series of violent acts throughout the sub-district of Lolotoe, Bobonaro. The Special Panel for Serious Crimes of the Dili District Court

found three people – Jhoni Franca, KMP commander; Sabino Leite, the head of the village of Guda (Lolotoe, Bobonaro) and José Cardoso, KMP commander – guilty of rape as a crime against humanity. This was the first case of rape to be prosecuted as part of crimes against humanity by the Special Panel.[83]

125. Also in May 1999, three women, whose identity has been suppressed by the Court, were arbitrarily detained by KMP together with 13 other people from Lolotoe. After being detained for one month in the Guidance for Family Welfare (PKK) building across the road from the Lolotoe Koramil, the three women were taken away with the pretext that they had been summoned by João Tavares, commander of PPI (Pasukan Pejuang Integrasi, Integration Fighters' Force).* They were put in a government ambulance driven by an East Timorese government health worker named PS140, together with the Lolotoe Koramil Commander, Second Lieutenant PS141 [Indonesian], and KMP commander, PS142. The three women were taken to a hotel in Atambua where they were raped repeatedly. One of the victims testified that one of the women was subjected to an injection which they believed to be some form of contraception. The three women were threatened with various weapons, and told that if they did not have sexual intercourse they would be shot dead and thrown into the sea. After being allowed out to get food they were raped again the following night.[84]

126. Militia parties were a pre-ballot phenomenon. Militia groups, with their resources and power, were able to organise parties that were compulsory for village women to attend. These parties provided an opportunity for sexual harassment and rape. DMP (Dadurus Merah Putih, Red and White Wave), the militia group that operated in the village of Lourba (Bobonaro, Bobonaro) organised such a party on 4 May 1999. In her testimony to the Commission, FE told of 14 women, herself included, who were forced to prepare coffee and food for the militia. She was summoned by the commander of DMP and raped. According to her testimony, the other 13 women suffered the same violence.[85] FE gave evidence that corroborates this incident.

> *During the day a militia came to my house. He pretended to chase after my rooster, while saying: "I'll see to you shortly." At the time, my husband… had been ordered to go on an operation with them so he was not home. The militia man raped me that day although I had just given birth two months earlier.*[86]

127. Another woman, GE, testified about being raped in her home after the same party:

> *[M]ilitia [commanders] PS383, PS143, PS144, PS145 and PS146…shoved their hands in our bras and pulled out our breasts. We had to let them*

* PPI – the Integration Fighters' Force - was launched on 17 April 1999 in an official ceremony held in front of what was then the Governor's office (now known as the Palácio do Governo) in Dili. João Tavares was PPI's chief commander and Eurico Guterres its vice commander. Later that day, militia attacked and burned the home of Manuel Carrascalão where displaced people had been sheltering, killing at least 12 people including his son, Manuelito [see Vol. I, Part 3: The History of the Conflict; Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances]

do it because they threatened to beat us with wooden blocks. On the way home from the party the DMP commander called me and three other women friends…to be interrogated. He had photographs of us when we were cooking for Falintil. I replied: "It is true that my friends and I have cooked for Falintil, but we are just ordinary people. We don't understand politics. If they say they are hungry, yes, I have to feed them because we are all human beings. What is wrong if we feed them? I am scared too, because the Falintil carry weapons." After the interrogation I went straight home. As soon as I got to my room, four members of DMP – PS383, PS143, PS144 and PS145 – were already naked and waiting for me. They dragged me, took my clothes off and took turns raping me. My children came into the room and the men beat and kicked the children out of the room.[87]

128. Violence increased dramatically in almost all districts in the months leading to the announcement of the Popular Consultation, causing large-scale displacement. Women displaced from their homes and villages were, once again, at risk of being raped.

129. In April 1999, HE, having been threatened with murder by members of the Sakunar (Scorpion) militia, left home to seek refuge in the house of relatives in Lesuwen (Suai Town, Covalima). Her relative was also a member of Sakunar. Despite her best efforts to protect herself, HE was raped by a member of Laksaur militia named PS147.[88]

130. After the massacre at the Liquiçá Church on 6 April 1999, many families fled their homes. Many women were raped in the chaos that ensued. IE, a woman from the village of Leotela (Liquiçá, Liquiçá), was detained by a BMP (Besi Merah Putih, Red and White Iron) militia member, PS148, on the way home from the market on 14 April 1999. IE and her woman friend were forced to sign a statement accusing the village head of Leotela of sheltering members of Falintil. A week later Territorial Combat Battalion (BTT) and Special Forces Command (Kopassus) troops came to force the people of Leotela to move to Liquiçá under threat of death. IE ran to stay with her uncle in Liquiçá, but less than one month later PS148 arrived looking for her:

On 7 May 1999 at about 9.00pm, PS148 came to my uncle's house and said to him that I had to report to the BMP commander for interrogation. Instead, PS148 took me to a place called Kaeloho [Liquiçá] where I was sexually assaulted. He forced me to kiss him and to do things that I cannot talk about here...

Three days later, on 10 May 1999 at around 3.00pm, PS148 came to my uncle's house driving a hardtop jeep. This time he used the excuse that he wanted to talk to me about a letter for the village leaders in Leotela. I was taken to the beach, close to the Kaimeno River. He forcibly removed my clothes and forced me to the ground. PS148 said that if I refused him he would kill my family and me. Then he raped me and threatened to kill me if I told his wife.[89]

131. JE was just 17 years old when the Liquiçá Church Massacre took place. On 28 May 1999, two members of the BMP militia named PS151 and PS152 arrived at her family home in Maumeta (Liquiçá, Liquiçá) at 3.00am. JE ran to hide in the district parliament building (DPRD II) but PS151 and PS152 chased her, armed with two guns and knives, and raped her.[90] In a separate incident on the same day, KE was watching television in her home in Maumeta (Liquiçá, Liquiçá) when a member of the BMP militia named PS153 and a police officer known as PS154 arrived at her house. PS153 raped KE and threatened to kill her if she told her family. Five days later, on 2 June 1999, PS153 raped her again. KE became pregnant and gave birth to a child as a result of rape.[91]

132. Similar cases were reported in other districts. After her husband ran to the forest, LE travelled to Suai Town on 25 April 1999 with her mother and aunt. When they arrived at the village of Ogues (Maucatar, Covalima), they were assaulted by two members of the Laksaur militia, PS154 and PS155. LE was taken to a room at the militia headquarters and asked about the whereabouts of her husband. PS155 ordered her to move to the Laksaur headquarters. LE refused, and she was raped there. She was pregnant at the time.[92]

133. Women were vulnerable when they moved to find safety, but also if they stayed behind to look after their homes, livestock, aging parents or young children. In the lawlessness before the Popular Consultation, those with effective immunity from the law felt free to commit crimes, including rape in people's own homes.

134. ME, in her statement to the Commission, described her rape by a BMP militia in Maumeta, (Bazartete, Liquiçá). On 1 May 1999, ME was at home when she was given a drink laced with drugs by PS156, a member of the BMP militia. She became so weak that PS156 was able to pick her up and take her into the kitchen. There, he gagged her mouth, threw her on the ground and raped her. As a result, her hip bone was broken and she is still unable to do any heavy work.[93]

135. NE was raped at her home in the *aldeia* of Kawa-uman, Kasabauk (Tilomar, Covalima) on 7 July 1999 after her husband and children had fled to seek refuge in the Suai Church. The Laksaur militia came to her house and one of the men, known as PS157, threatened, beat and kicked her till he broke her ribs. He then raped her until she lost consciousness.[94]

136. ABLAI (Aku Berjuang Laksanakan Amanat Integrasi, I Struggle to Execute the Integration Mandate) was another militia group that used rape as part of their attacks on civilian populations. From statements the Commission received through a submission, a pattern of sexual violence as part of ABLAI's attacks around Same (Manufahi) in April 1999 can clearly be identified. OE of Horeme (Same) gave this testimony:

> *On 17 April 1999, an ABLAI militia came looking for villagers who were hiding, but they did not find anyone. They came with machetes, knives, bows and arrows, screaming and threatening: "If you do not come out, we will kill the men and rape the women." Hearing their threats we came out from our hiding places and walked towards the chapel close to the house of one of the militia named PS158. PS158 dragged me by the arm to get me*

inside a room. I resisted but he threatened me: "If you do not follow [me] I will kill you." In the room they took turns raping me. After PS158 finished raping me he ordered one of his friends to rape me too. When they finished with me they just left me lying on the bed. I was so ashamed when I got up from that bed.[95]

137. A second victim, PE described how in the same village and on the same day she was ordered to cook and then taken to an empty room and repeatedly raped.[96]

138. The third and fourth victims, QE and RE, were raped on the same day. Several days later they were forcibly taken to the militia post where they had to remain until September 1999. RE, whose father and brother were killed during this incident, described her experiences of rape by ABLAI militia members:

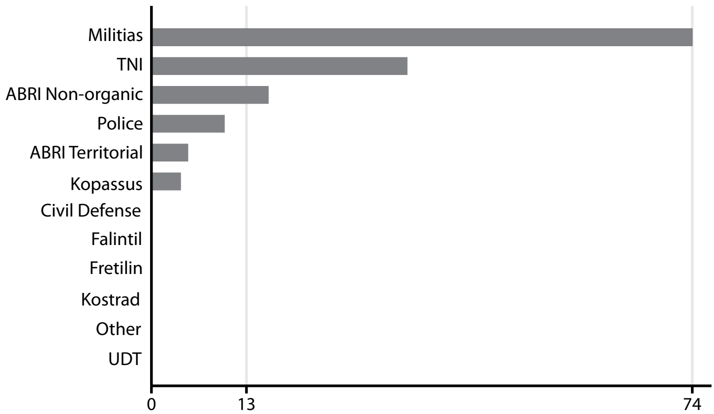
On 17 April 1999 militia encircled the aldeia *of Orema, Hola Rua [Same, Manufahi] and conducted a sweeping operation to kill us. At about 10.00am, a group of militia, including PS159, PS160, PS161, PS162 and PS163, came to my house looking for me. PS159 said: "If you dare refuse to sleep with me, I will kill you." Hearing this, my brother…tried to distract PS159 by giving him some food. But after he ate he pulled me into a room. There he took off my clothes and raped me. He brought a machete and knife into the room. After he raped me, he told me not to tell anyone. Several days later militia members PS161 and PS162 arrived at the house to take me [and three other women] to the village of Leoprema. We remained at PS160's house till August. Every Saturday night throughout our stay, PS161, PS159, PS162 and PS163 took us out and made us dance with them. At the dance the four of us were kissed, hugged and then taken outside the tent to be raped in turn until the morning.*[97]

B. Rapes after the announcement of the Popular Consultation results (September–October 1999)

139. Data gathered by the Commission clearly indicate that violence peaked again during the period following the announcement of the results of the ballot on 4 September 1999. Rape took place along with forced displacement, house burning, killings, disappearances and other acts of violence. The western districts, which experienced more violence during the post-ballot period, also reported a higher incidence of sexual violence. Of the 47 reported rapes committed after the 1999 ballot and included by the Commission for statistical analysis, 81% (38/47) occurred in western districts of Timor-Leste or in West Timor.

140. As shown in the graph below, the Indonesian military and militia members committed all of rapes in 1999 that were reported to the Commission.

Count of rape by perpetrator, 1999



Source: Database of narrative statements given to the CAVR
Note: Some violations may be counted more than once because responsibility may be shared among prepetrators

141. Rapes took place in the context of widespread displacement where many families fled their homes and became separated, often leaving those most vulnerable a target of violence. Two sisters from the village of Namleso (Liquidoe, Aileu) SE and TE, respectively 24 and 15 years old – were forcibly moved by AHI militia (Aileu Hametin Integrasi, Aileu Strengthens Integrasi) then raped by TNI soldiers while in transit. SE gave the following testimony:

> *On 18 September 1999, AHI groups ordered us refugees to walk towards Aileu. [We] arrived in Aileu at 3.00pm and were put up at the local Puskesmas [health centre]. My family and I slept on the terrace. In the evening, at about 7.00pm, three militia – PS156 from Fahisoi, PS165 and PS167 from Namleso [villages in Liquidoe Sub-district, Aileu] – came to get me. They were wearing AHI T-shirts and carried weapons, knives and handmade guns. They forced me to follow them to an empty house. The three militia members ordered me to go in and then they hid somewhere. Suddenly two soldiers from the Kodim in Aileu, whom I knew but not by name, came in. They were dressed in black T-shirts and pants, the AHI uniform. The two soldiers ordered me to take off my clothes and I had to have sexual relations with them, one after the other, to save my life.*[98]

142. SE's younger sister, TE, was raped by a member of the militia called PS384 after she was taken by motorcycle from the health centre to an empty house. TE testified:

> *He slept with me right there while pointing a knife at my neck and saying, 'Quick, get your clothes off and don't scream.' Then he threw me down and raped me. He set down the knife next to him, so I just succumbed. After sexual intercourse I felt pain around my vagina.*[99]

143. The following night, TE was taken again from the health centre where she was sleeping. A militia by the name of PS397 took her to an empty house and left her there. Because she could see a man dressed in fatigues and holding a machete, she became scared and ran back to the health centre. However, this time two soldiers in uniform came to her and threatened to shoot her if she refused to surrender herself. She was forced to return to the empty house and submit to being raped for the second time. After the rape she was told to go and get her older sister, but she did not do it. However, this did not save her sister from another rape.

> *At about 2.00am, the perpetrator ordered three of his subordinates to go to my place and wake up my sister. They told her that she was being called by their superior so, willing or not, my sister had to go with them because they were armed. When she arrived at the place where I had been raped, the same thing happened to her. She was raped by a soldier, but she did not see the perpetrator because the place was dark.*[100]

144. In the sub-district of Bobonaro (Bobonaro) at least three different incidents of rape were reported where East Timorese militia or civilians took a woman to Indonesian soldiers to be raped by them. UE described how the Dadurus Merah Putih militia and TNI soldiers attacked and forcibly moved the inhabitants of the village of Oat to a number of places before settling in the town of Bobonaro. According to UE, PS385, PS386 and PS387 – three militia from the village of Malilait (Bobonaro, Bobonaro) – ordered a relative of UE called UE1 to bring UE's daughter to them. UE's daughter and nieces hid in the darkness of the house where they were staying. After a while, the three militia members came to the house themselves. UE told her interviewers: "Because my daughter was still a young girl, I agreed to go with them instead." The militia members took UE to the Bobonaro Koramil and handed her over to the Koramil commander who raped her in one of the rooms.[101]

145. The testimony of VE, also from the village of Oat, is similar to that of UE above. VE was a refugee in Bobonaro on her way to Atambua. She was picked up by an East Timorese man named PS168 and taken to a house she did not know. She testified:

> *The perpetrator (whom I did not know) told the people in the house to switch off the lights. Then he took me to the bedroom and had sexual intercourse with me…I did not react because I was scared he would cut my throat. I submitted because I was scared and [also] to save the lives of my family.*[102]

146. Following the announcement of the results of the Popular Consultation, rapes motivated by revenge against someone who had already fled continued to take place. WE told the Commission about how she was raped in the village of Mauabu (Hatolia, Ermera) on 9 September 1999. An East Timorese member of the Army Strategic Reserve (Rajawali), PS169, and the village head, PS170, arrived at her house looking for her husband who had already fled to the forest. As her husband was not there they set fire to the family's motorcycle and WE was raped by PS169.[103]

147. In another case of proxy violence, XE was raped in front of her husband. In September 1999, XE and her husband were on their way to Lautém when they were ambushed by unknown TNI soldiers who pointed guns and machetes at them and threatened to kill them because their parents were members of CNRT. As the soldiers began to take off XE's clothes, her husband attempted to intervene but was hit unconscious by a blow to the head with a rifle butt. Then XE was raped. XE and her husband gave two traditional weavings and Rp200,000 to the soldiers in order to be released.[104]

148. The escalation of violence and impunity created a context where the most brutal forms of violence against women could take place – the double crime of rape and murder. At least two cases of rape and murder of women took place in September 1999.

149. Francisco Martins, himself a member of Darah Integrasi (Integration Red Blood) militia at the time, gave evidence to the Commission about the rape and murder of YE in the village of Lauala (Ermera, Ermera):

> *On 6 September, I was on my way home to Gleno from Atambua. On that night, around 9.00pm, the Darah Integrasi militia commander, PS172, brought a young woman by the name of YE to our post in Gleno behind the marketplace and the Liurai Guesthouse. That night I saw PS172 and three other members – PS173, PS174, PS175 – take YE to sleep with her in a house. The next morning, 7 September 1999, when YE woke up her body was covered with fresh blood and her clothes were also bloody. She cried and asked our help to take her to the church. It was only then that I knew they had raped her because she couldn't walk [normally], she was stumbling.*[105]

150. After the rape she was returned to the post, tied up and finally killed.

The rape and killing of ZE, 11 September 1999

ZE's mother, ZE1, told of the rape and forced disappearance of her daughter, ZE, in Ermera on 11 September 1999. ZE was an active member of CNRT and a UNAMET polling staff member. During the evacuation of the UNAMET office in Gleno, Ermera, on 31 August 1999, ZE, together with UNAMET international and local staff, were brought to Dili. However, according to her mother's testimony, on 4 September 1999 she was brought back to the Gleno Kodim in a police vehicle. ZE's mother testified to the Commission about her daughter's rape and murder.

> *At approximately 8.00pm, an East Timorese TNI soldier from Battalion 744 named PS176 and his members…arrived at my neighbour's…house where we were staying because our house had*

been burned down a few days before. Before PS176 entered the house we were already surrounded by Rajawali troops. PS176 came into the house and sat in the front room. Then he called ZE to come out from the back [of the house] and made her sit next to him. In front of me, he pulled ZE towards him, hugged and kissed her…I went into the back room because it upset me to see my daughter treated like that. At that time my neighbour's wife told ZE's daughter and her own daughter to go into the back room. She locked them in so that they would not have to see what PS176 did to ZE…

After my neighbour left the front room, PS176 dragged ZE to the front of the house next to the stairs on the veranda, and there he raped her. We watched from the window…We heard ZE scream but we could do nothing. Perhaps because his cohorts felt they had been kept waiting too long, they fired one shot in the air and PS176 stopped what he was doing [and left]…When we went out, ZE was crying. She said, "I feel ashamed because I have been treated like an animal. Did you hear me being raped next to the stairs?" We replied, "We saw and heard but we could do nothing. We were all waiting to die." After she drank some water she made us go inside where she took off all her clothes to show to me and the neighbour that her body was damaged. She said, while she cried: "You have seen yourselves, my body is ruined. They all raped me". I saw with my own eyes that on her breasts all the way down to the vagina the skin was blackened and grazed…

On 12 September, they came again to pick up ZE [and] she went with them. We went to mass and then we too were picked up with a car and taken to Gleno…After that ZE was made to cook for TNI, the police and militia. On 13 September 1999, a commander from the Darah Merah militia known as PS177 arrived with his associates. PS177 said to ZE: "Teacher, get into the car." I said if that was the case I wanted to accompany my daughter, but they refused…ZE said to me: "Mother, now it is PS177 taking me off. I know I will be killed." I waited from morning until 5.00 that afternoon, but ZE did not come back. Suddenly a Darah Merah militia, PS178, arrived. He said to me: "Mama, stop waiting because the teacher has been killed." I replied: "If that is the case, show me ZE's body." PS178 said: "This is the first time I've ever seen someone from Ermera kill a woman."[106]

151. Some testimonies regarding sexual violence indicate that "rape centres" existed in the midst of the violence during and after the Popular Consultation. These were places where women were forcibly detained and made accessible for repeated rape. For example,

in the village of Malilait (Bobonaro), the Hametin Merah Putih (Strengthen Red and White) militia abducted and detained women in a house. The house, according to an interview with Bosco da Costa, belonged to a family who had fled to Atambua (West Timor) and had been taken over by the militia. Old people and four young women were kept in the house. The HMP militia commander, PS179, his deputy, PS180 and the Aiasa village head, PS181, held the people in that house. According to da Costa, the Koramil commander and district police chief did not reprimand or take action against the militia although they had knowledge of the crimes.[107]

152. AF, a victim of repeated rape, explained that the crime was perpetrated by militia and TNI personnel together in the house of the wife of one of the militia members, and that she was not the only victim of rape in this house:

> *On 10 September 1999, the militia and TNI arrived at the house armed with weapons and threatened to kill me and all my family if I did not follow them to the militia headquarters. As we were all in a state of fear and panic, in the end I gave in. My father, mother and daughter resigned themselves to [my arrest]. [At] militia headquarters the militia handed me over to three TNI soldiers who raped me for three days and three nights, from 10 to 12 September 1999.*
>
> *The first night I was raped by an East Timorese TNI soldier named PS182. On the second day I was raped by PS388 [East Timorese]. PS388's wife, PS389, helped…by providing the house to be used by the militia and TNI as their place of operation. One of my friends…was also raped in PS389's house on 18 September 1999 and she has not overcome the trauma. On the third day, PS388 handed me over to another friend, a TNI soldier called PS183 [East Timorese]. He raped me on the third night, 12 September 1999.*[108]

153. The Commission received corroboration regarding this "rape centre" from BF, another woman who was raped in the same house:

> *The command house belonged to [East Timorese] PS389 and PS388, a TNI member from Tapo. I thought I would become PS389's maid – cook, prepare coffee for the commander and the militia – but I had guessed wrong. It turned out that they planned to rape me. When I found out I became frightened. I cried and asked PS389 to help me get away, but instead she got angry and swore at me. "Many women have already been brought here and they did as they were told. Why do you have to be so stubborn?" I could only remain silent and cry quietly. There was nothing I could do. On the night of 18 September 1999, PS184 [East Timorese] came to PS389's house. She deliberately left while PS184 locked me in a room and raped me.*[109]

Rape and sexual slavery after the Suai Church Massacre, 6 September 1999

The rapes and sexual slavery of women after the attack on the Suai Church on 6 September 1999, were organised systematically. Rape occurred in several places where women, who had been refugees at the Suai Church were temporarily accommodated, namely at the Suai Kodim, at a junior high school building (SMP 2), an orphanage and the Wives of Civil Servants (Dharma Wanita) building. Women were also raped in transit to Atambua, West Timor and during their stay in refugee camps there. The Commission received evidence of rape and sexual slavery from 11 testimonies that name Laksaur and Mahidi (Mati Hidup Integrasi dengan Indonesia, Dead or Alive Integration with Indonesia) militias as well as the Indonesian security forces as perpetrators of these crimes.

CF was one of the refugees attacked in Suai Church who personally witnessed the killing of one of the priests, Father Francisco. After that she was detained in the high school building and witnessed women being taken out by militia. Eventually, she too was raped by a militia member and, a few days later, by a police officer. CF told the Commission:

> *We were forcibly taken to the junior high school building where we were verbally abused by the militia and were not given food for three days. Every night we were harassed and the young girls were taken away by the militia. On 11 September, precisely at 9.00pm, a man came in with a torch which he shone into my face. He lifted the sarong I was using to cover my face. The Laksaur militia ordered me to stand up and threatened that if I did not they would shoot everybody around me. I had to stand and they dragged me out of the room. I was taken away by PS185, a Laksaur militia who raped me and then returned me to the room where all I could do was cry…On the following day we were taken to the Dharma Wanita building. We were terrorised there and the women were taken out. On 14 September a police officer who was said to be a member of SGI forced me inside a vehicle. I was scared and crying. The militia said: "You had better go or I'll shoot you tonight." I was taken to the house owned by a police officer and was raped. After that I was returned to the Dharma Wanita building when the others were already asleep. A Lauksar militia threatened me, "Today you went with a policeman, if tomorrow we call you and you refuse, you will die."*[110]

Irene dos Santos also testified to the Commission about the rapes that took place after the attack at the Suai Church. On 7 September 1999,

Irene saw two women, DF and EF, taken away forcibly by Laksaur militia known as PS186, PS187 and PS188. The three men beat DF severely until her mouth and nose were bleeding. Eventually DF fell to the ground and there she was raped while unconscious. As a result of the beating, the victim haemorrhaged for four months and then died.[111]

EF is a courageous young woman who testified at the Commission's First National Victims' Public Hearing Rona Ami-nia Lian (Hear our voices) in Dili from 11-12 November 2002. She witnessed the murder of many people in the Suai Church, including her own family. The survivors were divided into two groups – approximately 75 were taken to the Kodim and another 50 to the school building. EF told the Commission:

> *We were taken to the school building – approximately 50 people, including children. I overhead the militia say: "Don't kill that one, we'll rape her." I was scared and did not have the courage to look at them. On the way to the high school, we were escorted by Javanese police in uniform...At the school, we were all put into a dark room…A militia called PS189, a teacher from the village of Leogor, came to force me to sleep with him. But I refused. He became angry, kicked me in the back and slapped me on the face till it was swollen and I fell to the ground. Then he forced me to take off my clothes and raped me.*

EF was repeatedly raped in the junior high school building. "On the night of 10 September, they interrogated me and demanded money. Because I was scared I gave Rp100,000 to PS398, Rp100,000 to PS399 and Rp50,000 to PS400. In the darkness we were raped together with other women." According to her testimony, at least three other women were raped that night by militia members named PS191 and PS192. On 13 September 1999, the refugees were put into a Hino truck with Indonesian soldiers and militia and taken to a camp [in West Timor] to stay with other refugees. Shortly afterwards, PS189 found EF and forced her into a situation of sexual slavery. EF stated:

> *He said he had been looking for me for two days. He hit me with his handmade weapon right in the mouth, kicked me in the chest and hit my back in front of several people. That night he moved me to his house and when we arrived...he raped me again. I was with this man for three months and 16 days. During the day he would go out and keep me locked inside a room and when he returned he would open the door and do it again.*[112]

Those who were kept in the Suai Kodim headquarters experienced the same sexual violence. FF sought refuge in the Suai Church in July 1999. Her husband was a member of CNRT who had already fled into the forest. She stated:

[T]he large-scale attack by the Laksaur militia in the Suai Church. Also taking part in the attack were Indonesian soldiers out of uniform. They were using handmade weapons – fire arms, machetes, samurai swords…I saw many dead people.

FF escaped death only to become a victim of rape and sexual slavery. After the massacre, the survivors were mustered:

We were made to gather and not move. They threatened to shoot anyone who moved. At about 3.00pm my family and I were moved to the Kodim. At about midnight on 7 September, PS192 threatened and raped me. I did not resist because I was too scared.

After five days FF was moved to the Koramil and then to an orphanage where she was raped again by the same man:

When he did that, there were four TNI soldiers outside on night duty. At 6.00am the following morning PS192 took me on a Yamaha motorcycle from the orphanage to Rai Henek Oan [Betun, West Timor]. There, he threatened me with a knife. As long as I was there I was his "wife". He said I had to be his mistress because my husband [did not support autonomy]. I had to become his mistress because I was a survivor of the Suai Church tragedy.[113]

GF was 15 when she, with her aunt and younger brother, sought refuge in the Suai Church. Her aunt testified about GF's kidnapping and sexual slavery:

During the massacre…GF's 13-year-old brother was killed. We were made to leave the church with other refugees. We were divided into two groups - some [were taken] to the Kodim and some to the high school in Suai. GF and I were in the Kodim for one week until 12 September 1999. At the Kodim, in front of me, PS193 and a member of Laksaur [militia], PS194, put a necklace around GF's neck. PS194 said: "This is my war prize. As of now, GF is my third wife." From that moment on GF was separated from her family and taken wherever PS194 went. GF was taken to live in the Laksaur headquarters in Raihenek, Betun, West Timor.[114]

In her testimony to the Commission, HF described how she was forcibly taken from the Suai Church to the Kodim after the massacre. During the eight days of her detention there she was repeatedly raped by PS195, PS196 and four other militia. On 14 September she was moved to Atambua where she was repeatedly raped by PS197, PS198 and four other Laksaur militia.[115]

A young woman, IF, narrowly escaped death during the massacre at the Suai Church. As the situation quieted:

My aunt and I and other refugees were staying at the Kodim. We were harassed throughout our stay there. Women were taken away at night. They would come with torches and shine them on us while we were sleeping. Then they would make the women go out with them.

IF said that on 14 September she was taken to Betun, West Timor, and that night she was raped:

At about 6.00 or 7.00pm four men came in a hardtop jeep. Two of them were armed. They took me in the jeep to a forest where two Laksaur militia took turns raping me.[116]

JF was one of the refugees taken to the Kodim then forcibly displaced to West Timor, where many survivors of the Suai Church Massacre were taken:

At the time, the survivors…women and children, were separated in two groups of approximately 100 people. We were taken to the Kodim and the others to the junior high school building. PS194, his brother, who was the village head of Moruk, and several other militia wearing black Laksaur T-shirts took us there. They were carrying handmade weapons, machetes and AR [a kind of semi-automatic rifle], whereas the military and police officers were in uniform but unarmed.

On 11 September, JF was taken to a refugee camp in Wemasa, West Timor. Nine days later some Laksaur militia – PS194, PS199, PS200, PS201 (a primary school teacher), PS202 and PS203 – grabbed JF, who was holding her child, and her sister-in-law and put them in a car with other women. They were taken to an isolated area where JF was raped in turns by PS199 and PS201. She described the rape:

PS199 took me away from the vehicle, told me to put my child on the ground and to take my clothes off. Then he raped me. When he finished I held my child again. When I got back to the car, I was taken away again by PS201 and he did the same to me. My child was crying, but there was nothing I could do because at the time I was feeling severe pain. After they raped me I was taken back. It was 1.00am. On the way back they were merry and laughing.[117]

A week later JF was raped again, this time by a member of the civilian staff of the Suai Kodim named PS204. The rape took place in the refugee camp in front of her mother and sister-in law.

KF remembers in detail how the refugees were deported to West Timor and how she was raped in a refugee camp. She testified:

On Wednesday [15 September 1999], a member of Kodim 1635, a Pratu [Private First Class] whose name I did not know, arrived in a truck and took 57 of us, including children, to Wemasa in West

Timor.…At 11.00 on the night of 5 October 1999, Commander PS194, PS202, PS200, PS190 and Pratu [Private First Class] PS206 from unit 144 came to our place while we were asleep. They were dressed in army fatigues and armed. They threatened to kill us. I was raped by [Laksaur] Commander PS194. When he was finished he said: "You are just like a slut to be used and then thrown away."[118]

LF1 also told about her experiences after the murder of Father Francisco and her husband during the massacre:

[T]hose of us who survived were ordered out [of the church]. We were shoved, kicked with boots, trodden upon and beaten. They pointed guns and machetes at us all the way from the church to the Kodim 1635 house…There were many people at the Kodim, among them Domingas, the wife of the [CNRT] zone leader of the Zumalai Sub-district, with her daughters, Zulmira, Fátima, Agustinha, Cinta and Monica…While at the Kodim we were verbally abused, ridiculed and given leftover food. The other women and I did not eat because we were afraid of being poisoned. On 13 September 1999…the Kasdim [Kodim chief of staff] ordered our move to Betun [West Timor] on four trucks…but at the Camenasa [Suai, Covalima] crossroads we were left by the side of the road.

On 14 September 1999, at about 7.00pm, a Laksaur member, PS208, took away my niece who was with me at the time. She was forced into a hardtop jeep and taken away. On the same evening at 7.30, a friend and I continued [our journey] with the help of a Mahidi member we knew…He took us by foot to Betun. We were escorted by two police officers on motorcycles. Walking from the Camenasa crossroads to Betun, West Timor, took eight hours. We arrived on 15 September 1999 at 10.00am. [Just as we arrived] my niece was brought back by Laksaur member PS208 on a motorcycle. When she got off the motorcycle she could not walk because she had been raped. She had injuries and blood on her genitals, I treated her…she drank [a concoction of] water and sirih [betel leaf], I washed her with sirih water and leaves that I had boiled.[119]

MF was abducted by a Laksaur militia, PS206, and taken to the Kodim.[120] After a short while there, MF and other refugees were moved to Wemasa, West Timor. On 21 October 1999 she was assaulted by a Laksaur militia, PS210. On that night, two Laksaur militia members, PS194 and PS190, forced her into a vehicle. At first they invited her to a party under the pretext that she could meet her husband there, but when she refused they just shoved her into the car. There was already another woman in the car. "At that time I said to my parents, 'If I am not back by morning, it means I am dead.'" At the Wemasa crossroads, PS190 raped MF and PS194 raped the other woman.

The rape and sexual slavery experienced by the women who survived the Suai Church Massacre show elements of a pattern:

- collaboration between the Indonesian security forces and the militia at the time of the massacre and afterwards;
- the placement of the victims in the Suai Kodim, school building, and in other places guarded by security forces;
- militia and police personnel had unimpeded access to the women staying in those places;
- the security forces and the police did not protect the women against the perpetration of sexual crimes.

154. As indicated above in the narratives of the rape and sexual slavery following the massacre at the Suai Church, sexual violence did not stop when refugees were in transit to West Timor or resettled there. On the contrary, women became more vulnerable to sexual violence once removed from their home communities. In the context of this large-scale population movement, many women were raped in transit.

155. In September 1999, the Dadurus Merah Putih (DMP) militia forced NF and others to move into the public gymnasium (GOR) in Maliana in preparation for evacuation to Atambua. At 4.00am, in the midst of these preparations, militia member PS211 grabbed NF, dragged her behind the GOR building and raped her. PS211 threatened to attack her brothers if she did not comply.[121]

156. OF of the *aldeia* of Ira Lau, Pairara (Moro, Lautém) was forcibly moved from her home in September 1999 by seven TNI soldiers from a Territorial Combat Battalion (BTT) who came to her village. They were ordered to go to Lautém. On arrival in Lautém, she was threatened with a bayonet and sword and then raped:

> *While waiting for the boat on the Lautém beach, two TNI members I didn't know approached. They were armed with bayonets and swords. They threatened me and my children with their weapons. They raped me in turns. I gave in so they wouldn't kill my children.*[122]

157. OF was then put on a boat to West Timor along with her four children and other members of her community.

158. On the other side of the territory, in the enclave of Oecussi, a member of the Sakunar militia raped PF when her husband was made to enlist as a refugee in September 1999. PF testified at the Commission's National Public Hearing on Women and Conflict held in April 2003:

> *PS212, the Sakunar militia commander in Lela-Ufe, and PS213, a militia member, gave false information to my husband, telling him we should put our names on a list in order to be moved to safety at a place called Oelbinose in West Timor. The two men threatened him: "Whoever does*

not come will be destroyed inside their house." After my husband and others left, the two men came to my house. PS212…came [inside the house and] accused me of having prepared food for José Poto, a member of the clandestine movement. Without saying anything, he grabbed me, took me outside and dragged me to the traditional [round] house. PS213 remained behind with my five children who were crying hysterically.

I was scared and crying because there were only the two of us in the round house. I said to him: "Please, don't do this because I am married." Nevertheless PS212 took out a knife and held it to my chest. I was so scared I wet my sarong. Trembling, I said again: "If you want, go ahead and take the goat that is in the pen." He ignored my comments…PS212 pulled me and hugged me so that I couldn't move. He pushed me into a corner, up against the wall…and raped me for a very long time.[123]

159. The West Timor refugee camps provided no protection from rape, particularly for those who had been forcibly displaced and were encamped side-by-side with the militia members who had brought them there. On 14 September 1999, QF and four of her friends were abused in Wedare (Suai, Covalima) where they had been hiding. They were taken from Wedare by a militia called PS214 along with four of his friends to their Mahidi militia post in Betun. QF and her friends were detained there for three days and three nights. After that an East Timorese village police officer (Bintara Polisi Desa, Binpolda) named PS401 took QF from the militia post in Betun to Wemata (Belu, West Timor) where he raped her.[124]

160. In September 1999, RF and her three children were refugees in Haliulun, Atambua. Her husband and son stayed behind in Timor-Leste. While she was in Haliulun, an Aitarak militia named PS126 asked her to sleep with him while offering her Rp20,000. When RF refused, PS216 threatened her with a machete and raped her. An eyewitness saw the rape.[125]

161. SF from Tilomar, Covalima, recounts a similar experience which occurred in September 1999. According to SF's testimony, her husband had already fled to the forest for fear of being attacked by the Laksaur militia. Under threat of a handmade gun,* SF was raped by one of the three militia members in her own (refugee) residence:

On 10 September 1999, in Manumutin, Betun [Belu, West Timor], three Laksaur militia – PS217, PS218 and PS219 – came to my house [refugee quarters in Betun]. They were armed with handmade guns and swords. PS218 and PS219 told me that the three of them were going to rape me. I replied to PS219: "You are already married to my mother's sister and I call you uncle. Why must you rape me, your child?" Of the three, only

* The use of handmade pistols (senjata rakitan) was very common among militia in 1999. For a photograph and explanation of how a three-barreled pistol was assembled by militia, see Appendix 3 and 4 in K Campbell-Nelson, YA Damapolii, L Simanjuntak and F Tadu Hungu, *Perempuan dibawa/h Laki-laki yang Kalah: Kekerasan terhadap Perempuan Timor Timur dalam Kamp Pengungsian di Timor Barat [Women Carried by/Underneath Men Who Lost: Violence Against East Timorese Women in Refugee Camps in West Timor]*, JKPIT and PIKUL, Kupang, pp. 247, 249.

PS219 raped me. He held my hands behind me and dragged me outside the house. He threw me down with my head to the west and my feet to the east. After stripping me, PS219 raped me…While raping me, PS219 held a handmade gun that he had at my chest. After this, TNI came from Atambua and forced us [including the refugees in that region] to leave for Atambua. I was forced to join the other refugees going to Atambua because my husband was still in Suai [he had run to the forest]. After that I wasn't bothered again.[126]

Sexual slavery

162. Sexual slavery is illegal under the general prohibition on slavery. The UN Special Rapporteur on Contemporary Forms of Slavery defines sexual slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including sexual access through rape or other forms of sexual violence." She further explains:

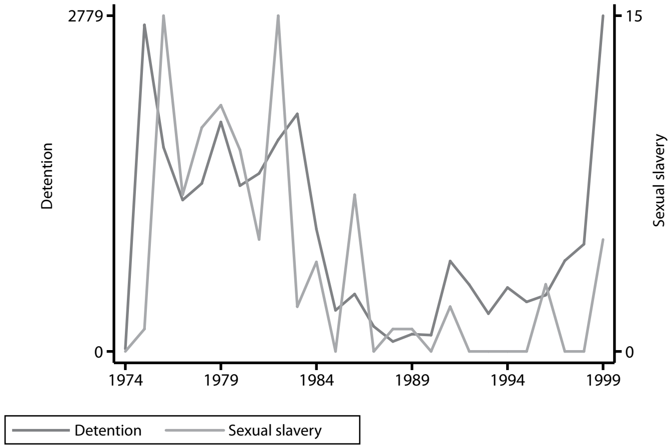
> Sexual slavery also encompasses situations where women and girls are forced into "marriage", domestic servitude or other forced labour that ultimately involves forced sexual activity, including rape by their captors.[128]

163. Sexual enslavement in international armed conflict or occupation is a violation of Article 27 of Geneva Convention IV and would be a grave breach of that convention (Article 147). It may also amount to a crime against humanity if committed as part of a widespread or systematic attack against the civilian population.

164. The Commission received evidence of a significant number of cases that can be categorised as sexual slavery. Many of the cases included practices that were striking in their similarity. A small number of cases involved members of East Timorese political parties as perpetrators. In the vast majority of cases members of the Indonesian security forces were the predominant class of perpetrators. Three main patterns of sexual slavery were identified by the Commission.

165. One common practice was for Indonesian officers to keep East Timorese women in conditions of sexual slavery in military installations. Ownership in these cases was either individual or collective. In other words, women could be raped by one repeat offender or by a group of offenders. Their detention was logistically supported as part of everyday military operations with the knowledge of the local military commander. The following graph shows correlation between reported acts of detention and sexual slavery during the period of the conflict.

Violations over time, 1974–1999

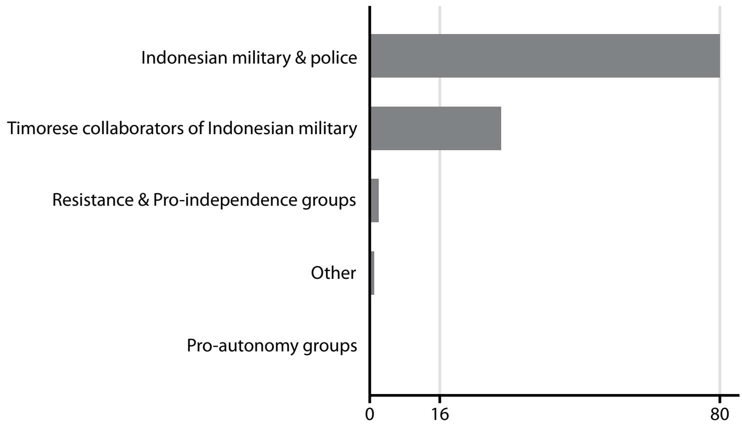


Source: Database of narrative statements given to the CAVR

166. A second form of military sexual slavery did not require the physical detention of women at military installations. Instead, women were summoned as required by members of the military for sexual purposes. In effect, these women were considered the property of a military unit and therefore had to provide sexual services to members of the unit if, and when, required to do so. These cases also involved the use of military installations. In some cases, a woman's name was put on a special list and the information regarding her sexual availability was passed from one battalion to the next when there was a rotation of troops in a given area.

167. A third pattern of sexual slavery involved a member of security forces establishing ownership of a woman in a domestic setting, usually her house. In this form of sexual slavery, the perpetrator would often threaten the woman or her family with death if she did not make herself available to him for sex on demand, and often also to perform other domestic work. In the circumstances of Timor-Leste, such a threat could reasonably be expected to be acted out if the demands were not complied with. In some cases, a woman would have to choose between this exclusive arrangement or repeated gang rape. The victim of this common pattern of violation was often colloquially called a "TNI mistress" or a "TNI wife". However, in reality, there was no marriage and no consent freely given by the victim to engage in sexual relations with the perpetrator.

Count of sexual slavery, 1974–1999



Source: Database of narrative statements given to the CAVR
Note: Some violations may be counted more than once because responsibility may be shared among perpetrators.

168. The Commission recognises that some genuine marriages took place between Indonesian security personnel and East Timorese women based on mutual agreement. These consensual unions, either formalised by civil registry, traditional law (*lisan* or *lulik* in Tetum, *adat* in Indonesian), religious rite, or as a *de facto* marriage, do not constitute a human rights violation. The Commission also notes that some East Timorese women willingly entered into a relationship with members of Indonesian security forces for economic reasons. The Commission considers these relationships as consensual unions which do not constitute a human rights violation.

The victim's perspective

169. In several cases the situation of sexual slavery continued over a number of years. This prolonged exercise of ownership by the perpetrator produced even more complicated results, particularly if children were born in these relationships. Some victims were alienated from their families and communities. They became financially and socially dependent on the military officer who controlled them, leaving little realistic option of escaping the situation.

170. Victims of sexual slavery used a variety of euphemisms to describe their experiences. Some simply described the first act of rape and then added "this continued for one year". Others said simply that they were made into "a whore" ("*lonte*" or "*feto nona*" (see footnote, par. 27). Others used the colloquial term of "*istri* TNI" (TNI wife).

171. These euphemisms reflect prejudices and stereotypes against women who became victims of sexual slavery. Whatever term was used to describe the violation, sexual slavery carried a stigma for the victim. This often resulted in isolation from her family,

ridicule from the community and discrimination against the woman and her children, including in some cases by church officials. Despite these barriers, women broke the silence and with great courage told the Commission about their experiences of sexual slavery.

Sexual slavery in the context of inter-party conflict

172. The Commission found evidence of sexual slavery that occurred in the context of the inter-party conflict in 1975.

173. TF1 from village of Seloi Kraik (Aileu Town, Aileu) testified to the Commission about the sexual slavery of TF that began when Fretilin detained TF1, TF and seven others. In August 1975 TF1, three other women and five men were abducted from their fields by Fretilin troops from another village. Suspected as UDT sympathisers and accused of hiding weapons, they were beaten and interrogated at the Fretilin headquarters before being taken to the Aissirimou prison in Aileu where they were further interrogated. They were finally released, but were made to pound rice and clear land [for planting] for one month. One night, PS220, a member of Fretilin, entered the room where four women were asleep and forcibly took TF away. TF1 stated:

> *PS220 came into the room [occupied] by us four women and dragged her out of the room. That night he raped TF and he continued the relationship until they married and had children.*[129]

174. UF testified about the killing of her husband in 1978 in the village of Maulau (Maubisse, Ainaro), by three members of the UDT party known as PS221, PS222 and PS223. After the killing, PS221 coerced UF into a sexual relationship threatening to kill her if she refused. UF gave birth to a child from that relationship.[130]

175. In May 1977, VF and members of her family were detained by Fretilin on suspicion of treason. VF testified to the Commission about the detention and torture by Fretilin that she experienced and witnessed at Fretilin's Renal centre (Rehabilitação Nacional, National Rehabilitation) in Remexio (Aileu). * At the end of her account, VF mentioned that one of the female detainees was forced to marry a member of Fretilin:

> *Six of us women were held [in the Fretilin detention centre in Roluli]… for two weeks. Throughout that period I was often beaten, kicked and interrogated. They separated us [the detainees] into two groups: men and women. My group was taken to a new place of detention known as a Renal in Remexio, Aileu. During the journey our hands were bound behind our backs and we were all tied together with a long rope pulled by Fretilin… Almost all those detained in the Renal died, including all my aunts and grandmother. They all died of starvation…On 25 June 1978 we ran helter-*

* Renal detention centres were Fretilin detention camps in the interior in the 1970s after the invasion. They were used to incarcerate and "re-educate" Fretilin members on political ideas. They were also the site of numerous human rights violations [see section on Renals in Vol. III, Part 7.4: Detention, Torture and Ill-Treatment.]

skelter out of Renal as the Indonesian soldiers were closing in and attacking the population in that area. On that day we fled to Roluli. There, the four of us [women] went our separate ways to live with and cook for Fretilin commanders. My friend VF lived with Commander PS224, WF lived with Commander PS225, while XF and I lived with Commander PS226…After that we continued our trip separately together with the commanders…On 19 January 1979, we all…surrendered, including Commander PS226, in Metinaro [Manatuto]. Before we surrendered, my friend XF was forced to marry PS227, a member of Falintil.[131]

Sexual slavery during the Indonesian occupation (1975–1999)

176. The Commission found evidence that sexual slavery took place in the context of the Indonesian occupation. Victim and eyewitness testimonies suggest that incidents of sexual slavery increased during periods of known major Indonesian military offensives. Significant increases in cases of sexual slavery occurred in the late 1970s, again in 1982 during the *levantamento* period and in 1999 around the time of the Popular Consultation.

Sexual slavery during the invasion and large-scale operations (1975–1984)

177. The Commission's database of documented sexual slavery cases shows 63% occurred during the period of the Indonesian invasion and large-scale military operations between 1975 and 1984. Cases of sexual slavery during this period can be divided into two distinct patterns: military sexual slavery and domestic sexual slavery.

A. Military sexual slavery in military installations

178. The Commission has gathered strong evidence that points to the practice of sexual slavery which was institutionally tolerated and supported by the Indonesian military.[132] In cases where the victims were detained in military installations during the period of sexual slavery, the culpability of the military is obvious.

179. YF told the Commission about her experiences of detention and sexual slavery when she was about 15 years old. When the Indonesian army invaded, YF and her family, who were known as Fretilin supporters, fled to the forest from the village of Lauana (Ermera). In 1977, YF, her family and an old woman named YF1 were caught by Indonesian soldiers. They were taken to the Letefoho Koramil in Ermera for interrogation and then were ordered back into the forest to convince other Fretilin members to surrender. At the time, YF's brother, who had been captured and detained at the same time as YF, was able to prevent her from taking part in the operation. YF returned to her house in Lauana. YF1, however, went on the operation and was shot in the back by the military. Sometime later, soldiers went to YF's house and arrested her again. YF told the Commission:

The military recaptured me and my cousin, ZF, and we were taken from Lauana to the Koramil in Letefoho. In Letefoho two military men, whose names I have forgotten, forced ZF and me to have sex with them at the Koramil. They pushed us into two separate rooms and threatened us: "You are Fretilin and if you do not want [to do it] with us, we'll shoot you dead." We did not want to die so we just submitted to the soldiers who raped us.[133]

180. After the soldiers raped the two girls, they forced them to stand by the flagpole in the hot sun. They slapped them and threatened to shoot them. An East Timorese soldier at the Koramil stopped this. After four days in the Letefoho Koramil, YF was transferred to the Ermera Kodim where she was detained for one year (1977–1978). YF said of her time at the Ermera Kodim:

*The raping continued and I was not allowed to meet my family because we were all Fretilin. During my detention at the Kodim, the Peltu [the chief warrant officer], whose name I forget, continually harassed me and used me like a whore (*nona*).*[134]

181. YF gave evidence that two other women caught in Hauhei (Hatolia, Ermera) were also repeatedly raped by the soldiers in the Ermera Kodim. YF gave birth to two children, one of whom died.

182. In many cases of military sexual slavery, military resources were used to commit this sexual crime. Like YF, who was unlawfully arrested and detained, AG told the Commission about her experiences of rape and sexual slavery, first at the Hatolia Koramil in Ermera and then at the Maliana Kodim in Bobonaro:

In 1977 an Indonesian soldier, PS228, came to my house, threatened my parents and took me to the Hatolia Koramil…[there he] undressed me, laid me down on the cot and used me like a prostitute. [This continued] for a year.[135]

183. On completion of his tour of duty, PS228 abandoned AG. Two years later, he was again stationed in Timor-Leste, this time at the Maliana Kodim. He ordered two Hansip members to bring AG to him. Once again, under the threat of death, AG's parents had to surrender their daughter to the Indonesian soldier. AG was taken to the Maliana Kodim barracks and again forced into a situation of sexual slavery for three years. She gave birth to two children. PS228 claimed AG as his exclusive sexual property over a number of years. The fact that he ordered two Hansip members to fetch AG from the sub-district of Hatolia, which was under the control of the Ermera Kodim, to take her to the Maliana Kodim, clearly demonstrates the use of military resources and authority between Kodims in the commission of this crime (see also case below, par. 193, of PS229, Head of Intelligence Section, Ainaro Kodim).

184. Women were not only detained for sexual slavery in Kodim (district) and Koramil (sub-district) posts, but also in military posts throughout the territory. BG describes her detention and sexual slavery at the Battalion 145 post in Hatolia:

In 1977 in the town of Hatolia, the commander of Battalion 145, PS230 from South Sumatra, threatened to shoot my brother…with a gun in order to force me to go to the TNI [i.e., ABRI] post. [There he] used me as a prostitute for one year until eventually I gave birth to a child. At the time I was still a young girl.[136]

185. BG also testified that another woman, known to her as CG, was also forced to live at the Yonif 145 post. Like BG, CG was coerced into a situation of sexual slavery and eventually gave birth to a child. When Battalion 145 left Timor-Leste, the two women and their two children were abandoned without any means of support. The two women were in a situation of sexual slavery at this military post until both women became pregnant and gave birth to a child. This indicates that this practice was known and tolerated by the military.

186. Women known to have a role in Falintil were all vulnerable to sexual slavery. This included women who surrendered after having fled to the mountains and, in particular, women known to be married to Falintil leaders. DG, who two years previously had witnessed the gang rape of her sister E in Lauana, Ermera, became a guerrilla fighter and was married in a civil ceremony to a Falintil Commander named DG1. They were separated during battle and in 1977 DG heard that her husband had been killed in Aidea, Aiasa (Bobonaro, Bobonaro). A year later DG surrendered in Cailaco (Bobonaro). DG told the Commission:

Because [ABRI] knew I was the wife of Commander DG1, the Hatolia Koramil commander, a man from Sulawesi named PS231, forced me and used me as a prostitute for one year…[Then] he just abandoned me with the child born of this relationship.[137]

187. EG1 gave evidence to the Commission about the sexual slavery of his sister EG. According to his testimony, she was targeted because her brother was a Falintil commander. In 1979, after four members of her family were killed by Indonesian bombs dropped on the *aldeia* of Fatuacan, Fahinehan (Fatuberliu, Manufahi), EG1 and his family surrendered to the head of the *aldeia* of Riamori, in Fahinehan Village, named PS233. EG1's older brother, EG2, a Falintil commander, also surrendered. EG1 told the Commission:

The village head [of Fahinehan] informed Linud 100 that EG2 was a high-ranking commander in the forest and therefore he would have to be killed or, if not, TNI [sic] would have to take or marry his sister. Then they came for my sister, EG. They took her to the military post and raped her in turns. They continued to do this until 1980 when they [Linud 100] were demobilised and replaced by Battalion 643. They also took me to become a TBO at that post…I saw my sister being raped with my own eyes. When they left Fahinehan, she was released [and allowed] to go home.[138]

188. In 1979, FG, who was aged 14 at the time, surrendered to the Indonesian military in the village of Mulo (Hato Builico, Ainaro). With two other friends, FG was held in a room

at the Hato Builico Koramil. There, the Koramil commander and his deputy, respectively known as PS402 and PS403, stripped and raped them. FG told the Commission:

> *They raped me and my friends every night throughout the one week of our detention. The first time I was raped I bled and could not walk.*[139]

189. FG had a child as a result of rape. She told the Commission that two years later an ABRI soldier, PS404

> *came [to my house] to force me to marry him…I was scared because it was an increasingly heated situation where many people were being detained… [I]n the end [I gave in to him and] had a child from this union.*[140]

190. In this case, FG and her friends were victims of repeated rape while detained at the Hato Builico Koramil (Ainaro), and two years later FG was the victim of domestic sexual slavery.[141]

191. In some cases, sexual slavery included forced recruitment into military operations to find Falintil, as experienced by GG. In 1979, two ABRI soldiers from Infantry Battalion 121, a Corporal PS234 from South Sumatra and an unknown man, detained GG from her home in the *aldeia* of Nun Sorau, Ma'abat (Manatuto, Manatuto). They took her to the Manatuto Kodim. "If I refused they would kill my father. Because I was terrified, in the end I resigned myself." After being raped on the floor, the following day GG was taken back home. "From then on I was used as his 'comfort wife' for six months and gave birth to a child as a result." While GG was pregnant she was forced to go into the forest carrying 5 kilograms of rice, food, cigarettes and two letters. The letters – one from the Kodim and the other from Battalion 121 – were an appeal to members of Fretilin still in the forest to surrender. Eventually GG met some Fretilin members who knew her but she was detained at the Fretilin command post for five days. Eventually GG was able to escape and go back to report to the Kodim in Manatuto. A few days later she was forced to go with a battalion on another search for Fretilin's places but they did not find anything. The following day she had to follow another military operation:

> *Three TNI [sic] from Battalion 121 whose names I did not know threatened me with a gun and a grenade so that I would lead them into the forest to search for Fretilin's armed resistance. Because I refused, I was kicked three times on the thigh till I fell. I was one month pregnant at the time. I was told to stand and continued being forced [to walk on].*[142]

192. GG returned to the village of Cribas (Manatuto, Manatuto) with this military unit in a convoy of three Hino vehicles. She was forced to climb mountains and stay in the forest with the soldiers but they failed to find any Falintil troops. The sexual slavery aspect of this case is clearly evident; the abduction from her house, the threat to her family's safety, the rape and the involvement in military operations were not of her own free will. Battalion 121 exercised the right of ownership over GG although only Corporal PS234 had sexual access to her.

193. In the following case, a head of the intelligence section was able to transfer two female detainees from the Koramil in Hato-Udo (Ainaro) to the Kodim in Ainaro strictly for his private sexual use. In 1980, MB and NB surrendered in Betano (Same, Manufahi) and were taken to the Koramil in Hato-Udo. Having heard of their capture, the head of intelligence (Kasi I Intel) from the Ainaro Kodim, known as PS229, went to interrogate them. After PS229 returned to Ainaro, he ordered two Hansip members to fetch the women from the Hato Udo Koramil and take them to the Ainaro Kodim:

> *We stayed there, [then] Kasi I Intel [Head of Intelligence Section] PS229 called me and NB to [his place] to use us both. In a week, he would rape us for five days and five nights. He did this to us for one year. I had a child from this relationship.*[143]

B. Military sexual slavery outside military installations

194. The Commission found evidence of sexual slavery where women, not held inside military bases, were still summoned by ABRI at will for sexual abuse by soldiers. Although not physically detained at a military compound, such victims were nonetheless under absolute military control. In some cases, women's names were on a list or file held by the military, which required them to make themselves available sexually for military personnel. These lists or files were handed down from one battalion to another. As HG of Lautém related to the Commission:

> *My name was on the Kodim list as a person who could be "used". So with every [troop] rotation I would always be picked by a member of ABRI who wanted me. I always submitted to them because I feared for my life.*[144]

195. IG was a victim of military sexual slavery for a period of one year that ended when she agreed to a situation of domestic sexual slavery with a Babinsa. In 1977, IG was taken from her home in the *aldeia* of Uaturidi, Bahú (Baucau, Baucau) by Combat Team Regiment (RTP) 15 and Infantry Battalion 330 troops. She was interrogated and tortured. "[They] burned my lips with cigarette butts, slapped me, kicked me…then told me to go home." IG was arrested again a year later, this time in the *aldeia* of Anawaru, Caibada Uaimua (Baucau, Baucau) and taken to the Baucau ABRI headquarters. "At the TNI [sic] headquarters, soldiers raped me repeatedly for four days. If I refused [they said they] would shoot me dead." After four days IG was released and returned to her home in Anawaru:

> *But…every morning at 08.00 I was called by the TNI [sic] to be with the soldiers as husband and wife. If I refused I would be killed. All this happened because at that time my husband was still with the Falintil guerrillas.*[145]

196. The situation continued for one year. In 1979, IG was beaten when she refused an ABRI soldier who wanted to have sexual intercourse with her. "I was under great stress

at the time, so in the end I reluctantly gave myself to a Babinsa who wanted to marry me." She had two children from that relationship.[146]

197. G1 testified about his sister's ordeal of sexual slavery in 1978, when G1 and his family surrendered to Infantry Battalion 122 in Lauana Village (Letefoho, Ermera). At the time G was forced to become the sexual property of Battalion 122. She was only 17 years old. G1 told the Commission:

> *When we surrendered, my sister G was still a virgin. The soldiers and the Hansip raped her. When the soldiers needed to satisfy their lust, they would take [G] to the post to use her. Because of these sexual violations G never married – she lives alone.*[147]

C. Domestic sexual slavery

198. The Commission received evidence of cases of sexual slavery where a woman, sensing threat from armed security personnel, was forced to enter into a long-term sexual relationship in a domestic setting. In many cases of domestic sexual slavery reported to the Commission, the victim was raped prior to being forced into a long-term sexual relationship with the perpetrator.

199. The Commission received corroborating evidence regarding the case of sexual slavery experienced by JG. In 1980, ABRI was distributing corn flour to the population of Welaluhu Sub-district (now known as Fatuberliu) in Manufahi District. Two men and three women – JG, KG, LG – were detained and tortured. The three women were separated from the other detainees, placed in a house near the Koramil and raped repeatedly by the Koramil Commander, PS239, and his deputy. JG was raped for nearly 40 days by the deputy Koramil commander. Two weeks after JG was released, the deputy Koramil commander went to her house and forced her to "marry" him. This relationship continued for one month until this deputy finished his tour of duty in Timor-Leste.[148]

200. MG gave testimony about the rape and domestic sexual slavery she experienced in her own home in 1982 when she was only 15 years old. This case, which took place in the village of Manlala (Soibada, Manatuto) demonstrates the powerlessness of the local population and the civilian government in relation to the Indonesian security forces.

> *In 1982, on my way home from school, I was chased by a member of Nanggala [Special Warfare Command] named PS240. I could not run fast so he caught up with me and raped me [in a place called] Besarin. A few hours later, my teacher, Lourdes, arrived at the place of the rape because my friends told her what had happened…*
>
> *When my father returned from the fields, he was very angry and he beat me although I was still a child. My father could not stand to see me like that and in the end he reported the incident to the government Sub-district head [Camat], a man named PS241, [so that he would] prohibit PS240 from having any contact with me. Instead Nanggala PS240 became very angry and beat and kicked my father until he bled. A week later Nanggala*

PS240 came to the house and stayed there for the night. From then on he forced me to become his comfort wife, till I became pregnant. After the child was born he began to avoid [me], till [eventually] he was transferred to Baucau.[149]

201. A similar case was reported by NG1. In 1983, when NG1 was still a 12-year-old child in the village of Sananain (Laclubar, Manatuto), PS242, an Indonesian member of the village police (Binpolda), often visited NG1's family house. One night PS242 called and asked for NG1's sister, NG. NG1's parents tried to prevent PS242, but he forced his way into NG's bedroom. NG1 also tried to protect his sister, but PS242 threatened to shoot him. That night NG was raped in her home. After that night, PS242 decided that he would stay at the house from time to time in order to have sexual relations with NG. This situation continued until PS242 completed his tour of duty in Sananain. NG gave birth to a child as a result of these violations.[150]

202. The table below provides a brief summary of some cases of domestic sexual slavery during this period.

Table 1 - Summary of cases of domestic sexual slavery, 1975–1984

HRVD Statement Number	Year	Location	Perpetrator	Brief description	Duration of sexual slavery
01792	1975	Rairobo, Atabae, Bobonaro	Unnamed police	Under threat of being burnt alive, OG1 surrendered his daughter to a policeman. Two children were born of this relationship.	More than one year
01167	1975–1976	Atabae, Bobonaro	PS243, from Sulawesi Indonesia, member of the Maliana Koramil	First Sergeant PS243 forcibly entered PG's home. Under threat of death, she was forced to accept an on-going sexual relationship with him. A child was born of this relationship, but abandoned by PS243 when he returned to Indonesia.	More than nine months
01827	1975–1978	Atabae, Bobonaro	PS126, East Timorese, Partisan	When Partisan troops entered Aidabaleten Village, QG was raped for five hours by PS126. She was then forced into a situation of sexual slavery with him that lasted three years.	Three years

06190	1976–1978	Hatolia and Ermera, Ermera	PS245, District Administrator of Ermera, East Timorese	After surrendering to ABRI in the village of Samara, RG and her family were taken to Ermera. There, PS245, the district administrator of Ermera, made RG stand in line with three other girls. He selected her to be his "mistress"; he began a non-consensual sexual relationship with her.	Two years
07905	1976	Sau, Manatuto	PS246, field artillery soldier.	PS246 threatened to kill SG's parents; he then raped her in her own house. This situation continued for seven months.	Seven months
06193	1978	Hatolia Ermera	Unnamed soldier in Battalion 721	Under threat that he would kill her brother, an ABRI soldier from Battalion 721 forcibly took H from her village in Hatolia to live with him in Dili.	Six months
04108	1978–1979	Rotutu, Same, Manufahi	PS247, ABRI, Indonesian	TG was threatened by 10 Hansip members who claimed they would kill her whole family if she did not accept PS247 advances. PS247 lived with TG and her family for two months. TG was pregnant when PS247 forced her to move with him to Betano. They lived in Betano until their child was a year old before PS247 returned to Sulawesi, Indonesia.	More than one year
01161	1978–1981	Atabae, Bobonaro	PS248, Army Special Forces Regiment (RPKAD), Indonesian	PS248 threatened UG with death if she rejected his sexual advances. Three children were born from this relationship and deserted by PS248 upon his return to Indonesia.	Three years
06355	1979	Raimea-Biluli, Ermera	PS249, Commander Infantry Battalion 401, Indonesian	PS249 and nine other soldiers went to the house of VG. PS249 threatened to kill VG's brother if she rejected his advances. She submitted because she feared for her brother's life. PS249 continued to rape VG in her home. She eventually gave birth to a son who later died.	More than nine months

01066	1979–1981	Dukurai, Letefoho, Ermera	*Liurai* PS250, Village Chief	WG was detained by PS250 and a Hansip member named PS340. She was beaten, then forced into a situation of sexual slavery with PS250 who lived with WG in her parents' house. She had two children from this relationship.	Two years
00566	1979	Uailacama, Vemasse, Baucau	PS251, Babinsa of Vemasse, Indonesian	PS251 accused J and her father of working with Fretilin and threatened to kill them. In exchange for sparing their lives, PS251 took J and lived with her at the Vemasse Koramil. A child was born of this relationship.	One year
05212	1980	Lenao, Manatuto	PS252, ABRI soldier, Indonesian	The victim was raped under threat of death at her own home, then forced to accept an on-going sexual relationship. When PS252 was transferred to Soibada (Manatuto) he took her with him. She had a child from this relationship. He returned to Indonesia.	More than nine months
03527	1984–1987	Railaco Kraik, Railaco, Ermera	PS253, Babinsa, originally from Central Java	PS253 confiscated the possessions of XG. That night he went to her house threatening to kill members of her family. She was raped and then forced to accept an on-going sexual relationship in her home. She had a child from this relationship.	Three years

D. Consecutive domestic sexual slavery

203. The Commission received evidence of cases of consecutive domestic sexual slavery, perpetrated by different offenders on the same victim.[151] The Commission has evidence that sexual "ownership" was passed from one member of the Indonesian security forces to his replacement.

204. YG became the victim of sexual slavery by three Indonesian soldiers consecutively. In 1980 YG was nearly shot by a police officer and ABRI soldiers when she was in the fields with her children. Accused of having joined Falintil, YG was taken to the Alas Koramil (Manufahi). On the way, they threatened to kill her and throw her in the river. At the Alas Koramil, YG was interrogated for three days. Then the Alas Koramil commander, known as PS254, forced YG to give in to his sexual advances and eventually she had a child. The Koramil commander died soon after the child was born. In 1982 YG was again forced into sexual slavery, this time with an Indonesian soldier named PS255. From this relationship she gave birth to a stillborn baby. A year later, for the third time, YG was forced into sexual slavery with a member of ABRI whose name was not disclosed. The soldier left YG after a month on completion of his tour of duty.[152]

205. ZG was forced into a situation of sexual slavery that continued for one year and involved four consecutive perpetrators from different military units. In 1981, ZG was only 16 years old when PS256, the village head of Mindelo (Turiscai, Manufahi) went to ZG's house in the middle of the night with PS257, an Indonesian soldier. PS256 threatened to kill ZG's brother if he did not surrender his sister. ZG was forced into a sexual relationship with PS257 that lasted for two months. After PS257 left the region when his battalion was moved, another Indonesian soldier named PS258 arrived in the area and, with a member of Hansip, went to ZG's house. With threats, he forced ZG into a sexual relationship that lasted four months. After PS258 left he was followed by another Indonesian soldier, PS259, and later yet by another Indonesian soldier named PS260. Each of them forced ZG to have an on-going sexual relationship that lasted the duration of their duty in this region (one to four months). In 1984 another soldier whose name was not known to the victim tried again to force a sexual relationship with ZG. ZG explained to the Commission:

> *I surrendered myself to be killed. I said to him, "If you want to kill me, go ahead, but I don't want to live in a situation like that again." So it didn't happen.*[153]

206. As a result of her situation, ZG became mentally unstable.[154]

207. At the beginning of the 1980s, the Indonesian military considered the district of Lautém a stronghold of the Resistance, which it termed the "security disturbers movement" (Gerakan Pengacau Keamanan, GPK). Consequently, large-scale military operations were conducted in this district, increasing the incidence of sexual violence against women. In the sub-district of Lospalos torture, rape and sexual slavery were widespread. HG, whose name was on a list of "available women" at the Lospalos Kodim headquarters (see par. 194 above), was one among several women who told the Commission of her capture, and the torture and sexual violence she then experienced. In 1981, HG's husband, a member of a civil defence group of the Indonesian military known as Trained Civilians (Rakyat Terlatih, Ratih), was shot dead during a Falintil attack. A year later in 1982, HG was captured by the Indonesian military under suspicion of helping her uncle who was in the forest.

> *They made me walk from the house to the Maluro [Lore I Village] post where I was detained for three days. While at the post, they stripped me naked and pulled my pubic hair, then they electrocuted me on the genitals and…on the ears. I was captured with all the young girls of Maluro. We were all stripped naked before the population of Maluro, then they inserted large batteries inside our vaginas.*

208. HG was interrogated, tortured and raped for three days. Following this she was sent home, though she was summoned every night and, along with a mother and daughter, forced to sexually "service" the soldiers. She described:

> *Each of us had to have sexual intercourse with one man until they returned to their own provinces. Mine was an Indonesian soldier named PS262.*

After he finished with me I was not allowed to go home but was made to sleep there with him. My friend and her daughter were sent back home. One day PS262 was transferred to the Kodim in Lospalos. I was taken there too, to live with him. When I became pregnant he told me to go back to my home in Maluro. After I gave birth, he never cared for the child who eventually died of malnutrition…

The second person to claim me [sic, it is actually the third person counting the man who first raped her] was PS263 [Indonesian]. He ordered me and a group of other people to go into the forest to look for Falintil members… They made me walk about 100 metres in front of them, then they followed, always watching me from the back. During the operations in the forest I was made to wear ABRI fatigues but I was not given a weapon. During the journey I had to have sexual intercourse with PS263 whenever he wanted. When I became pregnant he asked a friend, trained as a nurse, to give me an injection to make me abort, but I refused.

I have forgotten the name of my fourth "husband". The fifth was named PS264 [Indonesian]. In the end I had five children from five different fathers. The father of my first child who died, was from the Komando Unit. The father of the second child was from Unit 412. The third was from Unit 413. I forgot the name and unit of the fourth child's father. The last child's father was PS264, I do not remember from which unit.[155]

209. Like HG, AH was also subjected to several forms of violence. In 1983, her husband was captured and detained for several years at the Lospalos Kodim (Lautém). Soon afterwards, AH was also captured by PS265, a member of the Secret Warfare Command (Nanggala) combat unit, and a soldier from Yonif Unit 642, Company A. She was taken to the ABRI post in Maluro, Lore I Village where she was tortured and raped by several ABRI soldiers for about a week. After her release, soldiers also went to her home where she lived with her two small children and raped her there. She had to report daily to the Maluro post from 1983 to 1987. Often when she went to report they would call her in to be interrogated and raped.[156]

210. BH was detained and tortured because she refused the sexual advances of a soldier. Then she became the victim of domestic sexual slavery perpetrated by two Indonesian soldiers in succession.[157] The Commission also received the testimony of CH who told of her capture, sexual torture and sexual slavery at the Maluro post. Like HG, she said that her name was listed in ABRI files and that she could be passed by a soldier from one battalion to the next as troops rotated in and out of Maluro.

In 1983, I was captured by ABRI soldiers from Unit 372 because [a member of my family] was still in the forest. I also gave cassava, sweet potatoes and beans to Xanana and Falintil who harvested them directly from my fields. An informer reported this and so ABRI soldiers came and seized me from my house and took me to the ABRI post in Maluro. On arrival, they stripped me naked and interrogated me. They hit me with their hands and with sticks, they bound me and kicked me, burned me

with cigarette butts, and other forms of torture. During the interrogation another member pinched me and squeezed my breasts, but I remained passive because there was nothing I could do. They pulled my pubic hair and then raped me. They raped me in turns. Every time they needed it, I had to do it with them. If not, they would beat me black and blue. I was detained at the ABRI post for two years. My main duties while in detention were to wash their clothes, cook and take care of their sexual needs. In the end I had a child by an ABRI soldier named PS266 [Indonesian].[158]

E. Case study: rape and sexual slavery in Mau Chiga, Ainaro

211. To better understand the context in which sexual slavery occurred, the Commission conducted a special investigation on the human rights violations that took place in Mau Chiga (Hato Builico, Ainaro) from 1982–1987. Sexual slavery, rape and other forms of sexual violence took place at the same time as mass detention, torture, killings, and, finally, exile to the island of Ataúro and other isolated areas.

212. At dawn on 20 August 1982, Falintil troops and men from Dare and Mau Chiga attacked the Dare Koramil and other ABRI posts in the area. A heated battle ensued when ABRI and Hansip forces immediately returned fire. On the same day ABRI in the area launched a retaliation attack against the civilian population of Dare and Mau Chiga. They were soon reinforced by ABRI troops, including Infantry Battalions 745 and 746, deployed to the area from the surrounding areas. From 20-24 August, ABRI razed the village of Mau Chiga and the population fled and scattered in all directions, including up Kablaki Mountain. ABRI gave chase to the fleeing population and captured most of the women who were then detained in several places: the Kodims in Same and Ainaro; the Koramils in Maubisse (Ainaro), Lesuati (Same, Manufahi) and Dare (Ainaro); the Dare primary school building; the Dare market; and in tents or temporary huts in Dare. Except for those in the school building, most detainees were then relocated to more permanent detention sites on the island of Ataúro, in Dotik (Manufahi) and locations in and around Dare.

213. Civilians captured in Mau Chiga were taken to the Lesuati (Same, Manufahi) ABRI post after their homes were burnt down. After several weeks in Lesuati, these detainees, as well as those being held at the Kodims in Same and Ainaro, were transferred in Hino trucks to the Balide Prison in Dili. As the trucks were full, some detainees waited for another week or so for more trucks to come and get them. When they did not, the remaining detainees in Lesuati were forced to walk for several hours until they reached the Dare Koramil in early September 1982.

214. When the makeshift detention centres around Dare were full, some detainees were allowed to stay in the houses of the Dare community. Detainees living in civilian homes had to report for a daily roll call at the Dare Koramil. Meanwhile, the women in the detention centres were strictly guarded and controlled. They were separated from the men of their families and cut off from social or emotional support from their community.

215. Sexual violence towards the women of Mau Chiga began shortly after they were detained. For example, six of the women held in Lesuati reported they were taken to another ABRI post in Mantutu (not far from Lesuati). DH, EH, and FH were sexually tortured (see par. 310 below) while GH, HH and IH were taken there on separate occasions to be raped (see also section on Sexual Violence of Vol. III, Part 7.8: The Rights of the Child).[159]

216. JH was not taken to the Mantutu post, but was raped at the Lesuati post on the same night her husband and uncle were interrogated and killed at the Mantutu post.[160]

217. The gang rape of female detainees often took place in the context of interrogation. Of the 66 women interviewed (or mentioned in interviews) about the 1982 uprising in Mau Chiga, 41 were victims of sexual violence: 24 were raped, 11 others experienced slave-like sexual abuse and six others suffered from other forms of sexual violence. GH testified to the Commission:

> *On 20 August 1982, two ABRI [soldiers] burned all the houses in Mau Chiga and ordered me to go to Lesuati. I stayed there for a week with my family. One night they took me to the military post in Mantutu for interrogation. As it turned out, they had lied because there I was raped by PS61, an East Timorese soldier of Battalion 745 with the rank of Serka [Sersan Kepala, Sergeant-Major]. They raped me on the road in the long grass. He wasn't the only one. ABRI and Hansip members did the same. At the time it was as if my body was that of a whore.*[161]

E.1 Internment in Dare, Ainaro

218. The office of the Dare Koramil was the geographic and logistics centre where many of the crimes against the members of the community of Mau Chiga were organised and committed. The office of the Dare Koramil was located between two detention centres. The primary school was located directly behind the Koramil and the market was directly opposite, across the road. Most people who were captured were eventually taken to this Koramil before their final destination was determined.

219. For many women detainees, interrogation sessions were merely a pretext for security forces to rape them. "Each night they [the military] would take women…and say they were 'seeking information', but in reality they were raping the women." As a rule, the opening question to a married woman being interrogated was: "Where has your husband fled?"[162] Rape during interrogation was usually accompanied by other forms of physical torture. LH told the Commission:

> *The three of us [LH1, LH2 and I] went to Hatuquero to look for food. There, we were caught by the village head named PS267. He took the three of us to Aituto [Maubisse, Ainaro] and handed us over to the Dare Koramil. [There] a Hansip by the name of PS54 said to the three of us: "Why don't you just come [to me] so I can make all three of you my wives?" After he said this he…started to beat me with a large bamboo stick. Then he took*

some matches from the pocket of his trousers and burned my mouth, ears, arms and body until my skin was all black and swollen. After he burned me, he ordered me to take off every stitch of clothing on my body. Then he went to call an ABRI [soldier] and the two took turns raping me.[163]

220. Some women were called to come for interrogation at the Koramil while others were detained there. LH1, together with LH, MH and NH were detained in the kitchen of the Dare Koramil for one week before being transferred to a house in Dare. LH1 was the only woman not raped while staying in the Koramil kitchen.[164]

221. ABRI facilities in Dare were not the only place soldiers raped the women of Mau Chiga. OH and PH, two women who cooked for a clandestine meeting to prepare for the Falintil attack on the Dare Koramil, were raped during their detention at the Ainaro Kodim.[165] One of the offenders was Sergeant-Major PS269. He raped OH after she was interrogated and beaten on her back until she was unable to walk. At the time, OH was two months pregnant. OH1, who together with other men from Mau Chiga was put in a cell of the Ainaro Kodim a few days before OH and PH were detained there, named other perpetrators. OH1 told the Commission:

On 11 June 1982, I was still in the cell when an ABRI soldier took me away for interrogation because the information I had given, in their opinion, was not the truth. They beat, kicked, pinched, burned and electrocuted me all over my body. On 12 June 1982, they caught PH and OH and put the two of them in a cell. Then they were both raped.

One day, the same thing happened to a woman whose name I don't know. She was from Ainaro. ABRI and Hansip raped her too. I know because she was in the next cell and I heard everything through the wall. I heard her screaming, something like this: "I am five months pregnant. Why must you rape me like this?" Those in charge at the time were PS270 and PS271 [Indonesian]. PS271 was an Intel agent who rarely wore a uniform. One of the men who raped PH and OH was PS272 [Chief of Intel Section, First-Sergeant]. The other one, PS406, was an intelligence agent who also rarely wore a uniform.[166]

222. QH was also detained at the Ainaro Kodim for a year before she was released from her cell to enter a situation of domestic sexual slavery, following negotiations among the soldiers at the Kodim.[167]

223. RH was held in a dark cell when she was detained at an ABRI post:

I was in Nunumogue [Hato Builico] for three months, always under ABRI's control. Suddenly a Hansip came to the house and said that three of my friends and I…were being summoned by Kasi I Pak PS271, PS270, and Pak PS273 [Indonesian]. When we got there, they interrogated me about the Falintil's attack in Mau Chiga. Because I didn't tell them the truth they put me in a secret cell with a locked door and windows. I stayed a few weeks in that dark cell. One night, when I was asleep, suddenly the ABRI soldier who stood guard at the door entered the cell and did something

ugly to me [raped me]. After he finished, he threatened me: "Don't tell anybody about this." I was in that dark cell for three months.[168]

224. Dozens of people from Mau Chiga were held in the Dare market place opposite the Dare Koramil. The market place was an open courtyard covered by a thatched roof. Some of those who were captured and held in the market place stayed there only one night before they were moved across the road to the primary school. Others from Mau Chiga stayed in the market for several months while they built temporary shelter close by. ABRI and Hansip members raped at least five women while they were held there. They were taken out at night and raped behind the market. Two of the women were in an advanced state of pregnancy when raped. SH told the Commission:

> *On the evening of 17 September 1982, several members of Hansip came to my place. They told me the commander wanted me for interrogation. As we left the Koramil, they immediately raped me. They were PS274, PS275, PS276 and PS277. While I was being raped, PS277 held a torch and shone it over the place where we were. I was five months pregnant at the time.*[169]

225. TH was raped the night before she gave birth. She told the Commission:

> *[I]t was the middle of the night, four Hansip came to our place. They asked me: "Where is Tomás, your husband?" "My husband fled, I do not know where." "You are lying!" Then they took me outside…[T]he four Hansip took turns raping me. While one raped me, another shone a torch over me and the man raping me. This continued until they finished. I was very hungry and weak because they raped me until morning without stopping. When they finished I was crying. But what did they say? "Why are you crying? Our penis is the same as your husband's. We did it so your baby will come out [be born] quickly." After saying that, they left me. I managed to stand up by holding on to the trees around me and walked back to our place. My stomach was aching. For over two hours I bled profusely. I was aware that I was about to give birth. I went to ask if I could use the kitchen of those who lived close to the Koramil, so I could give birth. In the end they gave me a place and I gave birth to my child in that kitchen on 18 September 1982 at 10.00am.*[170]

226. Testimonies of those who survived the violence show that an effort was made to separate men and women detainees. Albertina Martins told the Commission that a group attending a traditional koremetan* function in Maubisse at the time of the attack was taken to Dare. There, men and women were separated. The women went to the market place while "all men in the group were taken to Ataúro."[171]

* Koremetan means "to take off black". This is a traditional ceremony performed 12 months after a person's death, when family members remove the black clothing that symbolised their grief. The ceremony is usually accompanied by singing and dancing.

227. In late August 1982, the primary school behind the Dare Koramil was taken over by ABRI for about six months to be used as a makeshift detention centre. Many of the detainees were tortured and raped in the school. Mau Chiga residents were brought to the building in groups as they were captured, starting on 22 August 1982. Some stayed for days or weeks, others stayed for months. If someone was moved out, someone else would be brought in. From the beginning to the end of September the number of people being sent to the school for detention decreased. By October hardly anyone else entered the school. Between March and April 1983 all those who had been detained there were moved and the school was returned to its original function.

228. In 1982, the primary school building consisted of four large rooms. Each room had a wooden door and large windows covered in meshed wire. Three rooms were used to house the detainees. Those detained in one room were not allowed to look at or mix with the detainees held in the other rooms. The detainees had to sleep on the bare floor and every day were released long enough to scrounge for their own food. ABRI used one of the four rooms, located at one end of the building, as an office and interrogation room. ABRI soldiers often summoned women to the "office" for "interrogation". The room had tables, books and other office facilities as well as a mat and a pillow that were used when women were raped.

229. Data gathered by the Commission suggests there was a pattern to the rape that followed the hierarchy of rank among the offenders. Higher-ranking officers used the ABRI "office" in the school for rape. Hansip and lower-ranking ABRI soldiers tended to go to the school in the middle of the night. They would drag the women out and rape them in the long grass around the school. PS278 worked as a TBO for PS279, an Indonesian member of Combat Engineers Battalion 5 (Batalion Zeni Tempur, Yon Zipur or just Zipur). PS278 told the Commission about one of his duties:

> *One of my additional duties was that when they wanted a woman, they would order me to go to the school and inform the parents of the girl they wanted to use. The parents had to make her wash and wait in an empty room inside the school. The door was always open. There was a mat and a pillow on the floor. If the room was in use then the door was locked from the inside. That was my duty. I had to go to the school about twice a week. Only PS279 asked me to do that. I went in the afternoon and would immediately return to the post. Then PS279 would go and come back again. He did not stay there. Maybe the commander knew, but he could do nothing because PS279 was a brutal man and had taken over power. At night when they took a woman to the post I only heard her scream. But in the morning I did not see her.*[172]

230. UH was only 15 when she was repeatedly raped by members of ABRI, Combat Engineers Battalion and the Hansip.

> *At the time I was 15 and still young. When I got to Dare, all the women, small children and old people were detained in the school. While I was there, they harassed me every night. Members of ABRI and Hansip, PS280*

and PS281, would take me to the room of an Indonesian soldier named PS279. The room was an office room as well as a bedroom. He carried a small gun and was in full ABRI uniform to "attack" me...On the second night a Hansip from Hato Builico [Ainaro] did the same to me. He did it outdoors, standing up. On the third night, the same thing happened in PS279's room. On the fourth night an ABRI soldier, PS229 [Indonesian], took me to the house of his friend PS283. The friend was out and PS229 did that shameful thing to me.[173]

231. Although the interrogation room at the school served as a place to rape women, most rapes occurred outdoors, as depicted in the following two testimonies. As VH told the Commission:

After being held in the school for one month some Hansip – PS284 from Tatiru Dare, platoon commander PS54, PS286 and PS287 – called me in for interrogation, but as soon as I was outside the school they took me into the bushes and raped me.[174]

232. WH, whose husband had fled to the mountains, relates:

When I arrived at the school the Hansip and ABRI soldiers showed their true colours. If there were no young girls then the older women would become their victims. A Hansip whom I knew, PS288 from Dare Mulo, did that bad thing to me. At first he pretended to ask me the whereabouts of my husband, then in the end he unleashed his anger on me outside the school in the long grass.[175]

233. Nearly one-third of the women in the Dare primary school, aged 15 years and above, were raped while in detention there.

Table 2 - Women detainees at primary school building, Dare, Ainaro, 1982–1983

No.	Date detained (1982)	Name	Approximate Age	Accompanying children	Reported sexual violence while detained at the school
1	23 August	XH	22		rape (later: sex slavery)
2	25/26 August	VH	25	one toddler, one nursing baby	rape
3	"	Orlanda da Costa	18-20	one nursing baby	
4	"	YH	15		rape

5	"	ZH	15		rape
6	"	UH	15		rape
7	"	AI	38	one toddler, one nursing baby	attempted rape
8	"	Mariana da Costa	40	eight children	
9	"	BI	22		(later: sexual slavery)
10	Late August	Eduarda da Costa	33	three children, one nursing baby	
11	"	Celestina da Silva	30	one child	
12	"	FH	33	six children, one nursing baby	(prior: sexual torture)
13	"	DH	36	two children	(prior: sexual torture)
14	"	EH	26	one nursing baby	(prior: sexual torture)
15	"	Laurentina de Orleans	44	five children, one nursing baby	
16	Early Sept	WH	35	one child	rape
17	Mid-Sept	CI	40	three children	rape
18	"	Joana Britos	Unknown	five children, one nursing baby	
19	"	DI	20	two children	rape
20	"	EI	25		attempted rape
21	"	Elisa Barbosa	50		
22	30 Sept/1 Oct	Armanda Barbosa	45	two children	
23	Unknown	FI	teen		rape
24	Unknown	IH	14		
25	Unknown	Silvina Barbosa	Unknown		
26	Unknown	Juliana B	40		

27	Unknown	Josefa da Conceição	30+		
28	Unknown	Bendita Barbosa	22		
29	Unknown	TH	25		rape

234. By about mid-September, with the market place and primary school full of detainees, ABRI had to find alternative accommodation. Some detainees were allowed to stay with family or acquaintances that lived close to the Koramil in Dare. However, living in a house rather than the school or market place was no guarantee of safety for the women. As BI told the Commission:

> *Every night the ABRI soldiers picked me up from the house to go to a party and dance with them [around Dare]. They used that opportunity to satisfy their lust. In the end I had a child by a Nanggala 16 soldier named PS289.*[176]

235. The military determined locations where detainees were to build their own houses. Two places mentioned were Lebukua, slightly higher up from the school towards Blehetu Mountain, and Fatuk Hun, a neighbourhood in Dare. When all corners of Dare were saturated with detainees from Mau Chiga, the Koramil commander enlisted the help of the head of the Nunumogue to move some of the detainees to Nunumogue. The situation in Nunumogue did not differ much from Dare. There were no facilities for displaced persons so that those from Mau Chiga had to build very simple huts with materials from the forest. As in Dare, displaced women in Nunuogue were also vulnerable to sexual violence. One day, when GH * went out of the house to collect water, she was followed by a Hansip who raped her.[177]

236. Rape was not only perpetrated against the women of Mau Chiga, but also against women from neighbouring communities. GI from the village of Mulo (Hato Builico) told of her abduction at the time of the Infantry Battalion 745 attack on Hautio in 1982. Using the pretext that the Ainaro Kodim head of intelligence had summoned her, GI was taken to a command post where she was repeatedly raped by three members of Infantry Battalion 745. Previously, GI had also been tortured and raped by the head of the intelligence section, PS229 [Indonesian], and two members of Kodim 1633, PS291 and PS292 [Indonesian].[178]

* GH is the same woman whose account of rape at the Mantutu post shortly after the razing of Mau Chiga is found earlier in this part.

237. Rape and sexual slavery continued in Dare long after the first retaliation attack and mass arrests of August and September 1982. HI was captured in 1984 because her uncle was a member of Falintil. At the Dare Koramil post 10 members of the Special Warfare Command (Nanggala) beat her and then took her to the Kodim in Ainaro where she was stripped naked and electrocuted for two hours until she was unconscious. After that she was forced into a situation of sexual slavery with the head of the intelligence section, PS229, from the Ainaro Koramil that lasted for three months.[179]

E.2 Internment on the island of Ataúro, Dili

238. Following the failed uprising, detainees from Mau Chiga were sent to the island of Ataúro in at least three waves of displacement. On 30 August 1982, the first group from Mau Chiga was sent to Ataúro. It included men captured prior to Falintil's attack on the Dare Koramil, some held at the Ainaro Kodim and some held at the Koramil in Lesuati. The second group left for Ataúro on 16 October 1982 and the third went on 6 January 1983. A submission received by the Commission from the community of Mau Chiga listed the names of people who died or were detained. It indicates the total interned on Ataúro was 431; 202 men and 229 women.[180] Living conditions in Ataúro were extremely poor, with the arrival of more than 3,000 detainees from all parts of Timor-Leste. From the Mau Chiga area, at least 56 men, women and children died from disease, lack of water and malnutrition during their internment in Ataúro. The Commission found no evidence of sexual violence during this period (see Vol. I, Part 3: The History of the Conflict; Vol. II, Part 7.3: Forced Displacement and Famine).

239. On 27 November 1984, after two years on Ataúro, about 300 people from Mau Chiga and surrounding villages were sent back to the district of Ainaro.[181] They were moved to Bonuk (Hato-Udo, Ainaro), an uninhabited location on the south coast of the district. Several sources reported that life in Bonuk resembled the first few months in Ataúro: "…[we] suffered more compared with life in Ataúro, because Bonuk was very remote, dry and full of mosquitoes."[1812]The only food they had was leftover corn they had brought with them from Ataúro. After about 50 days in Bonuk, and following a visit by Governor Mário Viegas Carrascalão, the Bonuk detainees were returned to Dare. There they were once again close to the Dare Koramil, the local centre that controlled the Mau Chiga population. On the way from Bonuk to Dare, some 20 to 30 men and women who were considered leaders of the Resistance were detained in Mau-ulo III, a village about one kilometre from Ainaro.[*] They were told to build houses and live there. No sexual violations were reported to have occurred in Ataúro or Bonuk (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment).

* Located on the road between Ainaro and Suai, Mau-ulo III was not far from the notorious execution site of Builico, popularly known as Jakarta II (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment). The people left in Mau-ulo III knew of Jakarta II and this may have added to the repression they experienced while living there. On the road from Suai, just before Mau-ulo III, there was also an army post where war equipment was stored. A platoon of 30 to 40 soldiers were on duty at that post.

240. The majority of the community of Mau Chiga was eventually returned to Dare. Compared to the years on Ataúro, conditions in Dare were worse, primarily because military control was much tighter in and around Dare. Those from Bonuk had to report to the Koramil before they were allowed to return to their own houses. JI moved into her family's traditional home in Dare and remained there for more than three years. JL told the Commission:

> *On the first night we were there, an ABRI soldier, PS294, a Head of Section III* from East Java, came to the house with a TBO. They called me to come out, but I refused. On the second night [the ABRI soldier] came alone in full uniform and armed with a gun, like the first night. He threatened to kill all my family. My mother had to say: "You had better give in." So, before he was transferred to Ainaro, PS294 came to my house [every day] for a week and raped me. I became pregnant from my relationship with him. I had just given birth when an [Indonesian] ABRI soldier, PS229, came and gave me a can of corn to eat so I could nurse the baby…When…[my daughter] was five months old, First Sergeant PS391 [Indonesian] wanted to have a relationship with me but I refused. From then on I was no longer harassed by soldiers wanting to rape me.*[183]

E.3 Internment in Dotik (Alas, Manufahi)

241. Generally, the people of Mau Chiga who were captured in caves and wooded areas of Mount Kablaki above Same were detained at the Same Kodim or Koramil. On 7 January 1983, about 100 people from the Mau Chiga area, over 70% of them men, were sent from Same to Dotik, a village south of Alas on the south coast of Manufahi. When they arrived, they found an ABRI post and a handful of families already living there. However, no houses or land for cultivation had been prepared for them and ABRI did not tell them where they had to live. The village head of Dotik, Eusebio, gave them an area of uncultivated land some distance from the ABRI post and the other families. They lived there under tarpaulins provided by ABRI while building their houses from materials in the forest. Like Bonuk, Dotik was hot, water was scarce and mosquitoes were abundant. Four Neighbourhood Security System posts (pos Siskamling) were built around the perimeter of the houses, one in each direction – north, south, east and west. The posts were manned by members of Battalion 745.

242. At least three women were raped in Dotik. In 1982 KI, her father and her sister lived in a house with two women from Mau Chiga, L and M, and M's child (about six months old). KI told the Commission:

> *We had been in Dotik one month when ABRI came and started to harass us. One night M was called and raped because her husband was a Falintil commander. He is dead now. But it was not just M. The three of us were*

* Kasi or Kepala Seksi (Head of Section) III would be Head of Section for Territorial Matters; Kasi I was Head of Section for Intelligence.

also raped. They came from their post to Dotik every one or two weeks and whenever they wanted to sleep with a woman, they just came. Sometimes they came one at a time. Sometimes they would come and take turns raping us till they had enough. The first time they came, they fired shots inside the house. At the time my father said: "We are in their hands now, it's better you [three girls] give in to them." Then they started coming periodically.

There was also an Indonesian Babinsa named PS295. He kept coming to harass all of us, but in the end he took L as his "wife". He told the community to build a house for him and L after they had been there two months. After a year and a half, L gave birth to a child. When the child was one year old they moved to Dare. L remained in the house there when PS295 went back to Indonesia. The first few weeks PS295 raped M and me, but after L moved from our house to live with him he stopped harassing us.

One day, PS296, a Babinsa from Bobonaro, came to the house and threatened me. I was raped by three men – PS296 [East Timorese] and two Indonesian soldiers. While one was raping me the other stood guard. One of the Indonesian soldiers once threatened me with a gun pointed at my throat. I was raped until [eventually] I had a child. I lived in Dotik for three years.[184]

243. In 1984, Governor Mário Viegas Carrascalão visited the displaced community in Dotik, just as he had visited the people of Mau Chiga who had been detained in Bonuk. Shortly after this visit, the detainees in Dotik were returned to Dare. Around 1985, those people from Mau Chiga who had been interned on Ataúro, in Bonuk, Mau-ulo and Dotik returned to Dare. Once again, they had to take care of their own food and accommodation needs. It was only later in about 1987, after five years of displacement and hardship, that the people of Mau Chiga were allowed to return to their own village.

Testimony of XH, Mau Chiga, Hato Builico, Ainaro

XH's story begins with Falintil's attack on the Dare and Ainaro Koramil and ABRI's retaliatory operation on 20 August 1982. XH helped to take care of a wounded Falintil member she found close to her house:

Maybe because I helped him I became a suspect and on that afternoon I was captured by ABRI and Hansip at my home in Mau Chiga and was taken to Dare. At that time only women were detained at the Koramil post in Dare. There, ABRI and Hansip [Hansip] started to torture each one of us. Before raping me they beat me…they used weapons to poke me in the ribs until I was injured, they kicked me with army boots in my lower back until I was unable to walk…Then they raped me. After

raping me, they burned me with cigarette butts on the face and arms till my skin blackened. They did all this [to me] for more than a month in the Dare Koramil post.

I was also treated like a slave. Every day I had to wash clothes, cook and do other domestic chores for the ABRI. They also made me wear an ABRI uniform. I was given a rucksack, a radio, a pistol and ammunition. They taught me how to use the equipment so I could go with them to Mount Kablaki to search for Falintil commanders. The rucksack was so heavy that sometimes I fell. Once I fell in the middle of a river and all my clothes were soaked, but the ABRI did not heed me and ordered me to continue walking. On arrival at [our destination] they handed me over to the troops there to rape me. After that we returned to the Dare Koramil post with the excuse that no Falintil commander had been found. The following day I refused to go on more operations.

At that time ABRI…[used the school building behind the] Dare Koramil post. It was not exactly a school, but a place where women had to live with ABRI soldiers. That is where I lived. Every day I was called for interrogation, but even before they started they had already received false information about me from a Hansip commander, an East Timorese who lived in Hato Builico. If I did not speak according to this false information they had received from this commander I would be tortured and raped. I was not the only one raped. There were also women still breastfeeding, women whose children were a couple of months old and others whose children were three or four years old. When the soldiers raped the women, they took them outside and separated them from the children. Even if the children were crying, the soldiers did not care. All they wanted was to satisfy their lust. They also raped pregnant women.

Tomás was the husband of one of the women [who was detained]. They bound both his hands behind his back and then dragged him behind a Hino truck all around Dare. While he was being dragged, the ABRI and Hansip hit him with wooden clubs every time he passed them until his body was crushed and the white of his bones could be seen. Only his face looked intact. Another young man was put inside a 50 kilogram plastic sugar sack. It was not the sack itself but the plastic lining they used. They tied up the plastic bag, poured kerosene over it and burned the young man alive. Strangely enough, when he was dead – his body was completely burned – but he was still kneeling and holding up his right hand. I saw with my own eyes how sadistically they treated those two men.

In the end, I had to find a solution, so I ran away to the Sisters' convent in Ainaro to continue my vocational schooling [at SMPK] in Ainaro. To get permission to leave I said I had some pressing business in

Ainaro. But instead I ran away and was able to return to school. But not for long… [ABRI]…wrote a statement…[accusing me of having] links with Falintil. Then they took the false statement to the school principal…and in September 1982 they recaptured me at the school in Ainaro. Four men came for me – two ABRI and two East Timorese Hansip members – and took me back to the Kodim in Ainaro.

On arrival at the Kodim, the Kasi Intel [head of the intelligence section] had gone to the village of Cassa (Ainaro, Ainaro) so I had to wait until he returned. He immediately asked his subordinate: "Is this XH? Now you wait, I'll bathe first." After he finished bathing, he immediately called me in, not into the interrogation room, but into his bedroom to be raped. After that they started interrogating me, [throwing] all kinds of accusations at me: "You have provided food to Falintil, haven't you? Wasn't your house used for Falintil meetings?" I denied everything and that is when they started torturing me for the second time…They hit me on the head with a wooden chair until blood was streaming down my face onto my clothes. At the same time they put electric cables in my ears to electrocute me. They also electrocuted my hands and feet. I jumped here and there until my blood froze. Every time they threw a question at me, they burned me with cigarette butts – in the mouth, on the face and other parts of my body. Or they electrocuted me. When I became helpless they raped me again. Then they took me to the toilet in the office of Kasi Intel and detained me there three months. Every day, when the soldiers, went in there to use the toilet, I would have to go out…Whatever they did in there, they never flushed it. There [in the toilet] I lived, slept and ate for three months. They put my food in a small can of condensed milk and I got that once a day. Drinking water also went into that can. For three months I did not change my clothes and did not bathe.

One day, all the ABRI personnel went to a function in Dili. While they were gone a Timorese civil servant seized the opportunity and attempted to rape me. He started touching me and said that he considered me his second wife. I reminded him: "You already have a wife. I also have a husband. Don't treat me like those outsiders. My husband will come back from Ataúro and when we are walking together, what will you say [then]?" In that way I was able to prevent him from raping me.

In the afternoon when the ABRI returned from Dili, the civil servant reported to them saying: "XH says that she keeps thinking of her Falintil husband in the forest." But I had never said that. That night ABRI took seven men and two women detainees, including myself, to throw us off Builico [a very deep ravine known as Jakarta II]. When we arrived, the men were made to stand on the edge of the ravine and then pushed to their death. When they tried to push us women off we

held on to their legs so that if we fell we'd fall together with the soldiers. One commander said: "So, do we want to kill them or shall we just take them back?" Another soldier said it would be better to take us back as the others were already dead. As soon as we got back, my friend and I were immediately tortured and raped.

There was never a day without rape. At any time, any day, my friends and I were raped.

One day, a friend called Maria was summoned to the office of the Kasi Intel. Maria was also a detainee. When she was in the office of the Kasi Intel, she saw me in the toilet and whispered through a small hole in the wall: "It is better to confess to anything they ask you so that you can get out of that toilet fast. Whatever they ask you, you agree and tell them that I, Maria, was your commander." In the end I told the ABRI that Maria was my commander. After they got confirmation from Maria they released me from the toilet and moved me to a prison cell where I stayed for three months until April 1983 when I was released and I returned to Dare.[185]

Sexual slavery during consolidation of the occupation (1985–1998)

244. Compared with the post-invasion period and 1999, cases of sexual slavery reported for the period 1985–1998, as with cases of rape, were at markedly lower levels. This coincides with a drop in cases of women detainees.

245. The evidence gathered points to a decline in military sexual slavery and an increase in cases of domestic sexual slavery, where a member of the armed forces used the power of his position and arms to force a woman into a sexual relationship in a domestic setting.

246. K was a victim of domestic sexual slavery for five years, from 1985 until 1989, perpetrated by the Koramil commander of Laclubar Sub-district in Manatuto. At first, the commander named PS297, kicked down the door of K's house because her parents did not want to open the door for him. Threatening her with a weapon, PS297 forced K to take off her clothes and then he raped her in her own home. K's parents could not accept this and beat K so that she would refuse to have a relationship with PS297. However, PS297 continued to visit K's home and to have sexual intercourse with her. In the end, K became pregnant and had a child who died soon after birth. The situation continued for five years until PS297 returned to Sumatra at the end of his tour of duty in Timor-Leste.[186]

247. The Commission also received evidence of women being traded to prevent or stop the torture of family members. N1, from the village of Bado-Ho'o (Venilale, Baucau), was arrested by an Indonesian village-based military officer (Babinsa) named PS298 in August 1986. Prior to the arrest, PS298 had asked N1's sister, N, to have sexual

intercourse with him. Because she refused, PS298 brought N1 to a military post where he was tortured. They accused him of being a member of the Fretilin security disturbance group (GPK). They kicked and hit him with a gun on his mouth until his teeth fell out. The next day N1 was made to stand by the flagpole at the post, staring at the sun from morning until afternoon. On the second day N1 was threatened with detention and torture for one month if he did not hand over his sister. In the end N had to enter into a situation of sexual slavery with PS298 to save her brother.[187]

248. Some victims of sexual slavery committed by Indonesian soldiers also became targets of the same crime committed by Timorese from civilian groups. LI testified that for six years, beginning in 1980, she was forced into a situation of sexual slavery by an Indonesian soldier from the Koramil of Laleia (Manatuto) named PS299. In 1986, she was again coerced into a situation of sexual slavery by PS300 [East Timorese]. He was a member of the Hansip from the same Koramil. Threatened with a weapon, LI was raped every night in her own house. In the end she alone was responsible for raising her two children, one from each of the relationships.[188]

Testimony of MI, Lalerek Mutin, Viqueque

MI is a small, soft-spoken woman who bravely shared her experiences of domestic sexual slavery with the Commission in April 2003.

After the Hansip revolt led by Commander Ular and followed by the massacres of Kraras in the village of Bibileo (Viqueque, Viqueque) in September 1983, the surviving Kraras population, mostly women, were transferred by the Indonesian military to a village called Lalerek Mutin. This village later became known as the "village of widows". At the time of the massacres of Kraras, MI was two months pregnant. She ran to the forest with her husband, but then surrendered. When the child was five days old her husband came out of the forest.

> *After he surrendered…he came back to the house where we lived for one month. In March [1984], ABRI summoned him to make him a TBO. After he left to report, my husband never returned. Maybe they killed him the same night they called him.*

When MI's child was a year and two months old he fell ill and died due to lack of medical care. Together with other inhabitants of Lalerek Mutin, MI was forced to join a Spear Troops (Pasukan Tombak) whose duty was to patrol the area. Every night the widows of this civilian brigade were threatened and harassed by ABRI members.

One night, ABRI had a party. MI was ordered to attend by PS301, an Indonesian Private Second Class from the Special Warfare Command, Nanggala III. By using a number of excuses, MI was able to refuse this

order twice. The third time, however, three men went to MI's house and woke her up and forced her to attend the party. On arriving at the party, PS301 accused her of harbouring a member of the Falintil (known as GPK to the military) in her house. She denied this. PS301 also danced with MI late into the night and would not let anyone else dance with her. Early in the morning he ordered MI to go back to her house and wait for him there. As soon as she arrived at the house, MI took a knife for harvesting rice, a food container and some water, and went to the rice field with her cousin. She was very tired and slept in a hut at the rice field while her cousin tended the field. Not long afterwards, a member of the Hansip and an East Timorese friend arrived with PS301 and his three men from the previous night. When they found her, PS301 seized the opportunity to "capture" MI with the accusation that among those running away was Commander Ular, the leader of the rebellion that attacked the combat engineers (Zipur) post in Kraras. PS301 then assaulted MI.

He started slapping me and I fell. When I tried to stand, he stamped on my breasts and I was flat on my back again. Then he hit me on the back, he took a thick cassava trunk… and hit me with it. I do not know how many times, I was not counting, but he beat me until he broke the trunk on my body. I was not crying, I don't know why, but I felt that I was about to die. When he finished beating me my face felt swollen. I ran to the house and they followed me to the house.

Before PS301 arrived at MIs house, her sister-in-law had reported the incident to leaders in the neighbourhood and another person who had come to MI's house. They looked at her but said nothing. Soon after PS301 arrived at the house, he asked for a pan and he himself boiled water to put compresses on MI's body. When he went out to prepare the water, MI argued with the East Timorese who had gathered at her house.

My in-laws, the head of [the neighbourhood] started saying to me: "It doesn't matter, just accept him. Nobody will scorn you for 'marrying' him. It is not because you want to. We all know that you are being forced. If you won't have him, we'll all die. Better you sell your soul to save our skins." I replied: "You can say that, but what's to happen when the situation begins to normalise? My parents will come and ask you about me. What will you say?" They replied: "If they ask us we'll be ready with an answer because in a situation like this we're stuck."

After the boiled water was ready, they all busied themselves tending to my body. One put a compress on my face, another on my arms and on my legs until I started feeling better and the swelling went down. When

they finished, they all went home except PS301. He stayed and from that day on we lived like husband and wife for a year. After that he returned to his country. I became pregnant but after three months and 15 days I miscarried.

In 1991, fresh combat troops arrived in Lalerek Mutin. One day, while MI was in the rice field with a friend, a member of the new troops, Private Second Class PS302, followed her and when he arrived at the field he fired a shot in her direction. MI and her friend became scared and ran home. Once again, the people around MI encouraged her to give herself to an Indonesian soldier.

On the way home, my friends said: "Just give yourself to him; if not, you'll die." Then, because I was ashamed, I said: "OK, I'll cut myself in two. The bottom part I'll give to him, but the top part will be for my country, for Timor." They said to me: "Don't be afraid. Don't run away. Maybe you have to suffer [like this] because your husband was killed, but you are still alive. Never mind. Our lives are all the same." [PS302] started following and walking with me…to my house…I accepted that maybe this was my fate. We lived as man and wife and I had a child.

In 1993, once again MI was forced to live with a soldier, PS303 from Infantry Battalion 408.

I had a daughter from our relationship…[When the child] was only a few months old PS303 [Indonesian] left. After that I lived with my two children. Fortunately there was my sister-in-law from the family of my first husband. [She] was willing to look after the children when I was working in the rice field.

Later on, Yonif 514, 527 and Linud 100 were deployed to Lalerek Mutin. I was suspected of being a buihu *[an informer] because I was an "ABRI wife". The people were saying I was not a good woman because I had lived with three men. Sometimes I felt angry...If [I heard them] talk about me I would curse them saying: "If you say I am a collaborator it is not because my husband was killed because he was a thief. He was not killed because he harassed someone else's wife. If you want to call somebody a collaborator, say it to someone else. All you see is me as the wife of ABRI, but you do not know what I think." After that they didn't gossip about me again.*[189]

249. Despite the reduction in reported cases of sexual slavery during the "consolidation" of Indonesia's occupation, between 1985 and 1998, the following statements illustrate that domestic sexual slavery still occurred among the security forces throughout the territory.

250. In 1987, in the village of Matahoi (Uatolari, Viqueque), NI was threatened with a knife to accept the sexual advances of a member of Special Forces Command Chandraca-7 by the name of PS304. Because two of her family members were still in

the forest, NI entered a situation of domestic sexual slavery. She had a child from this relationship.[190]

251. In 1988, OI from Aicurus (Remexio, Aileu) was visited by a Babinsa, PS305 [Indonesian], who arrived in full uniform and was armed with a gun. PS305 asked OI's mother for her daughter and immediately dragged OI into the bedroom to rape her. Their relationship continued for 10 months until the officer finished his tour of duty. OI had a child from the relationship.[191]

252. In 1993, PS306 [Indonesian], a member of Battalion 122 went to the house of PI in Sananain (Laclubar, Manatuto). The soldier raped her and from that day they lived together. PI became pregnant and PS306 abandoned her.[192]

253. QI from Lauana (Letefoho, Ermera) entered into a situation of sexual slavery after a militiaman, PS307, threatened her parents with a knife in November 1998. As QI's brother was a member of a clandestine organisation, QI had to protect him. When she was two months pregnant PS307 beat her and she miscarried.[193]

Sexual slavery by members of Falintil

254. One case reported to the Commission of sexual slavery which took place during the period of Indonesian occupation involved Falintil members as perpetrators. On 26 October 1996, RI and her sister, SI, respectively 14 and 13 years old, were threatened with guns and grenades by a member of the clandestine movement – PS308 – and two members of Falintil – PS309 and PS310 in Manusae (Hatolia, Ermera). After the threats, RI was raped by PS309 and SI was raped by PS310. The situation continued for several months until both girls became pregnant and the two men disappeared.[194]

Sexual slavery and the Popular Consultation (1999)

255. Incidents of sexual slavery in 1999 should not be seen in isolation from the cases of rape described in the previous sections. The Commission received strong evidence that points to a situation of lawlessness that not only allowed rape to occur periodically, but also allowed perpetrators to rape a woman repeatedly for months at a time. Victims had no way to stop the crimes, nor a way to demand justice.

256. TI1, a woman from the village of Mauabu (Hatolia, Ermera), described how a village head and a Strategic Reserve Command (Rajawali) soldier went to her house and threatened her with weapons, accusing her because her daughter had married a member of Falintil.[195] TI1 was forced to look for her children who had fled into the forest. Her daughter, TI, and niece, UI, went to pay Rp1million (about US$100) to the ABRI to "save their lives."[196] However, TI and UI were captured and taken to the strategic reserve command post where they were made to cook for one month. One night Sergeant PS311 [Indonesian], pointing a gun at TI, forced his way into her room and raped her. A soldier known as PS312 did the same to UI. This case was reported to the local police headquarters in Ermera, but police took no action. TI stated:

> *On 22 May 1999, around 12.00 noon, Second Sergeant PS311 from BTT [Territorial Combat Battalion] 144 came for me and my niece UI because he had received information that some members of Falintil often ate and*

stayed at our house. After he took us to his BTT post, Second Sergeant PS313 dragged me into a room. He stripped me naked while threatening me with a gun. If I did not have sex with him [he said] he would kill me, so I had to submit to save my life.

He raped me…while my niece UI was taken by ABRI Private First Class PS312 [East Timorese], a member of Koramil 1637. They made us wash their clothes, iron and cook like servants. At night they sent us home. They threatened they would hurt our parents: "You must not say anything, if you dare to talk, they'll die." On 25 May 1999…PS313 [again] pulled me by the arm into his room where he took my clothes off and raped me…then on 27 June it happened again…but I refused and Second Sergeant PS313 slapped me and kicked me till I fell. He pulled me up by the hand and I stood with my niece UI. They took us to the BTT 144 post to work for them as servants and to take care of their sexual needs. We served them from 25 May to 27 June 1999.[197]

257. Long before the massacre at Suai Church, the Laksaur militia perpetrated acts of sexual terror, including sexual slavery. On 25 April 1999, the Laksaur militia turned VI's house in Fatumean (Covalima) into a militia post. Her husband was forced to flee into the forest while VI, who was left behind, was forced into a situation of sexual slavery. She was repeatedly raped by PS314 [East Timorese militia], and when PS314 was away, PS315 and PS316, other militia members also raped her. As a result VI became pregnant and her husband later separated from her when he heard about her condition.[198]

258. Another Laksaur militia member, PS208, who was named a perpetrator of sexual violence in the Suai Church Massacre following the ballot, was also actively involved in sexual violence prior to the vote. On 6 June 1999, PS208 broke into the house of WI in the village of Salele (Tilomar, Covalima) by breaking the door. He threatened to kill her and her father and then forced WI to have repeated sexual intercourse with him. As a result she became pregnant, but after two months was able to run away to safety.[199]

Rape and sexual slavery by Halilintar militia in Atabae, Bobonaro*

As early as 1998, Halilintar and Armui (*Aku rela mati untuk Indonesia*, I'm willing to die for Indonesia) militia groups instituted a widespread

* Halilintar (Thunderbolt) was a pro-integration paramilitary group first established in the late 1970s or early 1980s by João Tavares, a descendent of East Timorese royalty in Bobonaro. Originally a member of the UDT political party, Tavares was among those first courted by Indonesians and became a commander of the Partisans. His Partisan troops were what formed Halilintar. Tavares became the district administrator of Bobonaro District in the late 1970s. Halilintar was disbanded in 1983. Halilintar was resurrected in 1994 as a militia group at the time that the clandestine movement was gaining strength in Bobonaro. At this time Tavares also formed several other militia groups, including Armui, under the command of the Halilintar militia. [See Vol. I, Part 4: The Regime of Occupation.]

campaign of terror in the sub-district of Atabae, Bobonaro. From the 13 testimonies reporting cases of rape and sexual slavery perpetrated by these groups, the Commission is convinced that rape was an integral part of the pattern of violence. An offender repeatedly named by victims as PS318 was the deputy commander of Halilintar. It is believed he was killed in a skirmish with Interfet in October 1999.[200] Another repeat offender was Halilintar commander PS319. His name also appeared in the indictment filed by the General Prosecutor in the Special Panels Court in Dili for crimes against humanity (torture, rape and persecution).[201]

Halilintar began these acts of terror in the sub-district of Atabae in 1998. A Halilintar militia named PS320 entered XI's house in Boloi on 5 May 1998. PS320 put his knife on the table, forced XI into the bedroom and raped her. XI described the slave-like sexual practice in this way: "The perpetrator made me his mistress and every night at about 9.00 he would come and sleep in my house and we lived together this way until 25 October 1999." Also in the village of Boloi, YI was raped in her own bedroom by a militia called PS322. She was unable to refuse him and the rapes continued from 1998 until 26 October 1999.[202] At that time PS322's wife reported the situation to the Halilintar commander, PS319. As a result of the report YI was beaten by PS319, who shouted: "A woman like this should be shot in the legs, stripped naked and made to walk from Aidabasalala to Coilima, Atabae." YI was supposed to pay a fine to the family of PS322 and his wife as required by their traditional custom in cases of adultery. However, this did not happen because the security situation worsened and most villagers fled for safety.[203]

Commander PS319 threatened ZI, from the *aldeia* of Aidabasalala, Hataz Village, with a weapon and raped her in her own home in February 1999.[204] ZI remained in a situation of sexual slavery until August 1999. Sexual slavery also occurred in the cases of two other women, AJ and BJ. After AJ's husband, a member of the Koramil in Atabae, was arrested on suspicion of participating in the clandestine movement, AJ was raped by PS323, a member of the militia. PS318 aided this rape by threatening AJ with a weapon.[205]

When BJ's house was ransacked by Halilintar militia on 2 February 1999, her father was beaten as he tried to intervene. He was taken to the Maliana hospital for treatment. While her father was hospitalised, PS318 came to BJ's house, raped her and forced her into a situation of sexual slavery until she gave birth to a child.[206]

CJ was raped when the militia organised an oath of allegiance ceremony to Halilintar in the *aldeia* of Kaitapo, Aidabaleten Village, prior to the

ballot. Threatened with death, CJ was coerced into making an oath of allegiance to Halilintar. As CJ recalls, commander PS318 "ordered Halilintar militia PS324 to call me. At first I refused, but because I was [threatened] I submitted…" CJ was raped "for three hours" before PS318 left her alone.[207]

Manuel Pereira testified about a series of violations committed by Halilintar militia that he experienced and witnessed. On 15 March 1999, Manuel was attacked at his home in Sorohati, Hataz (Atabae, Bobonaro) by members of Halilintar militia, including Commander PS319, PS318 and PS323. He was brought to the village office in Hataz, which functioned as the local militia headquarters. After three months in detention at the militia headquarters, he escaped a murder attempt. During this time he also witnessed PS318 force a woman named DJ to have sexual relations with him. Out of fear, this woman took PS318 as her "husband", but one that was forced upon her.[208]

EJ, whose husband had fled to the forest, was detained in the village office at Aidabasalala, for one night:

> *Commander PS319 threatened me. I kept quiet and prayed silently. He pointed a knife at me and ordered me to take off the sarong I was wearing. I refused and he threatened to kill me. I was scared, so I had to obey him. PS319 immediately raped me.*[209]

FJ, from the *aldeia* of Loumeta (Ermera), told of being repeatedly raped both before and after the Popular Consultation. On 17 April 1999 FJ was abducted, together with two friends, by the militia and taken to the house of PS327 which "served as the headquarters where the militia men committed their crimes". She was detained and tortured there for two days and raped by commander PS319. Following the ballot FJ continued to be subjected to sexual violence:

> *The militia treated those of us who were raped as their mistresses. Every time they needed us for [sexual] intercourse we were taken to the house of PS327. I was raped six times. The first time was on 4 September 1999 at the BMP post [where] I was raped by PS327. The second time I was raped at the house of militia PS407 in Madapau. The third rape was in PS 408's house; the fourth rape was at PS327's militia post; the fifth rape was in PS 409's house; and the sixth time I was raped in the village office in Hataz.*[210]

Halilintar militia first ransacked the house of GJ in the village of Saburapo on 14 April 1999. Two days later they returned to her house to take her away:

Three unknown militia dragged me by the arm and took me into a neighbour's house. The three stood guard outside while a militia named PS328 came into the house, put down the handmade rifle and the knife he was holding, and unfastened his pants. He pulled me towards him. I tried to fight back, but he hit me on the head with a G-3 (an automatic rifle) and I fell on the floor. Then he raped me at about 10.00 in the evening.[211]

After this rape, GJ fled to Maliana, but PS328 followed her and managed to rape her several more times, including in a refugee camp in West Timor after the Popular Consultation. During one of the rape incidents, PS328 was accompanied by PS318 who stood guard outside the house while PS328 committed the crime.[212]

The Halilintar militia increased its violent attacks immediately after the Popular Consultation. HJ from the village of Biadila (Cailaco, Bobonaro) was abducted from her house on 2 September 1999. Militia members PS318 and PS329, acting on instructions from Commander PS319, tied her with a rope, took her outside and threw her on the ground where she was raped by PS328.[213]

PS6 was also involved in the rape of IJ, also from the *aldeia* of Aidabasalala, after the forced disappearance of her husband. On 18 September 1999, IJ's husband was taken from his house by members of the Armui militia. About a week later PS318 and other militia members came to her house and told her that her husband had been killed.

When I heard what he said, I immediately started crying. PS330 from the Halilintar team pulled me by the hand and kissed me. I tried to bite him on his leg. He said: "Today I will sleep in this woman's house. If she does not agree, I will shoot her dead." He went into the room, while I was [outside] crying. My sister-in-law came out and said it was better if I ''serviced' him. Hearing these words, PS330 made a coughing sound inside the room. In the end I entered the room. He stood up and, while hugging and kissing me, threw me on the mattress where he raped me twice in the same night …[Nine days later] at about 8.00pm, PS330, wearing shorts and shoes and with a G-3, was standing at the window. He called me – I was asleep at the time – and said, "Do not lock the door. If you do, you know the consequences." Later, he came into the house and raped me again.[214]

PS318 and PS319 were jointly involved in a case of repeated rape. Six months after KJ's house was burned down in March 1999, KJ was captured by Halilintar militia on 13 September 1999. She was blindfolded, beaten and raped by Commander PS319. On 29 September she was beaten, threatened and raped again, this time by Deputy Commander PS318.

She stated that on the following day "at midnight, militia PS319 beat, slapped and kicked [me], tied my hands behind my back, blindfolded me with a black cloth and then raped me on the main road close to the Halilintar post."[215]

In October 1999, the Halilintar militia group was still operational, although Interfet troops had already entered Dili. One night in October, around midnight, PS318, with PS331, PS332 and other unknown militia, smashed their way into the house of LJ. She was forcibly abducted and taken to the Halilintar post to be interrogated about the whereabouts of her husband who had already fled to the mountains. After being detained for over one hour she was raped by PS318.[216]

259. Following the announcement of the result of the Popular Consultation, the ensuing widespread violence and mass displacement of the population provided opportunities for rape. In a situation of chaos and lawlessness, rape offenders had an immense opportunity to gain access to victims and create conditions of sexual slavery and slave-like conditions.

260. In Aileu, a 17 year-old girl from the village of Seloi Kraik (Aileu Town, Aileu) was forced into a situation of sexual slavery during the period following the announcement of the ballot result. MJ recalled how the AHI militia terrorised everyone: "[They] said we had to evacuate [our homes] quickly because a hundred Indonesian fighter planes [were on their way to] burn all the houses [in the village]". MJ and her family left for the town of Aileu intending to go to Atambua in West Timor. While in Aileu, MJ was raped for the first time.

> *PS333, a militiaman and member of Kodim 1632 in Aileu threatened my mother so he could take me away. She was scared of the threats and gave in. The man took me to stay at his house in Aileu Town for one week. On 12 September he came into my room at about 8.00pm and forced me to have sexual intercourse. I submitted because I saw that he was wearing a uniform and had a rifle. I allowed him to rape me to save my family.*[217]

261. MJ was repeatedly raped and forced to go to Dili with PS333's family. Eventually the wife of PS333 found out what had happened and threw MJ out of the house. MJ was moved to Kupang, West Timor where she eventually found her family.

262. NJ and her family hid in their house in Cassa (Ainaro, Ainaro) after casting their votes in the Popular Consultation. A member of the Mahidi militia, PS334, entered NJ's house with a rifle. To protect her two younger sisters, who were still virgins, NJ submitted to having sexual intercourse with PS334. This situation continued for some weeks until eventually NJ encouraged her family to flee to Betun, West Timor, where PS334 found her again. Having heard that NJ was pregnant, PS334 took her to a community health centre (puskesmas) in Betun for an injection with the intention to make her abort.

PS334 was unsuccessful and NJ was still pregnant when she left West Timor to return to Ainaro.[218]

263. As demonstrated by the case studies above of sexual violence by Halilintar militia and during the Suai Church Massacre, victims of sexual slavery in Bobonaro and Covalima were often forcibly displaced to West Timor in late September 1999 by the same men who abducted them. Other cases of sexual slavery that continued in West Timor were also reported to the Commission. After the violence in Gleno, Ermera, the Integration Red Blood militia member implicated in the murder of ZE above, known as PS177, continued his violent rampage. He threatened the family of OJ1 and eventually took OJ1's niece, OJ. PS177 threatened to kill OJ for being a member of the Student Council if she did not agree to follow him to Atambua, West Timor. PS177 essentially kidnapped OJ as property to serve him sexually in Atambua.[219]

264. In the case of PJ from the village of Metagou (Bazartete, Liquiçá), PS336, a Besi Merah Putih militia member arrived at her house on 4 September 1999 with a homemade weapon and a knife. He demanded that PJ become his "wife". Two other militia members appeared at the house and continued to threaten PJ and her family. Out of fear, PJ was forced to do his bidding. He made her wash his clothes. A few days later PJ and her family were ordered to go to Atambua where PS336 asserted his ownership of PJ by raping her on a regular basis for four months. In February 2000, PJ escaped from PS336 and returned to Liquiçá.[220]

265. On 12 April 1999, Falintil forces launched an attack in the sub-district of Cailaco, Bobonaro in which some Indonesian soldiers and pro-integration militia were killed. The Indonesian military and local militia retaliated by targeting the civilian population in Cailaco. This included house burning, arbitrary detention, torture, and the public execution of seven men. Rape and sexual slavery also occurred in the context of these acts of violence.[221] Soldiers from the Cailaco Koramil, who were also known to be militia members, raped at least four women. Two of the four victims were forced to West Timor as refugees where they became victims of sexual slavery while in the refugee camp. One of the victims recounted:

> *On 12 April 1999, after my two brothers were killed by militia from Cailaco, I had to protect the other members of my family from threats by PS337 [East Timorese], a member of TNI. I was forced to surrender myself to be used [sexually]. I left my village after this incident. When the results of the referendum were announced, PS337 came looking for me and forced me and my family to go to Haekesak [West Timor]. While in the refugee camp, he forced me to have sexual intercourse and I became his mistress.*[222]

266. There is little documentation regarding sexual violence in the refugee camps in West Timor from September 1999 to January 2000. However, results of research by the NGO group the West Timor Humanitarian Team (Tim Kemanusiaan Timor Barat, TKTB) from February through mid-May 2000 indicate notable levels of violence against women in the camps, mostly by East Timorese members of the Indonesian army and

militia members who effectively had control of the camps.[223] Of the 15 cases of reported polygamy, at least nine of them are suggestive of sexual slavery where a man has forcibly taken and claimed ownership of a second (or third) "wife". Most of these nine cases seem to have been initiated during the ballot-related violence in Timor-Leste rather than in the refugee camps.

Other forms of sexual violence

267. The Commission has found that other forms of sexual violence, in particular sexual torture in detention, public sexual humiliation and sexual harassment were widely used by the Indonesian security forces during the occupation. Sexual torture was an effective way to break prisoners during interrogation and to instil fear among the wider population. Sexual torture is a specific type of torture carried out by sexual means, or by targeting the victim's sexuality (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment for a definition of torture).

268. Torture, including sexual torture, in armed conflict, is a violation of the International Law of Armed Conflict, a grave breach of the Geneva Conventions and a violation of the Laws and Customs of War. Torture may also be a crime against humanity.

269. Many of the cases described in the previous sections on rape and sexual slavery also depicted other forms of sexual violence such as sexual torture. Public sexual humiliation was used as a way to exert power and domination over the civilian population. Sexual harassment was also a feature in some kidnappings perpetrated by the military. It is also a prominent form of sexual violence that is described in testimonies by women who were forced to attend parties organised by the military and its auxiliary groups. At these parties they were forced to dance with armed men and submit to sexual harassment by them.

270. More male victims reported that they experienced these forms of sexual violence, particularly sexual torture, in detention.

Other forms of sexual violence in the context of inter-party conflict

271. The only incidence of sexual violence other than rape or sexual slavery from this period reported to the Commission was the sexual torture of a woman by members of Fretilin in 1977. VF1's father and uncle were members of UDT who later escaped from a Fretilin detention centre and sought protection with the Indonesian military. VF1 and other family members were branded as traitors by Fretilin. They were consequently detained and tortured by Fretilin members in Laclo, Manatuto, in May 1977. VF1 gave a moving testimony about the torture experienced by her cousin, WF, and by her aunt.

> *They started to interrogate, beat and burn WF's body with a red-hot iron, which they heated on a fire. They forced my cousin to say that she knew where UDT and ABRI's arms and guns were. Because she said she had not*

seen them…they beat her until she gave a false confession… The same with my aunt; they beat, kicked her, and burnt her with a hot iron all over her body, including her genitals. Then they took her hands and feet and tied them together, she was hung upside down – head on the bottom and feet on top – for one whole day.[224]

Other forms of sexual violence during the Indonesian occupation (1975–1999)

Sexual torture and humiliation in detention

272. The Commission found evidence that the Indonesian forces practiced torture, cruel treatment and humiliation of a sexual nature on male and female detainees alike. This sexual violence was used effectively to obtain information from detainees and to make them comply with the interrogator. Methods of this type of sexual violence reported to the Commission include:

- stripping detainees naked during interrogation;
- burning and electrocuting breasts and genitalia;
- forcing detainees to perform sexual acts on each other; and
- photographing detainees in humiliating poses, including while naked.

273. The following examples of sexual torture, cruel treatment and humiliation do not include rape although in certain circumstances rape too is a form of torture as explained above.

274. Stripping detainees naked and placing them in a situation of total vulnerability was a way to break their spirit. Beginning with her arrest at the end of 1975, RJ, an aunt of Fretilin leader RJ1, was detained and released at least 20 times in Baucau. She was suspected of being a member of Fretilin, a leader of the Popular Organisation of Timorese Women (Organização Popular da Mulher Timor, OPMT)* and a communist. According to her statement, each time a group of people surrendered or was captured, ABRI interrogators would summon RJ to interrogate her about those newly arrested. During her many interrogations, the military asked her to confess about her involvement in Fretilin and Fretilin dance parties, where everyone allegedly danced in the nude. She tried in vain to say that this never took place. She told the Commission about her interrogation one night at the Flamboyan Hotel.

Then at about midnight ABRI came to the house…"You are wanted by the Kodim commander." I went out and saw about 10 armed men ready outside. [After being taken for interrogation] they asked, "Where is the G-3? Where are the two grenades? Where are the guns?" Actually I had a

* OPMT played an active role in the Resistance by providing political education in the villages as well as provisions and medicine for Falintil fighters.

gun but I lied. [I said] that there was no gun, that I was a woman and did not know how to use one.

I saw a syringe needle on the small table. I had never seen one so big, 5 or 10 cc. I suspected that [the] needle was used for injecting animals but they had prepared it for me…They slammed me down on the bed then straightened my arm and with that needle started searching for a vein to inject me. When the injection was done I immediately fell to the floor and I could hear them laughing. They picked me up and threw me on a small cot used by ABRI soldiers. At the time I lost consciousness of what they were doing to me. I just knew that I had cramps in my arms and legs and that I was almost dead. Then they saw that my eyes did not move. Someone took another five pills and stuffed them in my mouth.

After feeding me the medicine, they started taking off my clothes, one item at a time. First they took off my long pants and laughed. Then they took off my blouse and threw it away. Again they laughed. They laughed again when they took off my bra. They took off my underpants last and there I was, lying naked like a small child. Tears were streaming down my face, but I could not talk, I could not move. I thought maybe they wanted to rape me and that is why they left me lying naked on the bed. But God is great. When I was…on the bed an ABRI member called PS338 [Indonesian] from the Umi unit came in and interrogated me while I was naked. He was carrying an SKS gun that he pointed at my throat, saying, "If you refuse to talk I'll kill you." I wanted to talk but my mouth, my arms, my legs were in spasms….But I could hear and understand everything. I was trembling like a chicken as a result of the drug they injected into me. I felt very sick. When I wanted to open my eyes wider, I heard a military commander come in and order his men to return my clothes to me…I felt them move my legs and they laughed because I was naked. They ogled me until about 4.00am and only then [did they return my clothes]. They did not return my watch and my gold chain.*[225]

275. RJ was detained for four days then released. She started cooking for ABRI events and eventually was no longer a target for interrogations.

276. Sometimes detainees were not stripped naked, but by being placed in a compromising situation against local cultural norms, it was tantamount to sexual violence. SJ and her husband were detained in July 1976 for their role as messengers (*estafeta*) between Falintil guerrillas in the mountains and their supporters in Baucau. SJ was held in the detention centre called House Five (Rumah Lima) for one week, then moved to the Flamboyan Hotel for two weeks. There, male and female detainees were tied facing each other in a position that simulated sexual intercourse:

* Umi was a radio call sign used by a fourth unit (Nanggala 4) of the Special Warfare Command (Komando Pasukan Sandi Yudha). [See Ken Conboy, *Kopassus: Inside Indonesia's Special Forces*, Equinox Publishing, Jakarta and Singapore, 2003, p. 218.]

I was not tortured there but what made me almost go crazy was that ABRI tied us up [in couples] – man and woman facing one another. We were only released when we went to the bathroom, ate, and were interrogated. Other than those times, we were tied in couples with a different person each time. I could only resign myself [to the situation]… [T]hat act went against Timorese norms and culture, [and was] especially [cruel to me] since I was a married woman.[226]

277. More often than not, sexual humiliation and torture involved nudity and direct attacks on reproductive organs. After a Falintil attack on an ABRI truck in the village of Guruça (Quelicai, Baucau) in July 1977, TJ and members of her family were detained by ABRI soldiers and marines. TJ's husband and father were tied, then beaten and kicked until morning at the post of Marine Troop 9 (Pasukan Marinir 9, Pasmar 9). They were then taken to the sub-district of Laga where four other detainees joined them. At the "marine post" in Laga (a school building), TJ was stripped naked, interrogated and sexually tortured:

When we arrived, TNI [i.e. ABRI] soldiers started to interrogate and electrocute me. They told me to take off my clothes and with a gas lighter burned my vagina. Every day during this week the TNI [ABRI] made me take off my clothes and tortured me.[227]

278. On 26 April 1981, UJ1 was arrested by two members of the Hansip under the command of the sub-district military officer in Quelicai, Baucau. UJ1 was detained along with five female members of his family – UJ, VJ, UJ2, UJ3 and WJ – and a few others. When they arrived at the Koramil, UJ1's hands were tied behind his back and he was beaten and kicked. UJ and VJ were taken to a separate room where two soldiers stripped them naked then beat them with a stick and crushed their toes under the leg of a chair. They also interrogated UJ2 and UJ3. They stripped naked WJ and made her sit in a drum filled with water. Later on, they burned parts of her body, including her breasts, with a cigarette.[228]

279. In Dili, XJ described how he took part in a Falintil assault on 10 July 1981, later to be known as the Marabia attack (see Vol. I, Part 3: The History of the Conflict). He was captured and released the following day, but then re-arrested on 12 July. He was brought to the sub-regional military command (Korem) officer's mess where he was beaten and tortured. XJ worked as a driver for a local priest; his interrogators asked him about the involvement of the Church in supporting the pro-independence movement:

*On 29 July [*1981*] the military took me outside again. They took off my trousers and underpants and again placed me in a tank, this time together with another Timorese [man] who was not known to me. I didn't know why he had been put in the tank with me. They bound us and then tied our penises together. After that they began beating the other man, thus pulling on the rope that bound our penises together, causing me pain. I had to sit next to the other man waiting for him to regain consciousness as we remained tied to each other. After this we were again tied together*

at 9.00am. During the hot part of the day we were taken and placed on a rock in the sandy part of the Kodim headquarters where we were left for almost an hour before being returned inside the building.[229]

280. The following day, XJ was moved to the Balide Prison in Dili where he was detained in an isolation cell for about 10 days. On 3 September 1981, he was put on a boat to Ataúro.

281. YJ, from the village of Fuat (Iliomar, Lautém), told the Commission about the sexual torture he experienced in 1982:

> *In September 1982, I was captured by Indonesian Battalion 320 because they suspected I was taking food and information to Fretilin in the forest. They took me to the Komaril Iliomar 03 Post to be interrogated by Commander PS339 [Indonesian] and a translator named PS390 [East Timorese]. After that, they took me to a place [*aldeia*] called Paitomar, [Iliomar I Village, Iliomar Sub-district, Lautém]. When we arrived, they stripped me naked, told me to lie on the ground and placed a big rock on my stomach. Then I was beaten with a gun in the back. After that I was hung from a tree. [They] forced a woman, who was also suspected [of being pro-independence] to hold my penis, shake it around, suck on it and play with it. They also burned my body with fire.*[230]

282. ZJ from Cairui, Laleia (Manatuto) was captured in 1982 by members of Hansip known as PS341 and PS342. The Hansip took him on foot to the Laleia Koramil. He was interrogated there by PS338, also a Hansip member, and tortured by PS341 and PS338. They stripped him naked, beat and kicked him until he almost lost consciousness. They tied a stone to his penis. This torture continued from 7.00am until 4.00pm. Feliciano was detained at the Koramil for one year.[231]

283. Female detainees often experienced sexual humiliation. Because O1's husband was a guerrilla fighter in the forest, ABRI soldiers, including one known to the victim as PS344 [East Timorese], went to O1's house in Ainaro in 1982. The soldiers killed her brother and then beat, stripped naked and raped her sister-in-law, O. After the rape, O and O1 were taken to the Kodim in Ainaro where an intelligence officer interrogated them.

> *After that O and I were rounded up and taken to the intelligence office in Ainaro, where we were detained with other women victims…We were held one month in the intelligence office and could not leave the place. If one of us was menstruating she had to wash her clothes in water and put them on again, although still damp. While in detention we were interrogated by PS344. He always had a knife that he used to jab [us] around the mouth and in the lower belly. One day O and I were separated from the other detainees and kept inside a toilet for two days and two nights.*[232]

284. In 1983, AK was detained in Hato-Udo (Ainaro) under suspicion of having contact with Falintil. He managed to escape, but was recaptured in Mau Ulo, Ainaro by about 50 soldiers from Infantry Battalion 744. After soldiers detained him for two days at the 744 headquarters, they took him to see the district military commander of Ainaro who confirmed that AK was the person they were looking for. AK was then detained at the military headquarters in Ainaro. AK told the Commission:

> *When I arrived there a soldier named PS345 began torturing me. I was kicked, beaten, slapped…then he told me to strip. I was naked. [While I was] naked, PS345 attached wires to different parts of my body: my hair, ears, neck, all my fingers and toes, and genitals.…PS229 turned on the electricity and I was electrocuted from 8.00pm until 1.00am. I was detained in Ainaro for one month and one week. They also captured two middle-aged women who wore traditional clothes, who were from Zumalai [Covalima]. They were interrogated by PS229 and PS345 forced them to undress. While they were naked, I was forced to place the wires on their bodies. Then PS229 and PS345 turned on the electricity and electrocuted them. After they were tortured, they were kept as "mistresses" by PS229 and members of Nanggala.*[233]

285. In Mehara (Tutuala, Lautém), the Indonesian military retaliated strongly against the women left behind by their sons and husbands who joined Falintil *en masse* in August 1983. BK, her friend, P, and her young son were detained. BK described how sexual violence was used to torture her:

> *On 9 August 1983, members of the Wanra, Hansip, the village head and the whole male population fled to the forest. Two months later soldiers from Linud 100 [Airborne Battalion from Sumatra] ordered all women whose husbands had fled to the forest to assemble in the village. They then told the women, "All of you can go home except for P and BK. They have to stay here for questioning." [We] were taken to the post. We arrived at 6.00pm. They immediately started interrogating me and my friend, P. They asked, "Why did your husbands flee to the forest?" We replied, "We don't know why they fled to the forest." "Why don't you know? They are your husbands, aren't they? You are GPK! Communists!" Then they started beating and stripping us...from 6.00pm until 1.00am. They hit us with wooden sticks, they kicked, stripped and threatened us with weapons, ordering us to confess. We did not confess to anything because we did not know anything. That night, Kasi I [army intelligence officer] started to interrogate me while pulling out my pubic hairs one at a time, so that I hurt and when I could no longer bear the pain I would confess to anything I knew. But because I knew nothing I remained silent, although I was in great pain. As I did not confess they became increasingly angry and beat me until blood was coming out of my nose and mouth. Then at 1.00am they stopped torturing me. After that they told me and my friend P to eat, but I refused. My whole body was in pain as they had pricked me with the*

thorns of a tree, something like the areca [sugar] palm, and I was bleeding from it.[234]

286. Although she was released after that night, BK was detained once again by Battalion 641 and held in a traditional house in Mehara for six months.

287. Unlike many of the women from the *aldeia* of Maluro, Lore (Lospalos, Lautém) who experienced sexual slavery during the military's large-scale operations in that area as described above, CK managed to escape rape. She did, however, experience torture and sexual harassment:

> *On 11 October 1983, I was captured by ABRI 744 troops and Hansip. I was handed over to the troops carrying out field operations who at the time were on duty at the edge of the forest. For a week I was interrogated every night. If I did not give the right answer I would be beaten. They beat and kicked me in the thighs then they sat on a chair on top of my foot. During the interrogation they touched me and pinched me, but they did not rape me. After that they just left me there. For over a month, while I was there, I was not interrogated or harassed.*[235]

Testimony of DK, Mehara, Tutuala

DK gave testimony regarding her husband's disappearance and how she was a victim of sexual violence:

> *My husband was a primary school teacher in the* aldeia *of Poros Mehara (Tutuala, Lautém) and a leader of a clandestine organisation called Loriku Assuwain. In 1983, a group of the Hansip from Poros fled to the forest to join Falintil. After several weeks the commander of the army taskforce [Komandan Satgas] of Tutuala forced my husband to join the "fence of legs" operation for one month in search of those Hansip who had fled.*
>
> *On 13 November 1983, those members of Hansip who had returned from the forest to work again with TNI [sic] 641 in Poros came to the house to arrest my husband. Several days later, three Hansip came to the house with two soldiers from Battalion 641, to look for documents on clandestine activities. They did not find any because I had hidden them. I was forced to go to Military Post 641 in Laluna Lopo, Poros, to give a statement. That evening I took my child, who at that time was three months old, and headed for military post [Battalion] 641.*
>
> *There I was asked by the commander of Post 641, "Do you know about your husband's clandestine involvement? Have you met with Fretilin?" I answered "no" to all these questions. Then they prepared three places*

to sleep – one for me, one for my child and one for a friend who was pregnant at the time. In the middle of the night a soldier began to embrace me, kiss me, pressing his lips on mine and told me to hold his private parts. Then he touched my private parts and said, "My private parts are just like your husband's private parts. Why do you resist me?" I answered, "I was not called to this place to do this. If you want to ask something about my husband's involvement, please go ahead." After hearing my response, he released his embrace. This happened for two nights, but never to the point of intercourse.

However, it was different with my friend who was pregnant. One of the soldiers began to push and beat her stomach to kill the child in her womb, saying that the child she was carrying was the result of her relationship with her husband who had left for the forest. The child survived, but has a disfigured face. On the third night we were sent home. When I arrived home my husband said to me, "My wife, I will go and face the soldiers at post 641. I believe I won't return. I have only one child. May this child replace me. It may well be that after I am gone you will be made the prostitute of Military Battalion 641. But be good in your heart and be patient. This is happening because of the political conflict, for us to free ourselves from the oppressor. Should we go and not return, look for our trails because the time will come when all the people will ask about us. May you be our witness because we are working for the liberation of our nation." After saying this, my husband was taken to Military Post 641 in Lalua Lopo.

After my husband was taken to the military post, he and several of his friends were sent to Kodim 1629 in Lospalos. To this day, my husband and two of his friends have not returned. A third friend was released and lives in Poros, Mehara.

My three-month-old baby died after getting sick with malaria during our two nights at military post 641.[236]

288. On 14 October 1991, EK was arrested under suspicion of stealing secret documents from the sub-regional military office (Korem) where she had been working as an administrative assistant for 10 years. Initially she was detained and tortured at the office of the Intelligence Platoon Commander (Komandan Peleton Intelijen, Danton Intel). Although she was never raped, the threat of rape, sexual harassment and humiliation were part of the strategy intended to terrorise her and to break her resistance during interrogation. In addition to threats of sexual violence, EK was also humiliated. During the first three days of her interrogation, she was not allowed to bathe or change her clothes, despite the fact that she was menstruating. She told the Commission:

An Intel [intelligence agent] with the rank of captain from Nusra Bakti [of Dili] – I forget his name – interrogated me from half past two to six o'clock

in the morning. At the time he brought a snake that he kept inside a sack. When I was not talking much and only replied that I did not know, he tried to undo the buttons of my blouse… then the captain pointed the gun at my forehead and I passed out. When I regained consciousness the snake that had been in the sack, was winding itself around my body…but it did not bite me [maybe] because I kept praying in my heart. Then the snake moved down and slithered back towards his owner. When it got back on the body of its owner, the snake shat on him and slithered back into the sack…After the interrogation, the Intel from Korem did not do anything brutal to me, but those from Nusra Bakti always sexually harassed me. They would put their feet inside my skirt, trying to take it off, but I never let them.[237]

289. After receiving a visit from the International Red Cross, EK was secretly moved to the West Dili Police Station (Polsekwil Dili Barat). According to EK, the chief of police was a kind man who hid the keys to her cell so that others could not enter it at night. Every night, soldiers and intelligence officers would taunt her from outside her cell. She continued:

A soldier from [Battalion] 744 who had become an Intel, usually called PS347 [East Timorese], said, "Come on, let's open the door. We'll burst in and attack her inside." After saying that, they tried to kick in the door. Then they looked for the key inside a P3K [First Aid] box. They found a key and tried to open my cell door, but it did not open. They said, "Today we cannot eat your flesh, but tomorrow we'll be back."[238]

290. The threats continued every night. Soldiers threatened her with a gun, called her names using sexually explicit language, and even beat up a young man who was detained in the cell next to EK, which increased her fear. Eventually, an East Timorese police officer smuggled a letter from EK to her family. The following day staff from the International Red Cross came and successfully transferred her to the Becora Prison. Her situation was a little improved there, although she was still harassed regularly by intelligence officers from Nusra Bakti. In January 1992, EK, her uncle and brother-in-law were tried and sentenced to six years imprisonment. She was released in 1997.

291. Torture that employed sexual violence and the threat of it, for those in detention, was practiced not only by the Indonesian military, but also by the Indonesian police. In October 1996, after an Indonesian trader, believed by Falintil to be an intelligence officer, was killed, FK, GK, HK, IK and two other men were arrested by the police in Ermera. The six men were taken to police headquarters in Gleno Sub-district (Ermera). Police officers forced the men to strip naked. They then beat them on the head and body and forcefully pulled on their penises. IK's genitals were beaten until they were swollen. The police also applied electric shots all over the men's bodies. HK was fed a live lizard and made to hang on a cross naked. His penis was rubbed with the sap of a flower which was an irritant. GK1 and JK, the parents of GK, were also arrested. JK was interrogated

and was stripped nearly naked by a police officer. She was made to give Rp900,000 and a goat, chicken and corn to the police. In the end, the six men were tried and sentenced to 10 years in prison. They fled from prison in 1999.[239]

Photographing of detainees

292. Photographs of naked, tortured, and murdered men's and women's bodies are yet another form of sexual violence that is intended to degrade its victims and instil terror in those who view them. The Commission examined photographs that depict women's naked, bruised and bloodied bodies, but whose faces are covered. Also visible in the photographs are the legs and feet of individuals dressed in fatigues and army boots. These pictures were first obtained and disseminated in Timor-Leste in November 1997 by ETISC (East Timor International Support Centre), an Australian-based organisation that supported self-determination for Timor-Leste. ETISC obtained about 40 photographs that explicitly show tortured bodies of possibly five women. Testimonies received by the Commission indicate that photographing the bodies of male and female victims of torture and rape was a practice of Indonesian security forces.*

293. The following cases provide evidence of detainees who were photographed. They indicate how torture and humiliation that target sexuality are often closely related to acts of rape or sexual slavery.

294. In 1977, an ABRI translator, PS348 [East Timorese], took KK from her home. She was initially taken to the Koramil and later moved to a detention centre in Dili known as Sang Tai Hoo in Colmera. KK told the Commission about her experience of being stripped naked, tortured and then being photographed. She was also raped each day, and eventually made the difficult choice to enter a relationship with an ABRI officer:

> *During the interrogation I was tortured…I was beaten with a belt [to force me] to confess that I was in contact with Falintil and had received a letter from a member of Falintil. But I did not confess. On the second day, 30 January 1977, I was interrogated again by intel in Sang Tai Hoo in the daytime…During the interrogation they stripped me naked and burned my body with cigarette butts, electrocuted me while I was naked, and then they photographed me. I was raped by ABRI who always said that if I slept with them I could go home. Because I refused, they kicked me. I was kept in Sang Tai Hoo for 25 days.*
>
> *On 14 February 1977, I was transferred again to the Balide Prison about 5 o'clock…In the group cell I met two of my friends, LK and MK. Not even a week later we were transferred again, but before that they took us to a room in Balide Prison where they pierced our dresses with a nail. Then they raped us until the morning. In the morning we were separated again.*

* The Commission holds copies of these photographs in its Archive. The Commission has decided not to re-publish these photographs in this Report or other publications, out of respect for the dignity of the victims.]

The two of them went to Sang Tai Hoo and I remained in Balide. While there I met some Timorese women who had just surrendered but whose names I did not know. The TNI [ABRI] made us bathe outside in the nude and when we finished they moved me again into the common cell. [240]

295. KK was detained until 1980 when she agreed to a sexual relationship with a Lieutenant-Colonel named PS349 [Indonesian]. She gave birth to a child from this relationship.

296. In 1982, NK was 14 years old when he was captured by Indonesian soldiers during military operations after the Mau Chiga (Hato Builico, Ainaro) uprising (see Mau Chiga case study, par. 211 ff, above). After two weeks of hiding in a cave on Mount Kablaki, NK, along with his father and older brother, were discovered and captured. NK recalled that a photograph taken of him played a role in his public humiliation and cruel treatment:

After I was [captured], I was immediately made a TBO and moved to the Zipur [combat engineers] post. After I had been with them for about two days, I started seeing genitalia and ears hanging on a pine tree at the post. I was on guard duty at the post with them at night. They took turns so they could sleep. Only I could not sleep. I had to sing and shout till morning. Approximately a week or so later they took me again to the Koramil post. I was tied to the flagpole at about 8.00am. After that they took my clothes off till I stood naked, then they gave me a pair of their underpants to wear when I was tied up. I was released from the flagpole and made to carry an empty box to the Zipur post. On the way I was told to shout to the people there, "Don't follow Falintil's arse! If you follow Falintil you will all be like me!" When I arrived at the Zipur post they took my picture. I asked for my clothes before they photographed me but they refused. They only gave them back to me in the afternoon.[241]

297. In 1983, hundreds of men from villages around Lospalos joined Falintil in the forest. Due to this exodus, the wives of men who had left the village were made to sleep at the military post every night for one year. PK from Porlamanu, Mehara (Lospalos, Lautém) was questioned by soldiers from Airborne Battalion 100 and Battalion 641 because her husband had also fled to join the guerrillas. PK told the Commission:

They bound my hands tightly with my belt, then they put money on the table and said, "If you give us the name of the commander in the clandestine [organisation] you can take this money." I replied, "I don't know, I only know my husband." After that they tied my neck close to the wall and stripped me naked. Then they burned my whole body with cigarette butts…[They] ordered me to count my pubic hair and took a picture of me while I was naked.[242]

298. Pretending that she needed to go to the toilet, PK was able to run from her captors and seek assistance from Infantry Battalion 623. She was released the same night.

299. QK1 told of an interrogation session with two of his friends. His friends were stripped naked and ordered to stand on one leg with both arms stretched up above their heads for a photograph:

> *In 1994, a unit of Nanggala [Special Warfare Command] soldiers stripped naked two of my friends, QK and RK, and made them sit on a table, then electrocuted them on their genitals. The following day, the same [thing happened]. They started again to beat us and told us to strip down to our underpants. We stood on one leg with both our arms stretched above our heads then they took pictures of us. After the photograph [was taken] we were allowed to get dressed again.*[243]

300. SK gave further corroboration regarding the army's practice of photographing detainees:

> *In 1996 I received a letter saying I had to pick up a journalist in Baraut and that I was to cooperate [with her]. I went and we met. I took all [my] documents and gave them to the journalist. Because we [didn't feel free] to talk much in that place, we decided to return…to Becora [Cristo Rei/ Dili]…I took a taxi to Fatuhada [Dom Aleixo/Dili]. After I got into the taxi I noticed another taxi, an Argo, following me. In the Argo taxi were four fat men wearing dark glasses and black jackets. My heart started pounding.*
>
> *After we got on the road, going into Delta [an area of Dili] at about 5.00pm, two men got into the taxi with me. They were also wearing black jackets, dark glasses and [their faces were] covered with "ninja" masks. I was scared. In the taxi, the two started pushing against my legs, and I couldn't do anything. They started tying me up and blindfolded me with a cloth. Then they took off all my clothes. I did not have a stitch on. They took me to a house in Taci Tolu. Before raping me, they burned me all over my body with cigarette butts and drugged me. They held a handkerchief – probably already soaked with a narcotic drug – over my mouth and nose so that when I was raped I would be unconscious. I did not know how many of them there were, but certainly more than five. When they finished raping me, they threw me out around Kasait [Liquiçá], near the beach. When I regained consciousness I realised that I was naked. My whole body (including my breasts) was covered in blood and injuries. Several months later an SGI [joint intelligence unit] member from Ambon told Julio, an Ambonese who worked in the Prosecutor's office, that he had seen photographs of me in the nude. Julio passed the information on to me.*
>
> *On 20 May 2002, on Timor-Leste's independence day, I saw the pictures of myself naked at an exhibition. I know the shape of my body and I have a mole on my breast so it was easy to recognise [myself in] the photograph.*[244]

Public sexual humiliation

301. Public displays of nudity were a form of cruel and degrading treatment effectively used by the occupying force to subjugate both detainees and the general public who were forced to witness these events. After the mass arrests in response to the Mau Chiga uprising in 1982, three women were detained at the Koramil in the village of Lesuati (Turiscai, Manufahi). One night they were taken outside, stripped naked, and made to climb a pine tree. DH told the Commission:

> *Our house in Hatuquero was burned down and TNI [ABRI] forced us to run to the Koramil in Lesuati. There I met EH and FH. On that night ABRI soldiers took us to Mantutu. My two friends and I were made to strip completely naked and then were made to climb a large, tall pine tree. They made us go up and down the tree several times, all the while burning our bodies with sticks they had put in the fire. They also doused us with cold water they had already prepared in a bucket. They brought electric torches to shine on our genitals from below while laughing as we were climbing the tree. FH could not climb because she found the pain from the burns and her grazed skin unbearable, so that she kept slipping down because she could not climb the tree. But the TNI [ABRI] made her climb all the way to the top.*[245]

302. On 30 January 1983, Battalion 745, under the command of a man known as Pak PS350 [Indonesian], detained TK from Souro (Lospalos, Lautém) with six men and four women as they returned home from their gardens. As they were marched to the military post, one of the men successfully escaped despite the fact that ABRI opened fire on him. The escape of this detainee angered the soldiers, who then separated the men from the women. The men were taken somewhere and have never been seen since. TK told the Commission about what happened to the five remaining women:

> *We five women were made to strip and stand naked while they shaved our heads. Then they burned our clothes in front of us…*
>
> *Then we were made to go on foot to the 745 barracks in Lospalos. As we walked through the village of Home the ABRI soldiers made all the people come out of their houses and look at us walking naked…They remained silent and some bowed their heads as we passed before them. Others cried to see what the soldiers were doing to us, but they did not say anything because they were afraid of being killed. We were very ashamed but said nothing and did what they wanted because we were afraid we would die. We remained at the 745 barracks one night only.* [246]

303. The following day, the head of Ventura village, came to ask ABRI to release the women. Eventually, the women were given sacks to put over their naked bodies and allowed to go to the house of the village head. One of the women, UK, told the Commission that she was raped during the overnight stay at the Battalion 745 barracks:

During the night we spent at the 745 barracks in Lospalos, an ABRI soldier raped me in front of four other friends. I felt very ashamed and shocked. At the time I was still stressed about the fate of my husband…who had been captured with us in Souro. I did not know whether he was still alive or whether he had been killed by ABRI. I felt I was betraying my husband. All my friends knew that I was raped that night, but they could do nothing to defend me because all our lives were in ABRI's hands.[247]

304. A year later in 1984, also in the village of Souro (Lospalos, Lautém), WK and her family members were detained by soldiers from Territorial Combat Battalion (BTT) 315 under suspicion of involvement in clandestine activities. They were brought to the BTT 315 post in the *aldeia* of Karalata, Souro (Lospalos, Lautém), where they were held and interrogated for one week. One day, WK and XK were stripped naked from the waist up and made to stand under the sun for the whole day.[248]

305. In Mehara (Tutuala, Lautém) in 1985, YK was arrested by a member of the Wanra forces named PS351, under orders from a local commander known as PS392 (Indonesian). PS351 took YK to a water tank, doused her with water and molested her. He then took her to the command post,* where she was beaten along with other detainees there. After they beat her, they placed her in a detention cell with two other women named Q and R. They stripped the three women naked and put them in a water tank overnight. YK told the Commission about her public sexual humiliation:

At the command post they put me in a detention cell with two other women, Q and R. The three of us were put in a mossy water tank and in the morning they returned our clothes for us to wear. The following day I was taken out of the cell without clothes, just wearing training pants. In front of many people, a member of Tim Alfa,† PS352, tore the pants off me and said to his friends, "Who wants to have sex with YK?" But nobody came forward.[249]

306. She was then given her clothes to put back on and taken back to the post. She was released three days later.

307. Sexual humiliation did not always occur in public. On 26 April 1999, AL was captured at her home in the village of Purogoa (Cailaco, Bobonaro) by members of the Halilintar militia, including a man named PS410, and police. AL told the Commission:

On 26 April 1999, PS410, along with members of Halilintar militia, and the police, took me from my house about 10.00am. I didn't know their

* The original statement refers simply to a command post. This could be a Civilian Defence post or a Team Alfa militia post.

† "Team Alfa had been set up by Kopassus [Special Forces Command] in the mid-1980s, to infiltrate the clandestine movement and to assist in combat operations. That institutional tie remained in 1999." [Geoffrey Robinson, *East Timor 1999 – Crimes against Humanity*, Report commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR), July 2003, Submission to CAVR, April 2004, p. 165].

names except for PS410 and PS353. They dragged me into the street and hit me with a large piece of cassava…PS410 and PS353…took a red-white flag [the Indonesian flag] and covered my face with it so the people wouldn't know me…They didn't take it off until we reached the aldeia *of Biadoi, Meligo [Cailaco, Bobonaro]. Then they shoved me into a car. When we arrived at PS410's office in Cailaco Town, PS353 kicked me [and] PS410 stripped me down to my underpants and bra. After that, at about 12.00pm PS410 made me sign a statement that said I would not be involved in any illegal organisation. After this I was taken home.*[250]

Sexual harassment

308. Sexual harassment is commonly defined as unsolicited sexual attention that takes place within the context of an unequal power relationship. Sexual harassment is said to take place when the person possessing the dominant power uses this advantage to conduct uninvited sexual advances, whether verbal or physical, towards the less powerful person. As already seen above, in the context of armed conflict in Timor-Leste, armed or powerful men made use of their power over the civilian population to engage in all forms of sexual violence, including sexual harassment.*

309. On 26 March 1996, the house of BL, in the village of Lisabat (Hatolia, Ermera), was raided by Army Strategy and Reserve Command (Rajawali) 401 Team. She and her husband were harbouring a Falintil assistant commander named BL2 who was then captured. The soldiers tied her husband, BL1, and BL2 with a rope, beat and kicked them, while forcing them to parade around the house. They hit BL with a gun, stripped her naked and molested her. They also stripped naked BL's mother-in-law, CL, and interrogated her:

Rajawali came in to the kitchen. They held my hands tightly while interrogating me about whether I hid Falintil members or took food to them in the forest. They tortured me, hit me, slapped me, dragged me around and battered me in the head with gun. After that there was a Rajawali who hugged me and held my breasts. Then they began to strip me and feel my entire body with the excuse that I was hiding weapons. After that, Rajawali began to hold my mother-in-law and strip her as part of their interrogation of her. Some of the Rajawali beat her. The Rajawali also beat my husband until he was black and blue, while I was just left standing there naked like a doll.[251]

310. Many women suffered from cruel and degrading treatment through sexual harassment they experienced at "dance parties" in 1999. At the height of militia activity in 1999, militia groups across Timor-Leste organised dance parties and then forced women

* Sexual harassment is often discussed in the context of employee-employer or student-teacher relationships.

from the surrounding villages to attend them. One such party took place in the village of Lourba (Bobonaro, Bobonaro). DL described the incident to the Commission:

> *On 4 May 1999, the DMP [Dadurus Merah Putih] militia conducted an operation in our village…They made us slaughter cows, pigs, goats and chickens and give [the meat] to them. At the time the commanders were PS354 and PS355 and their membership was about 300 men. During the day we had to cook for them and in the night we had to serve them…keep them company and dance with them…*
>
> *During the dance they started doing all sort of things like poking fingers into sensitive areas [of the body] and touching our bodies as if we were their wives. But what could I say? If I resisted I would die. At that time I was with friends [three other women].*[252]

311. The militia used sexual harassment, as they did other forms of sexual violence, in their campaign of terror to generate fear among the general population. The Commission received statements from women who were forcibly taken by groups of militia, often during the night, and subjected to sexual harassment.

312. In the middle of the night, sometime before the Popular Consultation in 1999, EL and S were forcibly taken from their home in the village of Laclo (Atsabe, Ermera) by five militia men from the militia group, Pancasila, under the orders of the village head, PS356. When they arrived at the village head's house they were forced to dance with officers from the Joint Intelligence Force (SGI) until morning. Because they feared for their lives, EL and S danced with these men who touched their breasts and molested them while dancing. In September 1999, the two women were again detained by members of the same militia group and again brought to the village head's house. This time they were immersed in a tank of water with a black snake which later bit them.[253]

313. On 7 May 1999, the Mahidi militia raided the house of FL from the sub-district of Zumalai (Covalima) in search of her husband who had already fled to the forest. FL told the Commission:

> *Between 7 and 9 May 1999, they came and surrounded our house. They searched the whole house looking for a Fretilin flag, documents and for my husband. Because they did not find anything they vented their frustration on me and my one-year-old child. They threw my child in the vehicle and hit me around the head and abused me verbally before throwing me inside the vehicle too. They said, "Let's have some sport first," and continued to hit me. They took us to the Mahidi post and put us into a cell. I was interrogated by the wife of the village head named PS360 [East Timorese]. I was hit because I did not answer her questions. When they finished hitting me, they gave me food – rice without vegetables. After I ate, they hit me again and forced me to drink urine. I don't know whose urine. I was in a cell with four other women: Lucilia, Domingas, Monica and Lucia. The cell was in the house of a police officer called PS358 [East Timorese].*

After that a militiawoman called PS359 [female] came to my cell and burned my mouth with a cigarette while threatening, "If her husband is not here, better just kill the wife." PS357 asked me, "Where did you hide the Fretilin flag?" I still did not answer the question, so she left the cell and told five men to go into my cell, saying, "Play with her, it's free." But they did not do anything to me. Of the five militiamen, only PS361 tried to rape me. But I refused and said, "You'd better kill me." Then the 743 TNI company commander [Danki] came back and said, "Let's be together, you often kiss Falintil." I gave him a rude reply and he hit me across the mouth until it swelled up. After making a statement that we would remain under [the control of] Mahidi and Merah Putih, we were released on the order of PS357.[254]

314. GL was taken from her village of Cová (Balibó, Bobonaro) by Firmi Merah Putih militia, along with two other women, to their command post. Using the excuse that they were examining their breasts for "magical" implants, they stripped them naked.

On 7 May 1999, Firmi militia PS362 and Commander PS363 captured me together with HL and IL at Railulu of Cová Village, Bobonaro. The three of us were taken to the Firmi militia post in Balibó. When we arrived they interrogated us and then put us in a room and told us to take off our clothes to see what kind of "medicine" we had implanted in our breasts. As they found nothing, after the examination we were told to back home.[255]

The impact of sexual violations on victims

315. Twenty five (25) years of conflict had a profound impact on its victims, regardless of gender and age. All families in Timor-Leste have been touched in some way by violence. However, although men and women share a common thread of being victims of the conflict, it is important to point out the differences experienced by male and female victims of human rights violations. There are three ways in which the experience of women victims was different:

- women were the predominant victims of sexual violence and therefore suffered the specific social, mental and physical consequences of that violence
- women who suffered non-sexual human rights violations had different barriers to their recovery due to the different reproductive functions, as well as the different roles and status assigned to men and women; and
- women as primary caregivers of the family also suffered when male members of their families experienced gross human rights violations as they had to fulfil all the responsibilities of providing protection, livelihood and caring for children and other dependents in the absence of their spouses.

316. During the period of conflict in Timor-Leste, sexual violence had a profound impact on its victims and on the general community. Although most acts of sexual violence

took place behind closed doors, knowledge of these acts spread through the community very quickly. Long after the incident itself, sexual violence continues to affect the lives of survivors in their physical and mental well-being and in their social status.

Reproductive health

317. During ABRI's retaliation towards residents of Mau Chiga (Hatu Builico, Ainaro) following the failed Falintil uprising in 1982, IH was among the many Mau Chiga women who suffered sexual violence. IH was a teenage victim of repeated rape at the Mantutu military post close to Lesuati before she was moved to Dare and then to Nunumogue. She was often "chased" by Indonesian soldiers. One Hansip member followed her all the way to Nunumogue and raped her there.[256]

> *Every night I was followed by [members of] ABRI and Hansip because at the time I was about 12 years old. Before I was raped I was tortured in different ways. [They] hit me with weapons, they burnt me, threw water at me and undressed me. They took me out in the middle of the long grass and there, the unthinkable happened. On the first night a corporal from 744 named PS364 [East Timorese] raped me. On the second night, I was raped by PS365 [East Timorese], also a corporal from 744. On the third night I was raped by PS366 [East Timorese], a corporal from 744. After [the first incident] my body was covered in blood, I had never had sexual intercourse before. There was a Hansip who was not satisfied. He followed me to Nunumogue [Hatu Builico, Ainaro]. He took me out at night and did it to me outside the house. Before the rape, he hit me on the head with his gun. After all that, I felt pain in my genitals – itching, difficulty in urinating – and also pain in my abdomen and around my hips.*[257]

318. During the period of conflict, women had limited access to reproductive health services. Although community health centres existed, Indonesian health services focused on providing primary and maternal health care and meeting family planning targets. They turned a blind-eye to reproductive and sexual health care.[258] Specific needs around reproductive health care, like tests and medical cures for sexually transmitted diseases or early detection of cancer or pre-cancerous cells in the reproductive system were not accessible to women. Women survivors of rape had nowhere to go for formal medical care.

319. In many cases, family members treated them with traditional medicine.

> *When [*my niece*] got off from the motorcycle she could not walk because she had been raped. She arrived with injuries and blood on her genitals, I treated her…she drank [*a concoction of*] water and betel leaf (sirih), I washed her with sirih water and leaves that I had boiled.*[259]

320. Untreated, sexually transmitted diseases may cause a relatively quick death from severe pelvic infection or long-term reproductive health problems, including cancer and

sterility. In a few of statements that the Commission collected, survivors of rape or their family members spoke of some kind of vague "female illness":

> *They took her to the military post and raped her in turns. They continued to do this until 1980 when they [Linud 100] were demobilised and replaced by Battalion 643. They also took me to become a TBO at that post…I saw my sister being raped with my own eyes. When they left Fahinehan [Fatuberliu, Manufahi], she was released [and allowed] to go home… After being subjected to sexual violence for such a long time, she developed a uterine condition and died in 1994.*[260]

321. Women who experienced repeated rape and severe torture suffered from multiple health problems: reproductive, mental and physical. The fact that these crimes were unpunished, and could at any time be repeated, were added mental burdens to the survivors:

> *We were held for 16 days in detention and every night my three friends and I were raped by four men…When they got tired, they forced some of the male detainees to rape us. Then I was tortured. They hit me with a thick piece of wood. They hit my hips and head. Because of this my hip broke, I continued to have headaches and could not walk…After 16 days, they released us. They had to carry me home to Uatolari [Viqueque]. At home I was treated with traditional medicine, but it did not really help. The only thing that lessened the pain a little was putting ice on my hips. I was so traumatised, I continued to feel that there was someone spying on me, waiting to arrest me. I was so afraid, I finally ran to Dili.*
>
> *[Eventually] I got married and had a son. After I gave birth I began to feel a lot of pain around my hip. I could not walk. I just had to lie down. I stayed in bed for three years. Now I am beginning to walk again. I want to tell so much more, but I have forgotten much, maybe because of the torture I experienced when I was detained.*[261]

322. Pregnant women were subject to sexual violence and other human rights violations. This had severe implications for their maternal health and for the survival of the foetus:

> *My wife and her young sister were arrested and then raped for six hours, from morning to 4.00pm. [My wife] was six months pregnant at the time. They were able to run away, but the TNI soldiers shot at them. JL was shot dead, and my wife was shot in her hip. She was able to escape to [the place] where I was…She had a miscarriage and not long after she also died.*[262]

Unsafe abortions

323. For some victims of rape who became pregnant due to the rape, the feeling of shame, guilt and rage pushed them to desperate measures in order to terminate the pregnancy. In some cases, unsafe abortions had fatal results:

After we came back from Ataúro, we were always monitored by ABRI intelligence. Our life was difficult. The worst thing was hearing the news, upon our return, that my sister, KL, had died. She became pregnant by ABRI when she was detained in the Korem in Dili. When she heard that her husband was soon to [be released] and return to Laleia, Manatuto, she tried to abort her pregnancy because she was afraid that she would be seen as an unfaithful wife. She died from the abortion.[263]

324. In one case, a woman victim of domestic sexual slavery died due to illness which was possibly related to attempts to terminate the pregnancy by the soldier who raped her:

In March 1979, my younger sister T was taken by a member of the Hansip named PS367 to the command post in Leohat [Soibada, Manatuto], under instruction from a Hansip member named PS368 who often beat up the local population. My sister told me that when she arrived there she was raped by a Nanggala named PS369 [Indonesian]. She was then forced to be his "wife" for six months. When he found out that T was pregnant, PS369 tried to terminate the pregnancy by continuously massaging her stomach with Rheumason (balsam), until she became ill. When she was very sick, PS369 brought her to my uncle's house on 6 September 1979. Four days later I was made to go to the forest with Command 122 as a TBO for one month. When I returned, T was already dead. My uncle said that she only lived for another six days.[264]

325. The Commission also received evidence about cases where the perpetrator had attempted to force the victim to terminate that pregnancy. In some cases women were brought to local health clinics and given injections which were believed to be able to induce abortion:

In Betun, West Timor I met again with him and he wanted to make me have sex with him again. I said, sorry, but I have now missed my period [as a consequence of rape by the same man]. He was surprised and brought me to a health centre where I received an injection. Three days later he came to ask me if I had gotten my period. I said no. From that day on he avoided me and never came back.[265]

326. Unsafe abortions could lead to maternal death, long-term illness or disability affecting the mother. There could also be repercussions on the health of a baby who survived attempts at termination.

Mental health

Not one person cared about what happened to me. I was alone. After the [rape] incident my shoulder hurt and I also became sick from thinking about it so much I became stressed. Because of this clandestine work, I did

not take care of my child, who died in August 1999 after the raising of the Falintil flag. Because of the violations I had a female disease – an attack of white blood. I became crazy and at the end I split up with my husband. Now I live alone with my four children.[266]

327. For some women who experienced distress and trauma from sexual violence, the continued lack of security, the lack of mental health services to deal with the trauma, and their sense of rage, shame, isolation and guilt led to the development of long-term mental health illness. Some, whose family members provided support and care, were able to overcome their trauma without severe long-term consequences (see Vol. IV, Part 10: Acolhimento and Victim Support).

328. Other women who experienced severe sexual violence were not able to recover from their trauma, despite support from their family:

The soldiers, both Indonesian and Timorese, raped me and my sister in pairs. I could not keep track of how many because there were so many. This continued for four days. Until now U still suffers from the bad things they did to her. She is mentally unstable, has fainting spells and remains unmarried because she is unwell.[267]

329. Again and again, the Commission heard of the long-term mental health consequences of rape:

During the month that troops from Battalion 122 from Sumatra occupied the area, many women became victims of rape. They went to people's homes, took people and their belongings, chickens, eggs, and forced daughters and wives to comply with their sexual desires. A woman became mentally depressed and eventually went crazy because these troops violated her repeatedly.[268]

330. During periods of escalating violence, those already coping with mental illness due to past violations would become vulnerable to recurring trauma.

331. In 1999, Fokupers* reported a case of a woman who was a victim of sexual slavery in Viqueque. A school teacher during the Portuguese period, she was repeatedly taken as "wife" by at least five different military personnel, one after the other. When Fokupers staff first heard of the case, Dina, as she was referred to in the report to protect their client's identity, was mentally ill. Without any mental health care to treat her illness, Dina would walk around naked in her village until, in exasperation, her parents chained her to her bed.[269]

* Fokupers (Forum Komunikasi Perempuan, Women's Communication Forum) is a prominent East Timorese women's advocacy NGO based in Dili. It was established in 1997, and conducts an extensive programme of psycho-social support to women survivors of violence. Fokupers worked closely with the Commission on a number of elements of its programme of support to victims of human rights violations, especially women survivors.

332. Access to mental health services during the 25-year period of conflict was very limited and remains a problem for survivors of sexual violence (see Vol. IV, Part 10: Acolhimento and Victim Support; also Part 11: Recommendations).

Spiral of victimisation

333. Women survivors of sexual violence often found themselves in a spiral of victimisation. Most victims of sexual violence were also victims of other human rights violations, such as illegal detention or forced displacement. In many cases, an incident of sexual violence led to further violations, both sexual and otherwise, by other perpetrators. Tragically, women who had suffered sexual violence also suffered by becoming further victimised by their community which, due to common misconceptions, sought to blame the women for breaking the tightly guarded sexual mores. Women who have internalised these mores fell prey to blaming themselves, despite recognising their lack of consent to the crime.

Self-blame

334. In Timor-Leste, social perceptions around rape and sexual violence are heavily influenced by notions of honour. Thus, victims of sexual violence often felt guilty for failing to safe-guard their honour and the honour of their family, and in some cases, their husband. In the following statement, a victim of rape expressed her feeling that she had betrayed her husband by "allowing" herself to be raped:

> *I was so ashamed and shaken. At the time I was so depressed when I thought about the fate of my husband who was arrested together with us in Souro [Lospalos, Lautém]. I did not know whether he lived or had been killed by ABRI. I felt that I had betrayed my husband.*[270]

335. Some victims of rape were driven to the point of having suicidal thoughts:

> *I was in a situation that was very difficult. I feared that he would rape my little sister. So I sacrificed myself, although I tried to give him medical reasons why he shouldn't rape me. He raped me four times. I wanted to kill myself. [I tried] to escape but the militia continued to watch over me.*[271]

336. Women victims who were unmarried during the time of rape felt deeply ashamed about what happened to them. In some cases, this became an impediment for them in developing a relationship or seeking marriage:

> *[After the rape, the Falintil soldier] threatened me to never tell my parents or anyone else; if [I did] he would come and kill me one night. Until now I do not want to get married, because he destroyed me like an animal. I am too embarrassed to get married. Better I just sit tight and work in my garden for my livelihood.*[272]

Blaming the victim

337. Victims of sexual slavery experienced the most extreme forms of social isolation. The long-term nature of the violation often involved more subtle forms of coercion. The community perception of women who were subjected to sexual slavery, particularly domestic sexual slavery, was coloured by popular belief which did not distinguish between consensual and non-consensual extra-marital sexual relations:

> *Most people [in Liquiçá] say I am a cheap woman, a whore [lonte]. They say that I am an ABRI mistress. I tell them it is not something that I wanted, it is the war that made me like this. Yes, I was "married" to them. If I did not consent they would have killed us.... I fought for our independence by surrendering myself on behalf of our land, Timor-Leste.*[273]

338. Not only the victims but also their immediate family members were subjugated to shame and ridicule:

> *Many victims suffered greatly because some members of the community used to call them names and say that they were the mistress of ABRI. Others called them whores. According to our community, forced marriage with ABRI is a shame which cannot be talked about by anyone.*[274]

339. The strong community feelings against women who were subjected to sexual slavery were known to all, including young children. Many of those who had no choice but to comply with the wishes of armed men entered into sexual slavery with open eyes about public contempt. This also affected their life choices when they were able to escape their situation:

> *I said I was still a [13–year-old] child, I still want to go to school…The village head asked, "Why don't you want to do it? Do you want ABRI to come and take you away to kill you? Don't you want to live?"* I said, *"Uncle, marrying an ABRI is good, but according to our elders, a woman who becomes a soldier's mistress is called "puta" [*a whore*]. I do not want to be called a "feto puta...." After three months the Kodim commander was inaugurated as bupati of Viqueque District and brought his Javanese wife back to Viqueque. From then on the Kodim commander stopped using me. When we were being picked up at night to go to the Kodim our school friends saw us and I was ashamed. In the end I did not go back to school.*[275]

340. Another woman recounts:

> *For four months I had to go back and forth to their post, day and night. I was so ashamed. There was a lot of gossip about me having sex with all the soldiers at the post.*[276]

341. In some cases there was community complicity in supporting the sacrifice of one or a group of women to become an "army mistress" in exchange for collective security. Despite this, women subjected to domestic sexual slavery often faced ridicule and suspicion.

342. In some cases, the popular misconception of sexual slavery as consensual extra-marital relations resulted in added abuse from others toward the victims:

> *For one month my family and I lived in Hakesak [Atambua, West Timor]. When we arrived at the camp, PS370 [East Timorese] continued to use me as his second wife. One day his wife came and called me names,* perempuan lonte, *[whore]. She threatened to kill me if I continued to have an intimate relationship with her husband. At that time, I was between a rock and a hard place. PS370 threatened to kill my family if I did not have sex with him, but then his wife came to the camp and also threatened me.*[277]

343. Domestic sexual slavery was a disgrace to the family. Women were often blamed for the shame they brought to the family, despite the fact that they were forced into the situation:

> *He pushed the door and raped me with force. I cried as he raped me because I was so young then. I was only 15 years old. After that the Laclubar Koramil Commander PS371 [Indonesian] told me, "You have to marry me." When PS371 left the house my parents hit me until I bled. My parents said: "Don't get married to a member of the military." But PS371 kept coming to my house. I became pregnant, but the baby died after birth. He was married to me for five years, 1985–1989, then he left me as a widow. He returned to Sumatera without a word to me or my parents.*[278]

Loss of virginity, loss of marriage opportunities

344. Social norms about the value of virginity in Timor-Leste society, particularly in rural areas, have led some women survivors of rape to have difficulty getting married. Again, the lack of distinction between consensual and non-consensual sexual relations victimised the victim of rape:

> *After the rape, my sister said, "This is the result of war." She brought me to Ermera to get medical treatment because of the wound on my sexual organ due to the force used during the rape by that soldier. I stayed there for two months. Because of the rape, I remain unmarried until now. I live with my father.*[279]

345. However, the Commission also heard testimonies from victims of rape and sexual slavery who were able to find happiness in marriage, despite what had happened to them.

Survival and discrimination against children

346. Women who became pregnant and bore children from non-consensual sexual relationships faced multiple layers of discrimination. Women who were in a situation of sexual slavery were considered sexually "loose". Women who were raped were thought of as "used goods." Their children were often discriminated against, as they were seen as illegitimate children born out of wedlock. This branding of women and their children not only resulted in social isolation, but also often resulted in severe psychological problems within the family:

> *There was one difficult case which was handled by Fokupers, but it was far too late. The victim had already been raped by a number of ABRI members. She had children from different fathers. The victim experienced discrimination and ridicule from her community. She was called names and isolated from her community. They called her "feto puta", or whore, who had sold herself to ABRI. The victim could not accept her own children, she could not look at their faces because of the pressure from her community.*[280]

347. In many cases where the biological father was an Indonesian soldier, mother and child (or children) were abandoned at the end of the soldier's tour of duty. The struggle for daily survival, without support from the community and extended family was extremely difficult, a situation that continues for many women today:

> *After my child was born, PS303 (an Indonesian soldier) left. After that I lived with my two children. When I had to work in the field I had to bring them both since no one was there to look after them. Luckily, [after a while] my sister-in-law agreed to look after them when I was in the rice fields.*[281]

348. These single mothers, without protection from the traditional male figure of husband or father, were vulnerable to sexual advances from other men. In the following statement, a woman already caring for a child born out of sexual slavery by an Indonesian Koramil commander is forced to accept the advances of an East Timorese soldier:

> *After my child was 8 years old, a Timorese ABRI member named PS373 came to force me, threatening to kill my brother. This soldier promised to marry me, but after I gave birth to his child and he had a task in Buicaren [Bahalarauain Village, Viqueque, Viqueque], he married someone else and no longer paid attention to me.*[282]

349. Some women, despite all odds, were able to meet their children's basic needs and put them through school:

> *I was left by PS374 [Indonesian] with three children. They have now finished their education. This was only possible due to my hard work earning an income to put them through school.*[283]

350. Others were less fortunate and unable to provide their children with the education they needed to better their future:

> *I have four children from Indonesian soldiers. One died, leaving me with three. Because we went to war for our independence, I accept what happened to me with open arms. Maybe in the future, the state will pay attention to us. If it does not, well, that doesn't matter. What I did for the struggle was to give myself up to Indonesian soldiers in order to save others. Maybe if there was no war I could have been a good woman. But it doesn't matter, as this [independence] is what we all wanted. This was the consequence of war...I ask for help to put my three children through school, so they can have a good future, like other children. Because of the war I was used like a horse by the Indonesian soldiers who took me in turns and made me bear so many children. But now I no longer have the strength to push my children towards a better future.*[284]

351. The Catholic Church played an important role during the years of conflict in Timor-Leste in providing shelter and protection for victims of human rights violations, including protection for victims of rape. * Despite this, in some cases it failed to overcome its prejudices against women victims of sexual slavery and their children. Without understanding the non-consensual element in sexual slavery, Church officials sometimes misperceived sexual slavery as extra-marital sexual relations. For women victims, particularly those who bore children out of consecutive non-consensual relationships, their experiences of being slighted by the Church have had a deep impact upon their minds. Children who were denied Baptism were not only deprived of the normal lives their mothers so craved for them. The mothers also faced practical consequences, such as difficulties in school registration, which required a certificate of baptism:

> *Family members from both my dead husband's side and my own relatives all supported me. This made my life acceptable. But the community around me called me names and avoided me. I still could survive this. But the Church did not support me and did not allow me to get my children baptised. It was only in 2000 when we were free that the Church allowed my children to be baptised.*[285]

352. In the following testimony, this victim of consecutive sexual slavery and her children were publicly shamed by the Church, resulting in a shunning from all communal religious activities for 16 years:

> *I was not shunned by my family but by the community and the Church. When people called me names my father said, "Whatever the consequences she is our child. Her sins are also our sins, it is a burden, a cross, that we bear as her parents."*

* For example, see the case of TC (par. 106 above); see also HRVD Statement 03335 where the Church provided protection for women from repeated rape from security personnel.

One day, my child and I were in a line in front of the altar to receive the Baptism sacrament. There were only two people before we got to the Priest, when we were pulled out by a church official…He said the Priest told him to do this. My child was not allowed to be baptised because he was born out of wedlock. My parents and I were not allowed to take communion, confess our sins, or to pray during the month of Holy Mary. From 1980 to 1996 our house never had a turn [to host] prayers for Mother Mary and the Sacred Heart of Jesus. I had to wait until ABRI did not live among us anymore. Then I was allowed to participate in Church activities again, including receiving Communion and going to Confession.[286]

Marital separation or reconciliation

353. The reaction of husbands to the sexual violence committed against their wives was an important factor in the capacity for women to recover. The Commission has heard testimonies from women survivors of sexual slavery and rape whose husbands were unable to accept what had happened to them and subsequently left them:

My husband sent a letter to me [in West Timor] in April 2001, twice, although I only was able to receive one. He told me that he was not dead yet and that he already heard that I had a child by [Laksaur Commander] PS314. In his letter, he urged me to come home with this child. The second letter fell to the hands of Kostrad on the border and was given to PS314. When PS314 was killed, his brother PS194 came for the funeral and threatened to take my child away…I stole away from the house to put my name on the UNHCR [repatriation] list. After being rejected three times, a friend of mine finally succeeded in putting my name down. I left without the knowledge of PS194. When I arrived home, my husband had already taken a new wife. When I approached him, he said he did not want to accept me as his wife. I know that I have this child from a Laksaur man but it was the situation that made this happen. If I did not follow their orders, I would have been killed.[287]

354. On the other hand, the Commission has also received statements from survivors of sexual violence whose husbands were able to accept the fact that what took place was beyond their wives' control. These women survivors of rape and sexual slavery found acceptance from their husbands:

On the boat [on the way to exile in Ataúro] I was re-united with my husband. After a few weeks, I told him what had happened to me. My husband still could accept me as his wife.[288]

355. In the following statement, a woman who was repeatedly raped in detention for many months tells her husband about her experiences of sexual violations. Reconciliation does not come immediately. The issue is discussed in a meeting involving both sides of the family; a priest is asked to mediate between the two:

Not long after I returned, my husband was released from Ataúro. Then both sides of our families came together to discuss all that had happened while I was detained by the Indonesian military. Once, my husband and I met with a priest. On that occassion I explained directly to my husband that everything that happened was forced on me, not because I wanted it. The priest asked my husband if he wanted to receive me back as his wife. My husband agreed. The two of us returned to Mau Chiga to start our own happy family.[289]

356. In some cases, women and their children, born out of rape, were accepted by their husbands. In the following case, a woman, separated for about three years from her exiled husband, greeted her husband with her child:

In 1985, when my husband returned from exile, I told him about [the sexual violations which I experienced including the fact that I had a child.] He said he continued to accept me as his wife. He said that it is not my desire, but it is a consequence of war.[290]

357. The understanding and acceptance of the extended family was crucial, particularly during the period before the return of the husband:

Not one person, not from my family or my husband's side, tried to defend me when I was treated that way. At the time…their lives were also threatened. No one from my family called me names. They supported me and said that this was not what I wanted, but it is the result of the situation. When I got pregnant [from rape] my husband was released from the prison in Lospalos. When he arrived home, he was not angry at me. He accepted the child that I was carrying as his own. When this child was being baptised, the priest did not say anything because he did not know it was not my husband's child. He baptised my child.[291]

Findings

Sexual violations by members of Fretilin and UDT

358. The Commission finds that:

1. Members of the Fretilin and UDT parties were involved in rape and sexual violence during the internal political conflict of 1974–1976 and at other times during the period of the Commission's mandate. However, the low number of cases reported to the Commission (two involving UDT and one involving Fretilin) indicates that these incidents were isolated and not systematic.

Sexual violations by members of Falintil

359. The Commission finds that:

2. Members of Falintil were also involved in rape and sexual violence during the Indonesian occupation. In some cases, impunity was enjoyed because of the reluctance of communities to report Falintil activities to the authorities. However, the small number of cases reported to the Commission indicate that the incidents were isolated and not systematic.

Rape and sexual torture by members of the Indonesian security forces

360. The Commission finds that during the period of the invasion and occupation of Timor-Leste:

3. Members of the Indonesian security forces and their auxiliaries were involved in widespread and systematic rape, sexual torture and acts of sexual violence (other than sexual slavery) directed mainly towards vulnerable East Timorese women.

361. The Commission bases this finding on the interviews and statements of hundreds of victims who courageously gave first-hand testimony of their personal experiences, as well as corroborating evidence contained in other witness statements and documents considered by the Commission. The evidence of the individual victims was judged to be particularly credible because of the negative personal impact and trauma associated with giving information of this nature to an official institution.

4. Institutional practices and formal or informal policy of the Indonesian security forces tolerated and encouraged the rape, sexual torture and sexual humiliation of East Timorese women by members of the Indonesian armed forces and the auxiliary groups under their command and control.

362. This finding is based on strong, widely corroborated evidence which demonstrates that:

- The violations were commonly committed in a wide range of military institutions; and
- Military commanders and civilian officials knew that soldiers under their command routinely used military premises and equipment for the purposes of raping and torturing women and took no steps to deter these activities or to punish those involved. On the contrary, the commanders and officials were in some cases themselves also perpetrators of sexual violence. At middle and senior levels, this included practices of providing young women who could be raped on demand by visiting guests and passing on the "license to rape", or "ownership of", young women to another officer at the end of a tour of duty.

5. Victims of sexual torture were usually women perceived by the security forces to have a connection to the pro-independence movement. Often these women were the targets of proxy violence. That is, because the woman's husband or brother who was being sought by the military was absent, the woman would be raped and tortured as a means of indirectly attacking the absent target.

363. It was common for these women to be taken to military installations where they would be questioned about the activities of their absent husbands or family members and subjected to a range of obscene methods of torture. In other cases, the women were raped in their homes or other places during military operations.

6. The Commission finds that the following acts directed at East Timorese women took place inside official Indonesian military installations:

- Mutilation of women's sexual organs, including insertion of batteries into vaginas and burning nipples and genitals with cigarettes
- Use of electric shocks applied to the genitals, breasts and mouths
- Gang rape by members of the security forces
- Forcing of detainees to engage in sexual acts with each other, while watched and ridiculed by members of the security forces
- Rape of detainees following periods of prolonged sexual torture
- Rape of women who had their hands and feet handcuffed and who were blindfolded. In some cases women bound in this way were raped until they were unconscious
- Forceful plucking of pubic hairs in the presence of male soldiers
- Rape of pregnant women. The Commission received repeated evidence of this, including one account in which a woman was raped the day before she gave birth
- Forcing of victims to be nude, or to be sexually violated in front of strangers, friends and family members. In at least one case a woman was raped in front of her mother and later killed. More commonly, victims were raped and tortured in front of their children
- Women raped in the presence of fellow prisoners as a means of terrorising both the victims and the other prisoners
- Placing women in tanks of water for prolonged periods, including submerging their heads, before being raped
- The use of a snake to instil terror during sexual torture
- Threats issued to women that their children would be killed or tortured if the women resisted or complained about being raped
- Repeated rape of women by a multitude of (unknown) members of the security forces. In some cases the women said they could not count the number of men who raped them. The Commission accepts that some victims were raped by various military officers every day during months of detention

- Forced oral sex
- Urinating into the mouth of victims
- Rape and sexual violence indiscriminately inflicted upon married women, unmarried women, and young teenagers still children by law
- Keeping lists of local women who could be routinely forced to come to the military post or headquarters so that soldiers could rape them. Lists were traded between military units. In some cases these women were commanded to appear at the military post every morning, in order to be raped by members of the security forces.

7. The degree of rape and other forms of sexual violence reflected the patterns and degree of military activity at the time. Sexual violations increased during periods of major military operations, and decreased when such operations were less frequent.
8. Women who had surrendered to the Indonesian security forces were particularly vulnerable to rape and sexual torture. In the early years of the conflict, 1975–1978, a large proportion of victims of sexual violations had surrendered and were living in temporary shelters supplied by the Indonesian military, or had recently returned to their former homes following surrender.
9. Women who surrendered from the mountains, who were known to have links to the guerrilla forces or who were thought to know the location of guerrillas and their supporters, were made to assist the Indonesian military in searching for these groups. In some cases, women were subjected to torture and rape during their participation in these military operations. Women were also forcibly recruited into civilian defence groups and made to patrol around their villages. During these patrols, supervised by armed men, women were commonly raped and sexually harassed.
10. The mass arrests following civil uprisings in 1981–1983 led to increases in the number of women who were raped by members of the security forces. This reinforces the finding that there was a connection between military operations and objectives and the scale of rape and other sexual violations committed by members of the security forces.

364. In some cases, large military operations were accompanied and followed by coordinated and large-scale rape and other violations targeting female members of communities involved in the military operations.

- Following the Falintil attack on the Dare Koramil and other ABRI posts in Dare and Mau Chiga (Hato Builico, Ainaro) in 1982, members of the Indonesian security forces separated women from other members of the community. They then proceeded to undertake a programme of individual and gang rape, sexual

torture and other forms of sexual violence towards scores of these vulnerable women. The programme continued over a period of several months and involved military commanders, lower ranked officers and Hansip members as perpetrators. The Commission finds the military commanders and civilian officials of Ainaro District during this period responsible and accountable for these massive violations of human rights.

- Extreme sexual violence on local East Timorese women was also used to suppress the local population following the uprising in Kraras, Bibileo (Viqueque, Viqueque) in 1983. This included forcing women into sexual slavery.
- Mass arrests leading to sexual abuse of women in detention as part of military operations. This was experienced by women detainees in Flamboyan Hotel in Bahu (Baucau Town, Baucau), the Koramil in Uatolari Sub-district (Viqueque), and in the Balide Prison (Comarca) in Dili, as well as other detention centres.

11. The large-scale violence during 1999 led to a significant increase in the number of rapes of women, particularly of women who had become displaced or were refugees. These incidents of sexual violence were perpetrated by members of the militias, the TNI and in some cases by members of both groups acting together.

Impunity for perpetrators of rape and sexual torture

12. The practice of capturing, raping and torturing women was conducted openly and without fear of any form of sanction, by senior military officers, civilian officials, junior ranking officers, police officers, teachers and members of the auxiliary groups such as Hansip and the militias. When victims of sexual violence or their family representatives complained to the legal authorities about what had taken place their requests for help were generally met with denial and aggression. In some cases family members who complained were beaten and otherwise punished for doing so.
13. There were no practical steps that could be taken by an East Timorese victim of rape or sexual violence to seek a legal remedy for such crimes. There was also no avenue through which they or family members acting on their behalf could seek official help to stop these violations from taking place or continuing. Victims were helpless and unable to escape the violations by members of the security forces.
14. Participation in, and acceptance of, such practices by military commanders and civilian officials, widespread knowledge that rape and sexual torture was officially condoned, use of military and official facilities for this purpose, and almost total impunity for offenders led

to a situation where such practices could be undertaken by members of the security forces at will. This led to an increase in sexual violence in the years following the invasion and expanding participation by officers of lower rank and members of auxiliary forces, such as Hansip and the militias, operating under the control and protection of the security forces. In some cases members of Hansip or low-ranking local civilian officials would forcibly take women and pass them on to the military commanders in return for increased status and rewards.

365. Indonesian police officers were also involved in torturing and rape, but not to the same extent as the military. Police officers enjoyed the same general impunity in committing sexual violations, which extended to other members of the security forces.

366. There were also incidents in which male members of the Indonesian security forces raped (including having forced oral sex and other forms of sexual violation) East Timorese male prisoners and civilians. However, this type of violation occurred far less frequently than sexual violence against East Timorese women.

Sexual slavery

15. Throughout the invasion and occupation there was a persistent practice of forcing East Timorese women to become, in effect, the sexual slaves of military officers. These activities were conducted openly, without fear of reprisal, inside military installations, at other official sites and inside the private homes of women who were targeted. In a significant number of similar cases, rapes and sexual assaults were repeatedly conducted inside victims' homes, despite the presence of parents, children and other family members of the victim.
16. As with rape, sexual slavery also increased dramatically during periods of major military operations, and decreased when such operations were less frequent. For example, 64% of sexual slavery cases reported to the Commission took place during the period of invasion and during periods of large-scale military operations.
17. It was common practice for members of the Indonesian security forces to keep East Timorese women in detention in military bases for reasons that were not related to a military objective. These women, who were sometimes detained for many months and sometimes years, were often raped on a daily basis or on demand by the officer who controlled them, and often also by other soldiers. In addition, they were forced to do unpaid domestic work.
18. The victims of this form of sexual slavery were not free to move about or travel, or to act independently in any way. It was not uncommon for the "ownership rights" over these women to be passed on from an officer who was finishing his tour of duty to his replacement or another officer. In some situations, women forced into these situations became

pregnant and gave birth to children of several different officers during the years in which they were the victims of sexual slavery.

19. In general, Indonesian officers who were responsible for fathering these children through rape or sexual slavery accepted no on-going responsibility to support their material well-being. Mothers of these children faced significant difficulties in providing for them. This was particularly problematic because former victims of rape and sexual slavery at the hands of the Indonesian military forces were often considered "soiled" and unsuitable for marriage by East Timorese men, and faced on-going social stigma.

20. The methods used to force East Timorese women into situations of sexual slavery often involved torture by members of the security forces, threats of torture and killing of victims, their family members, or the targeting of their community.

Impunity for perpetrators of sexual slavery

21. Members of the Indonesian security forces forced women into conditions of sexual slavery in military institutions or their homes openly, without fear of reprisal. The total impunity enjoyed by members of the security forces, their demonstrated capacity to kill and torture at will, and the systematic nature of these violations across the territory presented victims with no possibility of escape. The women who were targeted were forced to experience the repeated and horrific violation of their bodies and personal dignity, or be faced with an even greater harm to themselves, their family or community. In this impossible situation there was no hope of help from law enforcement officials, or any other source, and no reason to believe the situation would end in the foreseeable future.

22. The scope and nature of the violations which were being committed and the complete impunity enjoyed by all classes of perpetrators was well-known at all levels of the security forces and civil administration during the occupation. This impunity could not have continued without the knowledge and complicity of members of the Indonesian security forces, the police force, the highest levels of the civilian administration and members of the judiciary.

Sexual violations as a tool of terror and degradation

23. In addition to rape, sexual torture and sexual slavery, a wide variety of other sexual violations were committed by members of the Indonesian security forces. Violations that were particularly degrading to victims or culturally repulsive were often kept in public view. This included instances of forcing prisoners to walk long distances through

communities while naked, public rape and multiple instances of rape and torture in military posts carried out where other prisoners could hear the screams of the victims.

24. The scope and nature of the violations demonstrate that the intention was not only limited to the personal gratification of perpetrators or the direct impact on individual victims. The purpose was also to humiliate and dehumanise the East Timorese people. It was an attempt to destroy their will to resist, to reinforce the reality that they were utterly powerless and subject to the cruel and inhuman whims of those who controlled the situation with guns. Military officers repeatedly treated and spoke to East Timorese victims as if they were "less than human". These patterns helped to justify and spread these views among security personnel, leading to wider participation in sexual violations.

25. Rape, sexual slavery and sexual violence were tools used as part of the campaign designed to inflict a deep experience of terror, powerlessness and hopelessness upon pro-independence supporters. Sexual violation of East Timorese women, particularly those connected to members of Fretilin and Falintil, was intentionally carried out to destroy the self-esteem and spirit, not only of the victims, but of all who supported the movement for independence, with the aim of forcing them to accept the political goal of integration with Indonesia

Total number of victims of sexual violations

26. The Commission notes the inevitable conclusion that many victims of sexual violations did not come forward to report them to the Commission. Reasons for under-reporting include death of victims and witnesses (especially for earlier periods of the conflict), victims who may be outside Timor-Leste (especially in West Timor), the painful and very personal nature of the experiences, and the fear of social or family humiliation or rejection if their experiences are known publicly. These strong reasons for under-reporting and the fact that 853 cases of rape and sexual slavery, along with evidence from about another 200 interviews were recorded, lead the Commission to the finding that the total number of sexual violations is likely to be several times higher than the number of cases reported. The Commission estimates that the number of women who were subjected to serious sexual violations by members of the Indonesian security forces numbers in the thousands, rather than hundreds.

Impact on victims

27. Although victims of sexual violence cannot in any way be blamed or held responsible for the terrible violations that were forced upon

them, they were often socially marginalised or mistreated by their own families, community members and the Catholic Church because of their experiences. Misperceptions of sexual violence continue to lead to the victimisation of women.

Endnotes

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Chega!

Part 7.8.

Violation of the Rights of the Child

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Graphics:

7.8. Violation of the Rights of the Child

Introduction

1. Children in Timor-Leste experienced the full range of human rights violations during the period of the Commission's mandate, 25 April 1974 to 25 October 1999. The Commission's research has revealed that all sides to the political conflicts in Timor-Leste perpetrated violations against children. The overwhelming majority of these violations were committed by the Indonesian military and their auxiliaries. These forces killed, sexually violated, detained and tortured, forcibly displaced and forcibly recruited children.

2. In some ways, then, children's experience was like that of adults; they suffered from the general failure on all sides to distinguish civilians from combatants. As a result children were not spared when mass killings took place or when they were caught with their families in the line of fire during military operations. The data collected by the Commission through the statement-taking process show that children suffered most violations during the years 1976-81 and 1999, more or less exactly mirroring the pattern of violations experienced by the population as a whole.

3. Moreover, the manner in which violations were perpetrated against children was often the same as for adults. Except for the age of the victims, the content of the reports of sexual violence against children recounted below barely differ from those in the part of the Report on sexual violence. They describe:

- rape and sexual slavery in the resettlement camps;
- "proxy" sexual violence aimed at family members still in the forest;
- violations against children engaged in clandestine activity that could turn into long-term sexual exploitation; and
- strategic use of sexual violence as a form of torture, and its apparently opportunistic perpetration.

4. For children, as for adults, sexual violence was conducted openly without fear of sanction by all ranks of the military and by East Timorese paramilitaries, as well as by persons in positions of civilian authority such as village heads.

5. Further muddying the distinction between the experience of adults and children is the fact that the East Timorese have a more flexible understanding of childhood than the clear-cut one adopted under international definitions. Consistent with instruments of international law, such as the Convention on the Rights of the Child, the Commission has adopted the definition of children as persons aged 17 years old and under.*

6. Why then are children being dealt with separately in this Report?

7. First, violations perpetrated against children are universally deplored. Thus, the expectation that all sides would treat them with greater respect than would be shown to adults makes violations against children on any scale especially shocking. This sense that they are particularly shocking derives from an understanding that children as a group are innocent and that their innocence should be preserved from the corruptions of adulthood for as long as possible.

8. Second, it is plain that children are among the most vulnerable sections of society, particularly in situations of conflict and upheaval such as Timor-Leste underwent during the 25 years of the Commission's mandate. As described in Vol. II, Part 7.3: Forced Displacement and Famine, children were among those who were moved from their homes following the invasion, sometimes for years at a time, and were the main casualties of famine and illness. Many others were left without family members to support them and were therefore vulnerable to abuse, kidnapping, or forced recruitment. The use of children as TBOs (Tenaga Bantuan Operasi, Operations Assistants), for example, endangered their lives, their health and their future prospects. Their relative physical weakness meant that the heavy loads they were obliged to carry were more liable to undermine their health. Periods of service that could last for several years blighted their educational chances.

9. The special position of children in Timor-Leste does not arise only from the universal acknowledgment of their unique status. It is also derived from the fact that children represent the future. Both sides sought to cultivate loyalty to their cause among children from a young age. The Indonesian military actively involved children in the military and paramilitaries through using them as TBOs and militia. Some rose through the ranks to become senior pro-integration figures. As described in Vol. III, Part 7.9: Economic and Social Rights, Indonesia openly used the education system to deliver propaganda on integration and the Indonesian state to children from the earliest days of the occupation. The Resistance mainly engaged with children through using them in minor roles such as couriers and guards. However, as the stories below demonstrate,

* In Timor-Leste, the group is understood to consist of persons who are not yet married. Thus persons younger than 18 years who are married may be regarded as adults, and single persons over the age of 17 may be regarded as children. The conflict itself created further complications: for example, children as young as 15 held positions of authority in Falintil and were treated as adults; because of the disruption caused by war, many high-school students were aged 18 and above.

it allowed them to rise up through the ranks of the clandestine movement. There were practical reasons for engaging with children as well: for the Indonesian military, children were more malleable and more compliant than adults. For the Resistance, children had the advantage of being above suspicion from the authorities and of having existing church and community networks that could be co-opted into the struggle.

10. Because of the special vulnerability of children, the Commission believes that trauma is widespread among East Timorese who grew up under the Indonesian occupation. There is evidence that the incidence of trauma may be acute among those recruited as child militia in 1998-99. In their case, trauma was due not only to their exposure to extreme violence, but also to the psychological impact of forced recruitment, divided loyalties and the shame of ending up on the wrong side. Reported below are the cases of other children who were subject to comparable stresses. TBOs, for example, were often recruited precisely because they or their families were suspected of having ties to the pro-independence movement. There was a gross imbalance in power and resources between the occupier and the occupied. As with the rest of the population, the line between coercion and acquiescence was never a clear one. The need to balance these pressures put children at risk of being called two-headed (*kepala dua* [Indonesian], *ulun rua* [Tetum]) by either side. Children's responses to these pressures might change over time as a result of torture, inducements or exposure to battle.

11. Third, Timorese children suffered abuses that were specific to them rather than those perpetrated against the population as a whole. In particular, only children were transferred in their thousands to Indonesia. Many of these children were transferred to Indonesia forcibly and in the face of parental opposition and, thus were in effect abducted. It is unclear if this practice was formalised in policy. However, there is plenty of evidence that high-level officials, both military and civilian, failed to regulate it and were sometimes themselves involved. Even where the transfers were motivated in part by humanitarian concerns or where parental consent was sought, little effort was made to ensure that children maintained contact with their families. They were not able to choose freely whether or not to return to Timor-Leste nor were they allowed to maintain their cultural identity. In some cases all of these things were positively discouraged.

12. Like women, children were often treated as chattel. As TBOs, for example, they were not regularly paid for their services. They were required to carry heavy loads. They could be taken back to Indonesia by the soldier who had recruited them or passed on to another soldier. Their ties to their families and their special status as children were largely ignored.

13. Fourth, the special status of children is recognised under international law and most systems of domestic law, including that of Indonesia. Most legal systems give special consideration to the needs of children. While in situations of armed conflict and occupation, international law provides children protection not accorded to the general population.

14. Some of the relevant provisions of international law apply equally to all sections of the population. For example, forcing civilians to serve in military operations against their own country is prohibited by humanitarian law[1] and also constitutes a grave breach of

Geneva Convention IV.[2] Human rights law provides rights to both children and adults, including the rights to life, food and freedom from torture and arbitrary detention. There is also an extensive body of international standards governing how children are to be treated by the state, both in situations of armed conflict and in peace-time.

15. Under Geneva Convention IV, Indonesia had responsibilities towards Timor-Leste's children during the conflict. It was required to:

1. make attempts to evacuate children from the field of conflict;[3]
2. ensure that if evacuations or transfers of population were necessary within the occupied territory, and that members of the same family were not separated;[4]
3. take measures to care for children under 15 years who were orphaned or separated from their families;[5]
4. take all necessary steps to identify children and register their parentage;[6]
5. facilitate the proper working of institutions for the care and education of children;[7] and
6. refrain from changing children's personal status or enlisting them in its organisations.[8]

16. By ratifying the Convention on the Rights of the Child in September 1990, Indonesia accepted further obligations under international human rights law in respect of children in Timor-Leste. These include, to:

7. give priority to the best interests of the child when making decisions in relation to children;[9]
8. protect children from physical or mental harm, sexual exploitation and abuse, and all other forms of exploitation;[10]
9. provide children with a standard of living adequate for their physical, mental, spiritual and social development;[11]
10. regulate adoption processes and ensure that adoption was undertaken by competent authorities according to the applicable law;[12]
11. combat the illicit transfer of children abroad and the abduction, sale or traffic of children;[13]
12. provide special care for children separated from their families, taking the child's cultural background into account;[14] and
13. take steps to promote the physical and psychological recovery and social reintegration of child victims of armed conflicts and abuse.[15]

17. Indonesian domestic law also contains provisions that could have been invoked to protect children. Thus, aside from general provisions outlawing kidnapping (Article 328) and the deprivation of a person's liberty (Article 333), the Indonesian Penal Code (Kitab Undang-undang Hukum Pidana, KUHP) also specifically criminalises the act of withdrawing a minor from those exercising lawful authority over the child, for which the penalty is increased if deception, force or the threat of force are used (Article 330).

Research methods

18. The Commission has drawn material together from a number of different sources to investigate violations committed against children.

19. Through the Commission's truth-seeking process of taking statements from the community and entering them into a database, a total of 2,991 victims under the age of 18 were identified. This is 3.4% of the total number of victims reported to the Commission through its statement taking process. However, it does not represent the proportion of child victims in Timor-Leste, as in 73.3% of cases the age of the victim was not provided. This is because many statement givers did not know the ages of the victims, particularly where the victim was not a close family member. In other cases statement-givers could not remember the age of the victim where the violation occurred some time ago. Also, the statement taking process itself focussed on narrative rather than specific biographic details.

20. The Commission also conducted over 100 interviews with individuals who had suffered violations as children, or who had some knowledge of the treatment of children during the occupation. This was particularly important in relation to the Commission's investigation of children taken to Indonesia, which was not a violation included in the Commission's statistical truth-seeking process. The Commission also organised 257 Community Profile workshops throughout the country, which provided additional information on children. The details of each community's human rights violations including those suffered by children were given in these workshops.

21. Statements provided to the Commission's community reconciliation unit by perpetrators of minor violations gave context to research into children involved in pro-autonomy militias. However, the purpose of such statements was to facilitate the deponent's return to communities rather than truth-seeking, and so they did not provide detailed information on the topics covered in this part.

Children in the armed political conflicts and the clandestine movement

22. One of the most direct ways of involving children in conflict is by forcing them to join the armed forces or to take part in related military activities. Physically vulnerable, more impressionable and more easily controlled than adults, children can be a valuable source of support to military operations. However, the costs, both to the children and to the broader community, are high. Children lose their status as civilians in armed conflict and thus the entitlement to protections from the violence of war that international humanitarian law provides. Further, they are exposed to extreme danger and to violence as a routine occurrence over the most formative period of their lives. This often includes serious human rights violations, whether as victims, perpetrators or witnesses. The use of children in this way contributes to the militarisation and polarisation of the broader society. It puts children not just on the frontline of the military conflict, but on the frontline of societal conflict as well.

23. For these reasons, forcing children in occupied territories to work in or with the armed forces is specifically prohibited under international law. There has been and continues to be controversy over the age at which children may join the military.

24. Under the Convention on the Rights of the Child, which Indonesia ratified in 1990, the following rules apply:

- States must refrain from recruiting children under the age of 15 into their armed forces, and must take measures to prevent children under the age of 15 from directly participating in hostilities.[16]
- If recruiting children between the ages of 15 and 18 into their armed forces, states must give priority to older children.[17]
- Children have a right to protection from economic exploitation and from performing work that is likely to be harmful or dangerous to the child.[18]

25. In addition, Article 51 of Geneva Convention IV prohibits an Occupying Power from forcing any civilians to serve in its armed forces and from using propaganda to secure voluntary enlistment. Children under the age of 18 must not be compelled to do any work.

26. The Commission documented 146 cases of child recruitment in the statement-taking process. This accounted for 6.8% (146/2,157) of all forced recruitments documented by the Commission. However, in 45.5% (981/2,157) of cases of recruitment, the victim's age was not known. It is likely, therefore, that some of the 981 cases of recruitment where the victim's age was unknown were perpetrated against children.

27. The overwhelming majority, 83.6% (122/146), of the documented cases of child recruitment occurred between 1975 and 1983. Hence, child recruitment appears to have been mainly used during the initial years of the Indonesian occupation. Of the cases of child recruitment documented by the Commission, 84.3% (123/146) were attributed to the Indonesian military and 17.8% (26/146) were attributed to the Timorese associates of the Indonesian military, including the militias in 1999.* Only 3.4% (5/146) of cases of child recruitment documented by the Commission were attributed to the clandestine movement or Falintil.

28. All sides to the political conflicts in Timor-Leste used children over the mandate period of the Commission. As TBOs children performed a variety of tasks. Although not generally directly involved in fighting, child TBOs were frequently brought to the battlefield and thus were exposed to physical danger. At the very least they lived in difficult conditions and were prey to mistreatment by soldiers. Children also had an important role in the Resistance, both in fighting for the Armed Forces for the National Liberation of Timor Leste (Forças Armada de Libertação Nacional de Timor Leste, Falintil) or as part of the clandestine movement. Finally, children were recruited into the militias that terrorised Timor-Leste in 1999. Often they joined the militias as a result of intimidation that seriously violated their human rights, and then went on to commit grave human rights violations themselves.

* When calculating proportional responsibility for violations, some violations may be counted more than once because responsibility may be shared among perpetrators.

29. The following section looks not only at cases of forced recruitment but at the broader experience of children involved in the conflict either as TBO for the Indonesian military, as militia in 1999 or as part of the Resistance, either through the clandestine movement or Falintil.

Children as TBOs and on operations

30. The main form of involvement of East Timorese children with the Indonesian military was as TBOs. The Indonesian military used both adults and children, primarily males, as TBOs from immediately after the invasion as porters, servants and general assistants in military operations. TBOs were kept in military camps but would often accompany soldiers into the field. The immediate purpose of recruiting TBOs was to provide operational logistical support. Recruitment was therefore often undertaken when a need arose to move supplies through unfamiliar territory. A secondary purpose, according to Indonesian military documents in the hands of the Commission, was to encourage children to become supporters of integration.

31. For the children, the motivation to become a TBO was complex. Many were overtly coerced by threat of force against themselves or their families. Others became TBOs in order to get food to survive, or provide a measure of security for their families. This was particularly evident during the late 1970s when food was scarce and families were vulnerable. Some children joined precisely because they or their families were suspected of being supporters of the Fretilin (Frente Revolucionaria de Timor Leste Independente, Revolutionary Front of Independent East Timor). Some also joined voluntarily.

32. According to the Commission's research and secondary source material, including military documents, most child TBOs were recruited in the early years of the conflict, 1976-1981. Although there are cases of TBOs as young as six,* male teenagers appear to have been the most heavily represented group among children.[19] This finding is consistent with the statistical patterns resulting from the Commission statement taking process, which suggests that forced recruitment mostly affected young males between the ages of 19 and 34. Of the children forcibly recruited, almost all were adolescent. Periods of service ranged from a few weeks to more than a year. In most cases, TBOs were awarded certificates at the end of their service and returned to their homes, sometimes in large groups after a battalion shipped out. There are also cases of TBOs who returned to Indonesia with the particular soldier they had served, joined another battalion or remained in Dili.

33. It is clear from the testimony of former TBOs that they were put at risk by being forced to carry ammunition, to guide soldiers to find Fretilin supporters in the forest, and to gather water and firewood in combat areas.

* The database includes one first-person account of a boy recruited by ABRI Airborne Infantry Battalion 700 in Ainaro in 1978 "at the age of about six years old" (HRVD Statement 3242). Eurico Guterres also claims to have begun working as a TBO at age six.

Patterns of recruitment of TBOs

34. The Commission was not able to make direct statistical measurements of TBOs because TBO cases were documented as child recruitments in the statement-taking process. The bulk of child recruitment cases documented by the Commission occurred between 1975 and 1983, so it is likely that the use of TBOs was also most frequent between those dates. Military documents and individual cases show that TBOs continued to be recruited in the mid-1980s, albeit at lower levels, and there are isolated cases into the 1990s.[20] The decline in child recruitment can be explained by the scaling down of military operations and increased regulation of the recruitment.

35. In the period immediately following the invasion, Indonesian battalions forcibly recruited large numbers of people of all ages to help carry ammunition and supplies for short periods. Community Profiles indicate that short-term, large-scale recruitments, including of children, continued throughout Operation Seroja (Lotus) to fulfil immediate operational needs between 1975 and 1979.

36. Albino Fernandes, for example, reported that he was forcibly recruited in Lebos (Alas, Manufahi) in September 1978 when he was 15 years old, together with all children in the village over the age of 12. He served for more than a month and escaped before his unit in the ABRI (Angkatan Bersenjata Republik Indonesia, Armed Forces of the Republic of Indonesia) was able to carry out its plan to send him by ship to the eastern region to serve as a TBO.[*] Bonifacio dos Reis reported that as a 17-year-old, he and many others were captured and forced to carry military supplies from Letefoho (Ermera) to Hatolia (Ermera) for three days and three nights without food.[21] A 14-year-old was also among a large group of civilians captured and then held at the Maubara Koramil (Komando Rayon Militer, sub-district military command) in February 1977.[22] He was one of five youths forced to be a TBO for one month by Battalion 310.

37. Other TBOs were recruited on an individual basis to provide assistance to a particular soldier, and this was increasingly the pattern following the end of Operation Seroja. These TBOs not only assisted in transporting goods, but would also undertake domestic or other duties as required by the soldier that they served and would live with their soldier in the camp and accompany them into the field. The relationship was personal enough that in several cases the Commission heard that a TBO accompanied his soldier to the hospital in Dili by helicopter after he was wounded.[23] Initially, such recruitment was undertaken by individual soldiers on an *ad hoc* basis. By 1982, if not earlier, this form of recruitment was recognised and regulated and soldiers seeking TBOs were required to approach the local Village Guidance Officer (Bintara Pembina Desa, Babinsa).[24]

* CAVR Interview with Albino Fernandes, Alas, Manufahi, 6 March 2003. See also HRVD Statement 06117,in which Agusto Guterres told the Commission that in 1978 in Baguia, Baucau, he saw many youths recruited as TBOs when he surrendered.

The status of TBOs in the military

TBOs were not part of the ABRI/TNI in that they were not given a rank, a uniform or a salary. Nevertheless TBOs were recognised as a specific category of assistant, and were distinguished from other civilians recruited for operations, such as Operation Keamanan (Operation Security, also known as Operation Fence of Legs [Operasi Pagar Betis]) conducted in 1981. The following factors suggest that the recruitment of TBOs was official military policy:

- The various roles and tasks undertaken by TBOs were common across battalions and over time.
- Although not paid a salary, TBOs generally received food and board for their services.
- According to Operational Instruction 15, by 1982 TBOs were a formal and regulated part of the military structure.[25] Each Kodim (district-level military command) was instructed to: "provide TBOs for combat units, territorial forces and police forces and carry out the monitoring and administration of TBOs recruited".
- This document also directed units needing TBOs to make a request to the local Village Guidance Officer - the village-level military representative. Although this may not always have been followed, it implies that the military had a system in place for the recruitment of TBOs from their home villages.
- Operational Instruction 15 also directed Kodims to screen TBOs in order to provide formal recognition of those who were killed, compensation for those injured and awards in deserving cases. Other military documents mention awards for bravery and even posthumous elevation to the rank of private for TBOs killed in battle.
- TBOs received certificates signed by the Battalion commander at the end of service, sometimes accompanied by modest amounts of money.

38. The ways in which TBOs were selected varied greatly. Research interviews and statements taken by the Commission suggest that in the 1970s many children were recruited following their surrender or capture by the invading forces. Others were selected because they were presumed to be sympathetic to the Indonesian cause. The Commission received testimony about one supporter of the Timorese Democratic Union (União Democratica Timorense, UDT), who was detained by Fretilin. The invading Indonesian army freed him and he became a TBO.[26] In another case, Antonio da Costa

reported being among very large numbers of TBOs recruited by landing parties in areas of Manatuto known to have little Fretilin support, though few of them were children.[27]

39. In a few cases, TBOs were recruited after other members of a group with whom they had been caught were killed. Cipriano de Jesus Martins reports that after his older sister and her child were shot by ABRI in Riheu (Ermera, Ermera) in January 1976, he was forced to become a TBO for one year.[28] The Commission received two statements about another incident from Eurico de Almeida and Marcos Gusmão. They described how a group of their family members were seeking food outside the camps in Venilale (Baucau) on 12 October 1979 when they ran into three platoons from Battalion 745. Three male adults were reportedly shot and killed, three young children were sent home, and one ten-year-old child, Manuel de Almeida, was recruited as a TBO.[29] In a third such case, Marcos Loina da Costa told the Commission that when he was 12 years old in Laleia (Manatuto), he went looking for food and met up with two men who turned out to be former Falintil members. The group was captured by the Indonesian military and taken to the post at Larimasa (Laleia, Manatuto). The two men were killed, while Marcos was forced to become a TBO.[30] [*]

The number of child TBOs

40. As mentioned above, TBOs were not specifically documented through the statement-taking process so the Commission was not able to make direct statistical measurements of TBOs. However, other sources including interviews conducted by the Commission, military documents and Community Profiles suggest that large numbers of TBOs were recruited.

41. A conservative estimate of the number of TBOs overall can be derived from military documents. By 1982, guidelines for the mobilisation of civilians limited the number of TBOs to 5-7% of a unit's total strength, while recognising that in practice the number generally reached 10%, suggesting that about 80 TBOs served each battalion. A 1984 military document restricted the numbers further, allowing battalion-sized units to recruit just 15 TBOs, or five per company. [†] These overall quantities are significantly lower than those estimated by former TBOs who spoke to the Commission. [‡] The number of battalions fluctuated over time. At the peak in 1976 and 1978 up to 30

* Augustinho Soares remembers that after a mass capture at Letefoho, many suspected Fretilin or Falintil members were trained as Ratih or Hansip, including some who were 14 and 15 years old. CAVR Interview with Augustinho Soares, Ermera, Ermera,13 August 2003.

† A battalion of about 800 soldiers is generally made up of five companies, each of which has five platoons of about 30 men, further divided into three squads (*regu*).

‡ João Rui recalls that after Battalion 121 left Timor-Leste in 1980, 200-300 TBOs who had served with the Battalion were sent by ship from Dili to their homes in the eastern districts, suggesting that up to 40% of the Battalion was comprised of TBO's. (CAVR Interview with João Rui, Dili, 5 May 2004.) Another source recalls that in his experience a platoon of about 30 soldiers had 10-15 TBOs, or one per two soldiers. (CAVR Interview with Alfredo Reinado Alves, Dili, 5 March 2004.) Albino Fernandes, however, recalled that in 1978 in his Battalion each company (about 150 men) had a total of about ten TBOs. Hence there appears to have been significant variation in the number of TBOs in a battalion. (CAVR Interview with Albino Fernandes, Alas, Manufahi, 6 March 2003.)

battalions operated in Timor-Leste, but it is not clear whether all battalions had TBOs, or how many TBOs served on different occasions, or whether TBOs were "rotated" out of service more frequently than battalions, as appears to be the case from the lengths of service described by former TBOs. Nevertheless, if it is assumed that the Indonesian military's guidelines on TBO recruitment were broadly followed and not exceeded, It is clear that the use of TBOs was a common and widespread practice by Indonesian military units. The Commission recommends that further research be undertaken to determine the extent of the practice.

42. It is also difficult to calculate the proportion of TBOs who were children. Anecdotal evidence suggests that while children made up a minority of TBOs, the overall numbers were still quite large. The Commission has received reports of child TBOs in every district except Oecussi. However, some units may have recruited few or none, while others recruited many minors as porters for days, weeks or years. One source recalled that, of a group of 200-300 TBOs serving Battalion 121, there were about seven children who were aged below ten in the group, including himself. He estimated less than 30 children were aged 12-13 years, and up to 60 were aged 14-17 years, whom he considered no longer children. Taken together, from one-half to one-third of the TBOs in this battalion were aged under 18.[31] Consistent with these figures, another former TBO reported that in his experience a platoon of about 30 soldiers had 10-15 TBOs and in his platoon there were seven children. That figure included two young children, who had been picked up during operations and did not have work duties.[32] However, another person who had been a TBO in 1976 recalled that his whole battalion had just 18 child TBOs.[33]

Why ABRI recruited children as TBOs

43. The primary purpose of the recruitment of TBOs appears to have been operational: transporting supplies and providing for the day-to-day needs of soldiers. In some cases TBOs were used to guide soldiers, help locate both civilians and guerrillas in the forest or to carry ammunition, equipment and supplies during combat. There are also reports of TBOs being deployed in front of units in the field.

44. The question remains why children and youths were selected for service. There are several possibilities: indiscriminate demand for unpaid labour, a hearts-and-minds tactic, or a perception that young TBOs posed a lower risk of betrayal or escape.

45. There is some evidence that the recruitment of youths was driven by the need to satisfy the military hunger for free labour in support roles. This seems especially likely in the early years after the invasion when larger numbers of TBOs were recruited for short-term, ad hoc tasks. One source describes children as young as 11 being pressed into service from the local population to replace some adult TBOs who had fled, either due to simple availability or perhaps because they were preferred as easier to control than adults.[34]

46. There is evidence that once individual soldiers had the main responsibility for the recruitment of TBOs, children were specifically targeted as recruits. A 1982 military document details the roles of the various civilian paramilitary groups particularly with

regard to Operation Kikis (see section below, Children on operations par. 87 ff). In an illuminating passage, the document lists the strengths and weaknesses of TBOs. The strengths, derived from spending time with Indonesian soldiers, include the ability to speak Indonesian, good health and loyalty to the particular soldiers they served. Of greatest relevance to this part, the final strength listed is "[r]elatively young age, between 12-35", although the passage does not explain why youth was regarded as a strength.[35]

47. It may have been assumed that children were easier to influence ideologically than adults and would therefore go on to support Indonesia. There are several cases in which children who served as TBOs subsequently joined paramilitaries, or even the Indonesian military, as adults.* The 1982 handbook for the Village Guidance Officers (Babinsas), provides advice about former TBOs:

> Those of school age should be encouraged to go back to school, while those who meet the criteria and are aged between 18 and 25 can become members of Ratih units† and then members of ABRI.‡

48. Leaders of the militia groups in 1999 who were previously TBOs include Joanico Cesario Belo of Tim Saka militia, Cancio Lopes de Carvalho of Mahidi militia (Mati Hidup Demi Integrasi, Live or Die for Integration) and Eurico Guterres of Aitarak militia (Tetum for "thorn").[36]

49. Some children were forcibly recruited as TBOs precisely because of their real or suspected ties to Fretilin, and thus as an effort to control them. According to Father Locatelli, the recruitment of TBOs was also a strategy by the military to prevent youths from becoming involved with Fretilin.[37] Adults, including Falintil members, were often forced to become members of the Civil Defence (Pertahanan Sipil, Hansip), Trained Civilians (Rakyat Terlatih, Ratih), People's Resistance (Perlawanan Rakyat, Wanra) or members of other paramilitaries.

50. Finally, children may have been preferred over adults as they were less likely to desert or betray their units. One former TBO told the Commission that of the three TBOs in his unit, an adult ran away one night with TBOs from other units, while he

* See CAVR, *Children and Conflict*: Submission to CAVR by Helene van Klinken. *Case Summary Collection, 2003.* See also, CAVR, Community Profile of the *aldeia* of Vaviquinia, Maubara Sub-district, Liquiçá District, 3 July 2003, which notes that twelve villagers of unknown age captured in 1976 by Infantry Battalions 403 and 401 and Secret Warfare Command (Komando Pasukan Sandhi Yudha, Kopassandha), were made to serve as TBOs and then recruited into Civil Defence Force (Pertahanan Sipil, Hansip) at the end of their service.

† Indonesian civilians were regularly selected to undergo basic military training, after which they were referred to as Trained Populace (Rakyat Terlatih, Ratih). Further selections may be made from the ranks of the Ratih to form (a) the Civil Defence Force (Pertahanan Sipil, Hansip), responsible for protecting civilians in case of natural disaster or war, (b) the People's Security Force (Keamanan Rakyat, Kamra).

‡ ABRI, "Petunjuk Teknis tentang Kegiatan Babinsa" [Instruction Manual: Village Guidance Officer/TDP Activity in developing and phasing out Trained People's Resistance Forces], *Juknis /06/IV/1982,* (Korem 164, Wira Dharma, Intelligence Section, Williem da Costa [Chief of Intelligence]) translated in Budiardjo and Liong, *The War Against East Timor*, Zed Books, London, 1984, pp. 223-227; see also ABRI, "Komando Pelaksana Operasi Timor Timur" [Military Command East Timor Operations], *Rencana Operasi No. 01/Bayu*, Lampiran D (Rencana Teritorial), [Operational Plans No. 01/Bayu. Attachment D (Territorial Plan) p. 5. which directs forces to "assign TBOs from returned Battalion to strengthen Wanra in the Tactical Resistance bases, PPT."

and the other under-age TBO did not know the way home and so were afraid to flee.[38] However, as noted at par. 123 ff below, children in the clandestine network in fact played an important role in providing intelligence and supplies to the Resistance, and there are several cases of child TBOs being killed or disappearing because they were suspected of communicating with Falintil.*

51. Indeed, several 1982 military documents warn that the knowledge gained by TBOs could easily fall into the wrong hands. One warns:

> As a consequence of [TBOs] accompanying members of ABRI, they will learn much of the strengths and weaknesses of ABRI members. If not guided, they may turn around and pass on information to the GPK for its use. A number of cases prove that the GPK has sent its people to become TBOs and then return to the forest with equipment, logistics and the most important thing, information.[39]

52. Another document warns that the Security Disturber Movement (Gerakan Pengacau Keamanan, GPK) "can also disguise themselves as, or infiltrate into the ranks of, TBOs attached to ABRI units".[40] To guard against this risk, another document from 1982 instructs Babinsas on how to handle ex-TBOs: "Give them continual guidance so that they are not influenced by the GPK."[41]

Reasons for joining

53. The Commission's research suggests that TBOs were recruited by a variety of means, which varied depending on the individual and the broader military and socio-economic situation.

54. In many cases recruitment was undertaken forcibly, but other children chose to join for material benefit or security, and others because they enjoyed the work. João Rui who served as a TBO four times as a child explained his reasons for joining each time: the first time he was forced; the second time he was persuaded by the promise of food, sweets and friends; the third and fourth times he joined voluntarily because he was used to the work and did not enjoy the heavy farm work that he was doing at home with his uncle. He was also hoping to receive an education, although that never happened.[42]

Coercion

55. José Pinto, who in 1977 at the age of 16, became a TBO for Infantry Battalion 724 said:

* See HRVD Statement 04435, in which João Pinto describes the killing of his son, Domingos Mario, a 17-year-old TBO who was forcibly recruited on 4 December 1979 by the Koramil in Luro (Lautém). After it was learned by ABRI that he had been writing letters to a Falintil member in the forest for 4 months, Domingos was brought by ABRI force 305 to Nundelarin, Luro, where he was beaten, stabbed in the chest with a bayonet and burnt on the cheeks with cigarette butts. After he had been detained for nine days he went home for three days. A Hansip called Pedro along with ABRI then came and took Domingos to the Koramil in Luro and he never returned.

When they came into the house, [the Indonesian soldiers] would always bring their weapons with them. So whatever they wanted my parents had to agree to. We couldn't say whether we wanted to or not.[43]

56. As seen from the above stories, in many cases children were openly forced to become TBOs, for example after capture or surrender. Domingos Maria Bada told the Commission that after several years in the mountains, he and his family were captured by the army and Hansip members in Faturasa (Remexio, Aileu). While the rest of his family were taken to the town of Remexio, he and a friend were kept at the army post in Faturasa as TBOs. Domingos explained that he did not want to become a TBO but was threatened with a weapon and so had no choice. He joined the army and was ordered to carry their knapsacks into the battlefield.[44]

57. Some of the coercion was directed at those suspected of supporting Fretilin. For example, Luis Soares told the Commission that when he was 16, he was captured in 1976 by a Hansip in Ermera and turned over to Yonif (Infantry Battalion) 412, because he had helped Falintil. He was forced to serve as a TBO in Aileu and Same for one year.[45] The Community Profile of Aidabaleten (Atabae, Bobonaro) states that in one year around 300 young men who were considered to be members of the traditional forces (Armas Brancas)* or Fretilin militias, were arrested and detained for three months. Following their release, those who were still adolescents were forced to undertake military training and were then made TBOs.

58. Coercion also took place in the broader context of military control over the civilian population. One former TBO pointed out:

No civilian could oppose a soldier. People were afraid. Even a Bupati [district administrator] didn't dare oppose a soldier…Not joining was dangerous - we would be dead, no problem.[46]

59. The persuasive approach was used with Oscar Ramos Ximenes, who became a TBO at the age of 12 in 1980 in Cairui (Laleia, Manatuto):

I couldn't go to school because I was hungry, so I gave myself up to become a TBO, just so I could survive.[47]

60. The Indonesian military also used more subtle methods of recruiting boys and young men to work as TBOs.

61. Gil Parada Martins Belo told the Commission that when he surrendered in 1979 and began living in Lacluta (Viqueque), the Indonesian military approached him regularly to persuade him to become a TBO, even though he was only ten years old at the time:

They were always trying to persuade me, that's why I went [with them]. They brought me cakes, clothes, trousers. They didn't threaten me. I didn't

* *Armas Brancas* was an unofficial term for civilian forces charged with helping Falintil forces in the battlefield by providing food and other supplies. *Armas Brancas* forces were armed with swords, spears, or bows and arrows but only for self-defence. They were not involved in direct combat.

feel comfortable though because there were always soldiers coming and calling for me. They always waited for my father, and that is why I left in the end...At that time it was very difficult to get food. Many people died. This is what made me think that it would be better for me to join with them.[48]

62. In his autobiography Eurico Guterres writes of becoming a TBO to survive:

Although I was only six years old, I joined in helping out the TBOs at the Battalion 502 Base Camp at Burkaila [Uatolari, Viqueque]. Although working as a TBO was looked on with contempt, I had to work hard at it to lighten the load of my mother. Becoming a TBO meant that, at the very least, I could eat.[49]

63. Once in the camps the promise of extra food allowed TBOs to help feed their families. Agustinho Soares reported that even though TBOs usually received only what was left over from soldiers' meals, at times he was able to get some food to his family: "If I hadn't become a TBO, then my whole family might have died. We had a bit of luck because I was a TBO."[50]

64. Because of the material benefits that could come from serving as a TBO, there are also cases of families pushing their children to join. After three years in the mountains, José Viegas and his family surrendered in 1978. Despite their strong Fretilin background, his family pressured him to become a TBO:

Most people knew that my father had been armed, that my mother was a delegate and that I was an estafeta *[courier]. In 1978, our family's movements were watched and monitored, so it was very difficult for my father to find the basic necessities to satisfy his family's needs. We couldn't event plant vegetables...As a way out, my mother begged me: "Join as a TBO so we can get food from [ABRI]." But I didn't want to, even though my mother insisted on it until she had to beat me. I ran away from home and wandered around in the forest for a week.*[51]

Duties

65. A 1984 military document states that TBOs may be deployed only as guides, only in their home areas and only with knowledge of the territorial command.[52] However, this does not seem to have been general practice. Information that the Commission received from former TBOs indicates that the duties of TBOs were varied and often involved moving around with troops to wherever operations were being conducted.*

* For example: Mário dos Santos told of travelling with the military from his hometown in Bazartete (Liquiçá) to Fatulia (Ermera) then to Dili and Ainaro, and back to Bazartete over a nine-month period (CAVR Children and Conflict Research Team, Research Paper, "Forced Recruitment", 31 August 2003). Albino Fernandes told of the TBOs from Lebos (Bobonaro) travelling in 1978 through the mountains of Bobonaro, Ainaro and Manufahi. (CAVR Interview with Albino Fernandes, Manufahi, 6 March 2003.)

66. Many TBOs were used for logistical purposes during military operations such as carrying army supplies or the packs of individual soldiers containing items needed on the battlefield.[53] In the base camps, TBOs were used for domestic tasks such as cooking, laundry, and finding water and firewood. José Pinto reported that he became a TBO for four months when he was 16 years old. He would draw water from a well 10-20 times a day using a 15-litre container. Because he was also attending school at the time, he would draw the water in the mornings and evenings. If the army post was at the top of the mountain, he would have to walk more than 100 metres up and down the mountain with the water.[54]

67. TBOs were also used as guides or scouts which could involve the dangerous task of walking ahead of the frontline to check that the path was clear.* Statements received by the Commission indicate that the role of guide was often linked to a role as a courier for ABRI to make contact with members of the Resistance, or calling on people living in the forest to surrender. Domingos Maria Bada, who served as a TBO for eight months for four members of Battalion 410, told of his experiences during an operation in Fahinehan and Turiscai in Manufahi District:

> *But there was one thing that was important, which was that when there were operations held in the forest, TBOs had to form the frontline as guides for the soldiers. And TBOs had to go and look for and call to people still in the forest to give themselves up.*[55]

68. Belchior Francisco Bento Alves Pereira testified to the Commission Public Hearing on Children and Conflict about his forced service as a TBO in 1990 in Manutasi (Ainaro, Ainaro) after being detained for clandestine activities:

> *If we were doing an operation in the jungle I was told to carry the packs, weapons and bullets. They gave me new army clothes and I became their bait in the forest. First I was with [Infantry Battalion] 613, then [Infantry Battalion] 641, [Infantry Battalion] 642 and, finally, with [Infantry Battalion] 643.*[56]

69. The Commission has also heard that TBOs would be forced to provide support once battle had been joined. Alfredo Alves testified to the CAVR National Public Hearing on Children and Conflict that at the age of 11 he accompanied Battalion 725 into battle, mainly to refill magazines.†

Conditions and treatment

70. Although in many cases TBOs received more food than average members of the population, their conditions could also be difficult. At best they were expected to live

* See statement of Leoneto Martins, who was forced to walk ahead of the frontline when he worked as a TBO for Infantry Battalion 410. (CAVR Interview with Leoneto Martins, Saburia, Aileu, 15 October 2003.)

† See also HRVD Statement 09081 by Cipriano de Jesus Martins: "As long as I was with ABRI Iwas forced to carry their combat equipment such as bullets and food into the field of battle between ABRI and Falintil."

in conditions that were as harsh as those of the soldiers they served, even though the soldiers had been trained to deal with physical deprivation. Former TBOs have reported suffering from exhaustion, hunger and thirst. Several former TBOs reported that they ate only what was left over after the soldiers finished, or in some cases rice that was already rotten.[57] If helicopter supply drops were delayed, there were food shortages for everyone. However, when the supplies arrived the TBOs had heavy loads to carry, often over long distances. Alfredo Alves told the Commission that on two occasions all TBOs with his Battalion were given injections in their legs before carrying heavy packs, in order that they would not feel the weight or become tired.

71. Marcos Loina da Costa from Cairui (Laleia, Manatuto), who was only 12 when he was forced to become a TBO, said he found it very difficult to carry the heavy loads:

> *Throughout the journey we felt as if we were almost dead because what we carried was so heavy and so much. Whoever was no longer strong enough to carry their loads would just be left behind.*[58]

72. Domingas Freitas told the Commission of her younger brother, Rai Ano, who was recruited with a friend, Zeca, in 1978 in Ossu (Viqueque), by a member of Battalion 744. Zeca later told the family that Rai Ano had died in Uatolari (Viqueque) because he was not strong enough to carry the heavy military equipment.[59]

73. The treatment of TBOs by the military, including incidences of the physical abuse, seems to have depended on the personality of the soldier to whom each TBO was assigned.

The everyday life of a TBO

"If we died, it didn't matter"

One young boy was recruited by soldiers from [Infantry Battalion] 121 who gave him sweets and asked him to carry a backpack for several kilometres. By the time they had arrived at their destination it was dark and he was afraid to go home. They took him with them to the forest where he collected firewood and water, pitched tents and cooked:

[W]e would walk for up to 12 hours a day. We would leave at 5.00am and walk until 12.00 when we would have a break and eat lunch, then we were off again until it was dark. The next morning we would set off again and we went back and forth through the forest like that. I was already carrying heavy loads then…We climbed up [Mount] Matebian, it rained the whole time and I couldn't sleep because everything was wet. Sometimes we would go to the towns to get rice, sometimes by helicopter. The soldiers would send smoke signals or use a radio. They would give us food and milk. We were on Matebian for two months going back and forwards. I thought we

would go to the towns but we couldn't - we didn't go into any towns, we were in the forest the whole time.

One mountain that we climbed was extremely difficult; there were some who fell off…at the border of Uatolari, at the base of the mountain, we rested for two days but it was raining heavily and the helicopter couldn't get to us for two days and two nights. We ran out of rice and cigarettes, everything ran out. They were stressed and were only drinking tea. When the sun set we would go looking for fruit, coconuts, anything. Then before we knew it a helicopter landed. The soldiers had sent smoke signals and the helicopter came down to us and gave us rice. Suddenly, all of the bigger TBOs ran away. They knew the way and so ran back to their villages. It was harder for us [little ones], we were in the middle of the forest, how would we find the way? That night when the company commander ordered us to get rice, it was discovered that two TBOs had gone. One other TBO then ran away from our regiment, leaving just two of us. The other TBO was 16 or 17, but I was just eight or nine.

The next morning we were moving again. There was a lot of rice now and the sacks were wet…Usually if we were staying in one place we could receive rice twice a week. But when we were moving we received [supplies] maybe once a week … For nine people, that is a lot of rice at once. There were about 50 kilos in the sacks…So we left carrying all of that but there were no more TBOs so in Uatolari [Viqueque] we called more people to join. There were some older ones, I saw one even given bullets to carry. That area was still dangerous and there were some people called up who were too scared to join. We weren't careful either, if we died, it didn't matter. There were tens of people [who joined] including children around 11 years old. We left directly from there into the forest to climb Matebian again. Some of the bigger TBOs became annoyed because the bags were heavy and then they were given bullets. We were at a river called Uaibobo and they were so annoyed they threw all of it into the river…We were told to climb back up into the forest and we stayed in an area near the border between Venilale (Baucau) and Ossu (Viqueque) near a river. We were there for maybe six months or more…Then we moved again to a town, which was nicer but we had to work every day: cooking, collecting water and washing clothes.[60]

Fatalities

74. Qualitative sources, such as interviews and community profiles, suggest that many TBOs, including children, may have been killed in combat. However, more focused data collection and research is required to make a finding on this issue.

75. Testimonies received by the Commission also indicate a high level of fatalities. One TBO, who began service in 1976 and spent time with three different battalions over two years, finally ran away with several others because of the high casualty rate in the eastern districts:

> *When there was an operation in the forest, we would always be in the frontline. So there were TBOs that were shot by Fretilin because TBOs were used as guides each time there was an operation. Of nine TBOs, three died and others were wounded. My TBO friends were wounded or died just because they were always ordered by the soldiers to walk in the frontline.*[61]

76. Evaristo da Costa reported to the Commission that in 1983 nine boys, including Aureliano da Silva (ten years), Bonifacio da Silva (ten years), Domingos Mendonca (11 years), Ernesto Amaral (14 years), Jacinto Amaral (14 years) and Domingos Mesquita (14 years), were forced by Infantry Battalion 514 to carry packs full of rice from Liurai village (Remexio, Aileu) to Hera (Dili). When they arrived in Ailibur/Pamketaudun, Ernesto Amaral was reportedly shot by an Indonesian soldier named C2, because he could not carry his pack any further. The other boys fled to Dili or to their home villages, where ABRI members went looking for them until a soldier from the Remexio Koramil called off the chase.[62]

77. Several cases were reported to the Commission of child TBOs who were not seen again after being recruited. In one case, Apolinario Soares reported that his younger brother, João Soares, was ten years old when he was caught by Battalion 745 and forced to become a TBO in 1980, because the family was suspected of supporting Fretilin.[63] In another case, Costavo da Costa Ximenes told the Commission that his younger brother, ten-year-old Avelino Pinto, was taken by ABRI in November 1982 from his home in Alaua Atas (Baguia, Baucau). Ostensibly, he was to be adopted but actually he was made a TBO and was not seen again.[64] One man from Atsabe (Ermera), Eduardo Casimiro, remembers several children from the area dying after being recruited as TBOs.[65]

78. Some children may have died in combat, but the Commission has also been told of several incidents in which TBOs were killed or threatened with death by the Indonesian military. Alfredo Alves remembers the killing of a TBO by Infantry Battalion 725 in Fatubolu (Maubisse, Ainaro) in 1977:

> *One day a TBO refused to increase the load of goods he was carrying, which made the commander angry. When we reached the camp, all soldiers and TBOs were gathered together and the commander said: "TBOs are not allowed to refuse to carry goods because the military has come here to help and give you independence." Then that TBO was called to the front and shot dead. We were then given a clear reminder that if there was someone who refused [to do what he was told], his fate would be the same.*[66]

79. According to Marcos Loina da Costa, a former TBO from Cairui (Laleia, Manatuto), another TBO in his unit was nearly killed by a soldier because he could not carry a heavy load of rice, bullets and mortar shells, but was saved at the last minute by another soldier.

He remembered that after that incident "every load that I carried felt light because of my fear".*

80. As noted above, the Commission has received information that a 17-year-old TBO, Domingos Mario, was tortured and disappeared after writing a letter to Falintil.[67] Another statement reports the case of a 14-year-old, Teodoro de Oliveira, who was shot and killed on Christmas Day 1984 by Infantry Battalion 131 in Serelau (Los Palos, Lautém) for reasons unknown.[68]

Payment

81. In general, TBOs received food for themselves or to take home to their families in return for their services. No former TBOs reported receiving a regular salary, and no mention of payment is made in the military documents. This is unlike members of Wanra or Ratih who were either paid salaries monthly or for the duration of operations (see the section on the militarisation of East Timorese society in Vol. I, Part 4: The Regime of Occupation).

82. Many former TBOs reported receiving small amounts of money at the end of their service. Domingos Maria Bada reported that after six months of service in 1978, mostly searching for civilians in the forest, his work with Infantry Battalion 410 ended and he was given Rp6,000 (equivalent to about US$14 at the time). Another former TBO reported receiving Rp20,000 (about US$32 at the time)[69] at the end of nine months of service with Infantry Battalion 133 in 1981, and Rp25,000 (about US$23 at the time) in February 1985 after a year serving with Infantry Battalion 507. Each time he was demobilised, this TBO received official certificates with the heading "Letter of Appreciation" (Surat Tanda Penghargaan) (1981) and "Statement of Gratitude" (Ucapan Terima Kasih) (1985) signed by the battalion commander.† Gil Parada Belo Martins received Rp25,000 and a certificate from Airborne Infantry Battalion (Lintas Udara, Linud) 401, or Banteng Raiders, which he was told would be helpful in getting employment.[70]

Post-service

83. In many cases, a TBO was returned to his village following completion of his service. The Village Guidance Officer (Babinsa) handbook specifically requires that TBOs be sent home and encouraged to return to school, and one TBO remembers hundreds of TBOs travelling home by ship to the eastern districts after their battalion left Timor-Leste. He also remembered:

> *Some stayed in Dili, since the economy was bad at home. I was given Rp9,000 and a certificate. We stayed at the Dili Kodim and were then moved to the Becora Koramil. We were left by the soldiers. Little kids were threatened by the bigger kids and there was a risk of being robbed. It was chaotic and sometimes I was harassed. But we felt free: no more cooking,*

* CAVR Interview with Marcos Loina da Costa, Manatuto, 24 June 2003. Da Costa added that the Battalion commander ordered that all TBOs be sent home because of the unfair way they were treated by his men.

† CAVR Interview with João Rui, Dili, 5 May 2004. He told the Commission that he was also able to save up another Rp25,000 running errands or doing other tasks for soldiers.

collecting wood, or washing. I was given a military uniform, which went down to my knees like a dress.[71]

84. In some cases, TBOs were taken back to Indonesia when the soldier returned after his tour of duty. The case of Alfredo Alves, who was tricked into boarding the ship in a box, illustrates that this was not always a voluntary arrangement (see section on the transfer of children to Indonesia, par. 343 ff).

85. As noted above, for some TBOs the experience led to a long-term relationship with the Indonesian military through joining the army, or becoming a member of the Wanra or other paramilitary groups. However, in many respects service as a TBO does not carry the same stigma as becoming a militia member. It is understood that many were compelled to join, that they often performed only menial work and that they were victims in other respects.

86. Military documents from 1982 captured by Falintil specifically instruct soldiers to return children to the classroom after their tasks were completed and at least some TBOs were able to return to school only slightly older than their classmates due to their fluency in Indonesian.[*72] However, there were limited educational opportunities during the early years of the conflict when the use of child TBOs was at its height. Serving for a year or more in the military camps or in the forest meant that child TBOs missed out on what opportunities existed.

Children on operations: Operation Security

87. In mid-1981, the Indonesian military conducted an operation in which tens of thousands of Timorese were moved across the territory as a human fence in an attempt to capture Fretilin and its members. This tactic was used on several occasions in operations generically referred to as Operation Kikis. The operation that took place in mid-1981 was called Operation Keamanan and was the largest Operation Kikis ever conducted in Timor-Leste (for detailed accounts of this operation, see the section on Operation Keamanan in Vol. I, Part 4: The Regime of Occupation and Vol. III, Part 7.5: Violations of the Laws of War).

88. Although TBOs were deployed in Operation Keamanan, several thousand ordinary civilians, both children and adults, were recruited specifically for the operation. There was some regional variation, but in many areas all males over the age of 12 were assembled by local administrators or military personnel and assigned to a military unit involved in the operation. Helio Freitas recalled that in his village an order came from the military through the village chief for all males to join without specifying age. The heads of the neighbourhood associations (*rukun tetangga*) and sub-neighbourhood associations (*rukun warga*) made sure that all the males in the village were recruited. There was no formal registration or checking of ages:

The liurai*, Koramil and Hansip members gathered together the whole community, all men, and assessed their condition. Small children were separated and assessed for their condition, not their age.*

* When Osorio Florindo returned to school, after missing three months because of Operation Kikis, he discovered that the school rewarded those who participated by promoting them to the next class. (CAVR Interview with Osorio Florindo, Dili, 31 May 2003.)

89. The youngest of those selected to join the operation were aged about ten.*

90. Eduardo Casimiro from Atsabe (Ermera) told the Commission that soldiers came to his school to take pupils to the Kodim before leaving for Ainaro, but as a 12-year-old he was considered too young to be recruited for the operation.[73] Osorio Florindo also told the Commission that 1,000 residents from Luro Sub-district (Lautém) joined the operation, including all the boys from his elementary school, their teachers, and children of the same age who were not in school.[74]

91. The minimum age for recruitment varied widely. The Community Profiles suggest that many school children were forced to take part in Operation Keamanan. In Pairara (Moro, Lautém) all children aged 17 and above were recruited and in Vatuvou (Maubara, Liquiçá) around 600 people were involved, including children. In Vemasse Tasi (Vemasse, Baucau) the community remembers that throughout the operation, only women, babies and the elderly were left at home. In Aissirimou (Aileu, Aileu) and in some villages in Liquiçá, all school children were forced to take part. In Lospalos and Tutuala (Lautém), all male residents above the age of 15 were forcibly recruited and in Quelicai (Baucau) and Viqueque (Viqueque) males as young as 13 took part.[75]

92. There were also areas where only adults were recruited. In the village of Parlamento (Moro, Lautém) only those older than 17 years were taken on the operation and in Seloi Malere (Aileu, Aileu), in 1979, mothers and children stayed at home while all adult males joined the operation.[76]

93. Local civilian administrators, such as sub-district administrators and village heads, directed the recruitment process in coordination with local military commanders. In some cases they may have been able to influence the minimum age of recruits. For example, in Railaco, Ermera, the sub-district head, Francisco da Conceicão Guterres, was required to provide 500-600 people to join the operation. He remembers telling the sub-district military commander that there were enough adults to fill the quota and asked him who would be responsible for the children if food ran out. In the end, only those over 30 were registered.[77]

94. While there are few reports of recruits being caught in crossfire, those forced to join suffered from disease and hunger, in some cases resulting in death.† Several participants reported that soldiers gave them a small amount of corn each week. According to Osorio Florindo, who was 15 years old at the time, people survived by finding food in the forest. Each morning they prepared their food for the day and then walked without stopping for any reason. If there was no track, they cut their way through the forest.[78]

95. The mass recruitment of men and boys for the purpose of this operation was a different phenomenon to the general recruitment of TBOs. However, a large number of

* CAVR Interview with Helio Freitas, Dili, 19 May 2003. Several sources (including one former sub-district administrator [Camat]) point to the sub-district administrator as having a lead role in enlisting participants under the direction of military authorities. (CAVR Interview with Francisco da Conceição Guterres, Toculul, Railaco, Ermera, 17 June 2003.)

† HRVD statement 05785 records that five friends of the deponent died because there was a shortage of food and medicines on the operation in Manatuto. In the database there is also second-hand evidence regarding a 15-year old boy called Januario Mendes who was shot dead in a camp during Operation Kikis by a Hansip in the presence of two witnesses (HRVD 03943).

TBOs also took part in the operation. While TBOs did not receive special training, they were differentiated from other Operation Kikis recruits by the fact that they served with particular soldiers or in some cases with Hansip. In 1982, one military document notes that from the start of the operation every unit used TBOs, estimated to have totalled 1,200, or 10% of the total force (exceeding the permitted 5-7%).* It is not known what portion of these 1,200 TBOs were minors, although the document describes TBOs as ranging in age from 12 to 35 years and statements from participants say that children as young as 11 took part.

96. One 11-year-old, Helio Freitas, was not at first selected for the operation but joined voluntarily as a TBO to a Hansip who knew his family. Helio explained to the Commission that he asked to join because he was afraid that soldiers would punish him if he stayed in the village. His group climbed Mount Matebian with the combat force (*barisan tempur*) out in front, consisting of Hansip members, soldiers and their respective TBOs. There were about 15-20 Hansips and a platoon of 30 soldiers. Most Hansip members had one TBO each, whereas the soldiers shared several TBOs between them. One or two kilometres to the rear were more military, Hansip, TBOs and civilians. Helio was the only child TBO on the frontline, but there were other TBOs his age in the rear and many children among the civilians. All children were over ten. His responsibilities were similar to those of the TBOs used in regular operations: cooking, washing and setting up camp. His group saw no Falintil and captured only two civilians, one of them a child.[79]

Children recruited by pro-autonomy militias

97. Although paramilitaries had existed since the earliest days of the Indonesian occupation, a new variety appeared in 1998-99. These were created in response to the political climate in Timor-Leste created by the fall of Soeharto and indications from President Habibie of a shift in policy towards the territory, which culminated in his announcement of a referendum in January 1999. There had already been signs of the mobilisation of militia groups in the months preceding this announcement, but from early 1999 the number of new militias mushroomed and they moved quickly to recruit thousands of members. Established militias, such as Tim Saka (Saka Team), Tim Alfa (Alpha Team) and Halilintar (Lightning), also sought to expand their membership base. The militias recruited members from civil defence organisations, such as Ratih and Hansip, as well as from criminal, youth and other gang networks, West Timorese, and active duty soldiers. They also recruited many youths, including an unknown number of children. (Membership lists and other records are thought to have been removed or destroyed in 1999; see Vol. I, Part 4: The Regime of Occupation, for more information on the 1999 militias).

98. In the child recruitment cases documented by the Commission, 6.2% (9/146) were attributed to the pro-autonomy militias. All of these cases occurred in 1999. Six of the

* Operation Instructions No:INSOP 03/II1982I, p. 7: "From the beginning of Operation Keamanan, each unit used TBOs. The number of TBOs permitted was between 5% and 7% of the force. But most units increased their numbers by giving support not to the unit but to each person, so that it became around 10% of the force. In the early period of Operation Kikis in mid-1981, 15 battalions were operating with 1200 TBOs."

nine cases involved children 15 and over. The other three cases involved children of unknown ages. These figures do not suggest that children were targeted for recruitment into the militias. However, neither do they suggest that children were given sufficient protection from recruitment.

99. This analysis is supported by other sources that suggest that militia members were for the most part young men and teenagers. An East Timorese reporter told a United Nations International Children's Emergency Fund (UNICEF) researcher that Red and White Iron (Besi Merah Putih, BMP) had as many as 100 members under 18 when she visited them in Liquiçá in April 1999:

> I spoke with a few of them and they were young, very young. Some of their weapons were almost the same size as they were.[80]

100. In September 1999, another journalist reported that most were teenagers and in some cases, children appeared to be as young as 12.[81] One child militia member from Atabae (Bobonaro) reported that about 60 other children, including 20 girls, had been recruited into ARMUI (Atabae Rela Mati Untuk Integrasi, Atabae Would Die for Integration), an offshoot of the longer established Halilintar paramilitary in Atabae.[82]

101. Militia groups were subdivided into smaller quasi-military groups such as platoons and companies. For example, a child member of the ARMUI militia reported to UNICEF that it had 20 platoons, each with about 40 members.[83] Although few child-militia members have been interviewed, those who have report that there were other children in their groups. One clandestine member, who was forced to join Red and White Whirlwind (Dadurus Merah Putih) in Maliana (Bobonaro), reported to UNICEF that there were more than ten young boys in his group participating in guard duty and house burning, some as young as ten.[84]

Methods of recruitment

102. According to a report issued by the HAK Foundation (Yayasan HAK) several months before the referendum, there was a "wave of coerced membership" in December 1998 and January 1999 as the militias began to recruit ordinary civilians.[85] Recruitment was reportedly based on targets established by government and military authorities - typically ten people per village.[86] The BMP militia, established on 27 December 1998 in Maubara, Liquiçá:

> Recruited its members from ordinary peasants, old people and boys younger than 18. According to some sources, the process of recruitment was done through terror, intimidation, death threats and stigmatisation as "pro-independence" people. Those who finally agreed to join the gang were promised a wage of Rp25,000 per day. This group is one among those who are very active in terrorising, intimidating, wounding and killing civilians.[87]

103. Testimony, news accounts, statements provided by perpetrators in the Commission's Community Reconciliation Process (CRP)* and Community Profiles[88] indicate that many children joined the militias due to coercion and intimidation, including death threats towards them or their families. All of the children interviewed for the UNICEF study and many of those who gave statements to CRP claimed to have been forcibly recruited. While these claims seem credible and are supported by the documented recruitment of members of clandestine groups,[89] the fact that these samples include only those who chose to return to Timor-Leste must be considered in evaluating these statements. This is particularly the case given the ostracism experienced by former militia members.

104. Rofino Mesak sought to undertake the Commission reconciliation process in his village of Abani (Passabe, Oecussi) following his involvement in the Scorpion (Sakunar) militia when he was 17 years old. He claimed to have been forced to join by C3, the head of the militia group, under threat of death.[90]

105. Antero joined the Sakunar militia for one month just before the referendum in 1999 when he was 17 years old. Interviewed in the Becora prison in Dili, he told a researcher:

> The militia threatened to kill me if I didn't join them - that's why I became involved with them…The leader of Sakunar told us that all the young people had to be involved in the militia and that if they refused, they would be shot. I obeyed their instructions because I was afraid to die. Their instructions were that we had to burn houses because the owners were from pro-independence groups…In Kefa [Kefamenanu, in West Timor] there were many under-18s in the Sakunar militia. There were 50 to 60 youth, from 14 years upwards, mainly from Kefa. Most of them looked afraid. Their commanders could order them to do anything, and if they did not do it they were beaten badly…Since I became involved in the militia I didn't learn anything valuable. I only learned about cruelty - the way to kill, destroy and burn everything in Timor-Leste.†

106. Venancio, from the village of Lauhata (Liquiçá, Liquiçá), joined the BMP militia four months before the referendum when he was 16. His family was pro-autonomy, but he reported to UNICEF that he joined the militia due to threats and intimidation:

> The militia came in April 1999 after they had attacked the church. I was shocked and afraid because they came here with machetes covered in blood. They said, "If you don't come with us then we will kill you." There were older ones and young ones. They had been drinking and some of them covered their faces and looked like ninjas…Sometimes when the militia came they offered money and other times they threatened us.

* The Commission created a database of statements given by perpetrators seeking to be reintegrated into their villages. Forty seven (47) of the 1,543 statements were from children. See Vol. IV, Part 9: Community Reconciliation.

† It was later determined that there was no evidence against him. UNICEF, pp. 56.

> They said we had to join the militia and that the Indonesians would give us money, but after that we did not receive anything…Many of the other children in the militia were orphans, from broken homes, those who didn't attend school and those who were involved in gambling rings.[91]

107. He reported that every night he had to serve on guard duty and that there were seven other children working at his checkpoint.

108. In some cases youths were captured and beaten before being forced to take part in militia activities. Mundus de Jesus testified during his community reconciliation hearing in his *aldeia* of Caicassa (Maubara, Liquiçá) that, although he ran from the militia, the BMP militia caught him on 23 April 1999. He then joined because he was afraid he would be killed. He was 15 years old at the time and was given a gun.[92] The Commission also heard of other cases of forced recruitment of youths, for example in Covalima to the militia group Laksaur.

109. In another case, which also indicates the close cooperation between the TNI (Tentara Nasional Indonesia, Indonesian National Army) and the militias, the Commission heard from Santiago dos Santos Mendes. Santiago was a 17-year-old boy in Vaviquina (Maubara, Liquiçá) when he was beaten and then forced to guard a militia post before being sent home due to the severity of his injuries. He told the Commission:

> *When my story happened I was 17 years old. On 8 April 1999, BMP [Besi Merah Putih] militia C7 beat, punched, slapped and kicked me in Lisalau, Maubara. After I was treated in this way I was taken to the town of Maubara but on foot. I walked while C7 [from] BMP followed by motorbike.*
>
> *When we reached Maubara, C7 told me to report to the Maubara Koramil, which I obeyed because I was threatened that I would be killed if I didn't report. When I got to the Maubara Koramil I was interrogated by a TNI member [Indonesian] C8. After I was interrogated, C8 ordered me to guard the BMP post.*
>
> *This didn't happen because there was a BMP member called Jorge who rejected the idea and said I was not allowed to do the watch because my condition was so bad - [I was] black and blue. So Jorge took me to my home in Pukulete [Maubara, Liquiçá]. I was at home for only two weeks because C7 then forced me to go to Atambua [Belu, West Timor]. I refused but C7 wanted to kill me and threatened me with a homemade weapon. So in the end I just did what he told me. This all happened because I was a clandestine member.*[*]

110. Vasco told UNICEF that he was 14 years old when he was recruited by BMP in Maubara (Liquiçá) for eight months in 1999, one of 15 children in his group:

* HRVD Statement 05859. See also HRVD Statement 07239 in which a 15-year-old boy is repeatedly assaulted and submerged in water by Mahidi members in Nunumogue, Hato Builico, Ainaro and then forced to join overnight guard duty in the *aldeia* of Lelo-moo for one night before he was able to escape.

> The militia first came to my village in early January. When they came they beat many people and killed some people in my village. They told us that if we did not join them we would die. They said, "autonomy is the best", and that to stay with Indonesia is the right way, and if we followed CNRT [Conselho Nacional de Resistência Timorense, National Council of Timorese Resistance] or Falintil, they would kill us. We were so afraid and we had to join them or they said they would kill us. They said that if we did not do what they said, they would murder us. The commander came with a group of BMP militia. When the militia came my parents were very afraid and they said to me: "If the militia ask you do anything, just do it or they will kill us." They were afraid. My parents told me to hide at first, but later the militia found me. The first time the militia caught me in January, they said to me: "Now you are a militia!" They promised to give me money and rice and they gave it to me. Sometimes they gave me Rp250 [US2 cents] and 10 kg of rice.[93]

111. Girls were also forcibly recruited, sometimes being forced to cook for militia members. Verónica do Rosário reported to the Commission that she was 17 when she was detained with six friends in Umenoah (Cunha, Oecussi) in April 1999 by the Sakunar militia. The militia tortured her and forced her to cook for them for several days.[94] A child member of the ARMUI militia in Atabae, Bobonaro, told a researcher that about 20 girls were forced to cook for militia commanders.[95]

112. As late as 4 September 1999, the day the results of the referendum were announced, a 16-year-old boy, Feliciano Machado was reportedly forcibly recruited into Mahidi after being told that any young person who did not join would be killed. He was forced to guard a militia post and to burn houses in Beicala (Hatu Udo, Ainaro).[96]

113. Coercion also operated through families. The UN High Commissioner for Human Rights found that:

> Parents were threatened and bribed to coerce the young men, and the youths were harassed and intimidated into becoming members of the militia.[97]

114. Not all recruits were forced to join, however. Other motives included promised material rewards (though the promises were rarely kept) and in some cases the desire to escape from poverty or abuse at home. Some recruits also came from families who supported or benefited from the Indonesian occupation, including some who had family members killed by pro-independence groups.[98]

Activities

115. Once in the militia, children report participating in guard duty in villages and at checkpoints on the main roads, as well as in the widespread burning and killing of livestock. Vasco described his tasks as carrying messages, cooking, gathering information on the local CNRT, building a checkpoint and carrying wood. But he was also ordered to participate in more serious crimes:

The first time they took me from my house, we had to rape a woman and then kill anything we could find like animals and people. They ordered us to rape. We did this together. Everyday we were taken with them by car to burn houses, kill animals and harass people…They threatened me and told me that I had to kill people and rape women. They gave us training in how to use guns and knives, also how to attack and how to kill. We were given training at Kaekasain [Maubara, Liquiçá] at a house - the headquarters of BMP militia. An East Timorese militiaman was our teacher. We were also trained by the Indonesian military. Every week we were trained twice a week for two hours…If I cried in front of them, I would die. I would cry only in my home.[*]

116. Nine months before the referendum, Francis [pseudonym], 17, was recruited by ARMUI. UNICEF reports that his father had asked him to join ARMUI in December 1998, after the militia began systematically beating suspected independence supporters in his village. He was forced to take part in attacks on suspected clandestine members:

> I was forced to go from house to house and find members of a clandestine group. We found members of the Jesus Homen Salvador (JHS) clandestine group. We knew where they were because the militiamen had made lists of all the clandestine members in our village…When we found JHS members they beat them and demanded their *lulik* (a sacred object, in this case a red cloth belt). They took their *lulik* belts to the post and waited for the owners to come and get them, and then beat them again.[99]

117. Francis' stepfather was beaten and a friend from the JHS group was taken to the beach and killed after he was seen with a Timorese flag.

Child militia members killed or disappeared

118. The Commission has not received any reports of child militia members killed in Timor-Leste. However, some may have died in the refugee camps of West Timor, Indonesia. It was quite common for child militia members to be forced over the border with their militia commanders.[100] The Commission heard of at least one case where the child then disappeared. Alda Martins reported that her 17-year-old son, Agustinho Martins Trinidade, was forcibly recruited from Railaco (Ermera) by an Aitarak militia commander named C9 in 1999. C9 forced Agustinho to flee to Atambua with him but then returned home alone. Alda later heard from a third person that Agustinho died in Atambua but she was not told how.[101]

Impact

119. The greatest impact on child members of the militia is thought to relate to their emotional well-being. Not only have they experienced the usual trauma associated with

* He later denied direct participation in the rape. UNICEF, p. 65.

witnessing and participating in violence, but they must now also suffer the lasting stigma that some members of the community attach to those seen to have been on the "wrong side". Many former militia members have not returned from West Timor because of the fear of retribution or ostracism. These fears are compounded by militia propaganda and continued coercion by militia leaders in the refugee population in West Timor.

120. Those who have returned also face serious challenges. While there have been few cases of violence against former militia, especially young rank-and-file members, the fear of social ostracism is well-founded. According to the UNICEF study:

> The radicalisation of pro-autonomy youth brought few positive effects. In some cases children were given a sense of community. However most of the effects were negative. Most children who joined the militias report feeling guilt and shame, and appear extremely traumatised by their experiences. Many also have been desensitised to committing extreme acts of violence. Most, like the pro-independence child soldiers, expressed distrust in authority, particularly government institutions.*

121. Venancio, a 16-year-old recruit from Liquiçá, told UNICEF:

> Often I had bad dreams that the militia would kill me. When I woke up I was afraid and felt depressed. The other young ones woke up after having bad dreams at the checkpoint too. I get headaches since I came back to Timor-Leste. I try to forget that time but sometimes the bad stories come back, so I try to do things to forget. Often I feel sad. Sometimes others at school accuse me of being a militia and this makes me very upset - I had to stay with the militia. Sometimes I think people are talking about me and I feel very sad. I am afraid that the militia will come back here.[102]

122. Similarly, Vasco told a UNICEF researcher:

> I had bad dreams and I woke up thinking that somebody wanted to kill me. Now I still wake up from bad dreams. I don't remember my dreams but I feel afraid when I wake up. At this time, I am still constantly afraid. Sometimes I change from feeling happy to feeling sad very quickly.[103]

Children in the clandestine network

> Five- to ten-year-old school children in our Homeland know as much as the adults about the subordination tactics of the enemy, of counter-information, of bribery and about the persecution of the clandestine

* UNICEF p. 19. A UNICEF official told a reporter: "Among the former militia youth, of the few who returned to their villages and towns, most have been ostracised and branded by their communities", Christine T. Tjandraningsih, "Child soldiers, the story behind East Timor's freedom", Kyodo (news agency), 13 September 2001, pp. 3.

organisation. These children, born during war, make war; a war that is not just of their parents, a war that is not just theirs - a war, a resistance, of an entire people against a foreign occupier.

Xanana Gusmão, "A History that Beats in the Maubere Soul: Message to Catholic Youth in Timor-Leste and Students in Indonesia", May 1986.[104]

123. One of the pillars of the Resistance against the Indonesian occupation was the Clandestine Front (Frente Clandestina). This underground network maintained links with Falintil, the Armed Front (Frente Armada), providing support and acting on their instructions. It also acted as a conduit between the Frente Armada and the Diplomatic Front (Frente Diplomatica) of activists working for independence overseas. In the beginning, the clandestine network worked simply through direct links between Falintil commanders and smaller groups. However, by the early 1990s, the clandestine movement was developing into a nationwide network and its activities had become more centrally organised.[*]

124. Children were involved in social and political activities during the years that Fretilin controlled territory and a sizeable part of the population, although these activities were not necessarily of a clandestine nature.[†] After the last of the Free Zones (Zonas Libertadas) were destroyed in 1979, the clandestine network began operating and involved children in its activities from the beginning. The main roles they played were as couriers (*estafeta*), spies and information dissemination. There was no clear distinction between these activities, and often a child would begin as an *estafeta* and later become involved in other clandestine activities.

How children became involved

125. The Commission has found no evidence that the Resistance had an explicit policy on the involvement of children in the network. Nevertheless, in practice children became involved because they could be useful. There was an assumption that children were less likely to be suspected by the Indonesian military than adults. The involvement of children was also seen as a necessary measure to ensure the continuity of the Resistance through what was expected to be a long, hard struggle (*luta dura e prolongada*).[105] According to the former Falintil chief-of-staff, Taur Matan Ruak (José Maria de Vasconcelos):

* CAVR Interview with Aitahan Matak (Antonio Tomás Amaral da Costa), Dili, December 2003; CAVR Interview with Francisco Guterres, Lú-Olo, Dili, 28 March 2003. Former Falintil commander Eli Foho Rai Boot (Cornelio Gama, L-7) described the development of the clandestine movement in the following terms: "And so from year to year, little by little, there were changes. This group was increasingly well known in each district. The reputation of this group in each district showed that the number of groups working for independence was growing, although each group in each district did not know of the existence of the others. But they had the same vision and mission, namely the way that the [Fronts] could support each other for the sake of the closeness of their relationship, for the sake of the single goal of independence." CAVR Interview with Eli Foho Rai Boot (Cornelio Gama, L-7), Former Deputy Commander Region III, Laga, Baucau, 9 April 2003.

† CAVR Interview with Virgilio Guterres Silva, Dili, 25 May 2004: "Those aged below 17 years were more likely to be involved in activities in the *aldeia* such as cultural activities. Those already in class 3 in primary school were recruited to give training in literacy, health and politics. This was handled by *Manual e Programa Politicos Fretilin e Cartilha Política*."

If we didn't prepare other people, and we died only partway through our journey, our struggle would end. If that was to be the case, what were we suffering now for?…It could be said that this strategy made many leaders aware of the fact that the next generation was the determining factor in the process of struggle. Victory or defeat depended on them. If we were successful in engaging the youth, we could say that victory was certain. If not, the struggle would weaken and we could not guarantee that it would continue. Therefore, the youth were a fundamental factor. To that end every Timorese family had a very important role to play, from the father, to the mother and the child, to make the family the nucleus of resistance.[106]

126. From the beginning, the Resistance used family relationships to approach children. For example, fathers, uncles and brothers in the forest contacted their young relatives to take messages or bring food. Before long, the search was extended through the Catholic Scouts (Escuteiros), Church youth groups in each parish, and other groups of young people.* With the formation of the National Council of the Maubere Resistance (Conselho Nacional da Resistencia Maubere, CNRM) in 1987, the role of clandestine youth was more formally recognised and the Executive Committee appointed a special person to deal with youth, including children.†

127. From 1988, increasing numbers of high school students became involved in the clandestine networks. Students in the Catholic, Portuguese language school in Balide, Dili, the Externato de São José, began organising and their movement spread through sporting events or through former students who had become teachers at other schools. Leaders of the intra-school student organisations (Organisasi Siswa Intra Sekolah, OSIS) often met with other youth organisations, discussing political issues at sporting events between schools. Eurico Guterres was an OSIS head and was a clandestine member at the time he was arrested in 1988; his successor as chair of the school OSIS, Ricardo da Costa Riberio, was also involved in clandestine activity.[107]

128. There is no indication that there were explicit efforts by Falintil to recruit students into the clandestine network. One student felt the impact of the occupation when his uncles were killed while he was in elementary school, and remembers fights in junior high school between Timorese and Indonesian students sparking nationalist feelings. But it was not until high school that he became formally involved with the clandestine movement after receiving a message from Falintil:

* Maria Teresa dos Santos was a former leader of the youth in Baucau and of Mudika (an official Church youth group established in the late 1980s). She states that much of the work of the group was carrying letters and raising money for Falintil by asking for church donations. Girls were chosen for this work over boys because it was harder for soldiers to search them. CAVR Interview with Maria Teresa dos Santos, Baucau, (undated). The Resistance also worked through another youth group, Sagrada Familia. It was already part of the clandestine network and so it did not have the same legal staus as that of Mudika.

† Each high school had its own OSIS (Organisasi Siswa Intra Sekolah, Inter-school Students Organisation) and clandestine groups tried to infiltrate each high school's OSIS group. As early as 1979 in Baucau, clandestine leaders establishing the network recognised the potential for church youth groups. According to Marito Reis, "At that time we planned to build a network through the church because we understood that the church had youth organisations." CAVR Interview with Marito Reis, Baucau, 17 November 2002.

I went to high school and there I met many of my friends who were involved in a kind of clandestine, underground movement. I started to feel that I had an obligation to contribute, something like to donate money to the forest. One of my relatives was in the military and we stole his uniforms and sent them to the forest to give to Falintil. I was about 14 or 15 years old… Actually at the time I didn't know much about the clandestine movement, but my friend got a letter from Falintil and he showed me the letter…There was a message from Falintil saying: "You are the future of this country. You have to study hard but you also must find ways to help us in the forest." So it inspired me to do something.[108]

Reasons for joining the Resistance

129. As mentioned above, children often became involved in clandestine activities through contact with family members who were living in the forest or were members of Falintil. Ricardo da Costa Ribeiro told the Commission that he began to contact his uncle in Falintil in 1984 at age 13 after he heard about Resistance figures from classmates and his priest, Father Locatelli. He describes his communications with his uncle:

I often had contact with my uncle, Rodak, who was in the forest, not through letters but through cassette recordings he sent me to listen to. I was 15 then and in my first year of junior high school, and he would always give me guidance on politics and the objectives of the Resistance. I was already becoming aware and knew exactly about this, because in the Fatumaca junior high school almost everyone was the child of a "GPK". Everyday we would ask each other: "Where is your father?" And everyone would say, "My father is in the forest", "My father has been killed by the Indonesian military."[109]

130. Experiencing or witnessing violations committed by the Indonesian military also encouraged children to join the clandestine network. For example, Naldo Gil da Costa told the Commission that he became active as an *estafeta* (courier) at 11 years of age when his father was executed by Indonesian soldiers after a Falintil attack on an ABRI post in Lospalos (Lautém) on 11 March 1985.[110]

131. Aquilina Imaculada explained that she became an *estafeta* through both her family relationships and negative experiences at the hands of the Indonesian military. She and her family were forced by ABRI to persuade other family members fighting with Falintil to surrender. After this led to the deaths of several members of her family, she said that she was instructed to become an *estafeta* by her uncle, Falintil Commander of Region I, Paulino Gama (Mauk Moruk) to assist her family.[111]

132. In the cases considered by the Commission, children joined the network voluntarily. No cases were received in which children say that they were forced to join, however, given that many children joined to help family members, they may have felt a sense of obligation or felt they could not refuse. There are some who were recruited

by chance and their political awareness developed later. For example, Mateus da Costa was reportedly 17 when he had a chance meeting with Falintil members in 1983 while hunting in the forests near Ainaro. They persuaded him to work as an *estafeta* which then led to organising clandestine groups.[112] Other cases indicate that children were used without their clear consent or knowledge of the risks involved. Francisco da Silva Guterres from Becusi, Dili, told of the day that he was handed a letter to deliver by a stranger:

> *He told me that I had to go and watch TV at the Koramil and there would be someone meeting me to pick up the letter. Before I left, he said, "You must dress according to what they had planned", which meant that I must wear a white uniform. That person placed an envelope in my back pocket to deliver to a person, whom I also didn't know, who would come that night to the Koramil when I and other people were watching television. The person who told me to do this instructed that when the person came: "You should not turn around to look. Do not do that." So I followed these instructions. And the person came and took the letter from my back pocket and took it away, and I never knew who it was that took the envelope.*[113]

Impact

133. As earlier parts on killings, detention, torture and sexual violence reveal, there were enormous personal risks in becoming involved with the clandestine movement. The military, the police and other agencies targeted members of the clandestine movement to break their lines of support to the armed Resistance. They also wanted to get information on the networks, on the armed Resistance and on the location of Falintil leaders. Children were not treated exceptionally by the Indonesian authorities. Many cases of the abuse of child clandestine members are set out below.

134. Like children's involvement from a young age in the Indonesian military, those with active involvement in the clandestine networks also suffered disturbances to their education. Alexio Cobra stated that after the closure of the Externato de São José in Dili, a clandestine centre, some students who had been regularly detained decided to stop attending formal classes and to concentrate on the movement.[114] João Sarmento, who was studying at the Nossa Senhora de Fatima Seminary next to the school at the time, said he stayed away from school for six months because there were rumours that Externato and the surrounding schools were going to be attacked and closed down.[115]

Estafeta

135. The term *estafeta* was given to the couriers who carried information and correspondence for the Resistance. They also supplied food, medicine and other items to those living in the forest. As the above examples demonstrate, many children entered into the clandestine movement through working as an *estafeta*. *Estafeta* activities often depended on family connections and began soon after the invasion when guerrillas tried to communicate with their family members in areas controlled by Indonesia. For more

information on the emergence of the clandestine front, see Vol. I, Part 5: Resistance: Structure and Strategy.

136. Gregorio Saldanha stated that he was 13 when the conflict broke out and he fled with his family to Karau Maten, a mountainous region near Dili. They returned to Dili three months later after the Indonesians dropped pamphlets from the air that called on people to surrender. Francisco Lobo, Gregorio's eldest brother, continued as a guerrilla in the forest:

> *We agreed that I would return to the city and my brother, Francisco Lobo, would stay on as a guerrilla. My uncle, Mau Tersa, who lived on the outskirts of the city, acted as an* estafeta, *delivering letters in and out…I myself would meet my big brother [Francisco Lobo] in the years 1977-1978…Their presence in the forest was a big motivation for us, knowing that the Resistance still existed, so throughout the 1980s I played an active part in the extensive and systematic clandestine network.*[116]

137. As the clandestine movement became more organised and structured, it established formal, highly secretive information delivery systems, which were managed by *estafeta*. Naldo Gil da Costa described the work of an *estafeta* as follows:

> *When I was an* estafeta*, in my first days I was given directions on how to carry letters in and out of the town and forest. When encountering the enemy or soldiers on our way, we had to get rid of the letters we were carrying by swallowing them. We were trained by Falintil members who were given this special assignment by the Commander…I, as an* estafeta, *was assigned to organise the* caixa geral *[general box, the centre for clandestine networks in a certain area] to deliver letters between Falintil members and those working as clandestine members in towns. I never gave any oral and written information to anyone for whom the information was not intended.*[117]

138. Not all *estafeta* were children. However, there were tactical advantages to using children to carry out this work. Analysis of the statements taken by the Commission shows that the majority of violations committed by the Indonesian security apparatus were committed against those between 18-40 years old, suggesting that this group was the focus of their attention.

139. Children were less likely to be suspected. Aquilina Imaculada told of her experiences as an *estafeta* between 1990 and 1993 when children were being used to avoid suspicion:

> *At that time, freedom of movement for adults was limited so us children were taught to play a role as contacts, although it was very risky because if others found out it could be fatal to the safety of our entire family. Because of that, we had to think creatively, to operate like mice in grass. If we came*

from one direction, we must return from another direction. We often stole time while drawing water…or collecting firewood or while we fed the cattle. Sometimes we went out at night and sometimes at dawn before people were awake.[118]

140. As the cases above demonstrate, working as an *estafeta* was often the first entry point into the clandestine movement and in many cases led to other clandestine activities. Ricardo Ribeiro, for example, went on to organise young people in both Sagrada Familia and youth groups. It was precisely because of the support that civilians gave their Falintil relatives that the Indonesian military began moving the families of Falintil members away from their home villages, and eventually to the island of Ataúro (Dili) in the early 1980s.[119]

Children as spies and lookouts

141. In the 1990s, adults involved in the clandestine front began to involve children as lookouts and as security for Falintil and Fretilin leaders when they entered towns.

142. Naldo Gil da Costa, a son of a pro-independence family, had tried to flee to the forest when his father was killed:

I wanted to run to the forest, but Larimau did not agree with my request and he suggested that because I was still small I needed to study while also finding a way to work for the Resistance.[*]

143. Later, he gained the trust of Resistance leaders, including Xanana Gusmão, and took part in organising the clandestine network in the Central Region (Região Centro). At the time Naldo was 14:

In 1990, Sabalae instructed me to organise a caixa *[box/group] in Ponte Leste…In June 1991, I took Commander Xanana to Lospalos to meet with Falintil in Ponta Leste along with Sabalae, Inácio Bernardino [alias Adik, younger brother], Acacio Bernardino [alias Moris Nafatin, continue to live], Americo, and my older brother [alias Doben Hadomi Timor, darling loves Timor].*[120]

144. A teacher from Ermera told the Commission how he instructed his own children to ensure the safety of Konis Santana when the Resistance leader stayed in his house in 1993:

In the beginning it was kept a secret from the children. But after Konis came to stay at our house, we had to teach the children to keep it a secret

* Naldo Gil da Costa, testimony to the CAVR National Public Hearing on Children and Conflict, Dili, 29-30 March 2004; Larimau was the clandestine name of a political cadre working with Falintil in Region 1 - Lospalos, Lautém.

and we gave them the responsibility of acting as security guards. Their task was to guard the places that had clear views so that they could watch the situation clearly. They had to communicate with us using codes that we agreed beforehand, such as by coughing three times or shouting according to code.[121]

145. Similarly, the children of Gil Araújo from Ainaro were given the task of entertaining Xanana as well as acting as lookouts. In Soibada (Manatuto), Bibrani organised his nephews and nieces to guard the hiding place of Francisco Guterres (Lú-Olo), Virgilio dos Anjos (Ular Rheik), Domingos Raul (Falur Rate Laek) and Americo Ximenes (Sabica Besi Kulit).[*]

Campaigning

146. The clandestine network was also involved in information dissemination on a community level to broaden support for the Resistance and on an international level to raise awareness of Timor-Leste. Campaigning was generally carried out by groups of young people, including high school and university students, as well as members of church youth groups such as Mudika. Some of the individuals mentioned above as *estafeta* were involved in setting up this aspect of clandestine work.

147. Aquilina Imaculada, for example, joined the clandestine network as an *estafeta* and later became a leading campaigner. In 1995, at the age of 17, she organised several clandestine groups in Baucau. Going by the clandestine name Peregrina, she was an intermediary between L-7 and the Sagrada Familia, which was one of the largest clandestine networks in Baucau. Peregrina then moved into organising "door-to-door" campaign activities among youth, women and the elderly. This campaign method was undertaken through secret discussions, often held at birthday parties or other gatherings to avoid suspicion.[122]

148. Gregório Saldanha, also an *estafeta*, later went on to become a leader of the clandestine youth organisation Ojetil, as well as becoming a member of the Executive Committee for Clandestine Affairs.

149. Visits by foreigners in the 1990s, although limited and closely supervised, provided new opportunities for campaigning. Public demonstrations, usually organised and attended by students and youth activists, began to be used as a tactic to attract international attention. The activists used techniques such as throwing stones, asking Indonesians nearby "When are you going home?", writing anti-integration graffiti or posting flyers and posters in public places.[123]

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* See also, UNICEF, p. 44. One case study is Luis, aged ten when he joined the clandestine movement as an *estafeta* and spy: "I had to find information for Falintil. I had to listen to other people talking and report on this to my brother Fabio. When I did this I was afraid. I watched the houses of certain people. My brother asked me to go and do this and I told him what they said and did. There were no other youth who had this job in the village. I also brought water and vegetables to Falintil in the fields behind the village. I pretended that I was going to work in the fields. I did my clandestine duties after I had finished school in the day."

150. Between 1989 and 1999, the independence movement organised at least 60 demonstrations in Timor-Leste and Indonesia* Some demonstrations were spontaneous. Belchior Francisco Bento Alves Pereira told the Commission:

> *On 17 March 1990, there was an incident near St. Paulus School in Dili. We didn't know what had happened, but in the morning when we came to school the flag and the rope [from the flagpole] had been stolen by someone. There was graffiti on the walls of our school. There was writing that integration was no good. We didn't pay attention to the writing and we continued on studying. Later, many "intels" [people associated with the Indonesian intelligence network, formal or informal] showed up around our school and so we reacted. We came out of the school and threw [things] at them. I was the first to start throwing. I was only 13 or 14 then.*†

151. However, most demonstrations were carefully planned to coincide with international visits. Youth activists were often involved in planning or organising these actions‡ but in many cases they were guided by senior figures in the Resistance who sent instructions through the clandestine networks. Mateus dos Santos, for example, was involved in the activities of the Aleixo Cobra clandestine cell in the early 1990s and was given information and instructions through the network every time a demonstration was planned to take place.§

152. The largest demonstration during the occupation occurred on 12 November 1991. A demonstration had originally been planned to coincide with the visit of a Portuguese parliamentary delegation scheduled for early November, but their visit had been cancelled at the last minute. However, on the night of 28 October, a group of thugs, apparently backed by ABRI members, raided the Motael church and killed 18-year-old pro-independence activist Sebastião Gomes. A demonstration was then planned to follow a memorial mass that was to be held on 12 November two weeks after Sebastião's

* "Because the actions were quite open, the strategy could be called 'semi-clandestine', although these actions were planned by clandestine groups.", Vitorino dos Reis, interview with Gregório Saldanha, *Talitakum Magazine*, Vol. 38, 25 March–1 April 2002, pp. 24-25.

† Belchior Francisco Bento Alves Pereira, testimony to the CAVR National Public Hearing on Children and Conflict, Dili, 29-30 March 2004. See Vol. III, Part 7.6: Political Trials. In another incident, a spontaneous demonstration began following comments by an Indonesian official at a junior high school (SMPN 4) on 17 March 1990. Carolino Soares, 15 at that time, remembers that the official said that, "if we couldn't even make a single matchstick, Timor-Leste could not be independent. The feeling in the school grounds of Junior High School 4 caused students to react by holding a demonstration. A moment later a Brimob unit came to the place of the incident. When the Brimob police arrived, students threw things at them. My cousin, Ana Maria Soares, was killed when the police shot her on the road near SMPN 4, Dili", HRVD Statement 00195-1.

‡ For example, the Catholic scout organisation, the Escuteiros, played a central role in the demonstration held in October 1989 at Tacitolu, Dili, during Pope John Paul II's visit to Timor-Leste. It was also the first major public demonstration since the invasion. Constancio Pinto and Matthew Jardine, *East Timor's Unfinished Struggle*, South End Press, USA, pp. 108-109.

§ CAVR Interview with Mateus dos Santos, Suai, Covalima, 31 October 2003; see also text box of Naldo Gil da Costa in the following section Arbitrary detentions, killings and sexual violence perpetrated against children (par. 189 ff). In August 1992, Xanana requested him to organise a demonstration in Dili to coincide with the Non-Aligned Block meeting in Jakarta scheduled for September 1992.

funeral and while the UN Special Rapporteur on Torture, Pieter Kooijmans, was visiting Dili.

153. João da Silva, a youth leader in Becora, Dili, at the time, recalls that, "all information about every aspect of preparation always went through the clandestine networks."[124] Constancio Pinto, from the Executive Committee of the Clandestine Front, recalls that Xanana Gusmão endorsed the demonstration, but it was clear that the Dili clandestine youth leaders were ready to organise their own action should there be no decision from above.

154. In the end, many children paid heavily for their involvement in what came to be known as the 12 November Massacre or Santa Cruz Massacre. From the 271 registered as having been killed at the Santa Cruz cemetery, 42 were under 17 years old, including some as young as ten years of age.[125] As explained in following sections, students were specifically targeted by the security forces after the massacre at the cemetery and the Externato de São José School was closed down the following year. In addition to raising the visibility of Timor-Leste internationally, the 12 November Massacre fostered even stronger nationalist sentiment among young people who had seen friends, classmates, brothers and sisters killed during and after the massacre.*

155. The important part played by students and youth in demonstrations can perhaps be explained by their greater willingness to be detained or take other personal risks for the cause. However, as can be seen in the Santa Cruz case, their involvement often had a heavy personal cost, ranging from expulsion from school, to detention, torture and even death. It is clear that the security apparatus saw demonstrations as a threat and the participants as a suitable target. A student who was 15 at the time recalls:

> *I took part in a demonstration for the first time during the visit of the US ambassador...to Dili, specifically to Hotel Turismo, in 1990. After the demonstration we were chased by [Indonesian] security forces. I ran to the beach, where many demonstrators were beaten and arrested…I was wearing an SMP [junior high school] uniform, so I had to pretend that I was sitting on the beach taking off my shoes and playing in the water until I was sure the situation was safe.*[126]

156. Alexandrino da Costa, who was 14 in 1991, was badly injured in the demonstration at Santa Cruz but took part in another demonstration in 1995. He was arrested by the police and the military and was threatened: "You're not afraid to die, you are still demonstrating?"[127] According to Xanana Gusmão:

> In the eyes of the Indo [sic] invaders, the youth then appeared to be the most dangerous segment of society.[128]

157. In following sections, the violations committed against children involved in the Resistance will be considered in greater detail.

* CAVR Interview with João Sarmento, Dili, 5 June 2004. João Sarmento, who was 16 at the time and 50 metres away from the cemetery when the shooting started, went on to help found the Timor-Leste Student Solidarity Council (Dewan Solidaritas Mahasiswa Timor Timur) which played an important role in the run-up to the Popular Consultation in August 1999.

Children in Falintil

158. Youths aged 17 and under joined Falintil and its militias from the time before the Indonesian invasion until just days before the Popular Consultation in August 1999. Children as young as 14 were recruited into the militia before the invasion and some of them were later enlisted as Falintil regulars. In 1976, some children as young as 13 reportedly joined Falintil but most child members were aged aged 15-18 years. This is not inconsistent with the first Additional Protocol to the Geneva Conventions* of 1977, which stipulates a minimum age of 15 years. A UNICEF study from 2000 found that most, but not all, child soldiers in Falintil were between the ages of 15 and 18.[129] Several of the youngest former child soldiers explained that they were first given less dangerous jobs, and then began taking part in military operations after a few years. Most child soldiers report being well treated.†

159. Children were among those soldiers who surrendered, or were captured or killed in the late 1970s, but there were also Falintil members who were recruited as children and continued to fight until Indonesia withdrew. As Falintil's strength in troops and weaponry shrank in the late 1970s, it is likely that the number of child soldiers declined. However, during the 1990s teenagers still occasionally joined Falintil, including members of the clandestine movement who fled the towns and villages after being targeted.

160. In addition to exposure to danger during combat, many of these youths experienced a variety of difficulties after their service. After surrender or capture they, like older Falintil members, commonly became victims of human rights violations. Those who were demobilised after lengthy service with Falintil could face problems adjusting to civilian life.

Recruitment

1975–1979

161. Even before the party conflict, young men, although not necessarily children, were involved in Fretilin through its village-level security organisation (Organização Popular de Segurança, OPS).‡ After UDT was defeated, Fretilin established militias, which,

* The 1977 Additional Protocol I to the Geneva Conventions states: "The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces." (Protocol I, Art. 77). An Optional Protocol to the *Convention on the Rights of the Child* came into force in 2002, increasing the minimum age from 15 to 18 for soldiers taking a direct part in hostilities.

† The children in the UNICEF study, the majority in FDTL, explained that they were treated better by Falintil than by their own families. One said: "The commanders treated us very well. They helped us when we had to fight and they treated us better than our parents did." (p. 27). But there were also those who told of detention if they wanted to surrender or didn't follow the rules, see HRVD Statements 02160-01 and 04846-01. In 1977 one person recruited who was 16 years old was intending to surrender, but a Falintil commander [C10] gave the instruction to arrest him. He was tied up and detained for seven days in Gua Batu, HRVD Statement 02160-01. HRVD Statement 04846-01 describes how in 1977 a soldier aged 16 was arrested in Bemalae (Manufahi) by a Fretilin Commander, because he was accused of being ABRI intelligence. He was detained in an empty house without a roof under tight surveillance for a week.

‡ OPS was a security group at the community level that was founded by Fretilin before the invasion when the infiltration began, in order to guard the community.

especially in the run-up to the invasion, included boys under the age of 18, some of whom were under 15.

162. As a result of border infiltration by ABRI and the Partisans beginning in August 1975, Falintil began to organise militias on the instructions of the Fretilin Central Committee.* Recruitment into these militias was generally voluntary, but child recruits were not always made fully aware of the risks involved. One participant remembers that all people aged 14 and above were invited to join. Jaime Ribeiro was 17 years old at the time. He told the Commission that he fled from Bazartete (Liquiçá) to Tibar (Liquiçá) with his family and was recruited together with other youth into the Falintil militia:

> *The security branch [Falintil] called us to receive weapons. But I didn't know what was happening…[They said] Now our country is safe and we are free. Starting from people aged 14-15 up to 18, if it was felt that we were able, we could join training to guard national security because we were already free.*
>
> *At that time we were militia, not soldiers! Recruitment had not even finished. On 7 December 1975 the Indonesian invasion happened. We didn't know - what were we supposed to do? Even the soldiers would shoot once and then run and hide because they didn't know what to do. This was a problem. Even the military police, but especially the militia, ran away and threw away their weapons.*
>
> *Before, I thought that fighting was a good thing. It turns out now we faced a war. If I knew, I definitely would not have wanted to receive a weapon and could have saved myself and my family.*†

163. Like other members of the militias, Jaime Ribeiro went on to become a member of Falintil after the invasion. L-7 explained:

> *From among the militia members, there were some who became Falintil after going through a selection process.*[130]

164. Faustino Cardoso Gomes is another example of a militia member who went on to join Falintil. He told the Commission that he joined the militia at the time of the UDT coup on 11 August 1975, when he was 15 years old. He worked first as a typist recording

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* "Fretilin already had an armed force (Falintil) and clear lines of command under Nicolau dos Reis Lobato and his deputy. And this was strengthened by the militias created by the Fretilin Central Committee. The militias at that time were formed by Camacho on a large scale across the entire territory of Timor-Leste which then became one of the forces in the defence of independence.", CAVR Interview with Eli Foho Rai Boot (Cornelio Gama, L-7), Laga, Baucau, 9 April 2003; see also Vol. I, Part 5: Resistance: Structure and Strategy; see also James Dunn, *A People Betrayed*, ABC Books, Sydney, 1996, pp.128, which shows young boys training with guns in the western region in October 1975.

† Jaime Ribeiro became famous as Samba Sembilan and held out as a Falintil fighter for 26 years until the formation of FDTL on 1 February 2001. "Samba" means fish because his movements were as slippery as a fish. "Sembilan" (nine) was the number which he was given after the shots from his gun succeeded in wounding or killing nine opponents in one military operation; Jaime Ribeiro, oral history, *Archives of the Tuba Rai Metin Oral History Project*, Submission to CAVR, CD No. 9.

the distribution of uniforms at a base in Taibessi (Dili). When Indonesia invaded, he went to the forest and served as a Falintil soldier for four years until his capture.[131]

165. After the invasion, Fretilin also recruited new members without experience in the militia, including children and young people.* From information given to the Commission, in general, new recruits were aged 15 and above. Manuel Alves Pereira Morreira remembered recruiting individuals who were aged 15 and over in 1976, when he was a deputy commander. He explained that recruitment was done on the instructions of Falintil leaders, including Hermenegildo Alves as the Deputy Minister of Defence and Chief-of-staff, and that it was voluntary.[132]

166. For example, recruitment of young people was carried out at Cailalui (Laleia, Manatuto) on 14 June 1976. Acccording to one person recruited at age 17, this recruitment was done on the direct instructions of the Regional Commander (Comandante Região, at that time Tomás Anucai), through the village head of Busa Kuak, (Laleia, Manatuto). Around 20 young people were recruited aged between 15 and 20 years.[133] Manuel dos Reis, who was 15 at the time, remembers:

> *In 1975 I ran to the forest, until I reached a place called Fatululi. I received a weapon, a Mauser, to fight the war.*[134]

167. However, the Commission has received a number of first-hand accounts from individuals who were recruited as soldiers by Falintil when they were not yet 15 and these children remember others their own age. Felix do Rosário was aged 13 when he was recruited in Alas (Manufahi). He told the Commission that many who evacuated to the forest with Falintil between 1976 and 1977 were recruited to fight. Anyone who was able to hold a weapon was recruited without regard to their age and many children were willing to join; there were many children aged 13 or 14 who became Falintil soldiers at that time.[135]

168. Constancio Pinto states that he joined Falintil in 1977, at age 13, with his parents' permission. His unit was mostly aged between 15 and 18 years old, and he knew other children as young as 12 who joined their brothers or fathers on the frontline. Young girls sometimes took food to the fighters but were rarely on the frontlines. He writes of his experience:

> It was not because I wanted to prove that I was no longer a young boy; at that time I already felt like a man. War makes young people become adults very quickly.[136]

169. Some of the younger recruits were given less dangerous jobs, although conditions meant that they were never completely excluded from combat. When Evaristo de Araújo, then about eight years old, came down from Mount Kablaki (Manufahi) with his family

* HRVD Statement 06942 describes a 16-year-old who became a soldier after fleeing the invasion: "I ran away to the forest in the area of Laclubar because I was afraid to face the Indonesian forces. In Laclubar, I received a weapon from the Fretilin commander to join in defending our land against the ABRI."

to look for food, he says that a member of Airborne Infantry Battalion (Lintas Udara, Linud) 100 shot him in the leg. He was saved by a member of Falintil and nursed for a year:

> *In the afternoon Antonio de Araújo and Ernesto came and brought me medicine…After one year my leg was healed. We continued to fight on Kablaki and in 1977 the military started operations on Mount Kablaki. Then even I held a weapon and guarded the security post.*[137]

170. In 1979, aged 16, Evaristo was shot again and captured.

171. There is a similar pattern in the UNICEF case studies from the 1980s in which the youngest soldiers were given less dangerous jobs but still occasionally took part in both offensive and defensive operations.

172. Those with skills were quickly promoted, regardless of age. Gabriel Ximenes was a 17-year-old literacy teacher who joined Falintil after the invasion:

> *When the enemy entered the region of Ermera in 1976, I was 17 years old and with my family we evacuated to the forest around the area of Fatubessi. Then I joined the Fretilin forces, holding a weapon to fight the enemy. Not long after in 1977, the commander of the Ermera western central sector promoted me to platoon commander of the northern border area. I took that position and led a platoon with a strength of 100 weapons.*[*]

173. While most former child guerrillas describe their participation as voluntary, one deponent reports that at 17 he was forcibly recruited in 1976:

> *In 1975, when we ran to the forest and heard that the Indonesian forces had entered Timor-Leste, a friend of ours of the same age - he was already a commander - forced me to join with Fretilin as a night watchman. They ordered other Fretilin [members] to capture me to join as a Fretilin member. After that they brought me to the military barracks, then they gave a weapon to me and I became a member. I didn't know how to hold a weapon then, so I pressed [the trigger] while on watch and the weapon went off. They came and caught me and then punished me by tying me up from night until 4.00am the next day before they let me go. The people that caught me were from the Fretilin military command. They caught me in Nakroman [Lacluta, Viqueque]. They took back my weapon and gave it to someone else and then sent me to look for food.*[†]

* CAVR Interview with Gabriel Ximenes, Ermera, 13 August 2003. He surrendered to Infantry Battalion 611 in 1979 with a large group after an intra-Fretilin conflict and spent several months in starvation conditions in Fatubessi and Ermera. After briefly being allowed to go home, he was detained by ABRI and Hansip members in a group of 100 men from Ermera, Sakoko and Ponilala and moved to the future site of the town of Gleno to clear the land for four years.

† HRVD Statement 04845. One community profile from Clalok, Welaluhu, Manufahi 10 February 2004 reports that in 1981 "children were arrested by Falintil to be used as guards but never came back."

174. The reorganisation that took place after the meeting of the the Fretilin Central Committee (CCF) at Soibada (Manatuto) in April-May 1976 had created three main forces: combat troops (Forças de Sector),and Self-Defence Troops (Força Auto Defesa, FAD) and forces armed in the traditional way (Armas Brancas, White Forces). The Commission did not receive any information that children were included in the concept of "people's defence" implemented by Fretilin from the *zona* down to the *aldeia* level. According to Virgilio Guterres, a former activist, Armas Brancas was to include all those aged 17 and over, both men and women, as part of the concept of "people's war".*

1980–1989

> When I first joined Falintil [in 1983] I saw many under-18s but many of them were killed and now there are only a few of us left.[138]

175. In the early 1980s, Falintil continued to recruit soldiers under the age of 18. The UNICEF study includes the case of 12-year-old Bersama, who was taken in by Falintil after his father, a clandestine leader, was killed in the forest by the Indonesian army. Commander Ular remembered: "There was no choice. We could not leave Bersama behind when we withdrew."[139] Bersama was given the job of writing first lists and inventories and later letters and histories of the war. After two years he also began to take part in combat operations:

> I did not hold arms when we first joined Falintil…Our job was to hide and not to fight. I officially joined Falintil in 1987 and before that I had carried a gun. Those who could use a gun were able to get arms from Falintil, and could also join Falintil. I was 14 the first time I held a gun. At the time, my father was sick so I had to take his place. My first gun was an FBP [a small rifle]. The other soldiers tried to get the gun back from me but I wouldn't give it to them and I told them that I really liked this gun!
>
> When I had to fight, I didn't go to the frontline because even though I loved to hold guns, I was scared, so I stayed in the rear and supported [them by] screaming and yelling…They asked the young people to hide when our group became caught up in fighting – but when the enemy became stronger than us, each had to find a way to save himself.[140]

176. There are indications that in the 1980s, when both its manpower and equipment were low, Falintil refused children who wanted to join up. According to Commander Ular, by the mid-1980s Falintil did not want as many young people joining its forces for three reasons:

* CAVR Interview with Virgilio Guterres Silva, Dili, 25 May 2004: "All people aged over 17, without considering gender or their situation in any way, were given night watch duty. Those given this duty were each individuals not families. Included in those given night watch duty were the Zone Secretary and Adjunto, people in the highest positions in the government and party structure. In one night, the watch was changed twice."

1. The strategy of guerrilla warfare then being pursued required small groups to be effective;
2. The urban youth were rarely strong enough to endure conditions in the mountains; and
3. It was more important to a future independent Timor-Leste that the children stay in school.[141]

177. As an illustrative example, Naldo Gil da Costa told the Commission that after Infantry Battalion 503 killed his father, José da Costa, on 3 March 1985, he tried to join Falintil without success:

> *When I ran to the forest I met with Falintil Adjunto Larimau. I asked Larimau if I could stay with him, but Larimau said I was too young and needed to go to school to fight for the Resistance. But I still held the principle that I must work with Falintil for the sake of the independence of Timor-Leste.*[142]

1990–1999

178. In the 1990s, there was increasing opposition to the Indonesian administration through public demonstrations, often organised or attended by East Timorese youth and student groups. The response by the Indonesian military caused many young people to flee to the forest. Some became soldiers, while others simply stayed with Falintil until they felt it was safe to return.[143] Julio José Exposto Gago was in the last year of secondary school in Hatolia, Ermera, when he took part in the Santa Cruz demonstration in Dili. On his return to Hatolia from Dili he was arrested and asked to explain his absence. He then fled to the forest. Julio José estimated that about 70 people joined Falintil as a result of the post-Santa Cruz crackdown; all except one were young people, although it is not clear how many were under 18.[144]

179. The UNICEF report on East Timorese children in armed conflict notes that Mausina was accepted as a soldier on 20 August 1999 at the age of 17 - the last recruit in Region II before the referendum. He was one of many youth who fled to Falintil areas as violence surged in 1999. He explains:

> I didn't think about becoming a Falintil soldier before I had joined the clandestine movement, but after working for the underground groups for some time, I decided that I wanted to. I already had contact with Falintil before I came to them. At that time I heard that Falintil needed youths to work with them and that was another good reason to join.[145]

Training

180. The amount and type of training provided to child soldiers in the Resistance varied markedly. Some former child soldiers report receiving training in both the militias and in Falintil. For example, Joaquim Simião says that after he was recruited in 1976

he met the Regional Commander and was given a weapon and training. He received combat training in how to use a weapon, how to run and how to hide. Afterwards he was immediately sent to fight in Manatuto. Joaquim explained that young people were recruited in order to take over from Falintil members who were considered to be too old.[146]

181. However, others say that the only training they received was gained through experience. Several of the former child soldiers interviewed for the UNICEF study stress that they had little training before their first combat experience:

> I didn't have any military training before. When I shot at the enemy for the first time, that was training for me…I was scared all the time when I first came to the forest but after one year I didn't feel fear any more because I thought even if we are afraid, there is nowhere for us to go. This is our land.[147]

> I didn't have any military training - the only training that I had was how to clean guns, pull them apart and put them back together. The only thing that I learnt from Falintil about fighting was "if you see [the] enemy shoot him. If you don't shoot him, you will be killed".[148]

182. Children also learned about politics and human rights from their commanders, including the protection of civilians. Felix do Rosário told the Commission that when he was recruited by Commander Manuel Adão in Labok (Alas, Manufahi) in 1977 at age 13, he received political instruction from a member of the Fretilin Central Committee. He was also given the opportunity to attend school to learn how to read and write.[149]

Risks involved in joining Falintil

183. Like all Falintil members, children were combatants and therefore legitimate military targets. They faced not just the risk of serious injury but also death, particularly in the early years. Their living conditions were extreme and no different from those of the adults they were with. One statement taken by the Commission tells of a soldier who was shot and killed accidentally by his own side at the time of the invasion.[150] Cisto Fernandes (Helio Espirito Santo) was recruited by Falintil headquarters at Bika Lari in Uatolari Sub-district (Viqueque, Zona 17 de Agusto) when he was 15 years old and from 1975 he joined military operations. He told the Commission that he was not forced to take part but rather was interested in Fretilin's political agenda. In 1978, his right arm was seriously injured when a grenade exploded prematurely. He was evacuated by Falintil and treated in Osoleru (Quelicai, Baucau).[151]

184. The risks following capture by the Indonesian army were considerable. These risks included execution, detention, subjection to physical and mental abuse and torture, and compulsory recruitment as a TBO.*

* For example, there is the earlier case of Faustino Cardoso Gomes who was made a TBO after he was captured fighting with Falintil. CAVR Interview with Faustino Cardoso Gomes, Dili, (undated).

185. There were also risks in surrendering. In one case, Marito dos Reis explained how on 1 November 1978 he surrendered in Hauba (Bobonaro, Bobonaro) after he had been detained by Fretilin for seven days on suspicion of planning to surrender. He was then arrested by ABRI and interrogated and beaten before he was taken to the Koramil in Bobonaro and detained for a further three months. After his release he became a TBO and joined an operation in Hedalau (Cailaco, Bobonaro). During the operation he was shot by Falintil, along with several other Timorese members of the Indonesian military, and seriously wounded.*

186. Felix do Rosário described how, following the destruction of the Resistance bases, the CCF and senior Falintil commanders, instructed Falintil and Fretilin members and the community still living in the forest, to take whatever steps they could to save themselves, including surrender. He surrendered to Hansip members on 13 September 1979 along with other guerrillas and was subsequently arrested. He was punished for his membership of Falintil by being forced to clean the streets of Same and work on the construction of the Ainaro-Alas road. He was also placed in a tank filled with dirty water and snakes. His punishment lasted for one year until the International Committee of the Red Cross (ICRC) intervened on his behalf.[152]

Demobilisation and conversion to FDTL

187. It is not known how many of the 750 or so Falintil solidiers cantoned in Aileu in November 1999 were under 18. In 2001, Falintil was demobilised and the Timor-Leste Defence Force (Força Defesa de Timor-Leste, FDTL) was created, with a minimum age for recruits of 18. One former child soldier told UNICEF that:

> A good age to join the army is over 18 years old because new under-18 recruits are still just kids and they can't make their own decisions properly.[153]

188. Like former members of the clandestine movement, many members missed out on their schooling because of the time they spent in the forest. In his message to Catholic youth in Timor-Leste and Indonesia in May 1986, Xanana Gusmão refers to the guerrillas "many of whom are your age and have never sat on the school bench".[154] As a result, they now do not have the education or skills to find work in the newly independent Timor-Leste. Some may also have injuries from their time in the forest which limits the kind of work they can do. Annas Nasution's story is an example of this. He was a child clandestine member and from 1995 a member of Falintil. Although he then applied to join the FDTL, he was not selected. He now says:

> I have decided that I will live in Timor-Leste forever. But I still have doubts because I still do not have a proper place to live, even though I already have a family. I can't do heavy work now because I get sick a lot

* HRVD Statement 02160-01. HRVD Statement 03758 includes an incident in which the deponent, Antonio Maria, and a 15-year-old Falintil member, João, were captured in November 1979 in Haefu-Madabenu (Aileu) then tied up, beaten, burned with cigarettes and taken to be killed. When they reached the middle of the road the deponents tried to run away but were captured again together with civilians by ABRI.

> with cholera. With a situation like this, I often cry just thinking about it - sometimes until I am stressed…Everything is so difficult. I have tried applying for work all over the place, even as security, but the results are nil.[155]

Arbitrary detention, killings and sexual violence perpetrated against children

Arbitrary detention and torture

Introduction

189. Detention of children was undertaken by all sides to the political conflicts in Timor-Leste and over the entire period of the Commission's mandate.

190. The rules relating to arbitrary or unlawful arrest and detention and torture are closely examined in Vol. III, Part 7.4: Detention, Torture and Ill-treatment. Those rules apply also to children. However, as noted above with regard to children, the parties were obliged to provide additional protection to children under both international law and, in the case of Indonesia, domestic law. Most of these protections were of a general nature, requiring, for example, that children be treated humanely in all situations and that their rights to life, liberty and security of person should be respected. As far as arrest, detention and torture were concerned, the parties' obligations towards children were the same as for adults. However, as a result of its ratification of the Convention on the Rights of the Child on 5 September 1990, Indonesia did take on additional obligations with regard to the detention of children.

191. Thus, when considering depriving a child of liberty, Indonesia was bound to bear in mind the best interests of the child as a primary consideration in its actions (Article 3(1)). Indonesia's obligation under Article 37 of the Convention was to ensure that no child was deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child had to have been in conformity with the law and only as a measure of last resort and for the shortest appropriate period of time. Every child deprived of liberty had to be treated with humanity and respect because of the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. More generally, under Article 38, Indonesia was obliged to "take all feasible measures to ensure protection and care of children who are affected by an armed conflict". Under Article 39, Indonesia was bound to assist the physical and psychological recovery and social reintegration of child victims of conflict, rather than exacerbating their situation through arrest, detention or torture.

Patterns of detention of minors

192. During the internal party conflict both UDT and Fretilin detained young supporters of the opposing side, as well as under-age family members of such supporters. Of those detentions of minors reported to the Commission, 2.9% (42/1,426) were attributed to

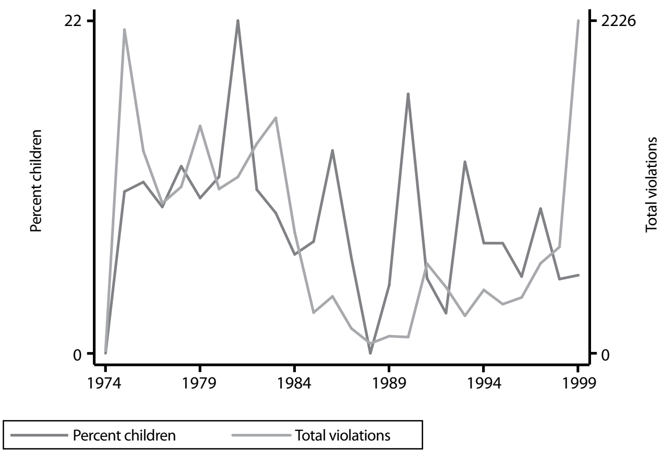
UDT whereas 11.3% (161/1,426) were attributed to Fretilin and Falintil forces. Those figures include the period 1975-1979, when Fretilin had control of parts of the territory and population. During this period Fretilin detained children, both alone and with family members, for infractions of Fretilin rules or on suspicion of collaborating with the Indonesian authorities.

193. The Indonesian authorities were responsible for the vast majority of reported cases of the arrest and detention of minors. Of those detentions of minors reported to the Commission, 73% (1,043/1,426) were attributed to the Indonesian military. They generally detained children for one of two reasons: because they or their family were suspected of having contact with Fretilin/Falintil members still in the forest; or particularly in later years as a result of their involvement in clandestine activities.

194. The Commission received very few reports of the torture of minors by either UDT or Fretilin, although children were often kept in very harsh conditions. The Indonesian authorities, however, used torture and mistreatment regularly in their dealings with children throughout the occupation.

195. In the Commission's quantitative analysis of narrative reports of arbitrary detention, 45.1% (38,910/86,263) of cases record the age of the victim. There were 1,426 clear cases of arbitrary detention of a minor. The figure below shows a large number of detentions of children throughout the late 1970s, reaching a peak for both boys and girls in 1981.* This peak reflects the rise in statement-collection about the detention of whole families on Ataúro, which began in that period.† Reported violations fall to low levels after 1981, with smaller peaks in 1986 and 1991, before increasing again in 1997–1998, and finally returning to 1970s levels in 1999.

Arbitrary detentions of children over time, 1974–1999



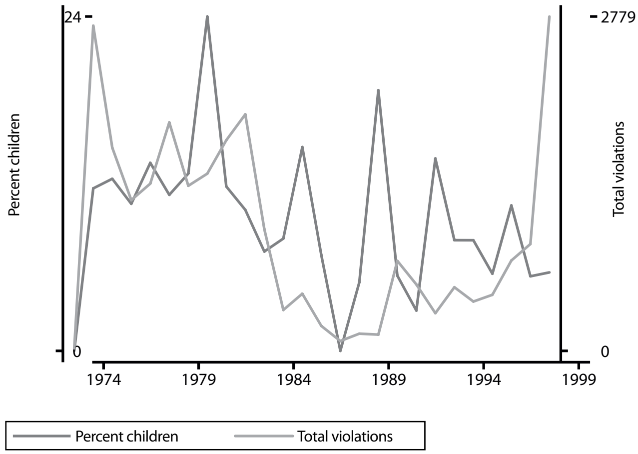
Source: Database of narrative statements given to the CAVR

* Detentions for the general population peak in 1982 after the attack on Mau Chiga and there is a less pronounced peak in 1980 after the fall of Matebian.

† The peak in 1981 could be related to Operation Keamanan or may simply be an artifact of data collection.

196. The majority of detentions of minors occurred between 1975 and 1983 and in 1999, as can be seen in the figure below. Whereas, torture of minors is predominantly concentrated in 1999.

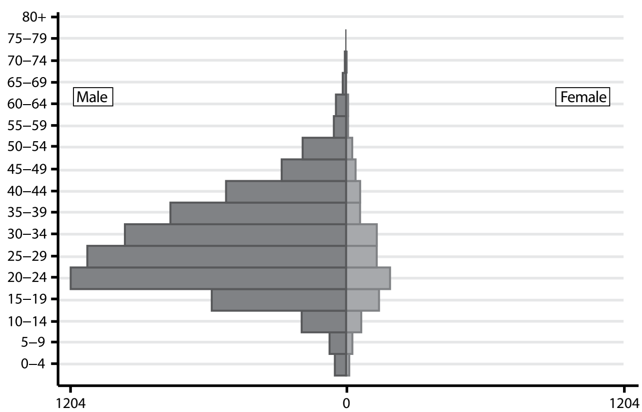
Torture of children over time, 1974–1999



Source: Database of narrative statements given to the CAVR

197. Of the children detained, children in their teenage years were the most frequently reported victims documented by the Commission. As the figure below shows, by far the largest age-category of victims of detention were in the 20-24-year age group and persons aged between 15 and 19 years were only the fifth largest age category of victims.

Number of reported acts of detention, by age and sex, 1974–1999



Source: Database of narrative statements given to the CAVR

Note: 47.8% of the records are missing age or sex of the victim

198. Children (persons aged 17 and under) account for 5.2% (577/11,135) of torture cases and 5.6% (1,426/25,383) of arbitrary detention and kidnapping incidents.* Most members of this group are aged between 12 and 17 years (three-quarters of under-age torture victims and two-thirds of under-age detentions fall into this age group). The average age of detainees across the 1,426 reported cases of child victims of detention is 12, the median age is 14.†

199. Males make up the large majority of victims in both categories and the age distribution of male victims, therefore, more or less mirrors the overall age distribution of all under-age torture victims and under-age persons held in detention. As in the case of killings, female victims are slightly younger than their male counterparts in both categories, with children accounting for 12% (108/857) of all female torture victims and 11.6% (408/3,521) of female detention victims, again mostly in the 12-17-year range. In the case of detention of females, girls aged 12-17 years are the fourth largest group, behind the three groups in the 18-35-year range.‡

200. Dili reports the highest incidence of under-age arbitrary detentions accounting for 18.0% (257/1,426) of under-age detentions, followed by Bobonaro 14.0% (203/1,426), Lautém 13.3% (189/1,426) and Baucau 11.2% (160/1,426).

Detentions by the Indonesian authorities

1975–1979

201. In the first years after the Indonesian invasion, the Indonesian authorities detained children for a variety of reasons, but usually with their families. Many of the cases of child detention reported to the Commission from this period relate to the concentration of recently captured or surrendered civilians to isolate them from those still in the forest.

202. The vast majority of people, including children, who surrendered or were captured in this period were held in various types of camps where they were subject to numerous restrictions on their freedom of movement (described in detail in Vol. II, Part 7.3: Forced Displacement and Famine). However, some, including children, were separated from others who surrendered and were placed in detention centres. In one such case, Pedro Alexandre Belo reported that, as a 16-year-old, ABRI captured him and seven of his family members in the forest on 11 August 1976. They were detained at the former Hotel Flamboyan in Baucau. Pedro was tortured for several weeks and then held for a further six months.[156] Damião da Silveiro from Lupal (Lolotoe, Bobonaro) reported to the Commission that when he was 12 years old, he was arrested with a large group on 7

* Many entries in the database have incomplete or missing information on ages and are not included in this analysis.

† These statistics are based on data from the CAVR's Human Rights Violation Database (HRVD).

‡ Romesh Silva, Sex-Age Distributions of Victims of Reported Human Rights Violations, CAVR HRVD, 21 May 2004. These frequency distributions show only age-sex distributions for victims for whom age information was reported to the Commission as part of its statement-taking process. Reported age for each victim was deduced from the actual age reported to the Commission statement-taker or, if this was not transcribed/coded into the HRVD, from the victims reported birthdate and violation date information.

May 1978 by Infantry Battalion 131. He was held for seven months at Lolotoe Koramil (Bobonaro) where he was forced to work on the construction of a building.[157] Igidio Corte Real, was 16 years old when he surrendered in Letefoho (Same, Manufahi) on 25 August 1979. He was detained by an ABRI member and three members of Hansip for 14 days and beaten.[158]

203. As already noted, child guerrillas were among those detained and tortured after surrendering. In one case, José da Conceicão Carvalho, a 15-year-old Falintil member, surrendered in Dili in 1977. He was detained for 12 days by two members of ABRI intelligence, C11 (Indonesian) and C12 (East Timorese), because he did not bring his weapon with him. He was released after revealing its location.[159]

204. Apart from children detained in the context of surrender or capture, other children were detained when family members were arrested in this period. Sonia, a 1-year-old child from Quelicai (Baucau) was detained with her mother, Domingas Morreira, on 1 November 1976. They were held in the Flamboyan in Baucau town for one week in a dark cell before being interrogated about Domingas's activities in the forest. They were finally released on 4 May 1978 with orders to report weekly.[160]

205. Indonesian authorities killed at least one child in detention in this period: Jaquiel da Costa Ximenes reported that a four-year-old, Joaquim Ximenes, from a family of seven, was detained in Afaça (Quelicai, Baucau) on 14 April 1979. According to Jaquiel, Joaquim was beaten to death in detention by members of Infantry Battalion 321 and Sukarelawan (The Volunteers, a force made up of Timorese ex-partisans).[161]

206. In other cases, adults with whom children were arrested were killed in detention, after which the children were either kept in detention or released. José Pereira reported that in 1976 when he was aged 12 and living in Babulu (Same, Manufahi), he was called with five adults to help load rice at the Same Kodim. On arrival, they were accused of working with Fretilin and the five adults were executed. José was detained in a cell at the Kodim for nine months where he was threatened, questioned and forced to work on the grounds of the military base.[162] Duarte Ximenes reported that in 1979, a ten-year-old, Domingos Ximenes, was captured by ABRI in Tequinomata (Laga, Baucau) with his father. The military took them to Quelicai (Baucau). The father was killed and Domingos was later returned to his family.[163]

207. Children were also detained for the purpose of gathering information about others. Juliana de Jesus told the Commission how on 20 October 1979, when she was 11, the military detained her twice at the Infantry Battalion 745 post at Liurai, Fuiluro (Lospalos, Lautém) with her sister and another male child. They were interrogated about a local man's alleged contact with his son, a member of Falintil.[164]

208. Indonesian authorities arrested whole families on suspicion of helping Falintil or during the search for information about the guerrillas and the developing clandestine networks. Isabel dos Santos Neves testified that she was arrested in Maubisse (Ainaro) in 1979, when she was aged 16, because her brother was known to be a member of Fretilin still living in the forest:

I was arrested with my older brother. When we were interrogated we were beaten and two of my younger siblings, still small children, were forced to confess to Fretilin being in the forest. My older brother was taken away at night by the military. In the morning a member of Hansip who witnessed the killing of my brother told my father that my brother had already been killed by the military. The Hansip only had [my brother's] ring and hat to show to us. When he heard this my father was silent, but he always said that it was a consequence of war.[165]

1980–1988

209. As late as 1981, children were still being detained after capture in the forest. However, most incidents of the detention of minors in this period occurred as part of a broader response to uprisings or because the child was suspected of having contact with Falintil. The most common form of detention during these years was the transfer of whole families to the island of Ataúro (Dili) to separate them from relatives still in the forest. While public demonstrations of support for independence had not yet begun, clandestine groups were becoming more widespread and sophisticated. Indonesian attempts to control them also led to the detention and sometimes torture of young members of these networks.

210. By the early 1980s, Indonesian counter-insurgency tactics mainly took the forms of crack-downs in response to specific resistance activities and measures to close down sources of material, information and political support for the guerrillas, particularly the developing clandestine networks in the towns.

211. Following the Falintil attack on the broadcasting station at Marabia and the Infantry Battalion 744 arsenal in Becora, Dili on 10 June 1980, at least two teenagers were detained for short periods. Luis de Jesus, 14 years old at the time, reported that he was arrested on 10 June 1980 and held briefly in the Becora Koramil before being transferred to the Comarca prison in Dili.[166] Alberto de Deus Maia, 11 at the time, reported that Infantry Battalion 744 and Mobile Police Brigade (Brigade Mobil, Brimob) arrested him on 11 June 1980 and held him in Balibar, just south of Dili, where he was forced to haul water.[167]

212. Adelino Araújo was detained and tortured along with many others after the uprising (*levantamento*) in August 1982 in Mau Chiga, (Hato Builico, Ainaro). This military crackdown encompassed a wide range of human rights violations:

At the time of the uprising of 20 August 1982, in Mau Chiga [Hato Builico, Ainaro], *I was 14 years old. This leader's movement or revolt brought Fretilin activity back to life. In the uprising many people were killed by the military. Because I was still a child the military took me prisoner* [in the Hato Builico Koramil]. *I was tied up and beaten until I had no more life in me. I was burnt with cigarette butts and I could only hang on and cry. I saw how the army raped the women that were there* [in the courtyard at the Mau Chiga village office].[168]

213. Sometimes challenges to Indonesian rule during this period resulted in the collective punishment of whole communities, including the detention and torture of children. Residents of Porlamano, Mehara (Tutuala, Lautém) reported that in 1983, after Hansip and youths ran off to the forest, members of Infantry Battalion 641 detained and tortured their wives, children and female relatives at the military post. Another *aldeia* in the village reported that, in the same year, soldiers from Infantry Battalions 745, 321, 641 and Airborne Infantry Battalion 100 forced children aged 15 and older to gather in an open field where they were tortured and submerged in water.[169]

214. Clandestine activity in the 1980s was often based on family ties and the Indonesian authorities used arrests and detentions to disrupt these lines of support. Francisco Soares told how in 1982 he was 14 years old and suspected of bringing food to his father in the forest. He was arrested by a Hansip member called C13 on the orders of Koramil Commander Rifai (Indonesian), C108 (member of the Indonesian legislative body) and C15, the Hansip commander. He was brought to the Koramil in Iliomar for questioning. He was released after a week, with the requirement that he report for one year. The family was later moved to Ataúro for one year because the father refused to surrender.[170]

215. In an attempt to separate Falintil troops from their family members thought to be supporting them, thousands of people were sent to Ataúro in the early 1980s.[*] The spike in the graph above of under-age detentions in the 1980s can largely be attributed to this policy.

216. Some children sent to Ataúro were separated from their parents or had already been orphaned (see text box below), though most went with their families:

> *My name is Rosalina José da Costa and I was brought with my parents to Ataúro because when we were in Viqueque we always gave food to Fretilin in the forest. We were found out by the military and so my family was moved to Ataúro as prisoners. I was just ten years old. We were taken by an ABRI car to Laga and then went by army boat, number 509. It wasn't just us, there were other families with their children. When we arrived on Ataúro as prisoners it was really hard to find food and many people died of disease, especially children. Every day at least one, sometimes up to seven, children died.*[171]

217. Others lost their parents on the island, including Mario Correia, who told the Commission that, when he was 12, his parents died of starvation; it was another two-and-a-half years before the rest of the family was allowed to return home.[172]

218. Individuals suspected of clandestine activity were also sent to Ataúro and some of these were teenagers. Armando de Jesus Barreto reported that Kopassandha arrested

* The 1982 Korem instruction manual suggests those in Falintil's support network should be transferred to Ataúro: "In this way we can cut ties between the support networks in the settlement and the Nureps"; ABRI, "Petunjuk Tehnis tentang Kegiatan Babinsa" ["Instruction Manual: Village Guidance Officer/TDP Activity in developing and phasing out Trained People's Resistance Forces"], Juknis /06/IV/1982, (Korem 164, Wira Dharma, Intelligence Section, Williem da Costa [Chief of Intelligence]) translated in Budiardjo and Liong, *The War Against East Timor*, Zed Books, London, 1984, pp.181.

him in West Dili on 10 June 1980 when he was 17 years old. He was held at the Comarca Balide Prison, tortured at the sub-regional Command (Korem) headquarters and then sent to Ataúro for four years.[173]

A child on Ataúro

Joana Pereira was detained on Ataúro from 1 September 1981 until November 1982. In 1978, Joana's parents had died in the forest and Joana and her younger brother, Mateus Pereira, surrendered to the Indonesian military. They lived with their older siblings in Lacolio (Quelicai, Baucau). Meanwhile, their older brother, Pascoal Pereira, was a member of Falintil in the forest under the *nom de guerre* Nixon.

According to Joana, on 29 August 1981, when she was 13, the Quelicai Koramil announced to the community that people with family members in the forest would be punished. Some plywood was placed in front of the village office on which was written the names of people to be punished on Ataúro. Joana and Mateus's names were on the list. Mateus was only nine years old.

On 30 August 1981, Quelicai Koramil transported the prisoners in four trucks to the Laga harbour. The next day, around 7.00 in the morning, all prisoners who had been gathered from Seiçal, Buibau, Quelicai and Laga, were transported by war ship 502 to Dili. The war ship arrived in Dili at around 7.00 at night. On 1 September 1981, at 8.00 in the morning, the prisoners left for Ataúro by war ship 511.

They arrived on Ataúro at midday. They were met by prisoners already on the island who unloaded the boat. Newly arrived prisoners, after their names were checked one-by-one, were each taken to individual places of punishment. Joana was placed in house No. 22 along with 60 people, while Mateus was put in house No. 24 with 70 other detainees.

The prisoners received no food on their arrival on Ataúro. Joana and Mateus had only the food that they brought with them from Quelicai. After a month, each family received three cans of corn from ABRI, twice a month. Because of the hunger, some people stole papaya and cassava from the fields of the local population. But many people died, especially children and the elderly. Joana remembers mainly detainees from Los Palos and Viqueque dying. Each day, between two and five people died.

The International Committee of the Red Cross (ICRC) was allowed to visit Ataúro in 1982 and gave food aid such as rice, green beans, soybeans, dried fish, sugar, salt and canned fish. The ICRC aid allowed the prisoners to hold on to life and nobody else died after they came.

In October 1982, Eduardo Freitas's brother visited Ataúro. After he returned to Dili, he reported to the Kodim. In November 1982, Joana was brought home to Dili by boat. She lived with her uncle Paulo in Fomento (Comoro, Dili) and had to report to the police every day. Mateus had been brought to Dili earlier and lived at the Motael Orphanage.[174]

219. The purpose of the arrest of some children was to obtain information about their relatives. Aida Maria dos Anjos was 14 years old in 1983 when she was interrogated in Viqueque about the whereabouts of her brother, Virgilio dos Anjos (Ular), one of the organisers of the Kraras *levantamento*:

> *In the interrogation [special forces] forced me to give them information about the whereabouts of Commander Ular. The interrogation was always done by five members of [special forces]. C16 was the administrator of Viqueque Sub-district while C17 was the secretary of the entire Viqueque District. They actively attended every one of my interrogations.*[175]

220. As the clandestine networks developed, children were detained and sometimes tortured as a consequence of their own activities, rather than their family ties. In 1982, a 14-year-old was detained in Ainaro on suspicion of making contact with Falintil and then tortured:

> *In 1982, I, Pedro dos Santos, was a young person involved in carrying out clandestine activities with Falintil. Because of that, one day (I forget the date) a member of "intel", C18, came to the house and took me to the* aldeia *of Tatiri* [Hato Builico, Ainaro]. *When we arrived, C18 tied my feet and hands with plastic cable and hung me from the roof of the house. He then beat me with a stick for two hours, making my whole body swell up. The next morning C18 took me to Dare, Mau Chiga* [Hato Builico, Ainaro]. *I was detained there for two days. Then C18 took me for detention in Kasi Satu, Ainaro. Because I didn't give him any answers, I was slapped twice across the face and then given electric shocks on my thumbs and ears for half-an-hour. This has damaged my hearing now…After that I was held with a lot of people whom I did not know for four months.**

221. In August 1983, as part of the crackdown after the Kraras uprising, several young girls were among those detained in Viqueque. Adelgisa Ximenes, who was 14 years old at the time and active in a clandestine network, was held for six months

* HRVD Statement 07180. In a similar case five years earlier, an 11-year-old suspected of providing supplies to Fretilin was among a group of 11 detained and tortured by Special Forces Command (Komando Pasukan Khusus, Kopassus) at Sang Tai Hoo (a former Chinese shop which was used by the Indonesian military as a place of torture) in August 1977. She was then sent to an unlit cell in Balide Prison and then held in a regular cell for six months, HRVD Statement 05679.

and interrogated by the Kodim Commander, Major C20. She and her friends were arrested without their parents' knowledge on 7 August 1983 on suspicion of working with Fretilin in the forest. She was interrogated by the military, sometimes until the early hours of the morning, and threatened that she would be killed if she did not tell the truth.[176]

222. Children were also detained for violation of the strict controls on civilian life at the time. Maria Amaral from Tutuloro (Same, Manufahi) reported that in 1983, when she was 15 years old, she was one of a group of people detained and tortured by ABRI at the Manufahi Kodim for one week. They were arrested because they had left to work in the family's garden without a travel permit and so were suspected of assisting Falintil.[177]

223. From late 1983, Indonesian authorities began to charge and bring to trial some political detainees. However, this mechanism does not seem to have been used extensively with children in detention; of the 267 political trials identified through court records from the first and busiest four years of prosecutions (1983-1987), only two were of minors.* Both were convicted of treason.†

224. Detention and torture were also used by the Indonesian authorities to recruit informants and paramilitaries. Lucas da Silva reported that in 1986, when he was 17 years old, he was among a group of four detained by two special forces members, one of whom was called C21, a Sergeant-Major (Serka). They were detained and tortured at the house of the neighbourhood chief in Venilale (Baucau). The four were taken to Uatuhaco (Venilale, Baucau) where they were questioned while being choked with a chain and given electric shocks. In the end, they were forced to become informants, and after three years, were recruited to Team Sera, an early militia group.[178] More famously, Eurico Guterres was a 19-year-old high school student in 1988 when he was arrested for membership in the quasi-religious, clandestine group, Santo Antonio. He was sentenced to four months imprisonment for membership of an illegal group. In the 1990s, he joined the Youth Guard Upholders of Integration (Garda Muda Penegak Integrasi, Gadapaksi). He gained notoriety in 1999 as the commander of the Dili-based militia, Aitarak, and deputy commander of the militia umbrella organisation, Defence Force for Integration (Pasukan Pembela Integrasi, PPI).

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* It is also possible that this number is small because from 1983 trials of minors were conducted differently to those of adults. This included the Court being closed during the trial and the records of these cases, like many other court records, may have been lost. See the *Regulations of the Ministry of Justice, Number M.06-UM>01 Year 1983,* Indonesia. for more information about the procedure and the court.

† However, according to one statement, legal mechanisms were eventually used in the case of under-age members of a clandestine group. On 2 February 1986 in Baucau, two 15-year-olds in a clandestine group were arrested after one member was accidentally shot by Falintil and then captured by ABRI. They were held first in the Kopassus Post in Baucau where they were given shocks to the hands, ears and nose, stripped naked, and beaten for one week. They were then taken to Balide Prison in Dili where they were held for one month, some of that time in a darkened cell. They were then brought to the office of the Department of Social and Political Affairs (Sospol) where they were interrogated for one day. After that they were then taken to court and sentenced to one year's imprisonment. HRVD Statement 4199.

1989–1998

225. With the limited opening of Timor-Leste to outsiders in 1989, the independence movement began to use public demonstrations against the occupation as a form of resistance. This method relied heavily on the involvement of students. Demonstrations were usually followed, in some cases preceded, by the arrest of suspected organisers.

226. In October 1990, international human rights organisations reported over 100 arrests. Many of those arrested were secondary school students detained for short periods, and tortured. The methods of torture used included electric shocks, burning with lit cigarettes, and severe beatings. The arrests followed the assault of an Indonesian soldier by East Timorese youths, the taunting of an Indonesian official at a junior high school, and the appearance of anti-Indonesian graffiti on the walls of the Externato de São José.[179] Belchior Francisco Bento Alves Pereira told the Commission how he was detained and tortured at the Joint Intelligence Force (Satuan Gabungan Intelijen, SGI) house in Colmera, Dili, in 1990 because he was involved in the St. Paulus case (see par. 123 ff, children in the clandestine network, above) He spent four years in Balide Prison, Dili, before being released in 1995.

227. Students were especially targeted in the crackdown that followed the Santa Cruz Massacre. Mateus dos Santos was involved in clandestine activities at this time and was informed by the network every time a demonstration was to be held. He remembers the Indonesian military heading straight to senior high schools after the massacre to identify the demonstrators:

> *When we heard the shooting, we went back to school but ABRI had already surrounded the school grounds with their Hino cars parked in front of every doorway. Those wearing uniforms were members of the BTT* [Territorial Combat Battalion]. *They were from Java and had taken over from* [Infantry Battalion] *508. I don't remember their number.*[*] *We were surrounded and the school was closed. They already knew, knew exactly. They were scared of a riot so they checked the school attendance list. That was an order to the teachers, they told me personally. After they came to the school,* [Special Forces (part of Kopassus)] *intelligence and police intelligence were ordered to keep an eye on all of the people that hadn't been to school on that day, 12 November 1991.*[†]

228. Recognising the threat posed by these actions, the Indonesian authorities carried out pre-emptive detentions connected to foreign visits or suspected demonstrations (see box below). João Baptista Monis reported that in March 1992, at the age of 15, he was detained in Dili along with a friend. Both had participated in the Santa Cruz demonstration. Intelligence agents took them first to the Caicoli village office then to the

* CAVR research suggests that the battalion may have been Infantry Battalion 516.

† CAVR Interview with Mateus dos Santos, Dili, 31 October 2003; see also HRVD Statement 02726 of a 16-year-old detained for 3 months after Santa Cruz.

Dili Kodim and finally to Taibesi where there were many other detainees being punched and kicked by soldiers.[180]

229. Naldo Gil da Costa told the Commission at the National Public Hearing on Children and Conflict about his arrest and torture in advance of a planned demonstration when he was 16 years old:

The testimony of Naldo Gil da Costa

On 28 August 1992, Xanana sent a letter and a cassette telling us to organise a demonstration in Dili to coincide with the High-Level Conference of Non-aligned Nations in Jakarta, from 3-6 September. The demonstration was to protest the Santa Cruz incident. We explored the possibility of doing this but we were too closely monitored by intelligence (SGI). We wrote to Xanana saying it would not be possible to hold a demonstration. However this caused a lot of fighting amongst the youth. Some of them said that because Commander Xanana had ordered it we must have the demonstration. So in the end there were about 20 of us who went ahead.

However, in the end all 20 of us were captured by the SGI. I was chased and caught. They handcuffed me, blindfolded me and beat me incessantly. They stuck a pistol into my mouth and tortured me until I was about to collapse. Then they threw me into a car and took me to the SGI in Farol. In Farol I was blindfolded and my hands were handcuffed. My feet were tied to a chair and an SGI officer beat me with an iron rod. My entire body was given electrical shocks. C108 and his ten men interrogated me. I remained silent which made him angry. He taunted me, saying over and over again "Hey whore-child, where do you come from?" All the while I was beaten and beaten. Our bones were broken and blood flowed from our wounds.

On 6 September two soldiers and four civilians took me to the primary school building in Tacitolu. They stripped me naked and tied me to a car. I was dragged behind the car for about 200 meters. I was taken to Fatuk, Dili, which was a place where they killed people. They forced me to dig my own grave and get into it. They told me to pray as I was about to be killed. Then, just as they were about to shoot me dead, one of the soldiers suddenly said, "If we shoot this child we won't go to heaven. This child is innocent. We should let him live." They pulled me out of the hole and instead of killing me the SGI beat me with a crowbar and shovel and tortured me all the way from Tacitolu to the SGI Colmera office.

I was held at the SGI for one week where I was beaten and interrogated. Then I was moved to Balide Prison with some other prisoners. At the Balide Prison we were handcuffed and then kicked and beaten by 50 soldiers. Then our handcuffs were released and we were put into cells. The

cell had a toilet which was full and overflowing with human faeces and urine. It completely filled the toilet and covered the floor. As well as that we were all naked. One of the other prisoners, Marcos, and I laughed at ourselves as we sat naked in the shit covering the floor. On 16 September 1992, soldiers from Battalion 745 in Lospalos took Marcos from the cell and he has not been seen since.

230. Alexandrino da Costa told the Commission about his arrest and detention after a demonstration in 1995:

> *On 9 January 1995 the students of the University of East Timor* [Universitas Timor Timur, Untim] *held a demonstration and I was involved. So I was arrested again by the military and the police. They said to me that I obviously wasn't afraid of dying because I was attending another demonstration. One of them beat me and kicked me while dragging me and throwing me into their Hino car. I was taken to the Polwil* [Kepolisian Wilayah, sub-regional police headquarters] *in Comoro, Dili, for interrogation. At the Polwil I was interrogated, beaten, kicked and given electric shocks. My whole body was given shocks, even my genitals. All of my clothes were taken off. There were around 20 of us who had been arrested and we were held at the* [sub-regional police headquarters] *for nearly a year. Then around 1995 we were moved to the prison in Becora, Dili. We were tried and given a sentence of three years although, in the end, we were in Becora for about two years and eight months.*[181]

231. The demonstrations and the arrests continued throughout the 1990s. On 15 November 1995, a group of high school students marched to join a demonstration on the University of Timor-Leste campus. They were surrounded by two trucks of riot police near the Mahkota Hotel in Dili. Many escaped but some 30 were reportedly beaten and taken to police headquarters before being released.[182]

232. Children also continued to be detained in the 1990s for suspected contact with Falintil. Zeca Soares reported to the Commission that when he was a 16-year-old *estafeta* he was brought by the village secretary to the SGI post in Letefoho (Ermera). He was held there in a darkened cell and beaten by three civilians on orders from the SGI. He was released after two months but several months later he was re-arrested by SGI members in the area of Asulau (Ermera) and brought to Tata Hatolia (Ermera). On the road he was put into a sack and thrown into a ravine. Still alive, he was brought to Rajawali forces, Infantry Battalion 713 (Kostrad) in Suai and held for one week where he was repeatedly beaten.[183]

1999

233. In 1999, there was a fresh wave of detentions by the military and their militia proxies (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment). Children were among those detained. For example, in April 1999 the SGI commander, C22, at Marco

(Cailaco, Bobonaro) ordered the TNI and Halilintar militia to work together to identify the killers of local pro-autonomy figure, Manuel Gama. Soldiers and militiamen carried out a sweep in nearby villages detaining about 30 residents, including women and children. They were forcibly marched to the Cailaco Koramil in Marco where they were held for up to four days.[184]

234. Detentions were sometimes followed by forced recruitment. For example the Commission heard testimony describing the process of forced recruitment of youths to the Laksaur militia in Covalima.[185]

235. Also, Florentino Nunes told the Commission that on 8 April 1999, when he was 17 years old, he was suspected of being a CNRT sympathiser. He was beaten by BMP militia in Leopa (Liquiçá, Liquiçá) and held at the house of the District Administrator of Liquiçá for several days. He was then held at the fort in Maubara (Liquiçá) for another two months.[186]

236. Another 17-year-old was in a group of four junior high school students (SMP Negeri 2 Beco, Suai, Covalima)) detained by a Mahidi member named C23, a soldier named C22, and others. They were taken to the Mahidi headquarters in Zumalai (Covalima) and held overnight for questioning. The next day they were returned to their homes, which were searched for evidence of Fretilin involvement and weapons, and they were beaten and burned with a cigarette. They were then taken to the house of the local Mahidi commander, C24, and held for another three days of questioning during which they were given no food or drink.[187]

Detentions by UDT

237. The Commission has found that UDT carried out a large number of arrests in August 1975 (see Vol. III, Part 7.4: Detention, Torture and Ill-Treatment). The Commission received two statements describing cases of UDT detaining teenage Fretilin supporters, each for approximately one week, during the "coup" of August 1975. Bernardino da Costa reported that he was nine years old when he was arrested by a UDT member called C25 in Atudara (Cailaco, Bobonaro).[188] João do Carmo de Araújo told how he was arrested by UDT in Ataúro Vila (Ataúro, Dili) together with three others, including a 15-year-old called Agostinho.[189] Luis de Jesus Guterres told how a one-year-old child, Filomeno de Jesus Pereira, was one of a group detained by UDT on 11 August 1975 in Ailoklaran (Dili).[190] There is also a report from Domingos dos Santos that three Portuguese soldiers detained him in Dili in July 1975 when he was 16 years old. The youth was taken to the UDT office in Palapaço where he was held for three days before escaping.[*]

* See also HRVD Statement 04677, "In July 1975, I was arrested by three members of the Portuguese military, whom I did not know, in front of the Dili helicopter pad where I happened to be waiting for a car to go to Liquiçá. After I was arrested, they [the Portuguese soldiers] started beating me until I lost consciousness for five minutes. Then I came to and they tied my hands and took me to the UDT political party office in Palapaço, Dili. When we reached the office they handed me over to C26 (East Timorese). He ordered his men to untie the ropes around my hands then put me in a room or cell for three days and three nights without food or drink. I escaped from the UDT office when the situation in Dili became chaotic."

Detentions by Fretilin

238. In 1975-1976, Fretilin usually detained children with their adult relatives for reasons related to political party conflict. Later, children were detained due to infraction of the rules, suspicion of being a "traitor" or as part of the intra-party conflicts.

239. Children were detained with their parents by Fretilin during the party conflict. One UDT supporter, João da Costa, told the Commission how he was detained and tortured for five months from September 1975 along with his three month-old daughter, Saturnina, his friend, João Castro, and João Castro's six-month-old child. João da Costa and his wife and baby had fled to Venilale (Baucau) at the time of the Fretilin "counter-coup" but were captured there along with other UDT supporters. João da Costa and João Castro were beaten while Saturnina and João Castro's baby were stabbed with a knife. Fretilin then took the families to Viqueque where they continued to be tortured.[191]

240. Some older children were detained during the conflict without their families because of their, or their families', political affiliation. For example, Antero Soares testified that Fretilin detained him in 1974 when he was 16 years old and living in Mindelo (Turiscai, Manufahi) because his father was a supporter of the Timor Popular Democratic Association (Associacão Popular Democratica Timorense, Apodeti).[192]

241. Family connections continued to play an important role in rivalries within and between parties, and there are several accounts of children detained by Fretilin with their extended families. Constantinho Ornai told the Commission about his detention in 1976 when he was 11 years old because of conflicts within Fretilin:

> *In October the Comissão Região* [Regional Commission]...*wanted to arrest us in Uato Carbau* [Viqueque]. *Early one morning we were captured and taken to Iliomar* [Lautém]. *In Iliomar we were tied up and taken to Salari* [Iliomar, Lautém]. *There we were tied up and put into a pig-pen. We were interrogated in turn, beginning with the adults and then the children, including me. We were tied up there for several days. We were only given food once a day. We were tied with rope taken from sugar palm and sago palm trees. Our hands were tied behind our back at three levels, first at our palms, second at our elbows and third at our upper arms, and then we were hung from a tree. Meanwhile our feet were locked between two pieces of wood.*
>
> *Then C27, the operational Commander, interrogated me while guarded with a G-3 weapon. Commander C28 and C29 interrogated me. After the interrogation I was made a prisoner with freedom to move so that I could work in the general kitchen. My jobs included drawing water and collecting firewood. After one night I became a detainee in the general kitchen. My uncle together with some other people were killed by Fretilin, led by C28 and C29, around 16 November 1976.*[193]

242. Families were in danger of being suspected of planning to surrender or of contacting the enemy, if they were caught looking for food without permission. Isabel Amaral

reported that in 1976 when she was 17 years old, she was briefly detained with her family by Fretilin because they had been trying to return to where they had hidden food.[194] The Commission also heard from Luzia de Jesus Barreto, the mother of Bastião, that in 1978, when Bastião was 14 years old, he went looking for food in Remexio (Aileu) and was detained on suspicion of being a traitor. He later died from illness in a Fretilin National Rehabilitation Camp (Campo de Rehabilitacão Nasional, Renal).[195]

243. There are also several cases, as noted in the section headed Children in Falintil (par. 158 above), of under-age guerillas detained for disciplinary offences. Ijaias da Costa testified that when he was 17 years old in 1976 in Berelau (Liquidoe, Aileu), he was detained for two days for accidentally discharging a weapon.[196] The period of detention for breaches of discipline could reach one year or more, for example for allowing a prisoner to escape. Jaime da Costa told the Commission how in June 1977, when he was a 14-year-old Falintil member, he allowed a prisoner to escape after falling asleep on guard duty. He was detained in Laclo (Manatuto) on 19 June 1977 on the basis of an "arrest warrant" issued by the *comandante da região.* He was held for one year and three months, some of that time in a hole, and was forced to work in the fields.[197]

244. Children detained by Fretilin were held in a variety of conditions. Constantinho Ornai spent some time as a formal detainee before being given the status of a "detainee with freedom to move" (*tahanan bebas luar*) and was required to work.[198] Sometimes children were detained for short periods and then given work for periods ranging from just days to several years. Paulino Laserdo da Costa told of when he was 16 years old, in 1976, and was arrested in Cairui (Laleia, Manatuto). He was held only 30 minutes before he was given the status of "detainee with freedom to move" and required to collect salt from the ocean which he traded for food for Falintil.*

245. Twelve-year-old José dos Santos and his family experienced much more difficult conditions. His father was a UDT supporter but José lived in Fretilin territory in Manatuto with other members of his extended family, some of whom were active in Falintil and Fretilin. Due to suspicions about contact with their father and the distribution of the family's wealth, the whole family was detained in late 1976 or early 1977. Over the next 18 months they were moved around Manatuto with Fretilin until they were finally surrounded and captured by Infantry Battalion 315 on 20 July 1978. First, the family was held in Welihumeta (Laclo, Manatuto) for three or four months. Here, José and other family members were kept in a hole in the ground, while others, including his 13-year-old and two-month old brothers, were kept in a hut. Next, they were taken to Hatuconan (Laclo, Manatuto) where the local Fretilin leadership was based. Children under ten were held in a small structure that served as a crèche, while José, his 13-year-old brother and three unrelated boys aged 10-12 stayed with the Fretilin leadership, washing clothes and helping distribute supplies. José was once sent to a Renal (a Fretilin "rehabilitation" camp) where he was held in a hut for four days before being sent back to Hatuconan.

* HRVD Statement 05226. In another case in Manatuto, Sebastião da Silva told how when he was 12 years old he was detained and forced to work. He was captured with his older sibling in Bariqui (Manatuto) by Fretilin because they were ex-UDT supporters and Fretilin was afraid they were "two-headed". He was forced to process sago for Falintil for three years. (HRVD Statement 06513.)

After a year there, followed by three months in Manalete (Laclo, Manatuto) they were moved around frequently until their capture.[199]

246. After the destruction of the *zonas libertadas* (liberated zones) in early 1979, Fretilin no longer controlled sufficient territory or population to allow for detentions and although a few cases continued to be reported, their number was small and none of those known to the Commission involved children

Killings and disappearances

Introduction

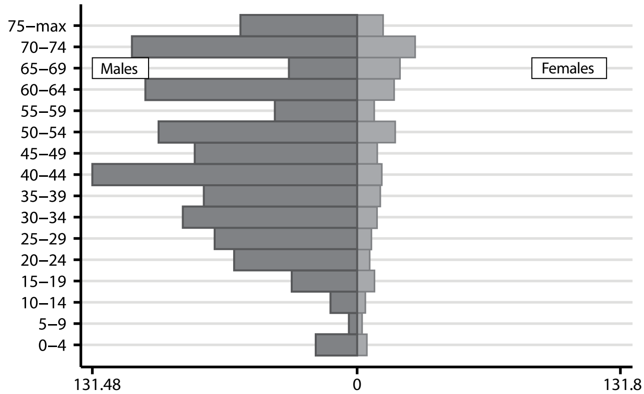
247. Children died as a result of the political conflicts in Timor-Leste, from the first days of the party conflict in 1975 to the last days of Indonesian rule. However, the contexts in which children died changed over the period. After the Indonesian invasion in 1975, large numbers of children died of deprivation (see Vol. II, Part 7.3: Forced Displacement and Famine) but many were also killed in targeted and indiscriminate military attacks, and also individually executed. In the 1980s cases identified by the Commission tended to be of children killed with adults in mass killings such as those at Kraras, Bibileo (Viqueque) or on Mount Aitana (Laleia, Manatuto). There are also isolated cases during this period of children singled out for suspected pro-independence activities. In the 1990s, this latter trend continued, particularly in connection with public demonstrations, of which the most notorious example was the Santa Cruz massacre of 12 November 1991. In 1999 there was a surge in killings of children, many of them clandestine members or from pro-independence families or communities. These killings frequently occurred as part of indiscriminate attacks on groups that had taken refuge in churches and private houses, but there were also instances where children were knowingly executed with other family members or as proxies for them. While most killings of children were at the hands of ABRI/TNI and the paramilitary bodies it created, Fretilin and Falintil were also responsible for killing children.

248. The Commission has not found through its research that children as a group were specifically targeted by any perpetrator group over the period of the Commission's mandate. Nevertheless, the children who died during this period should be acknowledged and remembered. The following discussion is therefore an outline of the causes and contexts in which children were killed as a result of political conflicts.

Profile of violations

249. Of the 5,120 reports of civilian killings received by the Commission, 7.1% (362/5,120) of civilians killed were reported to be minors, although only 41.4% (2,120/5,120) of cases included the age of the victim. This suggests that children were not singled out as targets of killings, especially when the proportion of the total population who were minors is considered. However, as there should be a greater inhibition on killing children than adults and children were generally less well represented on both the political and military frontlines (despite their involvement in both), these figures suggest that children were in fact over-represented among the victims of civilian killings.

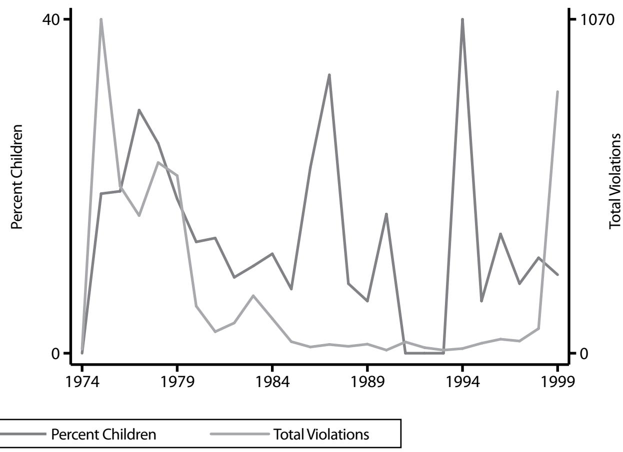
Age-sex specific violation rate of civilian killing (per 10,000 persons), 1974–1999



Sources: (1) Database of narrative statements given to the CAVR; (2) 1990 population census, statistics Indonesia
Note: 59.6% of the violation records are missing age or sex of the victim

250. The figure below shows the pattern of civilian killings of children over time. It is apparent that the bulk of child killings occurred during the periods in which overall numbers of killings were relatively high. Furthermore, 63.3% (229/362) of documented civilian killings were attributed to the Indonesian military. Hence, the Indonesian military appears to have carried out large-scale killings in a manner that reveals inadequate measures were taken to prevent the killing of children.

Violations over time, 1974-1999



Source: Database of narrative statements given to the CAVR

251. The largest numbers of child killings occurred in the 1975-1979 period (especially 1975 and 1978) and in 1999. After a lull in 1980, the numbers of children killed rose slightly in 1981-1982, and in the second half of the 1990s. These patterns are roughly consistent with those for the adult population (with the exception that the number of children killed declined in 1983). Males were reported as the victims in 77.6% (281/362) of the civilian killings of minors, whereas in 21.0% (76/362) of cases female children were the victims.

252. The Indonesian military was attributed responsibility for the killing of a minor in 63.3% or reported cases, Fretilin/Falintil in 27.6% (100/362), the Indonesian-backed militias in 11.9% (43/362) and UDT 1.9% (7/362).*

253. Within the category of under-age child civilian killings, older children 15-19 years were the chief victims, with nearly twice the number of killings as the next largest groups, 10-14 years and 0-4 years. The least number of child killings were reported within the 5-9 years age group, with only 10.5% of total civilian killings being minors. The median age of victims reported to the Commission through the statement-taking process is 14, and nearly one quarter of the total are 16-17 years old.

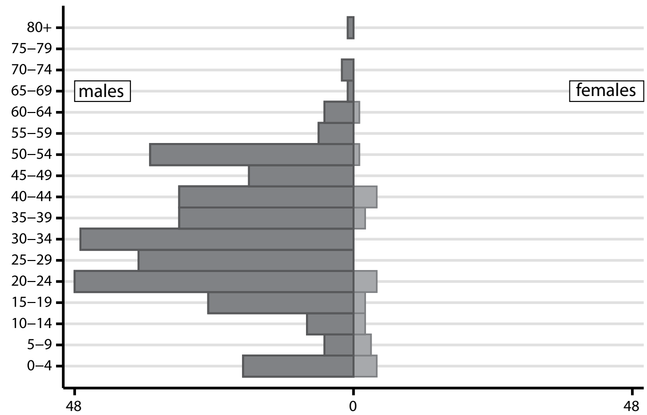
254. The picture for boys as a percentage of all males killed mirrors the general profile, not surprisingly since boys make up the overwhelming majority of total cases (77.6%, 281/362). The largest group of men killed were in the 30-35 age group. Females killed, however, tended to be younger. In all cases of females killed the 0-17 age group accounts for more than one-quarter of cases. The 12-17 age group is second only to the slightly older 18-23 age group. It appears that women in these two age groups were the most vulnerable to other crimes, such as rape, which in some cases were linked to killings, although support for this link is scant.[200]

255. Disappearances show a similar age pattern to killings, with 7.1% (59/835) of victims of disappearances within the 0-17 age group and 32.3% (23/59) of those aged 12-17.

256. The demographic profile of age-sex of reported disappearance victims is similar to that of civilian killings. In particular, most disappearances reported to the Commission were against young males between the ages of 20 and 34. Of the reported disappearances of children, almost all of them were of older boys in the age group 15-19, as shown in the following figure.

* When calculating proportional responsibility for violations, some violations may be counted more than once because responsibility may be shared amongst perpetrators.

Number of reported acts of disappearance, by age and sex, 1974–1999



Source: Database of narrative statements given to the CAVR
Note: 59.6% of the records are missing age or sex of the victim

Invasion and military operations

1975–1979

257. As previously noted, many more children were killed in the period from 1975 to 1979 than other periods in the Commission's mandate. This pattern is consistent with the total numbers of people killed. These figures suggest that children were not targeted but were caught up in the violence and chaos along with adults. A qualitative analysis of the Commission's research also suggests that in this period children were killed for the same reasons as adults and often at the same time as adults.

258. Some children died in the fighting during the Indonesian invasion or later military operations against Falintil. However, it is often unclear from the statements received by the Commission whether a killing was caused by indiscriminate attack or targeted execution. For example, in 1978 four children in a family from Lupal (Lolotoe, Bobonaro) were killed when their refuge on Mount Manulor was attacked by the Indonesian military. Santina da Costa was seven at the time. She explained:

> *During the two weeks on the mountain, my younger brothers and sisters, Lesu Bere* [age unknown], *Olandina* [aged five] *and Olosili* [aged two], *died after being hit by bullets from the Indonesian forces, while another called Olasila died because she was hit by shrapnel.*[201]

259. A second pattern of child fatalities in the 1970s is that of children killed when they were part of a group looking for food. The Commission received a number of reports describing how people searching for food risked attack either by ABRI (and its auxiliaries, such as members of Hansip) or by Fretilin/Falintil. The former regarded the presence

of such groups in the forest as suspect because they might be intending to make contact with the Resistance or even be members of the Resistance themselves. Fretilin/Falintil targeted such groups as either spies or potential "surrenderers" (see below).

260. This pattern highlights one of the hallmarks of the political conflict in Timor-Leste: a general failure to distinguish between civilians and combatants. This failure could be the result of military doctrine, as in Fretilin's "people's war" strategy and ABRI/TNI's equivalent, Hankamrata, which provided the justification for the grouping of paramilitaries and civil defence units. It could also have been caused by the suspicion of all civilians found in a contested area, which marked them as valid military targets. Children were not exempt or protected from this failure.

261. The Commission heard testimony describing civilian casualties at the hands of ABRI and civil defence units.[202]

262. The Commission received testimony about how Hansip members in Uai-Oli (Venilale, Baucau) killed a six-year-old girl called Kenauatu and her father. Her younger brother, José Ximenes, explained how they were killed and how he was taken and raised by the perpetrators:

> *In 1978 we came down from Matebian to Uai-Oli, the* aldeia *of Ibihae* [Venilale, Baucau]. *All of my family left for Venilale but my father, Uatusu'u, my older sister, Kenauatu, and I stayed in Uaibae Uai-Oli. After around one week, a Hansip commander called C36 and his men: C37, C38, C39 and others found our hiding place in Nabolo. They captured my older sister and my father and took them about 200 metres away from me. Then they killed them and threw their bodies away in Nabolo, Uaile, Uai-Oli. But because I was only about five years old C36 and C37 took me with them to Ossu* [Viqueque]. *When we reached Ossu I lived with Antonio who looked after me until I was an adult. In 1995 my family found me and took me back to Venilale* [Baucau] *to live with them.*[203]

263. Children who remained behind when others fled to the forest were also at risk. According to a relative, Felicidade Ximenes, one man stayed behind with his 15-year-old sick daughter, Helena, in Uai-Oli (Venilale, Baucau) in 1979, while the rest of his family fled to the forest. Members of Battalion 745 arrived in the area and reportedly forced the man to kill his daughter.[204]

264. Children were also killed in other contexts during this period. As noted in the section on TBOs, there are several suspected cases of under-age TBOs killed in combat operations or by soldiers in their own units. Other killings were linked to human rights violations such as rape. For example, according to Pãolo da Costa Soares, an Indonesian soldier and a Hansip member from Atabae (Bobonaro), C40 and C41, captured two sisters under 18, one of whom was six months pregnant. After the two soldiers had raped the sisters for six hours, the girls tried to escape. One sister was shot and killed while the pregnant sister suffered a miscarriage.[205] Gaspar Dias reported a seemingly random case. He stated that in 1975, Albano Dias, 15 years of age, was working in his field in Fatlau, Aileu, and was shot dead by an unidentified ABRI soldier.[206]

1980–1988

265. By 1980, Indonesia had consolidated its control over the territory. Many civilians had surrendered or been captured, and had been relocated to towns or villages. Falintil attacks continued and retaliatory measures by ABRI and other operations were often so broadly targeted as to include children among the dead. As in the previous period, children were not specifically targeted but rather were killed as members of a group that included adults. However, the context of these killings was no longer the invasion and air attacks, as it had been in the earlier period. Instead, people were killed in retaliatory measures taken by ABRI in response to continued active resistance to the occupation. There were also new types of military operation such as the various "fence of legs" operations known as Operation Kikis involving mass mobilisation of the civilian population to flush out Resistance fighters. The best known of these operations occurred in July–September 1981 (see Vol. I, Part 3: History of the Conflict, and Vol. II, Part 7.3: Forced Displacement and Famine).

266. Children were often caught up in group killings perpetrated in this period. For example, children were reported to be among the victims of the killing that occurred at Uaidada in Cairui Village (Laleia, Manatuto) at the end of Operation Kikis in September 1981.[207] In the village of Leuro (Lospalos, Lautém) the community described the situation toward the end of Operation Kikis:

> *The community was more and more afraid, traumatised and nervous. We weren't free to go about our day-to-day needs because ABRI was always guarding the posts.*[208]

267. The community said that ten people were shot dead at this time, including a 15-year-old child called Jepokilu.

268. Many children were also killed during the series of killings in Viqueque District by ABRI and Hansip members in retaliation for the killing of 14 soldiers in the village of Kraras on 8 August 1983. The Commission has received information that at least 26 of the victims were 17 years old or younger, of whom more than half were ten or under.* Silvino das Dores Soares describes how in the weeks following the ABRI deaths, the military patrolled nearby mountains and a number of executions were carried out in these operations, including that of a 15-year-old in Uma Qui'ic (Viqueque) around 12 September 1983.[209]

269. In one of the retaliatory actions after the Kraras uprising, the killings in the *aldeia* of Fahite-Laran, Caraubalau (Viqueque, Viqueque) on 16 September 1983 included many women and young children. Former Hansip commander, Jeronimo da Costa Amaral, told the Commission:

> *One day at around 2.00 in the afternoon, 12 soldiers called us, I don't know which unit they were from...I and three of my members...brought along*

* HRVD Statement 02130501, List of victim's names in Victims report; HRVD Statement 4146 also identifies two children among those killed in one Kraras-related incident on 17 September 1983 at Sawah Tahu-Bein, Baha Fou (Buicaren, Viqueque): Eugenio (14) Abilio Gomes (16).

> *18 people* [civilians]. *There were some in late stages of pregnancy, some children and some old men. We brought them up to Karuik. Indonesian forces from another place then came and picked them up. I saw written on the arm of their uniforms that they were from* [Infantry Battalion] *312. Then the soldiers told us that they were taking the people to meet with their families* [still in the forest] *to convince them to surrender. The soldiers and the 18 civilians hadn't gone far before we heard the sound of gunshots.*[210]

270. Other witnesses put the number of victims at between 26 and 54, but all agreed that there were many women with young children in the group. The Commission has found that 14 children were killed in this massacre, aged between one and 17 years (The Caraubalau and Tahu Bein massacres are described in Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances). The following day in Tahu Bein (Viqueque) the military rounded up and shot all males, including adolescents, from the village of Bahalarauain. Nine of the reported victims were minors, one aged ten and the remaining aged 15-17.

271. During the 1980s, clandestine networks expanded rapidly. Children became involved in the networks' activities as *estafeta* or messengers. This placed children at increasing risk of capture and harm by the military. The earliest reported clandestine child fatalities occurred after the Resistance attacks in Marabia and Becora, Dili, on 10 June 1980. Following the attacks, the Indonesian authorities launched a wave of arrests and detentions. Filomeno Ximenes reported that among those who were arrested and disappeared or who were killed while in custody, were three prisoners aged 15-17 who disappeared from the Comarca prison. They were Sancho Sarmento (17 years) and two brothers, Cesmundo (15 years) and Edmundo (16 years), identified as members of the clandestine movement. According to Filomeno, they had been arrested by Kodim 1627 in the Old Market area of Dili.[211]

1989–1998

272. The clandestine network expanded further after 1988 and new groups emerged among high school and college students. The holding of public demonstrations from 1989 required the mobilisation of large numbers of people willing to face the risk of detention and violence. Children and youths were heavily involved. When the demonstrators encountered violence, as in the Santa Cruz Massacre of 12 November 1991, the number of under-age victims was high. From the 271 listed as killed at Santa Cruz, 42 were aged 17 years and under, including several aged ten.[212] There is an indication that some of these victims were specifically targeted during the violence. According to Belchior Francisco Bento Alves Pereira:

> *Not long after we arrived in Santa Cruz the Indonesian military started shooting at us so I hid near the wall of the cemetery. I saw policemen come in and look around the Santa Cruz cemetery. I could see the soldiers stabbing people blindly. Then I heard Alau calling out my name, Abessy, and saying that he wanted to find all of the children from Santo Paulus*

school. He called me out and forced me to sit on a grave and then a policeman beat me black and blue.[*]

273. Both girls and boys were involved in public demonstrations and suffered injury. In June 1998, a series of demonstrations, counter-demonstrations and clashes occurred at the time of the visit of a EU delegation. Two young men were killed in separate incidents. Two girls, Dirce Elisabet do Rosário (15) and Maria Imaculada do Rosário (17), were among five seriously wounded when security forces opened fire on demonstrators outside Bishop Basilio Nascimento's residence in Baucau (where the EU delegation was going to meet the bishop) after an Indonesian intelligence vehicle was mobbed.[213]

1999

274. The violence committed by ABRI/TNI and militias in 1999 intensified patterns established earlier: children were killed in massacres, as members of communities that were suspected of being pro-independence, or as pro-independence supporters in their own right. Killings also occurred during incidents of collective punishment meted out for helping Falintil or for attacks on the ABRI/TNI.

275. Many children were killed in the violence that occurred in 1999, both before and after the referendum. Raimundo Sarmento, a Resistance leader from Laclubar (Manatuto), described the retaliation following the killing of a TNI soldier by the Resistance. He told how the military (Marines, Rajawali and Battalion 741), together with the militia, went to every household that they suspected might be hiding Raimundo and eventually caught and killed Marcelino, a Resistance figure, and his younger brother, who was in junior high school:

> *[O]n 24 April 1999 at 10.00am, they had already gone in* [to the place where Raimundo was]…*they passed a river and the hiding place. They then came in from below and arrested my leader, Marcelino, and a boy called Mateus. Marcelino and Mateus were buried. They were killed, their heads were cut off and exchanged before they were buried in a sitting position with their bodies around each other.*[214]

276. Other testimony received by the Commission cites the presence of top militia leaders at the site of killings.[215]

277. Many youths escaped to the mountains in the run-up to the Popular Consultation or during the violence that followed. As food became scarce there was a return, after two decades, to the pattern of killing those who had fled to the mountains and then returned to look for food. Jorge Ximenes told the Commission about the killing of a 17-year-old male:

* Belchior Francisco Bento Alves Pereira, testimony to the CAVR National Public Hearing on Children and Conflict, Dili, 29-30 March 2004. The section on Children in the clandestine network (par. 123 ff, above), notes that in the aftermath of Santa Cruz under-age demonstrators were sought at their schools and homes and detained.

On 21 September 1999, I, with my friends Felix da Costa, Horacio Pinheiro, Olivio, Joanico, Elias, Alfredo Araújo and Calisto Rodrigues [17 years] with 20 other friends, went looking for food in Ira Ara, Parlamento Village, Moro [Lautém], *because the food was limited in the place we had fled to. We never expected that a group of Team Alfa militia under Commander C109 would shoot us. We ran away and my friend Alfredo Araújo was shot dead with Calisto Rodrigues. Only after ten days could we collect their bodies and lay them to rest.*[216]

278. In some of the most notorious killings that took place in 1999, adult males were the targets and were separated from the women and children before the killings took place. This is what happened when, on 5 September, militia forced out people who had taken refuge in the Dili Diocese compound.[217] Women and children were also separated from the men at Passabe (Oecussi) where at least 47 young men were killed by the Sakunar militia on 10 September.[218]

279. However, during the Suai Church Massacre on the 6 September this was not the case and children were also killed. When 27 bodies were exhumed from three mass graves containing victims of the Suai (Covalima) Massacre in November 1999, the remains of a child of about five and a teenage woman were found.[219] In another well-known case, the killings were perpetrated by the Team Alfa militia in Lospalos (Lautém). On 25 September 1999, Team Alfa attacked a car, killing two nuns, three brothers, a lay-woman, an Indonesian journalist and their driver. Two boys pushing a cart along the road just prior to the attack were chased. Izino Freitas Amaral did not escape. He was tied to a tree where he witnessed the executions of those in the car and was then killed.[220]

280. In one of the reported cases of child killing in 1999, the victim was specifically targeted as a proxy for an adult parent. In the mass execution at the Maliana Police Station (Bobonaro) on 8 September 1999:

> Among the first victims was a 13-year-old boy, José Barros Soares, who was hacked to death by militiamen while his younger sister looked on. But the violence was not as random as that scene suggested. The attackers were clearly singling out well-known pro-independence figures for execution. The victims included a number of CNRT leaders, a Sub-district Administrator, two village heads and several civil servants with pro-independence sympathies.
>
> The militias also targeted the families of such figures. According to one report, for example, the militias who killed the young boy, José Barros Soares, told his sister that they were killing him because they could not find his father, a known independence figure.[221]

281. According to other information received by the Commission, José Barros Soares' father, a CNRT official from Manapa (Cailaco, Bobonaro), was being hunted by members of the Dadurus Merah Putih militia and the TNI, but he had in fact fled to Dili. They killed his son instead.[222]

282. In another case in Bobonaro, two boys were killed when they refused to leave their father who had just been shot dead by TNI members from the Maliana Koramil. On 10 September 1999, the TNI came to the house of Duarte Gouveia Lopes, a CNRT official in Holsa, Maliana (Bobonaro) and shot him dead in front of his two sons, Viriato aged 17 and Vitorino aged 12. The soldiers told the two boys to leave but when they refused, saying that they preferred to be killed too rather than live without their father, they were also murdered.[223]

283. Some children were killed with their family members who were known pro-independence supporters. Maria Santina Tilman Alves told how her younger sister, Georgina Tilman, was killed with five of her children, the youngest only two years old. Georgina's family was known to support independence. Their house in Ermera was burnt by the militia after the referendum. Georgina fled with her husband and children to Dili. She and five of her children were taken to the Regional Police (Polda) headquarters where many others were assembled awaiting deportation, and then sent to Atambua (Belu, West Timor). Her husband had lost contact with Georgina and the five children. He later found out that after reaching Atambua, TNI and militia members (C47 and C48, two members of Ermera Kodim 1637 as well as C49 and C50) drove Georgina and her children back into Timor-Leste to Manduki (Atabae, Bobonaro). He later learned that they had been shot in Manduki and their bodies left unburied. The parents-in-law of the driver of the car then went to bury the bodies, leaving the children's clothes as a marker. It was they who told Georgina's husband what had happened to her and the children.[224]

Killings of children by Fretilin and Falintil

284. Fretilin and Falintil account for about one-quarter of the killings of children reported in statements given to the Commission, 38 victims in 20 incidents. As with the Indonesian military killings, most children were killed as part of larger groups of adults. In addition to these statements, there are other credible accounts of teenage party activists killed by both Fretilin and UDT.

The period of party conflict

285. An unknown number of children were killed by members of the political parties before and after the invasion, due to their family connections or their own political affiliation. Angelo Araújo Fernandes, a UDT supporter, told the Commission about the killing of his extended family in 1976 by Fretilin members from his own village. After being held by Fretilin for several days he witnessed the killing of his brother but managed to escape. According to Fernandes:

> *They came and shot dead all of my relatives, 37 people, in Lahiria Village, (Lore I, Lautém) including children and pregnant women. I only heard the sounds of the guns from the direction of Lahiria, where they were.*[*]

* For a more detailed account, see text box in Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances, entitled Testimony of Angelo Araújo Fernandes: Killings by Fretilin in Lautém.

286. Filomeno Pedro Cabral Fernandes was a UDT activist from a family that included Fretilin and Apodeti supporters. Together with his father, an Apodeti leader, he was detained in Dili and taken to Aileu after the invasion:

> *I didn't know exactly why I was a political prisoner, or whether I was made a prisoner just because of my parents. On the night of 26 December 1976, we heard the sound of guns. After we had confirmed that this is what it was, we found out that my father along with 75 other prisoners had been killed at Mantane* [Aileu Town]. *Among those massacred, the youngest was Antonio Pinto and Rui Maia. They were both just 15 years old. Jeronimo Maia and I were 16 years old. The four of us were the youngest.*[225]

287. There is also evidence of the killing of under-age Fretilin supporters by UDT supporters during this period. Ijidio Maria de Jesus spoke at the CAVR National Public Hearing on Massacres about the killing of his father José Maria and ten others by UDT members. Six of those killed on 27 August 1975, at Wedauberek (Alas, Manufahi) were members of the Fretilin-affiliated student organisation Unetim, including the younger brother of Nicolau Lobato, Domingos. They were detained on 11 August and held in Alas and Same (Manufahi) and Natarbora (Manatuto), before returning to Besusu (Alas, Manufahi) on 27 August, where Ijidio saw his father pass by in the back of a truck.

288. At 2:00pm Ijidio and his mother, fleeing to the forest, heard the sound of shots from Meti-Oan. Four days later he heard the news that residents of Besusu had found 11 corpses near Meti-Oan, including his father's, and he went to see. The hand of one of the students, Domingos Ribeiro, had been severed from his body. Apart from Domingos Ribeiro the students included the Unetim chairman, Domingos Lobato, and four other Unetim members, Chiquito Kaduak, Francisco, Alexandre da Costa and Domingos Ribeiro's 17-year-old brother, Tonito Ribeiro.*

289. In another case, Vicenti Rosário told how UDT members from Baltalde-Merkoluli (Turiscai, Manufahi), C109 and C110, killed his family because they were Fretilin members. Among the six victims, three were still children: Dau Mali (seven years), Malolo (six years) and Luru Leki (five years).[226]

290. Some statements suggest that during this period there were children killed who were as much victims of long-standing personal and family disputes as of political differences. According to the statement of Manuel da Silva concerning an incident in Aitutu (Maubisse, Ainaro):

> *In 1975, I was UDT but I didn't do anything against Fretilin. Members* [of Fretilin] *came and took Koli-bere I* [aged 16] *and Koli-bere II* [aged 16]… [The perpetrators] *were C51, C110 and C111. Those three men took the two prisoners and handed them over to the Fretilin delegate, C112, who ordered C113 to kill both of the Koli-beres. They hadn't done anything*

* CAVR, Ijidio Maria de Jesus, Case Summary Collection, 2003. While only the age of Tonito is given, Unetim was an organisation of secondary school students and several of the others were likely to have been under-age.

wrong, but they were killed out of revenge because they had joined UDT and because of traditional family law reasons.[227]

1975–1979

291. Killings of children by Fretilin and Falintil after the invasion fall into three main categories: killing connected to inter- or intra-party conflicts, killing of people suspected of helping the Indonesians (including deaths in custody and people killed while looking for food) and military attacks.

292. Statements indicate that the repercussions of the party conflict were being felt well after the invasion and that children continued to be its victims. Lourenço Ximenes told how his family, who were Apodeti members, was captured in Baucau in October 1976:

> *My family and I fled to Nai Naha* [Quelicai, Baucau] *because we were afraid we would be attacked by the ABRI. In Nai Naha we were arrested by Falintil forces because we were suspected of having contact with ABRI. Our hands were tied to a big piece of wood for three days while we were interrogated. We were then released and forced to work lifting and carrying earth to make foundations for a house. Then on 2 November 1976, the family was forced to dig a hole around five metres* [deep]. *After they had finished digging Lourenço Ximenes hid and saw Falintil kill three people: his child Filomeno* [Ximenes, aged 12], *his nephew Quii Quele* [aged 20] *and his younger brother Laca Labi* [age unknown]. *After they had been killed, the three bodies were put into the hole that had just been dug.*[228]

293. The Commission has also received statements about several incidents in which Fretilin/Falintil killed persons suspected of helping the Indonesians. In some cases the deaths occurred in custody, in others after groups out looking for food encountered Falintil soldiers. Well after the invasion, Fretilin detained suspected collaborators and political prisoners at Fretilin rehabilitation centres (Renal). Deaths in detention resulted from execution and torture as well as from deprivation and exposure (see case of Bastião da Silva described above in the section on Detentions by Fretilin, footnote to par. 244).

294. In April 1976, Mariano Lopes was ten years old when he and his family fled from Koliate-Leo Telo (Hatolia, Ermera) to Letefoho (Ermera) ahead of the invading Indonesian army. The next month the family went to their gardens to harvest sweet potatoes:

> *In May 1976, we were afraid because we were hungry. Myself, my mother, Bimori, my older brother, Lakamau, my Aunt Sara, my brother-in-law, Afonso, with my sibling, Joaquina, left Letefoho for our gardens to dig up some potatoes. While we were in the garden a Fretilin member, C52, arrested my mother and female family members and myself and brought us to Hauhei…When we reached the gorge at Manufunu they started shooting blindly. The bullets hit Joaquina and she fell into the gorge. I lay face down on the ground but a bullet hit my right cheek and tore it.*

*My mother Bimori and older brother Lakamau were killed immediately where they stood. They thought that we were all dead and they just got up and left. My Aunt Sara and brother-in-law Afonso had been able to run away as soon as they heard the sound of the weapons. When they saw that everything was quiet again they came back and carried me and Joaquina back to Letefoho. We stayed in Letefoho for two years before we went back home again.**

295. There were other reasons Fretilin or Falintil members killed children. People, including children, were sometimes killed as examples to the community. Bernardo Rodrigues reported to the Commission that his younger brother, Abrão (17 years), was killed with another member of the family in front of the community in March 1978 in Lequidoe (Aileu). The two youths had attempted to steal corn belonging to a man named C53. C53 caught them and held them for a night, then handed them to the Fretilin forces. They were shot publicly on the orders of Assistant C54.[229]

296. In another case, Armindo Barreto told how a Falintil member attempted to kill his one-month-old child, Domingas, in 1978 in Zumalai (Suai, Covalima) because she was crying and could alert the military to their location:

My child was cold and hungry and started to cry. Her mother carried her. She was only just one month old and her name was Domingas. Falintil member C55 soon called out to us but we just kept on walking. He called out again and we did the same three times and [then] I said to my wife: "Rather than you being killed by Falintil, it's better that we let him kill the child." We walked another 100 metres and then that Falintil member came up to us and took the baby from her mother's arms. He strangled Domingas and then threw her body into the river at Bemean. We were afraid so we just kept on walking. We had already walked far away but I could hear that the baby had not died, it was still crying. I ordered a Falintil member, Olivio dos Santos, to take some sarong material and wrap up the child. We kept on walking. I don't know if my baby lived or died. We couldn't know any more because we were already far away, nearly at Mount Kolimau and were heading on towards Fatubessi (Hatolia, Ermera).[230]

Falintil attacks

297. There is one account of a child killed in a Falintil operation. Paterno Soares reported to the Commission that his younger sister, Ines Soares, was 14 years old in 1982 when she was killed during a Falintil attack on the village of Carlilo (Manatuto, Manatuto). The soldiers burned down houses in the village, including Paterno's house. Ines, together with her parents, was thrown alive into the flames.[231] While Falintil did occasionally kill civilians manning local ABRI security posts, the Commission has little evidence that

* HRVD Statement 06221; there are five cases from 1976-78 involving 13 victims from Aileu, Ermera and Manufahi in which the victims were part of a group looking for food, see HRVD Statements 02056; 04095; 04604; 04992.

children were victims of such attacks.

Sexual violations

298. The incidence of sexual violations during the Commission's mandate, its causes and consequences, are considered in detail in Vol. III, Part 7.7: Sexual Violence of this Report. However, cases in which victims of sexual violence were children are considered separately in this section of the Report in order to highlight the particular experience of children. Sexual abuse is perhaps the cruellest and most emotionally and psychologically damaging of violations that a child can be made to endure, a betrayal of innocence.

299. In the section on sexual violence the Commission adopted a working definition of sexual violence as all forms of "violence, physical or psychological, carried out through sexual means or by targeting sexuality."[232] This definition includes the crime of rape, which is the physical invasion of a sexual nature, committed on a person under circumstances that are coercive. It is the act of sex that occurs without the consent of the victim.[*] Sexual enslavement is also included in this definition.[†]

300. The Commission's research has found that women were almost exclusively the victims of reported sexual violations related to the political conflicts, particularly rape and sexual slavery. Like many other communities, sexual violence against women and girls in Timor-Leste can be closely linked to their position in society. This includes rigid sexual stereotyping of men and women, and the general lower social status of females that encourages the attitude that women are objects that can be possessed and used by men at will.

301. In relation to children, the effect of such attitudes is compounded by the child's greater physical and emotional vulnerability. The context of violent conflict without functioning rule of law meant that individuals in positions of power over children could act opportunistically in an environment of impunity. Thus again children were pushed to the frontlines of the conflicts.

302. Of all documented cases of sexual violations, 14.9% (127/853) were committed against minors. Of these sexual violations against minors, 98.4% (125/127) were committed against girls. However, it should be noted that in 33.9% (289/853) of sexual violations reported to the Commission, the age of the victim was not provided.

303. As explained in the previous part on sexual violence, there is a strong stigma

* Rape is the sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) of the mouth of the victim by the penis of the perpetrator; by coercion or force or threat of force against the victim or a third person. This is the definition of the act of rape from the Furundzija case of the International Criminal Tribunal for the Former Yugoslavia (ICTY).

† Sexual slavery arises where women and girls are deprived of liberty, forced into "marriage", domestic servitude or other forced labour that ultimately involves non-consensual sexual activity, including rape by their captors. The entire situation has to be examined to ascertain if powers of ownership are being exercised over another human being.

attached to victims of sexual violations, which means that too often the conduct of such acts is hidden behind a wall of fear and silence. In a culture where virginity is highly valued, this is particularly the case for child victims. It is therefore highly likely that the incidence of sexual violation of children has been significantly under-reported.

304. Finally, it is important to note that sexuality is bound up with cultural and social norms. There is no international age of consent but under the Convention on the Rights of the Child (CRC) a child is generally considered a person younger than 18 years. This is the age of majority that is used in this Report.

305. Since 1990, Indonesia has been a party to the CRC, but its ratification is subject to its own law. The Child Welfare Law No. 4/1979 came into effect on 23 July 1979 and defines the Indonesian child as anyone under 21 years and not yet married. The legal age for marriage is 16 years for females and 19 years for males. In Timor-Leste, a woman is considered to be an adult once she is married. However, the Commission believes that consent to sexual acts is negated by any form of captivity or duress, whether physical, psychological or circumstantial. The age of consent has not in fact had any bearing on the types of sexual violence the Commission has investigated.

Patterns of violations

306. Of the sexual violations against minors reported to the Commission, 41.0% (61/127) were rapes, 35.4% (45/127) involved sexual slavery and 16.5% (21/127) were other acts of sexual violence.

307. In 72.8% (91/125) of documented cases of sexual violations against girls, the victims were between the ages of 14 and 17 years. Of all sexual violations against children documented by the Commission, 68.5% (87/127) were concentrated in five districts namely Ermera, 19.7% (25/127), Ainaro, 15.0% (19/127), Manufahi, 13.4% (17/127), Bobonaro, 10.2% (13/127), and Aileu, 10.2% (13/127).

308. The bulk of reported sexual violations against children occurred during periods of the conflict in which other physical violations, killings and disappearances were also frequent. For instance, 70.9% (90/127) of sexual violations against minors occurred between 1975 and 1983, and 12.6% (16/127) in 1999. The temporal pattern of sexual violations against adults and children are positively correlated. When sexual violations against adults rose or fell so too did sexual violations against children.[*] This pattern suggests that sexual violations against children were driven by the same factors as those against adults.

309. The Indonesian military was named as the perpetrator in 72.4% (92/127) of reported sexual violations against children. Thirty four point seven percent (34.7%) (44/127) were attributed to Timorese associates of the Indonesian military and 2.4% (3/127) were attributed to Fretilin/Falintil forces. No cases of sexual violations of children were attributed to UDT.

* Based on annual figures of sexual violations, the correlation coefficient of offences against adults and children is 0.61.

1974–1979

310. The majority of sexual violence cases against children reported to the Commission occurred in the period of violence and chaos in the second half of the 1970s. Rape of minors reflected similar patterns to the rape of adult women. Girls were raped after they and their families surrendered; they were raped in military headquarters, at home, while in detention or at the time of their release.

311. The first notable pattern of this period is the number of sexual violations that occurred in camps and villages where members of the population who had recently surrendered or been captured were resettled. Following surrender or capture, children were placed under the direct control of guards and other military personnel.* Eufrasia de Jesus Soares told the Commission that she was captured with her family by Infantry Battalion 721 on 13 October 1979 and placed in a camp in Railaco (Ermera). She described the treatment of girls in the camp:

> *[T]hey would choose a girl who they thought was beautiful, tell her to bathe and then take her away for a week or two, finally bringing her back to her family.*[233]

312. There are also cases reported of girls forced into sexual slavery in the resettlement camps. CM reported that in 1978 when she was 14, she was captured with her family and placed in a camp in Soro (Ainaro). After five months, a Babinsa named C56 threatened to shoot the girl, her father and her older brother if she did not agree to become his "wife". She had one child with him before he left Timor-Leste and she continued her clandestine activities.[234]

313. A second pattern in this period was sexual violence committed against young girls to punish their family members who were believed to be involved in Fretilin/Falintil: targeting by proxy.† For example, the Commission heard several accounts from former TBOs about sexual violations committed by troops in their units against women and children as a form of psychological torture of prisoners. Alfredo Reinado Alves, a TBO from 1978-1982, gave testimony to the Commission as follows:

> *I saw how the prisoners were tortured, their daughters and wives raped in front of them...I witnessed how they treated women aged 15 and above…I*

* Vol. III, Part 7.7: Sexual Violations documented similar cases in the camps: "When we arrived in Dotik (Alas, Manufahi), there were no houses there…[ABRI] told the community to build their own houses. After staying there one month, we were still under their control. At nights they would come up with a strategy, they would pretend to call on the girl they like. The same thing happened to me. One night they called me, for what purpose I didn't know. They brought me to a place with tall grasses around. They started threatening me, 'If you don't give in, then you'll die right here. You did it with the Falintils, but why won't you do it with us?' Being threatened by them, I just did what they asked", HRVD Statement 07241; see also CAVR Interview with EM, Mau Chiga, 31 May 2003 for another case of internment in the Dotik camp; see also Vol. III, Part 7.7: Sexual Violations, section E Case Studies: Rape and sexual slavery about the internment in Dotik (Alas, Manufahi).

† As explained in the part on sexual violations, proxy violence is "violence committed because the main target is not there...with the purpose of destroying/conquering the enemy", Galuh Wandita, *"Sisa dari mati": Violence Towards Women and Transitional Justice*, Centre of Human Rights Studies, Surabaya University, Surabaya, 2000.

saw how they were treated. From then on I understood the meaning of violation… Around the afternoon they took the women as they pleased. There are things I couldn't reveal because it happened to people with whom I'm close.[235]

314. The Commission's research with women in Lalerek Mutin (Viqueque, Viqueque) discovered a number of cases of sexual slavery of children in this period. In 1978, DM was 15 years old when she and her mother surrendered and lived in Beobe (Viqueque). Her brother and father remained in the forest and DM became suspected of contacting them. She was interrogated in the Kodim for ten days. After her release, a soldier named C57 began to come to her house. DM tried to avoid him by sleeping at her neighbour's house but she was then accused of going to find her family in the forest. When she hid inside a pile of maize in the attic of a traditional house, C57 found her:

Then he climbed up into my hiding place. I was scared so I ran down but I fell and couldn't run because I was too badly hurt. He came down and picked me up and carried me into the room. From then on we lived as husband and wife and I gave him a child. He promised me that he would come back after three years but I never saw him again.[236]

315. FM, also of Beobe, was 14 years old when she was suspected of involvement in a minor incident and subjected to a long period of sexual slavery. In 1978, FM was arrested on suspicion of blocking roads and obstructing ABRI patrol vehicles. She was taken to the Beobe village office and interrogated by the Village Guidance Officer C58, Deputy Village Guidance Officer C59 and a member of Infantry Battalion 330 named C60. During the interrogation C60 started undressing FM. She cried because she was having her period but was threatened; "If you don't do what we tell you, we'll cut you up right now."[237] All three men then raped her.

316. FM was held at the village office for three days and raped repeatedly by the three men. After her release, Kodim members took her from her home to the Viqueque Kodim where she was locked in a room for three months and raped repeatedly by the Kodim Commander C61, the radio operator and the driver. A month after her release, FM was taken by the Koramil Commander and kept as his "wife" for 18 months and forced to provide sexual services on call. She eventually bore him a child.

317. As the above case demonstrates, once violated, girls became vulnerable to long-term exploitation, leading to an extended period of sexual slavery or other forms of repeated sexual violence.* The statement of GM, identified as a member of Falintil, tells of her arrest in 1976 when she was 16 years old in Hato Builico (Ainaro) by the Mulo village chief and C63, a Koramil soldier:

The company commander, Hansip C64, and Koramil [soldier] *C63 interrogated me about Commander Hauta-Lafera. After the interrogation…*

* See HRVD Statement 08736 about a 17-year-old girl investigated on 28 March 1979 by ABRI Kasi 1, C69, in Lospalos because she had family in the forest. She was then forced to be a "mistress" for two years.

C65 took off my petticoat and underpants and burnt them, leaving me naked. Then C65 raped me first - he threw me to the floor and spread my legs apart. I screamed and cried but they kept on violating me.

Then, that same year, Hansip C66 sexually violated me. He forced me to become his "wife" under threat of his Mauser [rifle]…he stripped me naked and then called his Hansip friends to come and look at me and they all just laughed…then they took me to the Maubisse Koramil. He came and violated me until at last I gave birth to a child.[238]

318. A 14-year-old Fretilin member reported that she was detained with her cousin in Letefoho, Ermera in 1977. They were taken to a room, threatened with death and raped by soldiers from Letefoho Sub-district military command. After four days she was taken to the Ermera District military command for one year. During that time she was raped repeatedly, prevented from meeting her family and forced to "marry" a First Lieutenant. She had two children over the next two years. She knew of two other women who suffered the same fate.[239]

319. Sometimes officials cooperated with the military in subjecting girls to sexual slavery for themselves or the military. In 1979, in Betano (Same, Manufahi), the head of the village C67 wished to marry three women active in the Popular Women's Organisation of Timor (Organização Popular da Mulher Timor, OPMT) that had recently surrendered. They included HM, a 16-year-old.* HM states that because he was rejected, he gave their names to the Kodim. They were arrested by the District Military Chief of Staff (Kasdim), C68, and interrogated, and C67 then forced them to be his "mistresses".[240]

1980-1989

320. Besides overt force and threats of violence highlighted by the cases above, there are also cases of girls involved in sexual relations with individuals in positions of power. Although some cases appear to have the consent of the child, legally their consent is not regarded as valid. Therefore sexual relations with a minor, with or without their apparent consent, is an illegal act.† Mario Carrascalão, former Governor of Timor-Leste, told the Commission of the difficulties of bringing young male teachers from Indonesia without sufficiently overseeing their conduct:

When, in 1983, the system of compulsory schooling in Timor-Leste began, not only children aged six started attending school, but also youth aged up to 16-17 years old attended primary school. [From] a small number of East Timorese primary schools, teachers were appointed to select a large number of Indonesian teachers. Only male, unmarried (or if they were married their wives stayed in Indonesia) teachers were sent to Timor-Leste. The East Timorese that were recruited to teach at primary schools were also, mainly, male, young and had just finished their education…The

* Ages of other victims not stated.

† KUHP (Indonesian penal code Article 287. The Indonesian penal code implies that the age of consent is 15 years.

outcome of this situation reached the Government in the form of stories about the involvement of "Bapak" [Indonesian] or East Timorese teachers with their female students. The Districts of Covalima, Maliana, Liquiçá and Baucau were ones that registered more cases. In Baucau, a teacher from Indonesia raped 22 of his female students. The case was taken to court and the rapist was sentenced to only two-and-a-half years in jail.[241]

Prosecution of rape of a minor, Dili Court, 1982

In 1982, a Hansip by the name of C111, aged 17, was convicted by the District Court of Dili of the rape of a 12-year-old girl IM. In his Record of Interrogation (Berita Acara Pemeriksaan, BAP)[*], C111's recollection of the event was as follows:

> *On 22 June 1982, I was on duty as Hansip at the Mercado Dili (Dili Market) with the responsibility to check the papers of all the people who came to the market and stayed overnight. By chance I examined the papers of a [girl] IM who had just come down from Baucau. When I asked her for her travel documents, she said that her 'surat jalan' was with her brother who was staying in Becora. Because of this, I detained IM at the post where I was on duty. At 4.00am I asked her again about her travel documents, and she gave the same answer. At the time, I had the bad intention to have sexual intercourse with her because everyone else was asleep. I brought IM to the police post to make her scared, so she would have sexual intercourse with me. When we came to the back of the market I forced IM to sit on the grass. She refused and I hit her twice. She was scared and lay down on the grass.*

C111 proceeded to describe the rape and how he then released her to return home. However, IM immediately reported the incident to the Hansip Commander. The following day, C111 was arrested by another Hansip and taken to the police. C111 immediately confessed to the crime and was detained by the police. C111 was tried and convicted of rape in November 1982 and sentenced to 1 year and 6 months imprisonment. The conviction was made on the basis of his confession, together with written statements from the victim, two witnesses and the doctor who examined the victim and confirmed that her hymen had been torn. Neither the victim nor the witnesses attended the hearing. The judgment noted that the girl's hymen had been torn but made no

* Berkas Pengadilan No: 17/PID.S.B/1982/PN.DIL, Hakim: Doris A.A. Taulo, SH, Panitera: Petrus Lamapaha, Penuntut: M. Darwin, Putusan: 19 November 1982. CAVR has not undertaken research into all the records in the Dili District Court and cannot say if this case is exceptional or not. However it is the Commission's impression that cases of sexual violence were often dealt with by the court.

references to the fact that the victim was a minor. The court stated that C111's abuse of his position of authority pointed against mitigation of his sentence.

321. JM reported to the Commission that in 1982, in Mau Chiga (Hato Builico, Ainaro) when she was 14 years old, a soldier from Infantry Battalion 744 forcibly took her from her home to an empty field and raped her. JM states that she knows of five other women who suffered the same fate. The rapes took place every night for a week.[242]

322. In another case, KM gave a statement revealing she was raped in 1982, when she was a ten-year-old second grade student in Ossowalu (Vemasse, Baucau). One day, two members of Infantry Battalion 328 came to her home. One of them was a soldier called C70. KM recalled: "He held my hand and then said, 'will you do it with me?' I replied, "I am too young". But he took hold of KM, undressed her and raped her. KM's genitals were bleeding from the violent penetration. The following day KM's parents returned from their garden and were shocked to hear what had happened. For three days ABRI members of Infantry Battalion 328 came to their house accusing them of hiding Fretilin members. KM was raped repeatedly until eventually she became pregnant.[243]

323. The case of LM also highlights the vulnerability of school children, as well as the involvement of government officials in allowing the military to commit violations against children. LM told the Commission that in September 1983 when she was 13, members of the Viqueque Kodim 1630 came into her classroom and took away some of her female friends with no explanation. When LM came home after delivering food to her aunt, who was detained in Viqueque, she ran into the chief of the village of Waimori, C71. The Village Chief told her to come to his house in Beobe the next day and also to bring along her classmate NM:

> *Right away that night I had to serve the Kodim Commander C72, NM served the Koramil Commander C73, and OM served Kraras* [Village Guidance Officer] [Bibileo, Viqueque], *who was C74. Every night I was picked up and brought to the Kodim to serve them and then in the morning I left for home but OM and NM never came home from the Kodim. This went on for three months until both OM and NM got pregnant, and they both had an abortion.*
>
> *After three months the Koramil Commander was inaugurated as the District Administrator of Viqueque and brought his wife from Java to Viqueque. From then on I never served the Koramil Commander again. Luckily I didn't become pregnant…at nights we would be picked up and brought to the Kodim, some school friends saw us, and I was so ashamed. I finally ended up leaving school.*[244]

324. The pattern of clandestine members being targeted by the Indonesian military in sexual violations cases continued in the 1980s. No distinction seemed to be made between female clandestine members that were adults and those who were still children.

One source told the Commission that a 12-year-old girl was held captive for three months in 1980 at the Special Forces headquarters in Farol, Dili. She was subjected to sexual slavery by special force members, who took turns with her. This occurred because the victim's house was known to be a clandestine information point.[245]

325. PM was 17 years old in 1980, when ABRI took her and her husband from their home in Macadiqui village (Uatolari, Viqueque) to the Uatolari Koramil. PM had been involved in clandestine activities such as providing food to Falintil. At the Koramil, she was stripped naked and her clothes urinated on. Then three Hansips raped her, C75, C76 and C77, in front of her husband. Although her detention period is unclear, PM says that the Hansips raped her each night.[246] QM, another 17-year-old, from Dare, Mau Chiga (Hato Builico, Ainaro) had helped an injured Falintil soldier in August 1982. As a result she was taken by soldiers at the Dare Koramil and handed over to an ABRI unit operating on Mount Kablaki. They raped her every day until she escaped in October of that year.[247]

326. RM reported that she was 12 years old when she was captured in 1980, together with her father, RM1 in Suhurama, Dili, by two members of special forces. They were taken to Mandarin, a detention centre in Dili where the special forces soldiers, assisted by an interpreter called C78, interrogated them. During interrogation RM was burnt with cigarettes on her face and hands, and they lit her hair with a gas lighter till they scorched it. RM was held in a toilet. She was brought back to the sitting room where she witnessed her father and her uncle, RM2, being stripped, electrocuted and beaten with an iron bar. She also saw several girls being raped by members of Special Forces. After three weeks in Mandarin, RM and her father were moved to Balide Prison. When she was finally released, RM was raped by a member of Special Forces in Pantai Kelapa, Dili. She was released on condition that she reported regularly to the authorities for one year.[248]

327. In another incident the Commission heard that 19 clandestine members from around Viqueque were picked up by Kopassus in May 1986 and taken to the Kopassus headquarters in Baucau where they were interrogated and tortured about their activities. One of the group, Caetano Alves, described what he saw happen to four young women clandestine members: SM (14 years), TM (16 years), UM (ten years) and VM (16 years):

> *I stood outside and looked through the window and saw that my friends were being treated in the same way as I had just experienced. No exception was made for my female friends who were stripped naked and then electrocuted on their breasts and genitals. In fact some girls were burned with cigarette butts on their body and on their genitals. As well as this mistreatment the girls were sexually harassed, such as through dirty language or being invited to sleep with them. Every day for five days, we were interrogated and treated in this way.*[249]

328. The early 1980s saw strong military crackdowns on areas where Falintil uprisings had been staged. Sexual violence, including towards children, was part of the crackdown

strategy. WM was born in 1966 and was about nine years old when she fled to Mount Kablaki with her family. Although her family later surrendered in Ainaro, they continued to assist Falintil soldiers. In 1982, following the *levantamento* in Dare (Hato Builico, Ainaro), WM was captured and tortured. She escaped death only because someone suggested using her as a kitchen maid and sex slave. WM was 17 years old at the time:

> *[The soldiers] said "the Koramil Deputy Commander is an evil man, it would be better to take and kill her in Maumeta-Kio in the middle of Kali, than to let her live." But some disagreed and preferred that we stay in the Koramil and work in their kitchen. And then, every night we would be fetched…they said at the request of the Kodim Commander...Aware of our status as women prisoners, we just submitted to everything in despair. This went on routinely, then it was every two or three days we were fetched late at night.*[250]

329. Like many other victims of sexual violence, WM became pregnant to her captors. She had a child to a member of ABRI named C79.

330. After the Mau Chiga (Ainaro) uprising, several young women from the area were arrested and then forced to "marry" a soldier. XM, a 15-year-old, was imprisoned in the Ainaro Kodim where she was repeatedly raped by intelligence agents on duty there: Kasi I C80, Sergeant-Major (Serka) C81, and Sergeant (Sersan) C82. XM was then moved to the Dare Koramil and was then forced to live in Seargeant C83's house until he returned home in 1999.

1990-1998

331. The number of incidents of sexual violence against minors declined in this period, perhaps as community life became more normalised and the opportunities for random acts of rape or molestation diminished. From the statements and research of the Commission, only one case from this period related to a child, although again it should be noted that 33.9% (289/853) of cases were missing data on the victim's age.

332. The incident reported to the Commission indicates that rape was still used to punish young female members of clandestine networks. YM was 15 in 1993 and living in Malabae (Atsabe, Ermera). She reported that she was caught returning with two other women from a meeting with Falintil and was later detained and raped at Polsek Atsabe by a police officer named C84 (currently serving in the National Police Force of Timor-Leste, PNTL).[251]

1999

333. In 1999, cases of sexual violence against women reported to the Commission occurred in the chaos and violence following the ballot. Villages were burnt and children separated from their families during the forced displacement of the population to West Timor. This left children vulnerable to violence and abuse.

334. Perhaps the most infamous of such cases is the story of ZM who was taken with a member of the militia to West Timor when she was 15 years old and has not returned home since.

ZM
(As told by her aunt, ZM1, in November 1999)

ZM's father ran to the mountains after the ballot. On 5 September 1999, ZM and her younger brother, ZM2 [13 years old] had run to the church in Suai [Covalima] with me, their aunt, ZM1, to be together with Father Hilario. On 6 September 1999, at about 2.45pm the church was attacked by the Mahidi and Laksaur militias, along with TNI and government officials. The attackers shot, bombed, tortured and burned. ZM saw her brother, ZM2, killed in the attack.

We were forced to leave the church and were made to divide into two groups - one group staying at the junior high school, the other group at the Kodim. We were at the Kodim for one week, from 6-12 September. While we were there, in front of my very own eyes and also in front of District Administrator Herman, a Laksaur militia man named C86, took away ZM. He said, "You are a gift from the war to me." From this time ZM was taken from her family and brought with C86 wherever he went to do his acts of violence.

C86 brought ZM to the Laksaur headquarters in Raihenek refugee camp in Betun (Suai, Covalima) with his two other wives. ZM was guarded by Laksaur militia wherever she went, even to the bathroom. She was made to sleep in the middle with C86's wives. When I first met her, she only cried and did not say anything because we were being watched. She was once so sick she had to be put on the drip. I was allowed to see her once, guarded by Laksaur militia.

She is now two months pregnant (November 1999). She is still in the hands of the Laksaur, specifically C86. The family wants her return, but we fear for her life.[252]

At this point, ZM remains with C86 in West Timor, Indonesia.

335. Following the massacre in the Suai Church, the women and children and Suai were held captive in a junior high school building. AN was 17 years old at the time. She remembers each night the women being taken outside individually. She told of her turn:

> *On 11 September 1999…the Laksaur militia shone a torch into my face and then opened my sarong…They ordered me to wake up and threatened that, if I didn't…they would shoot everybody lying near me. I was forced to get up and then they dragged me outside and a militia member called C87 took me away. I was raped and then taken back to the building. All I could do then was cry.*[253]

336. Following this, the women were taken to another building. AN was raped again on 14 September; this time by a policeman who was also a member of the Indonesian Intelligence.

337. Several cases from Aileu District are also indicative of events at the time. In September 1999, BN was 14 years old when she was moved from her home in Liquidoe (Aileu) to Aileu town in preparation for flight to Atambua. She and her elder sister stayed in the local health centre building. BN was called to the house of the sub-district head and on the way was raped by militia member C88 from the Aileu Strengthen Integration (Aileu Hametin Integrasi, AHI) militia and then by a member of the Mobile Police Brigade (Brimob). She described:

> *But then, when we were half-way there, C88 forced me into an empty house near the Aileu football field. When we got there C88 threatened me with a knife to let myself be raped by him. Because I was afraid, I let him do what he wanted with me. The next night, I was taken again by three members of the mobile police brigade* [identities not known] *to an empty house near the Aileu community health centre where one of them raped me. The other two didn't join in but guarded the door with their weapons.*[254]

338. On 1 September 1999, CN, a 12-year-old girl, attended a traditional dance practice for the CNRT campaign in her village of Namleso (Lequidoe, Aileu). On 9 September, the AHI militia came and burnt the houses in her village. The next day they returned and started shooting and CN and her family ran away. When they reached the main road, a militia member C89 approached her, slapped her in the face, grabbed her breasts and buttocks and threatened to kill her with his gun.

339. Also in Aileu, on 4 September 1999, DN fled to Aileu town with her mother because they heard their village of Seloi Kraik was to be burnt down. DN was 17 years old at the time and stayed with her uncle in Aileu but after several days a member of the militia, C90, threatened her mother to give DN to him. He held DN for one week, raping her at night time. When she tried to escape she was threatened with death. On 14 September, C90 took DN with him to Dili and then she travelled with his family to Atambua. DN lived with C90's family in Atambua for two weeks until his wife became suspicious and DN admitted that she had been taken as a second wife. She was thrown out of the house and eventually made her way back home.[255]

340. EN has a similar story from Ainaro. She told how on 23 September 1999, when she was nine years old, the Mahidi militia came and burnt her village and forced the population to walk with them to Atambua. EN walked with her mother but her mother fell too far behind and was shot by C91, a member of the Mahidi and a relative of her father's.

341. When they reached Betun (West Timor), C91 took EN to live with him and his wife. She was kept in a room with no door for one week and raped each night by C91. She explained:

> *At night C91 would take the opportunity while his wife was sleeping to come into my room. I wanted to scream but C91 would put his hand over my mouth. Then he would force off my clothes and he would sleep on top of me. My body was not covered by a single thread. C91 kissed me and raped me three times, although not for long because he was afraid his wife would find out.*[256]

342. After one week EN was collected by her uncle, a member of the TNI.

The transfer of children to Indonesia

343. From the first years of the occupation until the arrival of peacekeepers in September 1999, several thousand East Timorese children were taken or moved to Indonesia. Although some of these children maintained contact with their families and were eventually able to return, others never came back to Timor-Leste and their fate or whereabouts are not known to their families.

344. In the early years after the invasion, most cases of children taken to Indonesia involved individual soldiers who took children opportunistically, usually without family or other consent. As time went by, the practice of transferring children became more officially regulated. However, in practice children continued to be abducted or else parental consent was obtained through overt or more subtle forms of coercion.

345. Government officials, and later government departments, were also involved in the movement of children. From the late 1980s religious institutions assumed an increasingly large role in the practice. They sent East Timorese children to institutions in Indonesia to live and to study, in some cases without the consent of their families, or without providing a mechanism for families to remain in contact with their children.

346. Following the referendum in 1999, a new wave of transfers took place, driven by the dislocation of tens of thousands of families and a rearguard attempt by pro-integrationists to continue the struggle for Timor-Leste's future by other means. Most were children removed from camps in West Timor, often with the permission of parents or guardians seeking a safer place for the children in their care. However, some parents who agreed to the temporary removal of their children have found it difficult to bring them home again or even to contact them.

347. Writing about the 1999 period, the United Nations High Commissioner for Refugees (UNHCR) noted that:

> The wider struggle over East Timorese independence was to an extent projected onto and played out through the attempts to control the children.[257]

348. This statement is equally true for the entire period of the occupation. The widespread practice of removing children displayed a mindset that by taking control of Timor-Leste territory, Indonesia also gained unfettered control over its children. This

was manifest throughout the New Order regime period in Indonesia. ABRI members and other individuals with power in Timor-Leste felt that they were entitled to take an East Timorese child home without their parents' permission.

349. There also arose the public display of East Timorese children at the Presidential Palace in Jakarta in 1977 (see the section below entitled Transfer by government officials and charitable organisations, par. 375-377). The practice, particularly as it became institutionalised during the course of the occupation, was often allied to the pursuit of wider political, religious or ideological objectives. The military, the government and religious bodies frequently acted in unison.

350. International standards govern how children, particularly children not in the care of a family, are to be treated by the state, both in situations of armed conflict and in peacetime. Under Geneva Convention IV, Indonesia as an Occupying Power had responsibilities towards Timor-Leste's children throughout the mandate period. Indonesia was required to:

- evacuate children from the field of conflict (Article 17);
- ensure that members of the same family were not separated (Article 49);
- ensure that children under 15 who were separated from their families or orphaned were not to left to fend for themselves (Article 24);
- ensure children were reunited with their parents or placed with family or friends (children should be placed in an institution only as a last resort);
- ensure all necessary steps were taken to identify children and register their parentage (Article 50) (the state cannot change a child's personal status); and
- ensure that education was provided, as far as possible, by persons of the same nationality, language and religion (Article 50).

351. By ratifying the the Convention on the Rights of the Child in September 1990 and as the effective state power in Timor-Leste, Indonesia accepted an obligation to give priority to the best interests of the child when making decisions in relation to children. This means that during the period of occupation Indonesia was required to:

- ensure that the child's views were taken into consideration where possible (Article 3(1);
- regulate adoption processes and ensure that adoption was undertaken by competent authorities according to the applicable law (Article 21);
- combat the illicit transfer of children abroad (Article 11);
- combat the abduction, sale or traffic of children (Article 35);
- ensure children were at all times free to choose their religion and other beliefs (Article 30);
- ensure that, where a child was separated from his/her family, the state provided care that took into account the child's cultural background (Article 20); and
- protect children from any kind of exploitation (Article 36).

352. Unlike the other sections in this part, the removal of children from Timor-Leste to Indonesia was not the subject of statistical research or analysis. Rather, the Commission's

findings are drawn from extensive anecdotal evidence collected through interviews conducted by the Commission and independent researchers, both in Timor-Leste and in Indonesia, as well as secondary sources. The Commission has not heard any reports of, but has also not made specific inquiry into, children being involuntarily removed to other countries besides Indonesia.

The number of children sent to Indonesia

353. Because the removal of children from Timor-Leste to Indonesia was almost totally unregulated over the period of occupation and was carried out through a variety of different channels, it is impossible to determine the number of children removed with any precision. However, estimates can be made on the basis of various pieces of information. The ICRC told the Commission it had received just over 4,000 reports of missing people over the period, most from the late 1970s and 1980s. Hundreds of these were minors at the time of their disappearance and include children taken by soldiers after serving as TBOs.[258] Mario Carrascalão also told the Commission that over the ten years between 1982 and 1992 that he was Governor of Timor-Leste, 20-30 children were reported missing to him each year.[259]

354. The highest figure suggested was from a retired officer, who was stationed in Timor-Leste for nearly a decade in the late 1970s and early 1980s, and who served on the staff of General Benny Moerdani. He stated that soldiers took thousands of children from Timor-Leste. His estimate does not include children transferred by religious or charitable institutions over this period.[260]

355. When the children who were removed in 1999 are included, the total estimated number of children taken to Indonesia clearly rises but the figures cited vary markedly. A study undertaken jointly by the International Refugee Council (IRC) and UNHCR with the Student Solidarity Council in late 2001, after many refugees had returned home, estimated that a total of 2,400 children had been sent to Indonesia during the years of the occupation. A UNHCR representative told a public hearing that between 1976 and 1999 as many as 4,534 children may have been removed from Timor-Leste.*

356. Based on these estimates, the Commission is confident that several thousand children were sent to Indonesia from Timor-Leste. However, it is important to recognise that the removals took place along a spectrum from unregulated transfers of young children without consent being sought, to coercion of children and parents, to informed consent.

357. As well as the overall figures, the number of unresolved cases is also difficult to determine as different agencies use different criteria in deciding whether to keep a case open. A workshop organised by UNHCR, held in Dili in May 2003,[261] identified 770

* UNHCR testimony to the CAVR National Public Hearing on Children and Conflict, 29-30 March 2004. The figures indicate the total number of cases registered with UNHCR. From 1999 to 31 December 2004, 2,365 children were reunited with parents or guardians and 2,062 cases were closed due to transfer of responsibility for the children. There are still 107 cases pending; CAVR Interview with Manuel Carceres UNHCR, Dili, 28 March, 2005.

outstanding cases from the entire period of the occupation.* According to UNHCR, as of 29 February 2004, there were still 221 children in Indonesia separated from parents in Timor-Leste, down from 600 in June 2003. At the closure of UNHCR's reunification programme on 31 December 2004, there were still 107 cases pending; 72 children remain in Indonesia (Java and Sulawesi) and 27 children whose locations are unknown.[262] However, the UNHCR's mandate is limited to 1999 separations, does not include cases where both parents and children are in Indonesia and considers any case closed once the child turns 18. The number of children removed who have not yet returned is therefore certainly much higher.

Patterns over the mandate period

1976-1979

358. The majority of cases of children removed from Timor-Leste to Indonesia occurred in the period between 1976 and 1979. This was a period of massive disruption to East Timorese family and community life arising from the Indonesian invasion and the ensuing military operations. The prevailing climate of chaos, coercion and impunity, and the high numbers of children orphaned or separated from family members, created the conditions for widespread removal to take place.

359. Two patterns emerge from the Commission's research into this period. The first is that of low to middle-ranking officers either taking children found alone in combat areas or taking children directly from their families. Most such cases reported to the Commission occurred without parental or other consent. The second pattern is of children sent to Indonesia by government officials or high-profile charities. These patterns raise different issues of consent and state responsibility, and are considered separately below.

Children taken by individual soldiers

360. The Commission has received first-hand reports from both parents and children, and from members of the military, of children being taken from Timor-Leste by individual soldiers. As cited above, a retired officer in the Indonesian military estimates that thousands of children were taken in this way. The majority of these cases involved lower-ranking soldiers bringing children home with them when they returned home. One man, who left voluntarily by military ship in 1976 at the age of 18, remembers seeing a number of children on board:

> *At that time there were 21 children on the boat. There were perhaps two who were in the same good situation as I was. There were others working for the company. There were also maybe some who had been abandoned…*

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* United Nations High Commissioner For Refugees, Evaluation And Policy Analysis Unit, *Evaluation of UNHCR's repatriation and reintegration programme in East Timor, 1999-2003*, prepared by Chris Dolan, Judith Large, Naoko Obi, UNHCR, Geneva, 24 February 2004, pp. 61; the breakdown was 508 male and 262 female children, with 29 aged 0-5, 262 aged 6-12, 228 aged 13-15 and 251 aged 16-18.

some didn't have parents so they had been brought along. Maybe some of [the soldiers] didn't have children.[263]

361. Children taken in this way were usually found in combat areas after their parents had been killed or they were separated from their families. The Commission heard evidence from the employees of two institutions where soldiers sometimes left these children pending their return home. According to one man who worked at the Wirahusada Hospital, the military hospital in Dili, in 1976 soldiers brought many small children from outside Dili to be cared for in the hospital. The children were usually very weak and underweight and many died. The same soldiers often took the survivors to Indonesia when their tours of duty ended. If they could, Timorese staff brought the children home with them from the hospital so that the soldiers would not take them.[264]

362. Soldiers also placed children in the care of the Seroja Orphanage in Dili.

The Seroja Orphanage

The Seroja Orphanage (Panti Asuhan Seroja) was opened by soldiers from Kodam (Regional Command) VIII Brawijaya on the site of an existing orphanage in Bairro Formosa, Dili, on 1 April 1976, shortly after the Indonesian invasion.

At the time of its opening there were 26 children at the orphanage, but the numbers quickly grew. Soldiers brought in children from combat areas.*

According to Guilherme dos Reis Fernandes, who worked at the Seroja Orphanage for many years and was its head from 1988 to 1990, the institution accepted not only orphans but also children who had lost one parent, had parents in the forest or whose parents could not afford to pay the fees at ordinary schools. He also remembers:

Many children were brought from the districts without explanation, and there were often parents who came looking for their children and took them back.

One of his former colleagues at the orphanage added that the children were often dropped off with little or no information about where they had been found or the circumstances that had led them to being brought there. Language barriers frequently compounded these problems. According to one resident:

Sometimes our names were changed to the name of the soldier that brought us to the Seroja (Orphanage).[265]

* CAVR Interview with Maria Margarida Babo, Dili, [undated], who worked at the Seroja from 10 days after its opening.

In addition to caring for children until soldiers were ready to take them to Indonesia, Seroja played a direct role in the transfer of groups of children from Timor-Leste. Guilherme dos Reis Fernandes was told that, in the two years when Seroja was in military hands (before he began working there) about 60 children were sent to Indonesia from the orphanage. Among them was the group known as "the President's Children", of whom Petrus Kanisius Alegria was one (see box following par. 377, below). Mario Carrascalão told the Commission that under his predecessor, Arnaldo dos Reis Araújo, the orphanage also organised the transfer of children to Bandung (West Java) and Semarang (Central Java).

In August 1978, Kodam Brawijaya handed the orphanage over to the provincial Social Services Department. Soldiers still came to visit the approximately 80 children on holidays or to celebrate unit anniversaries. One former resident recalls that after the arrival of a group of 15 children from Ataúro in about 1983, soldiers came regularly to check if the children had had any contact with their parents.[266]

After the handover to Social Services, one staff member remembers an oral directive that East Timorese children were not to be adopted by people from outside the territory, especially soldiers.

363. Other soldiers took children who had served them as TBOs. Alfredo Reinado Alves recalls his departure from Dili by ship:

> *I saw many other children on the boat though I don't know how many. We had seven children with our platoon. An Indonesian battalion had four companies and three platoons to a company. If we make a rough estimate that there were 3 to 4 children per platoon, then altogether there might have been about 30 to 40 children. But there may have been platoons where the commander followed instructions and did not allow his men to take children home with them.*[267]

364. Alfredo Reinado Alves' story also demonstrates how children were tricked into leaving Timor-Leste (see text box following par. 419, below).

365. The Commission also heard of a number of cases in which soldiers abducted children from their families. In Ponilala, Ermera, a child named Veronica was taken from her mother in 1977 when she was eight months old. Manuel Martins worked at the time as a TBO for an Indonesian soldier he remembers as C92, a member of the military police. He recalls that he saw C92 giving clothes and milk to Veronica, bathing her and carrying her around. C92 said he had no daughters and that Veronica looked just like his own child. On the day that C92's tour of duty in Ermera ended, he came to the house and took Veronica, leaving a bag of rice. He promised to educate her and send her back

to Timor-Leste but the family has had no contact with Veronica since, even though her mother has asked the ICRC for help in tracing her daughter.[268]

Yuliana (Bileki)

Another account may have a happier ending. A five-year-old girl, Buileki, from Dare (Hato Builico, Ainaro) was taken to Jakarta in 1978 by a Kopassus soldier, who had befriended her with chocolate and gifts. After five days with his family she was passed on to two other families. The last one proved to be a good home for her and she was re-named Yuliana. As an adult and married with three children of her own, Yuliana tried unsuccessfully to find her family in Timor-Leste through the newspaper. She met a Commission researcher in Jakarta and successfully found them through the Commission radio.[269] Yuliana was brought over to Timor-Leste by the Commission in July 2004 and was reunited with her family in the mountains of Ainaro. She told her story at a public hearing of the Commission.

One Sunday after the first mass, a soldier chased me and when he caught me he took me to the airfield in Ainaro. I was put on a helicopter and taken to Dili. As I was about to be taken, my uncle didn't want to let me go because C93 was not my father and at the time [because] there was a war on, I was separated from my parents. In Dili I lived with the military wives in a boarding house. I was almost lost in Dili once when I tried to run away and find my parents, my uncle and the rest of my family.

After three or six months in Dili, when the war in Ainaro was over, C93 came back to Dili and then straight away I was taken to Jakarta. In Jakarta I lived with C93 for a bit less than a year and then I changed hands several times. From C93 I went to live with Mr Ordin, and then finally I lived with my adoptive father, Tatang Yogosara. I was so sad because I was still little. I was so lonely when I lived with Mr Tatang Yogosara's family. At the time, all I could remember was my parents' names, Kuilbere and Maria, and my older brother, Maumali, as well as my real name, Bileki.

For the time I lived with Mr Tatang Yogosara's family I didn't feel like I was treated differently because I was an outsider. I lived with a family that loved each other. Now I have my own family and three children. My husband, Petrus Tapis, is from Tanah Toraja in Ujung Pandang, Sulawesi. My three children are Veronika Ratu Rosari, Klara Monika Misi, and Abraham Moris.

Actually, in 1999 before the destruction in Timor-Leste, I was already looking for my family through the newspaper Suara Timor Timur. *I put a notice in the paper…I almost had an answer…the newspaper told me*

that my older brother Maumali had looked for me. But after [the ballot] I didn't hear anything more until I met Mrs Filomena and Mrs Helena [a researcher who worked for the Commission].

My husband is a good citizen who values peoples' rights, he knows my nationality, he knows I am Timorese and that I have to go to Timor not to leave behind my family, no! It's just that heaven forbid if God called me before I had met my own family.[270]

366. Maria Legge Mesquita was taken by soldiers after her father was killed in the forest. She and other kidnapped children were rescued by one resourceful family just as they were about to leave for Indonesia:

> *When the army was ready to leave, after their tour was over, they took five children, including me, and put us in crates. We were put in crates, one per crate, like chickens. I remember there was one family, who worked for the Red Cross, who searched for their children - they were afraid their children had been taken by the soldiers. They found us and we were all let go. Members of that family were then beaten but we weren't found again and we didn't end up leaving.*[271]

367. Maria's story demonstrates that children were not only abducted but families that resisted were punished.

368. QN's story is similar:

Abduction of a baby in Ermera

QN's mother told her how she was almost abducted by a member of the military. Virginia was born in 1978 and lived with her family in a concentration camp in Kota Lama (Old Town), Ermera. A company commander at the camp, C94 from Sulawesi,* forced her older brother to become a TBO. He also wanted to take Virginia, but her family resisted. Then QN was put into a box by the officer and taken to Dili.

Her mother immediately reported the kidnapping to the pastor in Ermera, who contacted nuns and pastors in Dili. A TBO who was working at the Kodim reported to the nuns that there was a baby from Ermera in a box at the Kodim. Virginia's mother came straight away to Dili and challenged the soldier who had taken her child. She was kicked

* Virginia remembers the company commander coming from Infantry Battalion 152 but the Commission's research indicates that it was more likely to have been Infantry Battalion 122.

a number of times but finally, because she refused to back down, he let her see the baby. Fortunately, she was able to prove it was her daughter because she was able to show that the baby had a birthmark on the back of her neck and Virginia was returned to her mother.

But there were grave consequences for QN's family as a result of this confrontation and the officer still managed to take a baby away with him. Back in Ermera, C94 shot at QN's mother and arrested QN's 18-year-old brother and beat and tortured him. He was put in a hole full of filth, where his mother found him a few days later. Two of QN's older sisters were also tortured and raped by C94, and one became pregnant and gave birth to a baby daughter. C94 came back to Ermera and took this baby girl with him back to Indonesia. No news of the child's fate has ever been received by the family.[272]

369. QN's story is one of many in which soldiers asked (or pressured) parents or guardians for permission to take their children back with them to Indonesia.

370. Domingos de Deus Maia, a priest who was working in the Letefoho (Ermera) concentration camp in 1977, remembers soldiers asking him to sign a letter releasing a child so that they could take the child home to Indonesia with them. He refused. Not long after, the parents of two other children told him that the army was going to forcibly take their children. He immediately complained to the commander, a Christian, who then went over to a truck that was being loaded ready to leave Letefoho. The commander unloaded the truck and found a child hidden inside a case. A shouting match then started among the soldiers.[273]

371. Sometimes, parents were asked to sign adoption papers. They agreed for a variety of reasons. In some cases they gave in to outright threats and coercion. The Commission also heard of cases in which the pressure was more subtle, stemming from a climate in which it was virtually impossible to refuse a soldier's request. Others believed that their children would be safer or better educated outside of Timor-Leste. In the latter situation, many parents were told that their child would be returned home one day, a promise that was rarely kept.

372. In some cases formal adoption documents were drawn up and signed by military officials. One set of adoption papers consists of a handwritten agreement witnessed by the Bobonaro Koramil Commander, the Sub-district administrator and several others, together with a printed statement naming the natural and adoptive parents and their respective witnesses.* However, again agreements to give up children for adoption were not always made freely.

* This document is in the CAVR Archive. The document also has signatures from the Company Commander of the headquarters for Battalion 507 and the head of Bobonaro Village (Bobonaro).

Forced adoption: Aida's story

In 1975 I had just come out of the forest and was living in a camp in Bobonaro. My husband had died but I had one girl child named Constantina, who was about three years old. While we were living there, [an Indonesian soldier] called C95 used to take my child over to the military post. Every morning he would come and take her and in the afternoon he would bring her back. He always said it was just for fun. This happened for quite a long time, although I never went to the military post because we were scared of soldiers. There was always a question in my mind about why that soldier would come and take my child so often.

One day he came to me and said: "I like your child so much because I don't have any children myself." It's true that he was not very young - already old enough [to have had children]. He went on: "I would like to take her home. I want to give her an education and after that she can come back." He said that as a single woman I would not be able to send her to school.

He said I had to go with him to the Koramil to put my name down. My father and uncle were also called to come with us. There were people at the Koramil but I don't know who they were and I can't read. I don't know if the commander was there or not. I don't know if everyone who signed was actually there. Temukung (the head of my village) also couldn't read the documents and didn't know what they said because we didn't know Indonesian and they didn't tell me what they were. C95 just said that he wanted to send her to school and then she would come back. He gave me some money but nothing more than that.

It turned out that C95 was ready to leave. His bags were already packed. After he left, my family said that I had left my thumbprint [on the documents] and so we couldn't do anything about it. I only gave away my child because I was afraid. They had guns and I felt like I didn't have a choice. But I live now with the hope of that man's promise that one day my child will come back to me…I often go to the edge of the sea, breathe in the fresh air and remember my child taken from me across those waters.[274]

Was the removal of children official military policy?

373. The Commission has found little evidence that the taking of East Timorese children to Indonesia was official military policy.* Indeed, the evidence suggests that, at least when lower-ranking personnel were involved, higher-ranking military officers did not

* Although there are persistent rumours of military documents instructing soldiers to take children to Indonesia to educate them as Muslims, the Commission has not been able to locate them.

approve of the practice. A pattern common to several of the cases cited above is that the children were taken surreptitiously - packed in boxes and smuggled out by ship. Alfredo Alves (see text box following par. 419, below) remembers being hidden in a box after hearing the military police say that the soldiers were not allowed to take children home to Sulawesi. Domingos de Deus Maia's account of soldiers being reprimanded by their commanding officer for taking children is additional evidence that soldiers acted on their own initiative.

374. There is evidence that after a few years the military attempted to regulate the removal of children by requiring, for example, both parents' and the authorities' consent.* However, there is not enough evidence to determine whether these measures were sufficient to reduce the number of children taken to Indonesia. In practice, in the prevailing climate of coercion, such measures could not guarantee that parental permission was freely given. There is considerable evidence that soldiers evaded the regulations, as in the numerous cases of children being smuggled out of Timor-Leste aboard ships. Moreover, there could be no certainty that once in Indonesia, a transferred child was looked after by the family of the soldier who had signed an agreement or that the child received an education. Indeed there is abundant evidence that children were given to families who wanted children, or that they were placed in an institution. There is no evidence to suggest that the practice of passing children on in this way fell within any system of regulation.

Transfer by government officials and charitable organisations

375. It was not just soldiers who took children from Timor-Leste to Indonesia in the years immediately after the invasion. Government officials and charitable foundations, including President Soeharto's family, were also involved. Their activities were generally better organised and they purportedly offered to provide East Timorese children with an education. However, again regulation was lacking, children were taken without parental permission and parents' right to maintain contact with their children was often ignored.

376. The Commission heard of a member of the Indonesian Legislative Body (Dewan Perwakilan Rakyat, DPR) in Jakarta who came to Timor-Leste and sought to convince parents to send their children to Indonesia where they would be sent to school. C96 was originally from West Timor, but before the Indonesian invasion lived in the village of Boebe (Viqueque). She then became a member of the DPR, representing Timor-Leste. In 1977, she approached a number of parents, including a woman named Ana Maria, and promised them that their children would receive an education in Java. Ana Maria agreed to send her son Cipriano. A few days later, C96 came and collected Cipriano along with four other children from his village and three more from another village,

* Permission may not have been difficult to obtain. A member of the Seroja Orphanage staff told the Commission about a boy named Thomas who was living at Seroja. Representatives of an Association of Military Wives (Persatuan Isteri Tentara) came to the orphanage with a letter of recommendation from their organisation and permission from the Department of Social Services to adopt the two-year-old boy, CAVR Interview with Maria Margarida Babo, Dili, [undated].

and took them with her by army helicopter. According to his uncle, Duarte Sarmento, Cipriano and his cousin were given to C96 with their parents' permission because of the difficult circumstances at the time but they were told that they would be given their children's address in Java. Cipriano's cousin returned to Timor-Leste for the first time in 1984 but without Cipriano. He told his family that the wife of a soldier had visited the Seroja Orphanage and taken two children with her, Cipriano and a girl from Ainaro.*

377. Soeharto family foundations played a major role in funding institutions engaged in finding, transferring, accommodating and educating East Timorese children in this period. The retired military officer, already quoted on the numbers of children taken by soldiers, explained that most children were placed in private educational institutions run by Muslims, Catholics or Protestants. Their fees were usually paid by 11 March Decree Foundation (Yayasan Supersemar), a foundation funded and managed by the Soeharto family.[275] The perceived propaganda value of this arrangement is illustrated by the high-profile transfer to Java of a group of children known as "The President's Children".

"The President's Children"

In 1977, a group of 20 children were sent to Java, apparently in an effort to improve public perceptions of Timor-Leste. Petrus Kanisius Alegria, one of several "representatives" from Aileu District, was the oldest member of the group:

> *On 1 September 1977, I and some other children were taken to Jakarta. We were brought by Lieutenant-Colonel Mulyadi [from Sulawesi]. The Governor of Timor-Leste at that time was Arnaldo dos Reis Araújo. He also came along with us to Jakarta. Our families weren't told that we were being brought to Jakarta. We arrived in Jakarta on 6 September 1977.*[276]

Petrus Kanisius Alegria had been brought to the Seroja Orphanage in April 1977 by soldiers from the Aileu Kodim. His parents had died before the invasion and he was living with an older brother in Aileu when a soldier from the Kodim told his brother that they were looking for children aged 10-11 whose parents had died in the forest to send to Dili to study.[277] His brother was not told about, and therefore did not consent to, Petrus being sent to Indonesia.

The children, whose average age was ten and who came from the western and central districts, were sent in a military Hercules transport plane.[278]

* CAVR Interview with Duarte Sarmento, Kupang, West Timor, 8 February 2004; CAVR Interviews with another child [name withheld], Bandung, Indonesia, 28 and 31 January 2004. Another child went with soldiers voluntarily and was given several opportunities to visit her family in Timor-Leste but always chose to return to Java. CAVR Interviews with Achmad Viktor da Silva, Jakarta, Indonesia, March 2003 and 22 January 2004.

On arrival in Jakarta they were taken to tourist sites such as Taman Mini (East Jakarta) and attended a welcoming ceremony attended by President Soeharto and the vice president, Sultan Hamengkubowono IX. The President told them:

> *You are our children, owned by the state, and we will be responsible for your welfare. From now on your food, clothing and schooling, including your advanced education, is the state's responsibility.*[279]

The children's transfer was supported by a Soeharto foundation, Yayasan Dharmais.[*] Arnaldo dos Reis Araújo, the Governor of Timor-Leste, sent a letter dated 25 August 1977 to Dharmais. There was a signed agreement between Dharmais and the Saint Thomas Orphanage in Unggaran (Semarang, Central Java), dated 4 September 1977,[†] in which Dharmais promised to fund the children's food, clothing and education.[‡]

Soeharto told the media that his foundation would provide Rp150 a day for each child. Despite this assurance, according to Petrus Kanisius Alegria, the orphanage did not receive sufficient funds to care for the children properly.[280]

1980–1989

378. In the 1980s, the practice of soldiers bringing children home with them to Indonesia continued. Often these children were orphaned or had been separated from their parents. The number of orphans in Timor-Leste at that time was certainly high; Mario Carrascalão commissioned a study and arrived at a figure of over 40,000, many of whom were in institutions:

> *The problem was those who were not in the care of the Catholic Missions. This was used by the military. There were some who liked white-skinned children. They liked children with mixed blood. They were the ones they took to Indonesia.*[281]

379. In the 1980s, there emerged a new pattern of children being taken by high-level civilian and military officials. According to Mario Carrascalão:

* The Governor's letter was copied to the Ministers of Internal and Social Affairs in Jakarta and the head of Social Welfare (Dinas Kesejateraan Sosial) in Dili. It was also given to the District Coordinator (Kordinator Wilayah, Korwil) and the Commander of the Regional Defence and Security Command (Kodahankam) as well as the Commander of the Korem Territory of Defense and Security (Danrem Dahankam).

† It was witnessed by the District Administrator (Bupati) of Semarang, Iswarto and the head of the Social Welfare Department in Semarang, Kardoyo Karjosoemarto. For the St. Thomas Orphanage it was signed by Sister Petrona and for Dharmais by Soedardi.

‡ "Children are dropped off…therefore they receive care, service and a good education. The cost of the children's food, clothing and education is the responsibility of the Foundation and is in accordance with the cabability and regulations of the Dharmais Foundation."

When Indonesian armed forces personnel returned to Indonesia, they always took children with them. All the high-ranking officers, like [Brigadier-General] C101 [Commander of Kolakops *[Komando Pelaksanaan Operasi, Operations Implemenation Command from 1990-91] and [Brigadier-General] C102 [Commander of Kolakops, 1987-88] took children home with them.*[282]

380. TNI Major-General C103 served as a Kopassus intelligence officer in Timor-Leste in the 1980s and returned in 1999 as the TNI representative on the Indonesian Task Force for the Implementation of the Popular Consultation in Timor-Leste. He had about ten young boys living in his Jakarta house at one time. They included the cousins Mario Freitas and Hercules, whose parents were killed during bombing attacks in 1978. They worked in his garden, cleaned and did guard duty. Mario Freitas ran away after being pressured to convert to Islam and was educated by Catholic priests in Jakarta and Bali, while Hercules became a gang leader in Jakarta.[283] C104 also "adopted" ten East Timorese youths.*

The case of Thomas da Costa

Thomas da Costa was born in Lospalos (Lautém) on 3 April 1980. When ABRI attacked Fretilin in the forest, his father, a Fretilin member, was shot dead. Thomas, who was around five years old at the time, and his family were arrested by the Indonesian military and taken to the Koramil at Iliomar (Lautém). The soldiers separated Thomas from his mother and other family members and brought him to the Infantry Battalion 745 barracks in Lospalos where he was handed over to Major C105 from Battalion 745.

After a number of days of interrogation, Major C105 started giving jobs to Thomas such as collecting firewood, cooking, drawing water and washing clothes. Thomas spent several months with Battalion 745 before C105 told him that he was to start attending the elementary school nearby. He went to school but kept up his work with the military.

Around 1989, Major C105 returned to Indonesia and took Thomas with him to his village of Bantul (Yogyakarta, Indonesia). C105's family took Thomas in and he went to school at the Bantul elementary school for another year before graduating. He then continued on to junior high school but around this time C105's wife started beating him and treating

* Keith Loveard, "Rising 2-Star", *Asiaweek*, 18 April 1997. Mario Carrascalão heard that when Prabowo's wife, the President's daughter Titiek Suharto, came to Timor-Leste in the early 1990s, she asked the Deputy Governor, Brigadier-General AB Saridjo, to find her a child whose parents were fighting in the mountains and could not claim him or her back. According to Mario Carrascalão, a child from Lospalos was sent to Jakarta but he does not know what happened after that, though he did hear that Prabowo's wife wanted to return the child. CAVR Interview with Mario Carrascalão, Dili, 12 September 2003.

him like a servant. After one incident in which Thomas was mistreated by C105 and his wife, they yelled at him, "You are a Fretilin child! Go home to your own place!" Thomas ran away and found a boat that could take him home. He arrived back in Dili on 11 May 1998 and caught a bus to Lospalos where he was reunited with his family.[284]

381. There were several possible reasons why high-level civilian and military officials supported the transfer of children. The public "adoption" of children was probably intended to reinforce the impression that Timor-Leste was part of Indonesia. The promise to care for them was an illustration of the Indonesian assertion that it was developing the territory, in contrast to Portugal, and the belief that this would strengthen Indonesia's claim to sovereignty over Timor-Leste. It is unknown if any of these children experienced any form of slavery in Indonesia.

Religious institutions and the transfer of children

382. In the 1980s, Indonesian religious institutions also began to be active in Timor-Leste. One important aspect of their activity was the transfer of children to religious schools in Indonesia. One of the most important of these religious institutions was a missionary body called the Indonesian Islamic Missionary Council (Dewan Dakwah Islamiyah Indonesia, DDII). According to the head of the DDII-affiliated Sultan Alauddin mosque in Makassar (South Sulawesi), there were DDII missionaries working in Timor-Leste from 1983. However, because the missionaries could not conduct their activities freely, DDII organised the transfer of children from Timor-Leste to Makassar between the late 1980s and early 1990s. Reportedly, these transfers were carried out in collaboration with members of the military's "Spiritual Guidance" section.[285]

383. In 1982, the Nasrullah Islamic Welfare Association (Yayasan Kesejahteraan Islam Nasrullah, Yakin), was established on a large plot of land in Culuhun (Dili). The organisation built primary and secondary schools, including a technical senior high school and an Islamic school (*pesantren*) with accommodation for students from the districts.* Yakin recruited students from poor families in Lautém, Baucau, Viqueque and Same, not all of them Muslim.

384. Between 1983 and 1999, Yakin organised the transfer of some of these children, who included orphans, to *pesantren* in Indonesia. Most of these children were aged ten or above.[286] Salim Sagran, the head of Yakin, reported to a Commission researcher that the Foundation received the formal consent of the parents. However, the Commission was

* Indonesian Islamic Missionary Council [Dewan Dakwah Islamiyah Indonesia, DDII] established Yakin on 18 July 1981, George J. Aditjondro, *Suharto's Foundations: the Scope, the Impact and the Responsibilities* [Yayasan-yayasan Suharto: Cakupan, Dampak, dan Pertanggungjawabannya], 31 January 1998, pp. 134, <http://www.geocities.com/CapitolHill/Senate/4427/mpr.htm> at 30 March 2005.

unable to verify this as it was told that all of its records had been lost in 1999.* Interviews by Commission staff and independent researchers with parents of children taken to Indonesia through the Yakin network have failed to confirm that parents did indeed sign consent forms. Other foundations which are reported to have sent children to study in Muslim schools were Hidayatullah, An-Nur and the Lemorai Foundation.[287]

385. East Timorese children recruited by organisations such as DDII and Yakin went to study in Islamic institutions throughout Indonesia. The largest groups were probably those in South Sulawesi and Bandung, but there were others in schools in the Greater Jakarta area (Jakarta, Bogor, Bekasi and Tangerang), Central Java (Salatiga) and East Java (Surabaya, Jombang and Malang). An independent researcher told the Commission that the coordinator of the East Timor Muslim Students (Mahasiswa Muslim Asal Timor-Timur, Mamtim) told him that it was very difficult to keep track of the identities or numbers of the children as no records were kept. The children were not supervised by any one organisation and on arrival in orphanages and *pesantren*, many changed their names. Yakin and Al-Nur reportedly funded their studies with the intention that they return to Timor-Leste to spread Islam after they graduated.[288]

1990–1998

386. The practice of soldiers taking children to Indonesia apparently continued in the 1990s. Leonel Guterres remembers children being taken away from Quelicai (Baucau) by soldiers in the years 1993-1995. One group of 13 children, aged five to ten, were all from poor families. The soldiers asked the parents if they could take their children but Leonel said that with soldiers there was no choice. Some of these children have since come back to their homes in Quelicai.[289]

Children taken by religious institutions

387. In the 1990s, there was an increase in the number of children moved to Indonesia sponsored by religious institutions. In the early years of the Indonesian occupation, the activities of Islamic organisation were restricted but the rise in the influence of Islam in Indonesia in the mid-1990s made it possible for these organisations to operate more openly in Timor-Leste and for Timor-Leste based institutions and national organisations to continue the recruitment of children to study in Pesantren and other institutions throughout Indonesia.

388. Most, but not all, of these children were from either long-standing or recently converted Muslim communities. Frequently, East Timorese, who had been taken to Indonesia to study in earlier years, returned to Timor-Leste after graduation and recruited a new generation of students. Some students approached in this way were non-

* "Yakin found students according to the profiles [numbers, age and sex] of the requesting institution in Indonesia. If they had them already in the institution in Culuhun in Dili, those students were sent; otherwise they sent a representative or member of staff to the districts to inform the ustad, religious teacher at the mosque, of requests for children. He collected them and brought them back to Dili." Interview with Salim Sagran as quoted in Helene van Klinken, *Islamic Children Educated in Indonesian*, Submission to CAVR, 2003, pp. 5.

Muslims but saw an opportunity to receive an education. Once in Indonesia, they were given new names and encouraged to convert. Muslim institutions also went to poor and remote areas to recruit children, promising their parents that they would provide their children with a good education and then return them.

389. It appears that both Muslim and non-Muslim families had difficulty maintaining contact with their children and securing their return. When one student who had completed his studies in such an institution was due to return home in 2000, many of his fellow East Timorese students asked him how they too could return to Timor-Leste. Most of them originated from Manufahi, Viqueque, Baucau and Lautém; some do not know their parents because they were taken away when they were very young.[289]

Programmes of the Ministries of Education and Culture and Manpower

390. In the 1990s government departments also implemented programmes in Timor-Leste involving the transfer of children to Indonesia. These programmes were ostensibly created to increase education and employment opportunities for East Timorese youth and in that sense were not a violation of children's rights. The Commission has heard, however, that children were forced to participate in the programmes, which constituted a restriction on their freedom of movement. Further, it demonstrates that the forced transfer of children was becoming official government policy for political and security objectives.

391. The Ministry of Manpower (Departemen Tenaga Kerja, Depnaker) programmes seem to have had the primary objective of reducing the pool of unemployed youths prone to participate in demonstrations or other forms of political activity. The Ministry of Manpower launched its first programme in 1990, working together with the Tiara Foundation headed by Siti Hardiyanti Rukmana, President Soeharto's daughter, to bring young East Timorese to work in Indonesia. The children were sent to work in factories linked to the President's family, such as the Indocement factory in Cibinong (Bogor, West Java), the two textile plants, Kanindotex in Bawen (Semarang, Central Java) and Sritex in Sukoharjo (Solo, Central Java), and Barito Pacific's sawmill in East Kalimantan.[291]

392. The launch of these programmes came soon after the decision to open Timor-Leste. Perhaps more significantly, it coincided with the beginning of the wave of demonstrations, protests and general social unrest that was a persistent feature of the last decade of the Indonesian occupation. Some of these manifestations of unrest, such as the ethnic and religious tensions that flared up across Timor-Leste in January 1995, were clearly linked to the mounting frustrations of unemployed East Timorese youth.

393. Often the promises of well-paid jobs that drew young people to Java and other parts of Indonesia were not fulfilled. A 1992 Asia Watch report found that the young people who left Timor-Leste as part of the programme generally did so voluntarily but:

> because they were deceived as to the true nature of the jobs and training they would be getting, and because they did not have the money to return, the whole project became tantamount to forced labor.[292]

394. First-hand accounts indicate that the military was heavily involved in the recruitment of young workers, including coercing youths into joining the programmes. João da Costa, from Baucau, was 17 years old and involved in clandestine activities when a relative serving with the Indonesian military pressured him to join a Ministry of Manpower (Depnakar) programme. He was one of a group of 75 youths recruited to work in Indonesia at that time. Some members of the group were younger than him, all but five of them were male and nearly all of them were from Dili or Baucau. The military organised their transportation to Dili, where they stayed in military accommodation, and then interviewed the youths. João was asked whether he knew about Fretilin or was involved in the Santa Cruz demonstration. They also received military-style training, referred to as Physical, Mental Discipline (*Fisik, Mental Disiplin*, FMD), from Infantry Battalion 744.[293]

395. On his arrival at his destination, Makassar (Sulawesi, Indonesia), João was given an allowance and undertook a building course and work experience organised by the Ministry of Manpower but did not receive a job as promised. He eventually found work but in March 1999 he returned to Timor-Leste to campaign for the referendum, along with most of the others in the group.[294]

1999*

396. There are many reports of children being taken to Indonesia after the referendum. Some of these cases occurred in the context of evacuations of children out of the territory for the children's safety. For instance, the Seroja Orphanage evacuated the children in its care in September 1999 after militias took Seroja's vehicles and threatened that they would attack the Orphanage with grenades if staff did not evacuate its residents.[295] Taking the route followed by many of the people who were being forcibly evacutated from Dili at the time, the 74 children then living at Seroja, as well as staff members and their families, were taken to the police station and then to the Dili port where they boarded a boat to Kupang (Indonesia). After ten days, officials from the Kinderdorf headquarters in Bandung (West Java) helped them go to a Kinderdorf orphanage in Flores (East Nusa Tenggara, Indonesia). On 4 November 1999, the children were handed to UNHCR, which brought them back to Timor-Leste. They stayed with the Carmelite Sisters until they could be returned to their families. Several could not find their families and remained at the convent.[296]

397. The anarchy of the weeks following the referendum fostered a climate that encouraged the movement of children out of West Timor. Many children were separated from their families, either as their parents went into hiding or as they lost them in the chaos. Many were taken under the wing of self-appointed guardians. Parents and guardians living in conditions of deprivation and military and militia intimidation in camps in West Timor found offers to care for and educate their children outside the

* Many of the children taken from camps in West Timor and sent to institutions in Indonesia were separated from their parents after October 1999, the end of the period of CAVR's mandate. However, because the separations took place as a result of the events of September 1999 and represent a continuation of practices established in earlier years, this section would not be complete without at least a brief consideration of this practice.

camps attractive, and might sign in haste an agreement with institutions offering safety and sustenance to their children. In such conditions, it could not be said that parents always gave their consent freely or fully understood the consequences of their decisions.* Further, as the cases below illustrate, the conditions in which children were kept was not always as institutions had promised.

398. The Indonesian Protestant Foundation Love Peace (Cinta Damai), had worked in Matata in Ermera District during the occupation. The foundation had approached parents asking for permission to take their children to Kupang (West Timor, Indonesia) for further studies under its care. When the children arrived in Kupang, they were firstly taken to the orphanage Oebaha Church before they were delivered to other families. Because some families did not take good care of the children, some returned to their own families in Timor-Leste though some stayed in Kupang. After the Popular Consultation, parents in Timor-Leste reported their missing children to the UNHCR and the Jesuit Refugee Service (JRS) in Kupang.[297]

399. Other organisations, with no history of transferring children from Timor-Leste, became active only after the referendum. The best known of them was the Heart Foundation (Yayasan Hati), which sent some 150 children from camps in West Timor to Central Java. They were placed either in Catholic institutions or in a private institution in Wonosari, 45 km east of Yogyakarta. Wonosari was founded by a former Indonesian Government official who had worked in Dili as head of the local branch of the Department of Education and Culture.[298]

400. The chaotic conditions surrounding the removal of children to Central Java have continued to cloud their hopes of rejoining their families. The bitter legacy of the Indonesian withdrawal from Timor-Leste is a further complication. In November 2000, the children were the topic of an inter-agency meeting that shed some light on their situation. JRS told the meeting that of 118 children in institutions in Central Java, the families of 83 were believed to still be in West Timor. Many were in Tuapukan Camp Kupang (East Nusa Tenggara, Indonesia) and were thought to be intending to remain in Indonesia. The majority of these families are reported to be from Beobe (Viqueque).[299]

401. UNHCR and the IRC travelled to Viqueque to trace family members and found that, in some cases, it was not parents who arranged for the children to be sent to Java but guardians (including extended family members with whom the children might have lived all their lives). Eight parents in Timor-Leste requested help from UNHCR to bring back their children.[300] Some of the children in Central Java have said that they want to rejoin their families after finishing high school. Some families in West Timor have visited their children.

* "On the other hand, it appears that some parents were under pressure to release their children without knowing the full consequences of the supposed agreements. Some were forced to sign a consent form, giving up their parental custody and visiting rights to their children. In some cases, after parents returned to Timor-Leste and sought to get their children back, the caretakers have refused to allow children to return or have demanded financial compensation for their return.", United Nations High Commissioner For Refugees, Evaluation and Policy Analysis Unit, *Evaluation of UNHCR's Repatriation and Reintegration Programme in East Timor*, 1999-2003, prepared by Chris Dolan, Judith Large, Naoko Obi, UNHCR, Geneva, 24 February 2004, pp. 60.

402. Reuniting parents with their children after their removal from the camps has been difficult as many parents do not know which person or institution took their child. Children were sent to places all around the archipelago. A representative of Indonesia's National Commission on Child Protection (Komisi Nasional Perlindungan Anak) told the Commission that it had found many cases of children being taken by unknown persons from camps in West Timor to Jakarta, West and Central Java, Palembang (South Sumatra), Denpasar (Bali), and Sulawesi with the promise of scholarships but who had then lost contact with their parents.[301]

403. Some cases suggest that institutions deliberately keep children from contacting their parents or returning to Timor-Leste. An NGO that worked in the West Timor camps on behalf of Yayasan Hati reported that representatives of Yayasan Hati and another NGO, Geni, went to the camps and asked parents to send their children to Central Java. In Noelbaki camp (Kupang, East Nusa Tenggara, Indonesia) one of these representatives reportedly promised parents that the government would fund their child's studies to university level and put them up in hostels. He also promised that the children would visit their parents in the camps after three years. None of these promises was formalised in a written agreement. The Hati contact person in Tuapukan camp (Kupang, East Nusa Tenggara, Indonesia) reportedly insisted that parents should not send letters to their children in Java. Some families do not know the address of their children.

404. The children were brought to Semarang by ship. The organisation Yayasan Sosial Sugijopranoto, working with the Semarang diocese, housed them for a few days before distributing them to local institutions. Among other places, eight were sent to Boro (Central Java), 84 to Jimbaran (Denpasar, Bali), 21 to Temanggung (Central Java) and others to Wonosari.[302] According to Yayasan Hati, 164 children were sent to Java in three groups in November 1999, December 1999 and May 2001.[303]

405. The chairperson of Yayasan (Foundation) Hati, Natercia Soares, has claimed that these children are Indonesian because she regards Timor-Leste's integration with Indonesia as still valid. She has asserted that:

> Until now the government has not annulled regulation No. 7/76, which recognises East Timor as an Indonesian territory and automatically recognises all East Timorese as Indonesian citizens [*304]

406. The Al Anshar organisation in South Sulawesi also resisted returning children. In its dealings with both agencies and parents, the institution continually changed its position on whether and under what conditions it would give up children. The successful return of two children from Al Anshar received very critical press coverage in Indonesia and the head of the institution accused UNHCR of kidnapping the children and demanded more than US$5,000 in "compensation".[305]

* On 17 July 1976, the Indonesian Legislative Body passed Law 7/76, declaring that Timor-Leste was the 27th province of Indonesia. The law was never recognised by the United Nations. On 25 October 1999, the U.N. Security Council passed Resolution 1272 establishing the United Nations Transitional Administration of East Timor (UNTAET), thus separating Timor-Leste and Indonesia by international law [see also Vol 1 Part 2: The Mandate of the Commission].

407. In November 1999, a foundation in South Kalimantan, Germination Foundation Kalimantan (Yayasan Tunas Kalimantan), sent staff to refugee camps in West Timor camps with an offer of education in Banjar Baru. About 19 children were brought to South Kalimantan; three of the older ones managed to get back to Atambua on their own. They reported being forced to study Islam, saying that food was withheld if they refused. All the children had parents in West Timor or Timor-Leste. As in South Sulawesi, efforts to return the children were sometimes frustrated by the changing demands of the institution.[306]

408. Even when children were given a choice about whether to remain in Indonesia or not, their decision may not have been freely made or reflected their true wishes. Zacarias Pereira saw this situation in a *pesantren* in West Java, where he was sent by the Lemorai Foundation in 1999. After three years, during which he converted to Islam, Zacarias was able to contact his father through UNHCR. UNHCR brought his father to the *pesantren* to collect him. He described the UNHCR visit:

> *My father came to Bandung with UNHCR between 7-11 October 2002… together with a policeman and a government official. Hasan Basri asked: "Who wants to go back to Timor?" Only two children raised their hands. There was a mother there and one of her three children wanted to go home. This mother, Domingas, was the older sister of Hasan Basri's wife. No other children were brave enough to raise their hands. But if their parents had come to pick them up, I think they would have wanted to go.*
>
> *Beforehand, Hasan Basri had said to me that, even though my parents had come to get me, I didn't need to go back to Timor now, it was better for me to finish [school] first. But he didn't tell me not to go. As the UNHCR car drove away another child, Abe from Ossu [Viqueque] ran and hid on the road going out. He stopped the car and asked them to take him home… So three children went home in the end.*[307]

409. Zacarias stayed at the *pesantren* along with 20 other East Timorese children, many of whom were from Basri's extended family. Of these some had returned to Timor-Leste and some were still in Java. His story indicates that while the children were not physically prevented from leaving, they were not given the opportunity to make a decision privately. The fact that one child hid outside and approached the UNHCR vehicle indicates a strong degree of pressure not to go home.

410. Basri told a journalist in September 2002:

> *No matter what, even if they come with signatures or photos of parents, I won't give them up…I won't give them up. Not even if the UNHCR come with the police. I won't give them up.*[308]

Conditions for children living in Indonesia

411. The circumstances that children found themselves in and the conditions they experienced once they were transferred to Indonesia, varied considerably. Children

were sent to all parts of Indonesia, sometimes alone and sometimes in groups. Some were sent to state or private institutions, some to schools or religious colleges, some were adopted by families as children or to work as servants. However, a number of common themes run through the children's stories of their experiences.

Loss of cultural identity

412. Most children report losing their sense of cultural identity, to varying extents, through loss of language, being renamed or being forced to convert to another religion. In some cases children taken as babies were never told that they were East Timorese. During his term as Governor of Timor-Leste, Mario Carrascalão visited the approximately 45 East Timorese children living in two institutions in Bandung: Kinderdorf and the State Orphanage for Young Children (Panti Penyatunan Anak Turuna Negara, PPATN). The majority were from Apodeti families. He found the children to be well cared for, but it was clear that the children knew nothing of their culture and language.[309]

413. One of the children remembers that before Mario Carrascalão visited them, they had never spoken about Timor-Leste. Afterwards they started to talk about their families and where they were from. Mario Carrascalão took the step of organising some visits home[310] and eventually a home visit was organised.

414. The impact of a home visit is described by one boy who had been brought to the Seroja Orphanage in Dili by relatives when he was five. He was one of ten children sent to PPATN in Bandung in 1979. He recalls:

> *In Bandung I was living in a foreign environment although most of the Timorese children lived in one building of PPATN. We never spoke about Timor, we couldn't speak Tetum, and we didn't send letters to Timor. We were brought up as Sundanese children in Java. I didn't know why I was there, just that there had been a war in Timor.*
>
> *I was happy to get an education in Bandung but I felt in my heart that I would always be someone wondering who he really was. I actually felt like I had been brainwashed. Eventually I made friends from Timor but I felt backward and embarrassed around them because I couldn't speak Tetum. I often had to leave the room or more often I was silent. I tried to study my own language and culture.*
>
> *Living without my family was also very bitter for me. Very bitter … Even now if I see a picture of a mother holding her child, tears well up in my eyes. It is so sad that I cannot ever feel close to my family.*[311]

415. After leaving the orphanage in 1990, one girl visited Timor-Leste again, in 1995 and 2003, but had a difficult time adapting. She still lives in Bandung with her brother, although three other relatives who left with her in 1976 have moved back home.[312]

Mistreatment

416. The Commission heard a number of reports of children who were mistreated by the people or organisations that took them into their care. Some, like Alfredo Alves or Thomas da Costa, report being beaten to the point that they ran away from their new homes. In other cases the mistreatment is more subtle.

417. Children who became "The President's Children", for example, speak of feeling discriminated against at the Catholic orphanage in Unggaran where they lived. Although they report receiving adequate care for the first three years, they began to feel discriminated against compared with the Indonesian children at the institution, many of whom paid high fees to attend. When several East Timorese children ran away and there was no reaction, Petrus and others protested to the local Social Services Office without result. According to Petrus "I felt like they saw our lives as if they were worth nothing. Just like an animal."[313] In 1982 the children "went on strike" for one week in protest at the discrimination. Some of the children returned to Timor-Leste in 1994. A philosophy student studying in Yogyakarta visited Ungaran (Semarang, Central Java) in 1983 after hearing stories of protests by the children. He found them very dissatisfied with their conditions, especially with the inadequate, low-quality food.[314]

418. According to Sudirman, who was part of a group of children transferred to a *pesantren* in Makassar (South Sulawesi), many of the children at the *pesantren* complained of neglect, beatings and homesickness, and wanted to go back to their families in Timor-Leste. He also remembers parents coming for their children, but being prevented from taking them home.[315]

419. In many of the cases reported to the Commission, whether there was mistreatment or not, promises made to children and their parents were not kept. Educational opportunities and jobs did not materialise. Children were put in institutions rather than kept with families or vice-versa. Communication between children and their parents was foreclosed and children were not returned home as agreed.

Alfredo Reinado Alves' story

After the operation, we returned to Aileu where our battalion was preparing to go home. I and 5 other TBO's…were brought to Taibessi in Dili. We did not know why we had been brought there. One day I overheard the army commander say that the soldiers were not allowed to bring children home with them to Indonesia.

After a few days, the soldiers were packing their things to go home. C107 [the soldier Alfredo served] *said to me, "You can come along to look at the port, but it's best if you get inside a box so that the police don't see you." I thought it was strange but I couldn't do anything about it. When we reached the port I felt myself being lifted up. I tried to see out and saw that I was on the ship. Other friends were also there on the boat. They said*

that they had also been hidden inside a box. And the soldier had also said to them that they must hide because the army police might come. Then I heard the ship sound and it started to move.

After half an hour we were allowed to get out of our boxes and I saw Dili fade into the distance. I felt very sad because I had not seen my mother since I was taken (by the military) from the school yard in Maubisse [Ainaro]. This happened in February 1980 when I was 13 years old.

C107 took me to his parent's village in Lamikonga [Kolaka, Kendari] in southeast Sulawesi. C107's parents and family treated me like a slave. After a few years C107 married and moved out and I lived with them. C107's wife was very kind to me and treated me like family, but C107 wanted me returned to his parents' home.

I didn't want to go back to C107's parents' house. I and my friend from Timor-Leste, Afonso, made a plan to escape…Our plan failed - we were caught at the port. C107 was very angry and hit me until my eyes and mouth were swollen and black. I was returned to C107's parents' house. One night I visited a friend's house and, without getting permission, didn't go home that night. C107 beat me again. That night I left the house only with the clothes I was wearing and caught a bus to the port. From there I caught a boat to Samarinda, Kalimantan. I met somebody who worked on the ship who paid for my ticket - perhaps people pitied me because my face was still black and blue. Finally, when I was still 16 years old, I arrived in Samarinda.

I worked and attended junior high school in Samarinda for almost two years. I heard that from Surabaya there was a ship to Timor-Leste. One day I heard that there was a ship leaving for Surabaya. I left my job and my girlfriend, and headed to Surabaya with only the money that I had received that day.

When I arrived in Surabaya I tried to find the boat to Timor-Leste but a customs officer arrested me. After four days I made a decision to contact the commander at the Regional Military Command in Surabaya. I waited two days and then thanked God because my requests were received. I told the commander my entire story from the beginning. The commander wanted to help me and he gave me a letter. I took that letter back to the port and after that I was treated very well.

I caught a ship to Dili and I was so happy when I arrived. I left straight away for Maubisse [Ainaro]. When I was asked for a travel letter I was confused so I just showed the letter I had received from the Regional Commander. Every security agent was very surprised to see that letter. I did not have any difficulty all the way to Maubisse. I went straight to

my mother's house but there was somebody else living there. I met with an uncle but he had forgotten about me and was suspicious. But finally a friend called Tomás recognised me. I was very happy and finally I was taken to the house of my mother who was still alive.

After a while, my mother suggested that I try to look for work with an uncle that lived here in Dili. This uncle eventually gave me work as a truck driver. In 1987, I became a member of the clandestine movement. I had always liked boats at the port. I was given the job of sabotaging an Indonesian war ship. On 22 July 1995, I became a captain and took 18 people by boat who were fleeing to Australia. That was the only group of boat people successfully to reach Australia. The group that followed was caught and after that there were no more.[316]

Findings and conclusion

420. The struggle for control of Timor-Leste was partly played out in the battle for its children. Children became victims, perpetrators, assistants and observers in the political conflicts that engulfed Timor-Leste from 1974. The obligation of all parties to put the best interests of children first was widely ignored.

421. Children are owed special protections under international legal principles that arise out of the acknowledgment of children's particular vulnerability. The responsibility of all parties to fulfil their duty of care towards children is particularly urgent during periods of conflict when the imbalance of power between children and adults is most pronounced. The Commission finds that all sides to the conflicts failed to take these protections into account, but the most reprehensible violations of all kinds were committed by Indonesia.

422. Indonesia, as the effective state power in Timor-Leste, had a clear duty to respect the rights of children. These duties arose under international humanitarian law as contained in Geneva Convention IV. Apart from its specific obligations, it had a general duty to protect children and not endanger them by exposing them to dangerous situations. It failed to fulfil this obligation most graphically when it treated children as chattel that could be deployed on the battlefield and when it separated children from their families and sent them to Indonesia where their cultural identity was not recognised.

423. Throughout the course of the occupation, Indonesia was also bound by human rights standards as set out in the Universal Declaration of Human Rights. These were consistently breached in a variety of ways, including by forcibly recruiting children to assist its armed forces, by violating children's rights to life, liberty and the security of person, and the right to freedom of conscience and expression. Even after Indonesia ratified the Convention on the Rights of the Child in September 1990, Indonesia failed to meet its legally binding obligations. In general terms, it failed to live up to the obligation to give priority to the best interests of the child when making decisions in relation to

children and where possible to take the child's views into consideration (Article 3(1)). It also violated many of the specific obligations relating to sexual violence and obligations regarding freedom of expression and choice.

Children in armed conflict and the clandestine movement

424. Children were used by all sides to the political conflicts in Timor-Leste over the mandate period of the Commission.

Children used by the Indonesian military as TBOs (Operations Assistants)

425. The Commission finds that:

1. The Indonesian military recruited several thousand children as TBOs.
2. TBO's were recruited throughout the period of occupation but numbers peaked during the period 1976-81 when military operations were at their height.
3. ABRI used a variety of methods to recruit children as TBOs, ranging from outright coercion to the offer of inducements. Some children enlisted as TBOs voluntarily. However, in the desperate circumstances of the time, the dividing line between voluntary and forced recruitment was never clear-cut.
4. The Indonesian military preferred to use children as TBOs and actively sought to recruit minors as opposed to adults.
5. The recruitment of children by individual soldiers was known about at the highest levels of the military structure. No attempt was made to prevent this occurring; rather attempts to regulate the practice indicate that it was condoned.
6. Although officially recognised, TBOs were not members of the armed forces and did not enjoy the perquisites of regular soldiers, such as a salary, a rank or a uniform.
7. Child TBO's received no salary from the Indonesian military for their services. Although they often received food and board, this was not a fair wage.
8. There was no regulation of the treatment of child TBOs by individual soldiers.
9. The relationship between child TBOs and the soldiers they served was wholly unbalanced. In some cases, soldiers treated their TBOs as if they had rights of ownership over them. They controlled their movement, duties, living conditions and, ultimately, whether they lived or died. Sometimes these soldiers retained control over their TBOs after their tour of duty ended; sometimes they passed them on to other soldiers; sometimes they were simply left to fend for themselves.
10. Child TBOs performed tasks, which, although not usually involving them directly in fighting, exposed them to physical danger. At the very least, the conditions in which they worked put their health at risk and jeopardised their educational chances. In many cases, the work undertaken by child TBOs was not in proportion to their physical and intellectual capacities.

11. Aside from their recruitment as TBOs, children were also enlisted with adults for military operations. In the case of the Operation Kikis of July-September 1981, in some areas children as young as ten years old were among the tens of thousands of East Timorese recruited to converge on Falintil strongholds.

426. On the findings above, the Commission is satisfied that the Indonesian military's practice of using child TBOs:

- Amounted to a form of enslavement. This was a violation of the fundamental customary prohibition against enslavement, as well as a grave breach of the Geneva Conventions (wilfully causing great suffering or serious injury to body or health: Geneva Convention IV (Article 147)) and a violation of the laws and customs of war.
- Was a form of forced labour in violation of Article 51 of Geneva Convention IV, which requires that, if an Occupying Power uses the labour of the civilian population of the occupied territory, it is obliged to pay them a fair wage and "the work shall be proportionate to their physical and intellectual capacities".

Children in Falintil and in clandestine movement

427. The Commission finds that:

12. Children under 15 served as guerrilla soldiers with Falintil. However incidences were not widespread.
13. There is no evidence that children were forcibly recruited to Falintil. Several former child recruits to Falintil have testified that they eagerly enlisted to support Timor-Leste's struggle for independence; others have said their efforts to join the guerrilla force were rebuffed on the grounds that they were too young. This distinguishes child members of Falintil from child soldiers in other parts of the world who are forcibly recruited for their obedience and willingness to commit atrocities.
14. Recruitment appears to have been ad hoc, informal and not centrally controlled. Some children left their homes to join up, others were formally "recruited", others were living with the communities that fled to the forests and got involved by merely being present.
15. The treatment of those who were recruited was generally good, although they were subject to the same harsh treatment as other recruits. Cases of mistreatment were related to disciplinary procedures, the intra-Fretilin conflict or to prevent surrender.
16. Service was not without its costs. Aside from being exposed to the danger of losing their lives during combat, many of these youths experienced difficulties after their service, including being targeted as pro-independence sympathisers by the Indonesian security forces and finding it difficult to adjust to civilian life after demobilisation.

428. The Commission is satisfied that:

- In accepting children under 15 into its guerrilla forces, Falintil violated the standards of international humanitarian law set out in 1977 Additional Protocol I to the Geneva Conventions.
- The voluntary recruitment of those aged 15-17 was not a violation of human rights instruments or humanitarian law.

429. The Commission finds that:

17. Children were an essential part of the clandestine component of the Resistance to the Occupying Power, whether as *estafeta*, participants in demonstrations or providing other kinds of support.
18. The leadership of the Resistance recruited children and youth into the clandestine movement precisely because of the unique contribution they could make.
19. There is little evidence to suggest that children participated in clandestine activities other than voluntarily. Indeed, direct experience of human rights violations committed by members of the Indonesian security forces against themselves or close family members was often their motive for working with the Resistance. It is difficult to assess the extent to which the choice to take part in clandestine activities was an informed choice. However, children of sufficient age and maturity do have a right to freedom of expression and to act in accordance with their conscience.
20. East Timorese children participating in the clandestine movement were placed at grave risk of punishment by the Indonesian military and/or agents. Many suffered because of their involvement.

430. The Commission is satisfied that:

- Although the recruitment of children into the clandestine movement by a non-state actor does not constitute a violation of international law, it is contrary to the human rights standard that the best interests of the child must be prioritised.
- The draconian response of the Indonesian military towards children involved in the clandestine movement was a breach of the rights of all people to enjoy freedom of conscience and expression and which are enshrined for children specifically in Articles 12 and 13 of the CRC.

Children recruited by pro-autonomy militias in 1999

431. The Commission finds that:

21. From late 1998 children were recruited into the militias that terrorised Timor-Leste.
22. Almost all child recruits were forced to join through intimidation of either themselves or their families. Some children joined out of their own free choice, usually because they or their families were pro-integration and agreed with the objectives of the militias.
23. Child members of the militia were involved in the commission of grave human rights violations including killings, physical assault and rape as well as in the widespread destruction of property.

24. Recruits were only sometimes paid, either with small amounts of money or in food.
25. Indonesia did nothing to protect children from this forced recruitment into criminal gangs; in fact, members of the military were closely involved in the activity.
26. The practice of forced recruitment of children into pro-integration militias appears to have been, in part, designed to create the impression of a mass of youth who were fanatical in their support for integration and to draw these youth into criminal activities that would destroy the family and communal ties that sustained the pro-independence movement.
27. Those recruited often came from the most disadvantaged segments of Timorese society, were brutalised by their participation in, and witnessing of, violence and incurred the stigma of having been on the wrong side. There is some evidence that, of all the children recruited by the parties to the 25-year conflict, those who joined the militia may have been the most severely traumatised by their experience.
28. The Commission did not find any evidence that Indonesia took steps to support the physical and psychological recovery of these children or their social re-integration.

432. The Commission is satisfied that:

- Forcing a child to join a militia and then making him or her take part in criminal acts, sometimes against his or her own community, amounted to inhuman treatment and/or caused great suffering or serious injury to the body or health of the child involved. This is in violation of Article 147 of Geneva Convention IV and the laws and customs of war. This also constitutes a violation of Indonesia's human rights obligation under Article 38 of the CRC to ensure respect for the child-specific rules on international humanitarian law.
- Using children to achieve political goals amounts to exploitation. Indonesia thus violated the rights of such children to be protected from exploitation prejudicial to their welfare - in contravention of Article 36 of the CRC.
- Indonesia failed to fulfil its obligation to take all steps to promote the physical and psychological recovery and social reintegration of these children under Article 39 of the CRC.

Inhuman treatment of children

Arbitrary detention

433. The Commission finds that:

29. Children were subject to arbitrary detention throughout almost the entire period of the Commission's mandate. Members of UDT arbitrarily detained children during the party conflict. Fretilin representatives were responsible for such detentions during this period and also in the years after the Indonesian invasion. Indonesian security forces engaged in the arbitrary detention of

children on a much larger scale. Their treatment while in detention involved systematic violations throughout the 25-year period of the occupation.

30. Throughout the occupation, agents of the Indonesian government arbitrarily detained children and were responsible for widespread and systematic violations of the rights of children while they were in custody. From 1975 to 1999 children were commonly bound, beaten, kicked, raped, electrocuted, burnt with cigarettes, immersed in water, held in isolation in dark cells, threatened with death and otherwise terrorised by agents of the Indonesian security forces. Some children died as a direct result of this maltreatment. The Commission knows of no case in which perpetrators of these violations were subject to punishment or discipline.

31. In the years after the invasion, children were detained on a massive scale following capture or surrender and were subsequently placed in "resettlement camps". The food, shelter and healthcare they received were seriously inadequate, and their restricted movement limited their own, and their families', ability to supplement what little food they received. Children were sometimes also detained in formal detention centres and military facilities after surrender or capture. Children also constituted a significant portion of those detained on the island of Ataúro between 1980 and 1986, either with family members or separated from them. Several thousand children died as a result of the harsh conditions in the resettlement camps and on Ataúro.

32. The reasons for the detention of children by the Indonesian military were similar to those for the detention of adults: namely, their involvement in clandestine activities, to break off support to members of Falintil and to gain information about Falintil or the clandestine movement. Children were also detained because of the actions of their parents or other family members.

33. Students and schoolchildren were targeted for arrest and detention when public demonstrations began to be held in the 1990s. Indonesian authorities detained children during and after demonstrations, and sometimes to prevent demonstrations taking place. Many of those detained were subjected to severe violations, including torture. Children were also arrested and detained by members of the Indonesian security forces and their militia agents during the violence surrounding the Popular Consultation in 1999. Sometimes these arrests were used to force children to join a militia.

34. Following the coup of 11 August 1975, children were among prisoners detained by UDT at locations designated for this purpose. The Commission did not receive evidence of torture or other serious maltreatment of children detained by UDT.

35. During the period of the party conflict, children were among those arbitrarily detained by members of Fretilin, because they or family members were believed to be affiliated with political opponents. Torture and maltreatment of children in Fretilin custody occurred, but it was not widespread or used systematically.

36. After the Indonesian invasion, children continued to be detained arbitrarily by Fretilin but this was mostly incidental to the detention of adults. However, there are also cases of children being arrested as proxies for relatives belonging

to other parties who were outside Fretilin's control and for alleged breaches of discipline by the child. Despite evidence that "warrants" were produced in some cases, the arrests, torture, denial of due process and use of children as hostages, which often followed, had no legal basis.

434. The Commission is satisfied that:

- The detention of children by members of the Indonesian security forces involved multiple and repeated violations of Indonesian law, human rights standards and international law. Arrests were commonly made by persons who lacked the legal authority to carry out such actions under Indonesian law.
- The widespread torture and mistreatment causing great suffering or serious injury to body or health constitute grave breaches of Geneva Convention IV (Article 147) which applies to Indonesia as both customary and treaty law.
- The failure to provide adequate food and medical supplies to children in detention was a breach of Article 55 of Geneva Convention IV.
- Failure to permit free passage of all consignments of essential foodstuffs, medicine and clothing intended for children under the age of 15 was a breach of Article 23 of Geneva Convention IV.
- The widespread failure to inform children arrested of their rights and reasons for arrest was a breach of Article 71 of Geneva Convention IV.
- Indonesia was in breach of its specific obligations under the Convention of the Rights of the Child, which it ratified in 1990, in particular Article 37, which provides a duty to ensure that no child is deprived of his or her liberty unlawfully, and that the arrest, detention and imprisonment of a child are in conformity with the law and take place only as a last resort and then only for the shortest possible time.
- The actions of representatives of both UDT and Fretilin during the party conflict were in breach of human rights standards, applicable Portuguese laws and international law. Representatives of neither party had any legal authority under Portuguese law to arrest, detain, assault or maltreat individuals.
- Representatives of both parties breached their obligations under Common Article 3 of the Geneva Conventions, which prohibits violence to life and person and outrages against personal dignity, such as humiliating and degrading treatment and the taking of hostages.
- Torture, illegal detention and use of children as hostages by Fretilin during the period following the Indonesian invasion constituted grave breaches of Geneva Convention IV.

Arbitrary killing of children

435. The Commission finds that:

37. The general failure by all sides to distinguish between civilians and combatants extended to children. Children were generally killed for the same reasons as adults and often in similar circumstances. There is therefore insufficient evidence to say that children were specifically targeted. At the same time, children were

generally not specifically protected or treated with exception in the violence of the political conflicts.

38. Children were killed in a wide variety of contexts, including during open armed conflict, in mass killings, in custody and in summary executions. In the early years of the conflict many were killed together with their families during military operations or when caught in contested areas. In later years, under-age victims were likely to be teenagers targeted for suspected pro-independence activities.
39. During the period of the internal armed conflict, children were killed by both Fretilin and UDT. They were killed when in the custody of the other side, either because of their own or their family's political affiliations. Most often, they were killed in groups rather than individually and with other family members.
40. Indonesian forces and agents killed children in the period 1975-79 within the wider context of the Indonesian campaign to bring Timor-Leste under its control. It did not distinguish children from adults in this regard. Children out looking for food, either on their own or in the company of adults, ran the risk of being shot by ABRI or Hansip members. Groups of unarmed civilians, including children, living outside Indonesian-controlled resettlement camps, could be randomly executed.
41. From 1980, children were killed when ABRI undertook wide-ranging and often indiscriminate reprisals in response to attacks by the Resistance. Children were among the victims killed in the large-scale crackdowns that followed the Falintil-led attacks on Dili in June 1980, on the Mau Chiga Koramil in August 1982 and on the Zeni unit in Kraras in August 1983. In these cases, children were killed in indiscriminate attacks on groups of civilians and because they themselves were suspected of giving support to Falintil.
42. In 1999, children were killed during operations looking for members of the clandestine network or Falintil, during militia attacks to punish communities who supported or assisted the Resistance, or during mass killings following the announcement of the results of the Popular Consultation or when children were out looking for food. Children were also easy targets during attacks on refugee encampments. The perpetrators were militia associated with the Indonesian military or TNI itself.

436. The Commission is satisfied that:

- The killing of children is a breach of their right to life, one of the most fundamental of human rights. In many cases, they were killed as a result of unlawful actions amounting to war crimes, whether in violation of the laws and customs of war or as grave breaches of the 1949 Geneva Conventions.
- The killing of children by UDT and Fretilin was a breach of Portuguese law, which provided no basis for either party, as non-state actors, to take the lives of any person, let alone children, in any circumstance.
- The killing of civilian children during the period of the internal armed conflict constituted a breach of Common Article 3 of the Geneva Conventions of 1949, which expressly prohibits parties from killing persons who are not taking an active part in hostilities.

- Once the internal conflict became internationalised, the rules governing international armed conflict applied in Timor-Leste to regulate the activities of the UDT, Fretilin and Indonesia. The protections afforded to children under the International Law of Armed Conflict were greater, but their protections in relation to the right to life were the same as those for adult civilians.
- The killing of child civilians by the Indonesian military or its agents during the period of international armed conflict amounted to war crimes under the laws and customs of war and Geneva Convention IV.
- Children killed for their connection with the clandestine movement or during searches for the Resistance were also unarmed civilians not engaged in military conflict. Such killings would appear to fall within the generic war crimes category in violation of the laws and customs of war as well as Geneva Convention IV.

Sexual violence committed against children

437. The Commission finds that

43. The Indonesian security forces, their East Timorese auxiliaries and other persons in positions of authority used sexual violence against children both strategically and opportunistically, throughout the occupation.
44. Strategic sexual violence was used to establish control through terror, whether as a form of punishment of the victim, as a means of extracting information or with the wider aim of undermining family ties.
45. The scale of opportunistic sexual violence reflected a climate of impunity that extended from the higher reaches of the military, to their East Timorese auxiliaries, to civilians in positions of authority.
46. Sexual violence against girls often appears to have been motivated by a desire to punish family members involved in resistance activities.
47. Girls and adult women were subject to the similar forms of sexual violence throughout the mandate period. Both were at particular risk in resettlement camps or while detained by Indonesian authorities.
48. Once violated, girls became vulnerable to long-term exploitation, leading to an extended period of sexual slavery or other forms of repeated sexual violence.
49. The practice of sexual violence against children was, in most cases, conducted openly without fear of sanction by both lower ranks of the military and their superior officers, as well as persons in positions of civilian authority such as village heads, police and teachers.
50. Most of the cases of sexual violence that the Commission has examined took place in military custody or on military premises or other locations that could be considered official.
51. Although senior members of the Indonesian and civilian hierarchies would certainly have known of the unlawfulness of such conduct, the Commission has found only one case in which an agent of the government was prosecuted. It is noteworthy that this case involved a low-ranking member of Hansip.

438. The Commission is satisfied that:

- On the basis of the nature of the sexual crimes committed against children and the impunity which perpetrators enjoyed, there existed an environment in Timor-Leste where sexual violence against children was condoned, even encouraged.
- Rape and other forms of serious sexual violence are devastating assaults on a person's security; they may also be cruel inhuman and degrading treatment that in some circumstances amounts to torture. These egregious crimes are further aggravated when the act is committed against a child, whose vulnerability requires particular protection. These principles are universally enshrined in international law as well as in Indonesian law, including in Indonesian law (KUHP Chapter XIV).
- Some of the sexual violence examined by the Commission amounted to cruel, inhuman and degrading treatment or torture. Torture in the circumstances outlined amounted to grave breaches of the Geneva Conventions and violations of the laws and customs of war, as well as violation of the customary prohibition against torture.
- In the circumstances of invaded-and-occupied Timor-Leste, many acts of sexual violence against children, including rape, were grave breaches of the Geneva Conventions (Article 147 of Geneva Convention IV for civilians) for causing great suffering or serious injury to body or health, or for amounting to inhuman treatment.
- These acts constitute violations of the laws and customs of war for being ill-treatment of civilians and an outrage on personal dignity and honour (Common Article 3 and Article 76(1) of the Regulations Annexed to Hague Convention IV as custom).
- Sexual enslavement and other slave-like practices, such as being made to provide sexual services on call, committed against child civilians constituted a violation of Article 27 of Geneva Convention IV and were grave breaches of that convention (Article 147). These practices involve multiple violations of human rights standards including unlawful confinement, causing great suffering or serious injury to body or health, torture or inhuman treatment.
- As almost every act of sexual violence considered by the Commission was committed by officials or agents of the Occupying Power, Indonesia was responsible for the suffering that resulted (Articles 29 and 32, Geneva Convention IV).
- Indonesia failed to fulfil its customary and treaty obligations under the Geneva Conventions to protect child civilians from sexual violence and to take steps to investigate, prosecute and punish individual perpetrators of grave breaches (Article 146, Geneva Convention IV).
- After September 1990, Indonesia failed to meet its obligation under the Convention on the Rights of the Child (CRC) to protect children from sexual exploitation and abuse (Article 34).

- After September 1990, Indonesia failed to fulfil its obligation under the CRC to assist the physical and psychological recovery and social reintegration of child victims of sexual violence (Article 39).

The transfer of children to Indonesia

439. The Commission finds that:

52. East Timorese children were frequently removed from their families and homeland to Indonesia throughout the period of occupation.
53. The transfer of children to Indonesia took many forms, ranging from abductions by individual soldiers to government-sponsored education programmes.
54. Although the degree of coercion exercised by persons and institutions in effecting the transfer of children varied, there was almost always an element of duress and, sometimes, outright force.
55. In the first years after the invasion, regular soldiers were the main perpetrators of the removal of East Timorese children. As in the case of child TBOs (some of whom were also transferred to Indonesia by the soldiers they had served at the end of their tours of duty), children who were removed to Indonesia were frequently treated as chattel by being removed forcibly, transported in boxes and required to perform menial tasks for the families with whom they lived.
56. Institutions, including hospitals and the Seroja Orphanage facilitated the removal of children by Indonesian soldiers. Although individual staff members expressed to the Commission that they had concerns in relation to the process, there is no evidence that the institutions refused to take part.
57. Religious institutions were also directly involved in taking children out of Timor-Leste. Although the Commission recognises that these transfers were considered to be charitable by the institutions, there was a clear lack of information provided to parents and children.
58. Efforts to regulate the practice were instituted in the early 1980s but the Commission heard little evidence that the regulations were followed or that there was monitoring of the way in which they were applied. Where consent was sought from parents, parents were often not given complete information or were openly lied to. Further, there are cases of forced "consent" under threat of violence.
59. East Timorese children taken to Indonesia at a young age suffered a loss of their cultural identity, a cause of great suffering both to the children and their families. In many cases this was as a result of the policy of the religious institution involved, the decision of persons entrusted with the care of the child, or simply as a result of children being deprived of their cultural roots by their distance from their homeland.
60. The Commission heard of no case in which an attempt was made to provide education to East Timorese children by people of the same nationality, language or religion. Rather, the Commission heard of many cases in which there were

explicit attempts to transform the child's religion or in other ways become more Indonesian.

61. There is insufficient evidence to determine whether the large-scale removal of East Timorese children was official Indonesian government or military policy. Nevertheless, there is clear evidence of high-level involvement in some of its manifestations, extending to President Soeharto and his family.

62. The Indonesian government made no genuine attempt to regulate the practice of the removal of children through the institution of adoption policies undertaken by competent authorities according to the applicable law.

63. There is little evidence that the Indonesian government made a genuine effort to meet its obligations under international law regarding the care of East Timorese children by non-family members or by institutions, their transfer to Indonesia or the conditions under which they were kept.

64. The decline in the number of children who were abducted after 1981 seems to have been related more to the changing military situation and the normalisation of the occupation than to effective measures taken by the Indonesian authorities.

65. The Commission finds that programmes of the Ministries of Education and Culture and Manpower under which children were sent to Indonesia to study or to work had underlying political and security motivations. These included encouraging a commitment to Indonesian integration and removing possible trouble-makers from Timor-Leste.

66. Even where the transfers were motivated in part by humanitarian concerns or where parental consent was sought, little effort was made to ensure that children maintained contact with their families or to ensure that children were able to choose freely whether or not to return to Timor-Leste. The Commission has received numerous reports of children being removed and never seeing their families again, as well as of persons who were removed as children returning as adults and being unable to locate their families or even their home districts. Testimony provided to the Commission reveals that parents who tried to trace their abducted children could be obstructed by Indonesian officials.

440. The Commission is satisfied that:

- The abduction of East Timorese children by soldiers is both a crime under Indonesian law (Chapter XVIII of KUHAP dealing with crimes against personal liberty), as well as being in breach to the duty of an Occupying Power to respect family rights and not to intimidate civilians (Articles 27 and 23 of Geneva Convention IV).
- The separation of a child from its true identity, culture, ethnicity, religion or language may amount to a grave breach of Geneva Convention IV in so far as it constitutes inhuman treatment or causes great suffering to the child.
- The imposition of an alien culture was a violation of customary human rights law, which obliged Indonesia to respect the child's rights to freedom of thought, conscience and religion.

- Indonesia's failure to ensure that children's personal status was not changed by its soldiers or institutions was a breach of its obligations under Geneva Convention IV (Article 50).
- Indonesia's failure to ensure that education was provided, as much as possible by persons of the same nationality, language and religion, was a breach of Geneva Convention IV (Article 50).
- Indonesia's failure to adequately regulate the practice of the transfer of children constitutes a breach of its obligations under Article 21 of Geneva Convention IV.
- Indonesia's failure to combat the illicit transfer of children abroad constituted a breach of Geneva Convention IV (Article 11) and its failure to prevent the abduction, sale or traffic of children was a breach of its obligations under Article 29.
- Indonesia did not take sufficient measures as an Occupying Power to fulfil its obligations to the children of Timor-Leste under Geneva Convention IV to evacuate children from the field of conflict (Article 17), take all necessary steps to ensure that members of the same family were not separated (Article 49), ensure children were reunited with their parents, or placed with family or friends, or ensure they were identified and their parentage registered (Article 50). There was no attempt to ensure that children should be placed in an institution only as a last resort. The failure to reunite separated families after 1990 constituted a violation of the Convention on the Rights of the Child (CRC).
- Making students from occupied Timor-Leste swear an oath accepting the integration of Timor-Leste into Indonesia contravened Article 45 of the Regulations Annexed to Hague Convention IV which prohibits making the population of an occupied territory swear allegiance to the Occupying Power.
- It was unlawful for Indonesia to have forced anyone under 18 into any kind of work or to force any civilian from an occupied territory to work outside of the occupied territory (Article 51, Geneva Convention IV).

Endnotes

1. *International Convention Concerning the Laws and Customs of War on Land,* opened for signature 18 October 1907, (entry into force 26 January 1910), Article 23 (H) of Regulations Annexed to Hague Convention IV; see also *[Fourth] Geneva Convention relative to the Protection of Civilian Persons in Time of War*, opened for signature 12 August 1949, UNTS 75, pp. 287, (entry into force 21 October 1950). Article 51(Section III Occupied Territories) of Geneva Convention IV.
2. *Geneva Convention IV*, 1949, Article 147.
3. *Geneva Convention IV*, 1949, Article 17.
4. *Geneva Convention IV,* 1949, Article 49.
5. *Geneva Convention IV,* 1949, Articles 24 and 50.
6. *Geneva Convention IV,* 1949, Article 50.
7. *Geneva Convention IV*, 1949, Article 50.
8. *Geneva Convention IV,* 1949, Article 50.

9. *Convention on the Rights of the Child (CRC)*, opened for signature 20 November 1989, UNTS 1577, pp.3, (entry into force 2 September 1990), Article 3(1).
10. *CRC*, 1989, Articles 19, 34 and 36.
11. *CRC*, 1989, Article 27.
12. *CRC*, 1989, Article 21.
13. *CRC*, 1989, Articles 11 and 35.
14. *CRC*, 1989, Article 20.
15. *CRC*, 1989,Article 39.
16. *CRC*, 1989, Articles 38(2) and (3).
17. *CRC*, 1989, Article 38(3).
18. *CRC*, 1989, Article 32; see also *International Covenant on Economic, Social and Cultural Rights*, opened for signature 19 December 1966, UNTS 993, p. 3, (entry into force 3 January 1976), Article 10(3).
19. See for example, CAVR, Community Profiles of Lalawa, Iliomar Sub-district, Lautém District, 29 May 2003; Alawa Kraik, Baguia Sub-district, Baucau District, 6 October 2003.
20. Belchior Francisco Bento Alves Pereira, testimony to the CAVR National Public Hearing on Children and Conflict, Dili, 29-30 March 2004.
21. CAVR Interview with Bonifacio dos Reis, Hatolia, Ermera, 13 August 2003.
22. HRVD Statement 05646.
23. CAVR Interview with Francisco Soares, Laleia, Manatuto, 26 June 2003; CAVR interview with João Rui, Dili, 5 May 2004.
24. ABRI, "Petunjuk Tehnis tentang Kegiatan Babinsa" ["Instruction Manual: Village Guidance Officer/TDP Activity in developing and phasing out Trained People's Resistance Force"s], *Juknis /06/IV/1982*, (Korem 164, Wira Dharma, Intelligence Section, Williem da Costa [Chief of Intelligence]) translated in Budiardjo and Liong, *The War Against East Timor,* Zed Books, London, 1984, pp. 226-227.
25. ABRI, "Tentang Perlawan Rakyat Terlatih" ["Secret Document Operation Instructions"], No: INSOP 03/II/1982.
26. HRVD Statement 09081.
27. CAVR Interview with Antonio da Costa, Dili, 4 January 2004.
28. HRVD Statement 08366.
29. HRVD Statements 03819; 03879.
30. CAVR interview with Marcos Loina da Costa, Laleia, Manatuto, 24 June 2003.
31. CAVR Interview with João Rui, Dili, 5 May 2004.
32. CAVR Interview with Alfredo Reinado Alves, Dili, 5 March 2004.
33. CAVR Interview with Francisco da Silva Guterres, Dili, 4 June 2004.
34. CAVR Interview with João Rui, Dili, 5 May 2003.
35. ABRI, *Tentang Perlawan Rakyat Terlatih* [Secret Document Operation Instructions] *No:INSOP 03/II1982*, Indonesia pp. 7.
36. Geoffrey Robinson, "People's War: Militias in East Timor and Indonesia", *South East Asia Research*, Vol. 9, No. 3, 2001, pp. 292; Doug Carmen, Jerry van Klinken, *Masters of Terror*; *Melintas Badai Politik Indonesia*, Pustaka Sinar Harapan, Jakarta, June 2002, pp. 41-42
37. CAVR Interview with Fr Eligio Locatelli, Fatumaca, Baucau, 8 April 2003.
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Part 7.9.

Economic and Social Rights

Part 7.9. Economic and Social Rights

Tables:

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7.9. Economic and Social Rights

Introduction

1. Under the Indonesian occupation the people of Timor-Leste were subjected to brutal forms of violation of their physical integrity and their civil and political rights, but the impact of the conditions in which they lived, while often less remarked on, was equally damaging and possibly more long-lasting.

2. The social and economic rights of the East Timorese were comprehensively violated during the Indonesian occupation. These rights are defined in a number of international instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Universal Declaration of Human Rights (UDHR), and, for children, the Convention on the Rights of the Child (CRC). Specific provisions of the Fourth Geneva Convention cover the obligations of an occupying power to protect the social and economic circumstances of civilians.

3. The rights protected by these instruments include:

- The right to the enjoyment of the highest attainable standard of physical and mental health (ICESCR Article 12 and CRC Article 24)
- The right to an education (ICESCR Article 13, UDHR Article 26 and CRC Articles 28-29)
- The right of an individual to undertake work freely chosen (ICESCR Article 6, UDHR Article 23 and CRC Article 32)
- The right to an adequate standard of living, including adequate food, clothing and housing, and the continuous improvement of living conditions (ICESCR Article 11, UDHR Article 25 and CRC Article 27).

4. During the Indonesian occupation, the rights that were often violated include:

- Rights to health (ICESCR Article 12, CRC Article 24) were violated in political prisons and through the use of torture and in the deplorable conditions of the

relocation camps. In 1999, the TNI and the militias damaged 77% of health facilities and virtually all of the country's medical equipment and medicine was looted or destroyed.[1]

- Rights to education (ICESCR Article 13, UDHR Article 26, CRC Articles 28-29) were violated for those forced into resettlement camps and into military service as "operations assistants" (Tenaga Bantuan Operasi, TBO).
- Rights to work freely chosen (ICESCR Article 6, UDHR Article 23, ICCPR (the International Covenant on Civil and Political Rights) Article 8.3a, CRC Article 32, 38.2) were violated by forced recruitment into military operations as TBOs, civilian militia or human shields and by forced labour of other kinds.
- Rights to housing (ICESCR Article 11, UDHR Article 25) were violated through forced evictions and mass destruction of houses (see Vol. II, Part 7.3: Forced Displacement and Famine).
- Rights to an adequate standard of living (ICESCR Article 11, UDHR Article 25, CRC Article 27) were violated in the displacement of civilians to squalid detention camps.
- Both the ICESCR and the ICCPR also provide (in common article 1(2)) for the right of a people to freely dispose of its natural wealth and resources. This right is an aspect of the right to self-determination.
- The above mentioned right of the East Timorese people to freely dispose of their natural resources was violated by the Timor Gap Treaty signed between Indonesia and Australia dividing proceeds of lucrative oil and gas fields under Timorese sovereignty without consultation with the East Timorese people or their interests being taken into consideration.

5. A constant theme of Indonesian propaganda during the occupation was the supposed contrast between the backwardness that was said to be Portuguese colonialism's chief legacy and the rapid development that Indonesia brought to Timor-Leste. In the instances cited above Indonesia plainly failed to live up to its claims that its overriding concern was the well-being of the East Timorese people. Waves of violence and the extreme political and social repression and control exercised by the Indonesian military seriously hampered activities that were fundamental to making a day-to-day living, including movement, farming, and the ability to transport and market goods.

6. Violations of economic and social rights did not occur only as a by-product of military operations, however. Even at times of relative normality, security concerns, which sometimes became intertwined with private and corporate interests, took precedence over the well-being of the East Timorese people. The explicit use of education as a propaganda tool, rather than to meet basic learning needs, restricted children's development and future opportunities. The permanent resettlement of entire villages in areas that had previously been avoided because of their poor soils and malarial conditions endangered people's health. The manipulation of coffee prices to fund military operations and benefit military and civilian officials personally limited farmers' chances of making an adequate livelihood. The unsustainable and destructive extraction of natural resources by government officials and their business partners undermined

survival strategies and depleted the "natural capital" on which East Timorese people had expected to draw for many years to come. The preoccupation with security biased state investment towards areas such as road-building and the development of the government apparatus at the expense of agriculture in which the vast majority of East Timorese were employed.*

7. Economic and social rights are definitively set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Although Indonesia has not ratified the Covenant, its provisions set the standard by which Indonesian conduct in Timor-Leste during the occupation should be judged. In the Covenant itself and in its elaboration by the Committee on Economic, Social and Cultural Rights, it is recognised that because they are at different stages of economic development, states are not equally able to realise fully all the rights set out in the Covenant. The obligation on states is therefore to take steps to achieve the progressive realisation of social and economic rights to the maximum extent that their resources allow. However, at the same time, states have core responsibilities, which they must always fulfil. These include responsibilities to provide for certain basic needs, such as food, shelter, essential medicines and basic education. It is also required that states not act in a discriminatory manner in the provision of economic and social benefits and that they not take retrogressive measures that cause people's enjoyment of these rights actually to deteriorate.

8. The Commission believes that Indonesia violated economic and social rights at all these levels. In many instances the state took extreme security measures that were at odds with meeting its core responsibilities. In these situations, the state failed to provide for the population's basic needs, and frequently took measures that were both retrogressive and discriminatory.† At the same time the Commission has also found that the Indonesian state failed to realise the economic and social rights of the East Timorese to the maximum extent possible, and that at the end of the occupation, Timor-Leste's development still lagged well behind that of even the poorest Indonesian provinces (see Table 5 par. 26). This conclusion might seem surprising. The scale of Indonesian investment in the territory was large and the GDP growth rates that it produced were high. Moreover, the low benchmark established by the Portuguese makes the progress achieved in some areas, such as health and education, look dramatic. However, the Commission has found that the allocation of investment, the distribution of GDP and the delivery of social services, including health and education, were all severely compromised by the Indonesian state's overriding preoccupation with security, by its authoritarian style of government and by its close collaboration with special interests.

9. This finding clearly demonstrates the close relationship between serious violations of civil and political rights and the deprivation of social and economic rights. In Timor-Leste, the denial of fundamental civil and political freedoms had many manifestations,

* These policies should also be seen in the context of Soeharto's New Order regime (1965-1998). For an overview of this regime, see Vol. I, Part 3: The History of the Conflict and Part 4: The Regime of Occupation.

† Many of the violations discussed in this part are violations of these core obligations, often involving multiple breaches of a retrogressive nature. These extreme violations have been highlighted in this part by being placed in text-boxes.

but among them were the ones that fostered the factors identified by the Commission as preventing the realisation of the economic and social rights of the people of Timor-Leste.

The duties of an occupying power relating to social and economic conditions

As Indonesia had the status of an occupying power in Timor-Leste, the Commission has also considered the duties of occupying powers set out in the Fourth Geneva Convention of 1949 and the Regulations Annexed to the Hague Convention of 1907 that relate to economic and social conditions.

These rules include, among many others:

- The occupying power must meet the food and medical needs of the population to the fullest extent possible, and if the resources of the occupied territory are inadequate, it should import food, medicine and other necessary items. Food and medicine in the occupied territories can be requisitioned by the occupying power only if absolutely necessary for the occupying forces and only if the needs of the civilian population are met, and a fair value is paid. If necessary the occupying power must accept aid to meet these obligations. (Fourth Geneva Convention, Articles 55, 56, and 59-62)
- The occupying power is prohibited from confiscating private property or engaging in pillage, although some private property may be requisitioned in return for compensation. (Hague Regulations, annexed to Hague Convention IV of 1907, Articles 46, 47, 52 and 53).
- Certain property of the state may be used by the occupying power, and the natural resources of the occupied territory may be used to cover the cost of the occupation. However they should not be exploited for the general profit of the occupying state.
- Property for education, culture or charities, even if owned by the government, must be treated like private property and not taken or destroyed under any circumstances. (Hague Regulations, annexed to Hague Convention IV of 1907, Article 56)
- Civilians cannot be compelled to serve in the armed or auxiliary forces of the occupier, and propaganda aimed at encouraging voluntary enlistment is prohibited. Civilians over the age of eighteen can be forced to do non-military work to serve the immediate needs of the occupying power, but their pay and conditions must be adequate.(Fourth Geneva Convention, Article 51)

The Commission's work on economic and social rights

10. As its work in the area of truth-seeking progressed, the Commission increasingly found evidence of both direct violations of social and economic rights and of the close inter-relationship between the violation of those rights and the abuses of civil and political rights that had been the chief focus of its work. It decided that this reality should be recognised in its Final Report. At the same time it acknowledges the limitations of the analysis that follows. The Commission's staff conducted interviews when possible, but its work in this area has relied heavily on secondary sources. Because of the closed nature of Timor-Leste under the occupation and because research during that period focused on the urgent need to halt the massive abuses of civil and political rights, social and economic data are only spottily available. Economic data that are available vary widely in quality and need to be treated with caution.

11. The Commission's investigation of violations of economic and social rights has focused on the role of Indonesia. The Commission has looked only at the role of the Indonesian state, and not other actors such as Timorese political parties, because social and economic rights are assessed by looking at the policies and practice of an effective government, and can only be seen over the long-term. Social and economic rights are primarily rights of people to the progressive improvement of their economic and social situation. The Commission acknowledges that other actors, including East Timorese non-state actors, committed acts that harmed people's social and economic conditions. Many of these acts are considered in Vol. II, Part 7.3: Forced Displacement and Famine and Vol. III, Part 7.5: Violations of the Laws of War, but are not included here because they were not the acts of an effective government with long-term control over the territory of Timor-Leste.

12. The limited resources available to the Commission have permitted it to consider violations of cultural rights provided for under the ICESCR only to the extent that they are inseparable from violations of social and economic rights. Throughout this part, evidence is presented that Indonesian practice in such areas as education, health and land rights violated the norms and integrity of East Timorese culture. However, the Commission has not been able to examine the impact of the occupation on East Timorese culture in a detailed and systematic way. The Commission regrets this omission and strongly recommends that it should be rectified by further study.

13. For all of these reasons, this part cannot be regarded as presenting the definitive truth about violations of economic and social rights. Rather, it should be seen more as a contribution to it and as a spur to further research aimed at truth-seeking and reconciliation.

Social and economic rights and other rights

14. The existence of the two separate international covenants, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, might appear to entrench the distinction between these two sets of rights. In fact, however, the preambles to both covenants recognise their

indivisibility. Thus the International Covenant on Economic, Social and Cultural Rights notes:

> The ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.*

15. This close relationship was affirmed in the Vienna Declaration adopted at the 1993 United Nations World Conference on Human Rights:

> Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and the full participation in all aspects of their lives.[2]

16. It is worth emphasising the implications of the lack of attention to social and economic rights by external observers and Indonesia, in comparison to the attention given to civil and political rights. The combination of social and economic rights violations under conditions of overwhelming poverty, such as that experienced by the people of Timor-Leste, is often used to explain why violations of these rights, in themselves, do not command our attention. Indeed, the very widespread and entrenched nature of social and economic violations often numbs us both to their seriousness and to their essential character as rights. The UN Committee on Economic, Social and Cultural Rights, in a statement to the Vienna World Conference on Human Rights in 1993, drew attention to:

> [T]he shocking reality that States and the international community as a whole continue to tolerate all too often breaches of economic, social and cultural rights, which if they occurred in relation to civil and political rights, would provoke expression of horror and outrage.
>
> Statistical indicators of the extent of deprivation, or breaches of economic, social and cultural rights have been cited so often that they have tended to lose their impact. The magnitude, severity and constancy of that deprivation have evoked attitudes of resignation, feelings of hopelessness and compassion fatigue. Such muted responses are facilitated by a reluctance to characterise the problems that exist as gross and massive denials of economic, social and cultural rights. Yet it is difficult to understand how the situation can realistically be portrayed in any other way.[3]

17. Further, the low value in monetary terms of assets lost by the poor is often an implicit reason for the lack of attention to the violations that occur when they are destroyed.

* The ICCPR has a nearly identical preamble.

For example, the International Committee of the Red Cross's (ICRC) chief delegate to Timor-Leste in 1975, in his assessment of the impact of the "civil war", dismissed the extent of property damage:

> There was no significant material damage…In the inside of the island, numerous villages were burned, particularly in the region of Maubisse, Ainaro but the reconstruction of straw huts is not a problem for the native population.[*4]

18. The monetary value of these simple huts may indeed have seemed inconsequential, and materials for reconstruction were available locally. However, the more fundamental point is that the less people have to lose, the more severe the impact of the loss of homes, property, and livestock. The repeated destruction and looting of the property of those who have so little – first by the Portuguese, then by the warring political parties, then by the Indonesian military, and then by militia – made recovery slow, and both economically and emotionally taxing. People who are already on the edge of illness, starvation and ignorance due to chronic poverty are that much more in need of protection of these rights. Indeed, the absence of rigorous monitoring of these rights is in itself an indication of the neglect of the social and economic welfare of the East Timorese people.

The right to an adequate standard of living

19. The right of each person to an adequate standard of living encompasses the right to be free from hunger, to have access to the economic means of survival and clothing and shelter. It is essentially about bringing people out of poverty and creating the conditions for them to live their lives to their full potential. These rights, and how they have been violated, are considered below.

Development and government spending

20. As already mentioned, Indonesia often cited its large investment in the development of Timor-Leste as evidence of its good will towards the East Timorese people. It is true that Indonesia committed more investment to Timor-Leste than to any of its provinces. It allocated some Rp1.3bn for development in the territory between 1976/77 and 1993/94 (the equivalent of US$960m), This was, for example, around 50% more than it allocated to the neighbouring Indonesian province of East Nusa Tenggara (see Table 1 & 2).

* While the intent of his comment is clear, it is also worth noting its context. It is clear from the ICRC internal reports, minutes from meetings and notes from phone conversations (on file at CAVR) that the ICRC delegate, André Pasquier, felt strongly that the situation in late 1975 (before the Indonesian invasion) in Timor-Leste was being exaggerated by other agencies and the press. He further felt that "80% of nutritional problems which at present exist in Timor are not so much the result of the war as from the economic system maintained by the Portuguese." Therefore, comments in his reports were often attempts to downplay the effects of the "civil war" and the need for outside assistance.

Table 1: Allocation of funds in Five-Year Development Plans (Repelita) for Timor-Leste and selected provinces, 1969/70–1993/94 (Rp b)

	Repelita I (1969/70-1973/74) (Rp b)	**Repelita II** (1974/75-1978/79) (Rp b)	**Repelita III** (1979/80-1983/84) (Rp b)	**Repelita IV** (1984/85-1988/89) (Rp b)	**Repelita V** (1989/90-1993/94) (Rp b)	**Total** *(Rp b)*	**Total (US$ m)**[a]
Timor-Leste	…	66,692	139,385	257,822	826,312	1,290.,81	960.2
East Nusa Tenggara	2,223	24,788	129,296	175,199	526,309	857,815	641.2
West Nusa Tenggara	1,728	22,826	111,765	151,629	332,782	620,730	494.7
Papua (Irian Jaya)	1,469	15,825	87,388	155,224	652,353	912,259	609.5

[a] *Conversions calculated at annual average rate of the Rp:US$ during each five-year period of the Five-Year Development Plans.*

Source: Rui Gomes, East Timor's Socio-Economic Development under Indonesia: (1976-1998), Phd Thesis, London South Bank University, 2002, p. 218.

Table 2: Budget and Inpres[a] funds allocated to Timor-Leste, 1976/77–1992/93

	Sectoral Projects (Rp m)	**Routine Budget (Rp m)**	**Total Budget Funds (Rp m)**[b]	**Budget Line Item 16 (Rp m)**	**Inpres Funds (Rp m)**	**Sectoral Projects (US$ '000)**	**Routine Budget (US$ '000)**
1976/77	232.8	1,475.6	1,708.4	…	552.0	561.0	3,555.7
1977/78	3,500.0	3,261.6	6,761.6	…	3,359.7	8,433.7	7,859.4
1978/79	4,333.5	3,134.5	7,468.0	…	3,997.0	8,824.1	6,382.6
1979/80	7,517.2	3,150.0	10,667.2	7,000.0	5,152.9	11,996.8	5,027.1
1980/81	12,415.7	6,954.4	19,370.1	6,000.0	9,087.5	19,801.8	11,091.5
1981/82	11,213.2	8,435.5	19,648.7	6,500.0	14,884.6	17,617.0	13,252.9
1982/83	28,220.9	8,846.8	37,067.7	n/a	19,113.9	41,864.6	13,123.9
1983/84	22,871.4	9,432.1	32,303.5	7,000.0	20,826.0	23,257.5	9,591.3
1984/85	23,694.8	20,015.1	43,709.8	8,135.6	22,940.8	22,577.2	19,071.0
1985/86	35,181.2	13,038.6	48,219.8	14,147.8	24,192.3	31,406.2	11,639.5
1986/87	25,555.6	13,071.3	38,626.9	7,512.7	22,735.2	18,116.8	9,266.5
1987/88	15,075.7	11,218.1	26,293.8	5,372.6	n/a	9,142.3	6,803.0

1988/89	14,285.8	11,516.3	25,802.1	6,379.7	n/a	8,371.4	6,748.5
1989/90	18,324.6	14,765.2	33,089.8	n/a	n/a	10,253.2	8,261.6
1990/91	25,641.3	17,037.4	42,678.7	n/a	n/a	13,720.0	9,116.3
1991/92	31,351.7	18,859.4	50,211.1	n/a	n/a	15,891.2	9,559.2
1992/93	40,093.4	18,932.6	59,026.0	n/a	n/a	19,674.8	9,290.7
Total	319,508.8	183,144.4	502,653.2	n/a	n/a	281,509.5	159,640.7

[a] Extra state budgetary funds allocated upon presidential instruction with parliamentary approval.

[b] Excludes Budgetary Line Item 16 (Special Funds for Timor-Leste), for which data are incomplete.

Source: Rui Gomes, East Timor's Socio-Economic Development under Indonesia, p. 218.

21. Indeed this investment did translate into rapid GDP growth once the major military operations had ended and something approaching normality had been created in the mid-1980s. According to the official data, GDP grew at an annual average rate of 8.5% between 1984 and 1997, exceeding both Indonesian national GDP and growth in any Indonesian province (see Table 5 par. 26). While there are technical and political reasons to believe that the data are seriously flawed,[5] the overall picture that they depict about Timor-Leste's economy during the occupation years is a convincing one. Growth was driven by construction, transport and communications and government services, all sectors related to the consolidation of the occupation. There was also rapid growth in the trade and manufacturing, although the share of both in overall output remained low, particularly in the case of manufacturing. Meanwhile, agriculture, which still employed 84% of the population in 1990,[6] recorded the lowest growth rate among all the main sectors.

Table 3: Sectoral shares of GDP and growth rates, 1984–1997 (%)

	Sectoral Shares			Annual Average Growth 1984-97
	1984	1993	1997	
Agriculture	44.5	29.8	33.7	5.4
Manufacturing	1.4	2.9	3.1	13.7
Construction	11.4	21.0	18.1	12.7
Trade	8.4	9.3	9.1	11.5
Transport and Communications	5.4	8.6	9.7	14.9
Government Services	21.7	21.5	19.9	8.1
GDP	92,8	93,1	93,6	11,05

Source: Rui Gomes, East Timor's Socio-Economic Development under Indonesia, p. 218.

22. Clearly during the most intensive period of the war, from 1975-79, agricultural activity was almost totally paralysed. Then the confinement of much of the population in "resettlement" camps, where they continued to be held in some cases until the late 1980s and where their freedom of movement and ability to farm were both severely restricted meant that the recovery was very slow (between 1983 and 1986 the sector grew by less than 1% a year).[7] Output of the two main food crops, maize and rice, did not return to their pre-war levels until the late 1980s.[8]

23. Even after some degree of normalisation returned, conditions were not still conducive to agricultural growth. The massive disruption of traditional settlement patterns in the early years of the occupation had long-lasting effects. Much of the population continued to be forced to live in areas chosen with security rather than fertility in mind. Population movements and a new land regime cast land rights into uncertainty. Farmers were prevented from making the shift from subsistence to cash-generating agriculture by the iron grip of the military and their business associates over commodity production (see, in particular, par. 27-44).

24. No less important, agriculture suffered from low investment. Less than 10% of state investment was directed to agriculture, while over 50% went into just two sectors, transport and communications and the civil administration (see Table 4 below). Moreover, the main beneficiaries of what investment there was are believed to have been Indonesian transmigrants and the plantation sector.[9]

Table 4: Structure of state investment by sector, 1984/85–1993/94 (%)

Sector	% of Total
Transport and Communications	34
Civil Administration	20
Education & Youth	11
Agriculture & Irrigation	9
Health & Social Welfare	5
Regional Subsidies	5
Regional Development	4
Information	2
Religion	2
Natural Resources & Development	2
Defence	2
Industry	1
Other	3
Total	**100**

Source: Gomes citing KORPRI Timor Timur. Buku Dua Puluh Tahun Timor Timur Membangun, Dili, 1996, p. 139.

25. As a result of all these factors, agriculture's share of GDP was on a declining trend for most of the occupation. Such a decline is not unusual in a fast growing economy, but in Timor-Leste's case it was not accompanied by a compensating shift of the agricultural labour force into newly-emerging, more dynamic sectors. The manufacturing sector's share of output did rise during the same period (from 1.3% to 3.1%), but this was not enough to absorb much labour. Instead, at the end of the occupation, nearly three-quarters of the labour force remained in the countryside grinding out a subsistence living. During the same period the number of government employees soared (rising from just 780 in 1981 to 33,602 in 1997).[10] This bias was reflected in growth rates for Dili, which far outstripped those for any other district.[11] Excluded from the dynamic sectors, and confined to sectors that the government refused to dynamise, the majority of the population did not benefit from this growth.

26. In particular, slow-growing, low-productivity agriculture became synonymous with poverty: in the 1990s, 85% of heads of households belonging to the poorest half of the population were employed in agriculture, whereas more than 50% of the richest 20% of the population were working for the government or in the formal sector.[12] Timor-Leste's poverty cannot be blamed solely on Portuguese failures. After occupying Timor-Leste for nearly 24 years, Indonesia left a territory that was extremely poor by both Indonesian and international standards. [See Table 5 below] One calculation using East Timorese indicators to derive a Human Poverty Index showed that despite growing rapidly for much of that period, Timor-Leste in 1999 ranked among the poorest countries in the world (see Table 6).

Table 5: Comparative economic indicators: Timor-Leste and Indonesia

	GDP per head as % of Indonesia average	Average annual growth, 1983-96	Sectoral share of GDP			Illiteracy (%)	Infant Mortality[a]	Life Expectancy
			Agric	Manuf	Govt	1996	1996	1996
Timor-Leste	38.3	5.6	24.2	3.2	23.6	59.6[b]	135.0	53.9
NTT	35.3	4.6	38.1	2.4	19.8	21.1	51.0	64.4
NTB	41.2	4.9	36.3	4.8	16.6	32.0	75.0	58.9
Maluku	67.1	4.6	26.1	18.0	10.6	6.8	47.0	65.4
Papua	167.7	4.8	18.1	4.1	6.9	32.6	51.0	64.5
Indonesia	100.0	5.1	15.4	24.7	8.8	14.7	44.0	66.0

[a] Per 1,000 live births. [b] 2001

Sources: BPS 1999; BPS and UNDP 1997; and UNDP 2001

Table 6: Timor-Leste: income and poverty indicators, 1990–1999	1990	1995	1996	1999
Probability at birth of not surviving to 40 years (% of cohort)	22.7	28.5	41.1	35.6
Adult illiteracy rate (%, aged 15 and over)	59.8	54.7	59.6	59.6
Underweight average of deprivation (%)	…	…	49.0	45.7
Population not using improved water sources (%)	50.5	44.7	47.4	46.9
Underweight children under 5 (%)	…	…	50.6	44.5
Population without access to health services (%)	20.3	31.1	…	…
Human poverty index (HPI-1) value	46.4	43.0	51.0	49.0
Population below the national poverty line (%)	…	…	41.5	42.4

Source: Gomes, p. 208, based on UNDP and BPS data.

The coffee sector

27. Coffee has been Timor-Leste's single most important source of tax revenue, foreign exchange and local cash income since the late 19th century. It is still today Timor's most important export (in 2001 worth some US$13m, 75% of all exports),[13] and about 44,000 smallholder families (or some 200,000 people, 25% of the total population) are directly dependent on coffee for 90% of their cash income.[14]

28. The Portuguese are thought to have introduced coffee to Timor in the early 19th century. Sixty years later it had grown to become the territory's largest export. By 1925, when coffee prices were high and yields of valuable sandalwood had collapsed due to over-harvesting, coffee accounted for more than 80% of the value of Portuguese Timor's exports.* The production and export of plantation crops under Portuguese administration was dominated by a single company, Sociedade Agrícola Pátria e Trabalho (SAPT). SAPT was founded in 1900 by the then governor, Jose Celestino da Silva,† who was also responsible for the overhaul of Timorese village society in order to release land and labour for plantations (*repovoamento*).[15] Although founded as a private venture, SAPT behaved as if it were a state company by virtue of its association with the governor. Using the authority and resources of the state, SAPT seized the most productive land in Ermera District for coffee, and instituted a programme of forced cultivation, overseen

* Even at its peak, coffee probably produced only some Esc10.2m (US$380,000 at the current exchange rate). Moreover, coffee prices, like those of most tropical commodities, were unstable. Revenue from coffee was always insufficient to support the state, but it was the primary source of locally-generated financing for the poorly-funded Portuguese territory. Helio A Estevas Felgas, *Timor Português*, Agência Geral Do Ultramar, Lisbon, 1956, cited in João Saldanha, 1994, p. 65.

† Da Silva was a distinctive figure for other reasons as well. He put down the Dom Boaventura Rebellion of 1911-12 and then sought to reassert Portuguese control by reorganising local political structures. One of his innovations was to introduce the position of *chefe de suco*, thereby undermining the traditional authority of the *liurai* (except those who were loyal to the state). Some of the chief beneficiaries of this reorganisation were the plantation companies, which gained effective control over large areas of land.

by the military.* Later rebellions against the poll tax were punished by forced labour on coffee plantations, and those who were unable to pay the tax were also subjected to forced labour.[16]

Management of the coffee sector under Indonesian administration

29. The Indonesian state followed the pattern established by the Portuguese colonial government by putting management of production and trade in coffee into the hands of state proxies. These proxies had special arrangements with the Indonesian military, which gave them control of the coffee trade, and subsequently control of other sectors, in return for supplying "off-budget" funds for military operations and the civil administration. As part of this arrangement, local coffee smallholders were prevented from earning a decent standard of living or seeing the benefit of the enormous profits made by the trading company, the military, senior military officers and Indonesian businessmen. Even more seriously, the funds from coffee financed the military campaign in Timor-Leste as well the military's ongoing repression of the local population.

30. Major General Benny Moerdani, who was deeply involved in the planning and execution of Indonesia's Timor-Leste operations before and after the full invasion, initially as chief of defence joint intelligence and deputy head of Bakin and then from 1983 to 1988 as armed forces commander, described in an exclusive interview how he forged a partnership with the Indonesian entrepreneur, Robby Sumampouw.[17] Moerdani recalled how, on 11 December 1975, the two met in a Jakarta nightclub to arrange a business deal under which Robby Sumampouw would provide food and supplies to the invasion forces in exchange for the right to sell the coffee then stored in Dili. The Indonesian military had expected a quick victory in Timor-Leste, and had not planned or budgeted for a prolonged campaign:†

> This was a bloody expensive operation. The whole Timor operation was prepared in less than a year. And you know our budgeting system. You have to plan five years in advance. So if you start something in the middle of Repelita [the Five-Year Development Plan], you don't have money for it. ABRI was squeezing everything. It's unthinkable that a westerner would understand. If you tell this to the US Staff College, they won't understand; the Australian Staff College, they won't understand. How can you mount an operation without money? But we did it. Because we had to.[18]

31. According to Moerdani, Sumampouw offered to ship in US$1m worth of supplies for the troops – including food, tyres, motorcycles and Land Rovers. Moerdani recalled the conversation this way:

* SAPT later also formed subsidiaries that controlled cocoa and rubber plantations. SAPT, *Business Plan*, Dili, August 2000, p. 1.

† CAVR interviews with, among others, the former governor of Timor-Leste, Mario Carrascalão, corroborate that this was ABRI's view. Many sources have recalled the Indonesian boast that its troops would "have breakfast in Dili, lunch in Baucau and dinner in Lospalos", as well as the subsequent, less optimistic variants on this apothegm, as their hopes of a quick victory faded.

I said: “I won’t have one million dollars to pay you.” No, they [Sumampouw and his associates] don’t mind. “We know there is a lot of coffee in Timor-Leste, maybe 5,000-6000 tons…Well, we send one ship with all these goodies before Christmas. And then after it is off-loaded, we load coffee, as much as the ship can take. And we sail to Singapore to sell it…If the proceeds come to more than US$1m, we’ll take only one million to pay for the goods. If it comes to less than one million, you don’t have to pay us anything.” I said: “Very generous! What do I owe you for this?” “No, we just want to do something for the government.” I said OK. So, it started.[19]

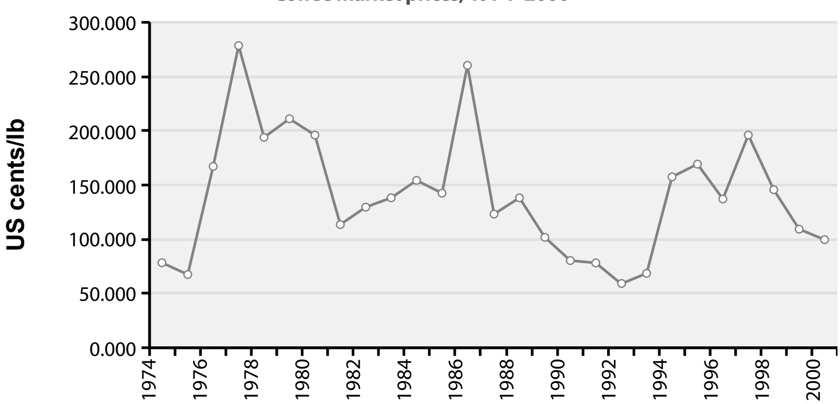
32. Thus, the deal that was to establish the largest business in Timor-Leste was struck in Jakarta, just four days after the Indonesian invasion of Díli.

33. On delivery of the goods to Dili, Moerdani then introduced Sumampouw to Colonel Dading Kalbuadi, the then intelligence chief of the Seroja joint task force (Kogasgab) and Arnaldo dos Reis Araújo, the Indonesian-installed governor of Timor-Leste. Both agreed to issue Sumampouw a 20-year contract to buy East Timorese coffee and sell it abroad in return for the continued provision of supplies.[20] Sumampouw and his brother Hendro established PT International Denok Hernandes Indonesia as the sole buyer and exporter of coffee.

The value of the coffee sector

34. During the Indonesian occupation, coffee was more profitable than it had been under the Portuguese. For much of the occupation period prices were buoyant (particularly in 1977 and 1986) and production rose to over 13,000 tons. The deal therefore proved lucrative for Sumampouw and the ABRI generals. Sumampouw’s shipment of supplies arrived on 23 December 1975. In 1976, coffee prices rocketed to an all-time high (see Chart 1 below and Table 7 par. 38).

Coffee market prices, 1974–2000



Source: www.imfstatistics.org

35. The Commission was able to find sources referring to the sale of only two shipments, the first of 500 tons, the second of 800 tons, for a total sale price in Singapore of US$3.1m (US$1.27/lb*).[21] It is not known when the remainder of the coffee sitting in Dili warehouses was sold or at what price, and whether the remainder of the profit went to Robby Sumampouw or ABRI in Timor-Leste or both. However, according to Moerdani's account of the terms of his deal with Sumampouw, by mid-1976, even this partial sale of Timor-Leste's coffee stocks gave ABRI a US$2.1million windfall to finance its operations just when it was launching its advance into the interior of Timor-Leste (see Vol. I, Part 3: The History of the Conflict, section on Operation Seroja, 1976-79). If the Sumampouws traded the rest of the other shipments at the same price as the first two sales, the total profit would have been some US$14m.

36. Estimating exactly how much profit may have been made is complicated by several factors, including: the oscillating price of coffee on international markets, the difference between prices paid to producers and the international indicator price, the lack of systematic records on producer prices in Timor-Leste and West Timor, and currency fluctuations. Therefore, the data cited here on prices paid to producers in Timor-Leste and their comparison with West Timor prices (see Table 7, below) are indicative only.

37. In 1977, international coffee prices hit a new high. PT Denok was perfectly positioned to capture this upswing in the market. When prices fell again in 1978-79, Sumampouw was well-placed to expand his business in Timor-Leste into other, more lucrative sectors. When PT Denok's coffee monopoly was finally broken, in 1992 after the Santa Cruz Massacre, under pressure from US Senators, Moerdani was no longer commander of the Indonesian armed forces and coffee prices had fallen to their lowest level in 30 years. The end of the monopoly was therefore a relatively cheap concession to the international community, leaving those who had benefited from it to concentrate on the, by then, more rewarding monopolies in construction and import-export.[22]

38. East Timorese smallholders saw none of the profits earned by Sumampouw and the ABRI generals. Each year the local government issued a regulation that set the price to be paid to farmers.† In 1983 this price was one-sixth of the price paid in West Timor, costing East Timorese coffee farmers $2.50 in lost income for each kilogramme of coffee produced.‡ This meant that, in 1983, even when the international market price was not especially high, PT Denok was making some US$18 million just by underpaying East Timorese growers.

* IMF statistics cite coffee market prices in 1976 at US$1.67/lb.

† The Governor issued a decree concerning the order of the coffee trade. The last one was issued in 1993 when the monopoly had been broken. CAVR, interview with Sam Filliaci, Yogyakarta, Indonesia, 9 July 2004.

‡ An Australian Senate delegation to Timor-Leste was told that PT Denok paid producers Rp500/kg, (or US$ 50 cents) when the world market coffee price was Rp3000/kg. Official Report of the Australian Parliamentary Delegation to Indonesia July-August 1983, Australia, pp. 175 and 184.

Table 7: Coffee prices and production, 1975–1993				
Year	Production (Tons)	Price paid to producer (Rp/kg)	International market indicator price (Rp/kg)	East Timor price source
1975	4,585	n/a	621	No price available, although some reported that coffee was traded for rice in the early years of the invasion
1976	2,510	n/a	1,525	No price available
1977	5,597	n/a	2,538	No price available
1978	3,547	n/a	1,887	No price available
1979	2,968	n/a	2,892	No price available
1980	4,600	100 – 300	2,704	CAVR interviews, Idelfonso (Fatubessi coffee farmer and former PT Salazar employee); Chung Ki Seng (aka Asengko, independent coffee trader)
1981	8,999	150 – 350	1,571	ACFOA Dossier, 9 March 1982, confidential interview with former driver for PT Denok in Ermera and Dili until December 1981. Also reported that army selling for Rp1,500/kg.
1982	8,009	375	1,892	Australian Senate Delegation, 1983, p. 175
1983	7,240	500	2,761	Australian Senate Delegation, 1983 p 175 and 184
1984	6,091	n/a	3,476	No price available
1985	8,275	500	3,469	CAVR interview, Idelfonso
1986	9,572	n/a	7,336	No price available
1987	9,448	800 – 1,500	4,448	CAVR interview, Arcanjo De Silva (Coffee Rehabilitation Project 1987-92). Also reports that the Denpasar and Sulawesi farmgate price was Rp7,000/kg
1988	9,428	1,200-1,500	5,119	*Tempo*, 9/3/88, p. 33. Also reports that the Atambua wholesale price was Rp4000/kg
1989	7,497	2,000	3,972	CAVR interview with Manuel Babo (coffee farmer in Aifu, Ermera). Also reports that Atambua price was Rp6,000/kg minus taxes and bribes
1990	7,348	4,000	3,243	CAVR interview, Idelfonso
1991	10,508	1,100-1,200	3,346	Mubyarto, et al., East Timor: The Impact of Integration

1992	13,288	n/a	2,635	No price available
1993	7,734	800-1,100	3,122	CAVR interview, Sam Filliaci (former Director NCBA, Dili)

Source for production: 1975-80 Saldanha; 1983 Soesastro; 1981-2, 1984-93 Timor Timur dalam Angka; Source for international market price: www.imfstatistics.org

39. The Commission received numerous reports of the Indonesian military interfering in the production and trading of coffee in order to protect PT Denok's privileged position.* Farmers reported that armed soldiers guarded the coffee, and that military vehicles were often used to transport it. The transportation of coffee (above a few kilogrammes for personal use) other than by PT Denok was strictly prohibited, and punishable by confiscation and possible imprisonment. Several independent Chinese traders did continue to operate. Some operated as local buyers in association with PT Denok; others did not have licences but simply bribed their way to Atambua to sell coffee at a higher price.[23]

40. Although the military initially may have needed Sumampouw's help to procure supplies for its operations, in later years the military's share of PT Denok's coffee profits appears to have been used primarily for the personal enrichment of a handful of top officials. The former governor, Mario Carrascalão, recounted how the profit from PT Denok was diverted:

> *There were something called "coffee fee" funds. Farmers were paid 150, 200, 300 rupiah max [per kilo]. Then there was a "fee" paid directly to district and provincial level officials and the military (the Muspida Tingkat I and II and the Muspika). There was about Rp3bn from these fees that was divided up between the governor, the prosecutor, the military commander and so forth.*[24]

41. PT Denok was a subsidiary of the Batara Indra Group which included ten other monopoly subsidiaries, including PT Salazar (to which the governor, Mário Viegas Carrascalão, granted sole ownership of 11,000 ha of coffee plantations seized from SAPT), PT Scent Indonesia (sole buyer and exporter of sandalwood), PT Watu Besi Raya (sole contractor for all civil construction) and PT Marmer (sole owner of all marble mining rights).[25] Given the large amount of funds allocated to Timor to develop infrastructure, a monopoly on these contracts would certainly have been highly attractive. PT Denok established two further companies, PT Gunung Kijang and Bakti Timor Karya (BTK), which were involved in the monopoly in the infrastructure sector during the occupation. At the time of writing these two companies continue to do business in Timor-Leste. The monopolies would therefore have provided a strong economic interest in maintaining military control in Timor-Leste.

* The seizure of large landholdings for coffee plantations had the effect of giving PT Denok control of both the purchase and sale of the product, although 60% of coffee still came from smallholdings. State-organised cooperatives, Kud, were nominally the buyers, who then supplied PT Denok, the sole exporter of "green" beans. However, interviews suggest that the cooperatives in fact served only to rubber-stamp sales by farmers, and that PT Denok actually bought its coffee directly or from independent traders.

Military involvement in the East Timorese economy

42. Military business involvement was not unique to Timor-Leste – the collection of "fees" and grants by the military for exclusive resource extraction rights were part of the endemic corruption that was a hallmark of the Soeharto Government. The "dual function" (*dwifungsi*) of the military in both civil administration and defence was an integral part of the New Order government's authoritarian control and therefore opened ample opportunities for the military to develop businesses.[26]

43. However, the degree of military control in Timor-Leste during the occupation was unusual even for New Order Indonesia (see Vol. I, Part 4: The Regime of Occupation). The military held key positions in the civil administration, especially in the early years of the occupation, giving it a stranglehold over Timor-Leste's economic and commercial activities and the power to protect army-related businesses and their patronage networks (see Vol. I, Part 4: The Regime of Occupation, section on Civil Administration):

> The head and secretary of the Regional Planning Board (Bappeda) occupy the strategic positions from which to control the use of resources and ensure that the proceeds of projects are distributed "fairly" among officers, officials and business enterprises in Timor-Leste and Jakarta. As a rule, all projects requiring more than Rp500m are assigned to businesses in Java as businesses in Timor-Leste are unable to provide the necessary capital. Bappeda has the power to allocate these projects.[27]

44. While the international laws of war allow a belligerent occupier to seize or otherwise make use of resources in order to fund the occupation, the military-controlled plundering of Timor-Leste's most valuable commodity served to enrich the military officers and civilian officials who were in positions to protect these investments. Given the extent of these patronage networks and the level of corruption in the territory, it is not credible that the military's control over Timor-Leste's economy and resource management was necessary solely to fund the occupation.

Right of a people to dispose of natural resources

45. In addition to control of coffee, the military was also involved in the looting of Timor-Leste's valuable natural resources including sandalwood, timber and oil.

Sandalwood

46. Timor's valuable aromatic sandalwood was the commodity that originally attracted the attention of European traders and the governments that sponsored them in the early 16th century, and was to play a central role in the structuring of power both within the colony and between the Portuguese, Dutch and British powers competing for ascendancy in the region. The Portuguese logged the sandalwood stocks relentlessly, roots and all, and production plummeted from almost 900,000kg in 1910 to a mere 20,000kg in 1926, when exporting sandalwood was officially banned to allow stocks to regenerate.[28]

47. After the Indonesian invasion sandalwood was again harvested at an unsustainable rate, either directly by, or under the orders, of the military. The Commission's research has uncovered cases of military personnel ordering local people to fell sandalwood trees of all sizes, including tearing out the roots.[29] Logged by or for the military, sandalwood was sold primarily through independent traders in the early years after the invasion. In October 1979, its removal was formalised by giving Robby Sumampouw's Batara Indra Group subsidiary, PT Scent Indonesia, exclusive export rights. By 1982, 240 tons of sandalwood and oil were being exported, rising to 328 tons in 1986. However, as the resource was depleted, yields began to fall, reaching less than 150 tons in 1988, less than 60 tons in 1990 and 11 tons in 1991.[30]

Forest cover

48. Abiding aspects of the East Timorese experience, including the harsh and uncertain climate and frequent waves of violence and instability, have given the forests a special value, whether as a source of food in lean periods or as places of refuge in times of instability. Wood is also a major fuel source and forest plants are used in traditional medicines.[31] In 1999, the UN Intergovernmental Panel on Forests established the concept of a forest per capita ratio to draw attention to the importance of forests for agrarian societies. A community with a ratio of 0.01 ha/per person was considered to be a population at risk because its members would not be able to use the forests to supplement their livelihoods. Researchers found that in 1999 most areas in Timor-Leste were at, or near, the at-risk threshold.[32]

49. The heavy toll taken on Timor-Leste's forests during the Indonesian occupation is demonstrated by two independent satellite photo analyses, which show a sharp decline in forest cover during the occupation, especially in the western districts.* The largest declines in woodland and dense forest cover, in same cases amounting to losses of up to 96%, were in Oecussi, Dili, Bobonaro, Liquiçá, Ermera, Lautém, Manatuto and Covalima. The data do not establish with any certainty the causes of this decline, but major contributors are likely to have been:

- Increased pressure on forested land arising from a variety of causes, including clearing for farming and firewood cutting and to accommodate a population that was growing as a result of natural increase and the influx of settlers, whether as transmigrants or to populate "guided" villages along the border areas for "security" purposes;[33]
- Commercial cutting of logs (including teak, iron wood [Ferro], and sandalwood), both licenced and unlicenced, for transport across the border. As in Indonesia, because the use of heavy machinery to cut trees and to transport logs were both

* George Bouma and Halina Kobryn, "Changes in Vegetation Cover in East Timor (1989-1999)" *Natural Resources Forum, Vol. 28*, 2004, pp. 1-12; Lars Erikstad, Vegar Bakkestuen, and Odd Terje Sandlund, "Deforestation in East Timor since 1972 as indicated by LANDSAT imagery," Annexe 6 to Sandlund et al, 2001. Declines in forest cover between 1972 and 1999, as measured by remote sensing, were also confirmed in Erikstad et al. However, the vegetation cover was not broken down by type into dense forest, forest and woodland, as in the Bouma and Kobryn study.

easily monitored, illegal logging without the connivance of law enforcement officials would have been impossible;

- To a lesser extent, the clearing of forests to create new plantations;*
- Use of napalm by the military in the 1970s.

50. The loss of forest cover cramped rural communities' capacity to make decent livelihoods in many ways, including through:

- Loss of access to wood products such as firewood, vegetables, livestock forage and medicinal plants;
- Degradation of soil quality, leading to declines in fertility;
- Degradation of soil stability, with increases in erosion and likelihood of landslides on steep slopes;
- Soil compaction and loss of water retention capacity, with consequent reduction in water tables and water availability, and possible increases in flash flooding;
- Loss of opportunity to gain a livelihood from sustainable logging and harvesting wood products for commercial purposes.

51. The Commission is not aware of any steps taken by the Indonesian administration to protect forests in Timor-Leste from illegal or unsustainable exploitation.

The Timor Sea

52. The most significant economic asset at stake in Timor-Leste was the petroleum-rich oceanic trough between Timor and Australia. Not explored until the early 1970s, these resources have yet to make a major contribution to Timor-Leste's economy.† Yet the rich deposits of oil and natural gas in the Timor Sea have played a central role in the struggle over East Timorese sovereignty. The Australian and Portuguese positions on the right of the people of Timor-Leste to self-determination and the Indonesian occupation were deeply influenced by their economic interests in the Timor Sea (see Vol. II, Part 7.1: The Right to Self-Determination). The oil and gas fields in the Timor Sea are mentioned here because they illustrate how economic interests in the exploitation of these valuable natural resources have shaped both the positions of international actors regarding the right of the people of Timor-Leste to self-determination and the economic conditions of the East Timorese and their ability to provide for themselves.

53. The 1989 treaty between Australia and Indonesia divided the Timor Sea into Indonesian and Australian exclusive zones and a Joint Petroleum Development Area. It also provided for production of the fields to be split between Australia and Indonesia on terms that were unusually favourable to Australia. Political considerations almost

* Plantation cover increased from 3% to 5% between 1989 and 1999, and forest/coffee cover increased from 6% to 7%.

† Although not explored until the early 1970s, the trough's petroleum potential was the impetus for Australia and Portugal's boundary negotiations dating from 1953. J.R.V Prescott, "The Australian-Indonesian Continental Shelf Agreements," *Australia's Neighbours Vol. 82*, Sept – Oct 1972, pp. 1-2, cited in Jolliffe, p. 58.

certainly influenced this outcome: Australia was thought to have reaped the rewards of having been one of the few countries to give *de jure* recognition to the Indonesian annexation of Timor-Leste.

The right to food

54. All people have the fundamental right to live free from hunger. In realising this right, the state has a minimum obligation to ensure that all people have access to essential food supplies. This duty includes taking steps to:

> Improve methods of production, conservation and distribution of food…[including] by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources. (ICESCR, Article 11(2)(a))

55. Widespread poverty and climatic factors have meant that cultivation of food has always been difficult in Timor-Leste. Periodic El Niño droughts are a fact of life and seasonal food shortages (typically lasting 2-3 months a year) are routine condemning people to live on the edge of malnutrition. By the early 1970s, the human and livestock populations were putting severe pressure on soils in some areas. But, however precarious their existence, the local population had developed means of spreading risk and weathering these lean periods.[34] Even after the added disruption to food supplies that followed the civil war in 1975, the ICRC chief delegate to Timor-Leste steadfastly denied that there was famine in the region. He characterised the situation immediately following the civil war as one of "food stress" rather than famine, due to the embargo on shipments of supplies (of food and gasoline especially),[*] and to the pre-existing conditions of poverty and poor health.

56. As shown in Table 4 par. 24 above, only 9% of state investment went into the agricultural sector during 1984/85–1993/94, a low figure in view of the fact that the vast majority of the population relied on agriculture for its livelihood. During the same period the share of agriculture in GDP declined from 44.2% to 29.8% (see Table 5 par. 26 above). As already discussed (see par. 25 above), the declining share of agriculture in GDP can be a sign of healthy economic change. But in the context of Timor-Leste, where agriculture remained the main source of employment, productivity was extremely low, and the impact of GDP growth on employment in other sectors was minimal, this was not the case.

57. Only 10% of cultivable land was used for agriculture, mainly because of security policies restricting movement of the population as well as conflicts over land ownership (discussed in par. 62-72, 143 below). The favoured recipients of what investment there was were Indonesian transmigrants rather than the indigenous population.[35] The

* Oxfam representative Adrian Harris stated in correspondence from Community Aid Abroad Australia to Oxfam England, dated October 1975, that the Indonesians had blockaded the border as a deliberate tactic to cause disorder as a justification for intervention. Submission to CAVR from Community Aid Abroad, National Office, Melbourne.

investment that was directed to East Timorese farmers was not efficient. Irrigation works built by Indonesia, for example, were "of a very temporary nature and are not effective".[36] Because of a dearth of extension workers technical skills were not passed on. The introduction of inputs, such as fertiliser, that might have boosted productivity was erratic.[37] As a result by far the worst levels of poverty and malnutrition were found in the countryside.[38]

58. Aside from Indonesia's failure in this regard, the most severe impact of the Indonesian occupation on subsistence agriculture resulted from security measures which led directly to severe famine and the death of thousands. It is worth re-emphasising the point made earlier in this Report (see Vol. II, Part 7.3: Forced Displacement and Famine) that before the Indonesian invasion, however dire the situation of health and poverty after centuries of Portuguese neglect, there were no reports of famine on the scale that occurred under the occupation, although it is understood that the population had experienced severe food shortages as recently as 1964 and 1970. Following the Indonesian invasion, the widespread, repeated and often prolonged displacement of people and the restrictions on farming, which were both a deliberate tactic and a side-effect of the Indonesian occupation, seriously interfered with well-established strategies of agriculture and land-management.

59. One person told the Commission about conditions in Iliomar, Lautém after he and his fellow villagers had been confined to the sub-district capital (posto) after surrendering:

> *Because of these orders from the TNI, people could not move at all. It was strictly forbidden to go out of the camp to look for food, so people began to experience extreme hunger at Iliomar posto. We had just come down from Matebian, so we had no food with us and had not had the chance to make rice fields. So there was no food at all at the posto. In order to survive, everyone began eating all the coconuts that were around the camp – the young fruits, but also the old dry ones, and even the very small unripe ones.*
>
> *After a while, because thousands of people had been eating the coconuts, the trees stopped fruiting altogether. Then we began to eat the roots and leaves of wild trees, and many people became sick. Every day 2-3 people died from hunger, sometimes 40-50 died in a single week. To survive, people ate the kind of food pigs eat. They cut down banana trees, peeled off the outer layers and cooked the inner shoots. This caused many people to become sick with cholera and beri-beri [vomiting and diarrhoea]. After eating the banana trees, about 5-10 people died every day. So I guess that more than 200 people died from hunger during that period because every day you heard people chatting to each other, saying someone over here is dead, over there someone else is dead.*[39]

60. One source cites Monsignor Martinho da Costa Lopes, Apostolic Administrator of Dili (before his dismissal in 1983):

If the Indonesians were to allow the Timorese people to move around freely and live where they like, there would be no shortage of food. Of course, food production is influenced by such factors as the climate. But the problem is that people are forced to live in settlements and not allowed to move outside them…this is the main reason people cannot grow enough food.[40]

61. There is evidence that the Indonesians denied "troublesome" areas their full quota of food and medical aid, believing that the aid would end up in the hands of the Resistance.[41] There are also reports of the military diverting food, medicines and clothing intended as aid for their own use or for sale in shops.[42] The military and local government officials also reportedly used aid in a discriminatory fashion to entice refugees to convert to Islam or Protestantism, or to lure desperate women into sexual slavery.[43]

Economic and social impacts of "resettlement camps"

Everyday life under Portugal and Indonesia may have been precarious and unhealthy, but it was far worse in the camps, villages and other places where hundreds of thousands of people were made to settle by the Indonesian military at various times during the occupation. The conditions in these places were squalid: housing was primitive, and the inhabitants had no access to sanitary or health facilities. Their purpose was to isolate the Resistance from the general population. This was to be achieved either by keeping them under close military control or by moving them away from areas where the Resistance was still holding out. This often involved the forced movement of people into low-lying settlements where they could be more easily monitored. The majority of the population had traditionally clustered in the uplands because of the endemic malaria in the lowlands.[44] These camps, therefore, exposed massive numbers of already weakened civilians to severe health risks. The extreme nature of the health conditions in the resettlement areas, and the retrogressive nature of the occupation's policy of maintaining these camps without providing health services for the detainees were a clear violation of their right to health.

A different kind of settlement camp was used to hold the thousands of civilians and Falintil fighters who had fled after the invasion and then surrendered or were captured. These people were held for periods, ranging from several months to many years, for the explicit purpose of breaking the lines of support to members of the Resistance who had not yet surrendered.[45] Already in a severe state of malnutrition when they came out of hiding, as internees in the camps they received minimal,

if any, rations.* They were also forbidden to venture more than a short distance outside the camps, severely limiting their freedom to farm or to search for food. These camps were tightly guarded on all sides to prevent contact with the guerrillas. Internees who left their camps for any reason, including to search for food, risked being shot by guards for attempting to contact the Resistance, or by the Resistance for alleged collaboration with the Indonesians.[46] Refugees resorted to eating leaves and poisonous tubers found in the narrow area in which they could move, and suffered fits of vomiting and diarrhea as a result. One former resident of Uma Metan camp (Alas, Manufahi) states that cholera, beri-beri and tuberculosis were rife as a result of malnutrition and poor quality drinking water, and between 10 and 20 people died each day.[47]

People moved from villages where there had been uprisings or other forms of resistance against the Indonesians could face conditions even harsher than those in the post-surrender camps. Where these detainees had not themselves been involved in resistance activity, as was often the case, their treatment had an element of retaliation and collective punishment. Thus after the uprisings of August-September 1983, whole villages, including not just the relatives of Falintil soldiers and Hansip militia who had defected to the mountains but also their neighbours, were rounded up and moved to new villages where they were kept without food or proper housing, sanitary conditions and healthcare. Detainees were prohibited from farming or leaving the site for any reason. Visiting gardens, in particular, was prohibited as these were seen as common meeting places for civilians and guerrillas.[48] For example, after the Kraras incident of 8 August 1983, survivors of the subsequent wave of executions were moved to Lalerek Mutin, in an area of Luca, Viqueque that had previously been uninhabited due to its extremely hot, dry climate and infertile soil. The village head described conditions there:

> *When we arrived at the site, to which we were moved by the Nanggala [Kopassus], all of our tools, such as machetes, knives, shovels, hoes, crowbars and any other farming implements, were confiscated. The houses were built in a line along the main road to make them easy to monitor. The houses and facilities prepared for us by the Nanggala were quite filthy and uninhabitable...The houses were built as an emergency measure and not meant to be permanent. There was no food at all…Security was extremely tight and we were prohibited from farming outside the site. We were required to assemble every morning*

* There are numerous reports of hundreds dying after eating salt fish given by the military (see Vol. II, Part 7.3: Forced Displacement and Famine). Although some East Timorese suspected that the victims had been intentionally poisoned, the most likely cause of these deaths was "protein rush." The body does not tolerate eating high protein foods, salt or fat after months or years of severe malnutrition.

and afternoon to make sure everyone was present. If you wanted to go 200 metres from the village to a garden you needed a travel permit, so leaving it was essentially impossible. We were prohibited from having any contact with the outside; no communication with nearby villages was allowed. There was no medical assistance whatsoever. During the time we stayed there, we lived there under deep psychological pressure and trauma, and felt very depressed.[49]

After four or five months, as the number of people dying rose, their military custodians allowed the people in Lalerek Mutin, Viqueque to go out looking for food twice a week, on the condition that they also burn, uproot or otherwise destroy food sources, and thus deny them to the Resistance.[50]

Another site chosen for its remoteness rather than for its capacity to support those sent there, was Ataúro, an island off Dili that the Portuguese had also used as a detention centre. At its peak, in late 1982, Ataúro had a camp population of just over 4,000,[51] more than doubling its existing population, which was already struggling to scratch out a living on the dry, infertile island.[52] One detainee recalled her arrival on Ataúro:

*When we got there, I was separated from my younger brother [Mateus]. He stayed in house Number 22 with 60 other people; I was in Number 24 with 70 people. [*Other sources report the houses as being 14 x 10m in size*]. The houses where I stayed didn't have anything inside, just a tin roof and canvas for walls. There were no beds...At first the military didn't give us any food at all. Mateus and I ate what we had brought with us from Quelicai. A month later, we got a ration of food from the military, three cans of sardines. This was the ration for a whole family, and it had to last two weeks because we got the ration only twice a month...Those who couldn't stand the hunger stole papaya and manioc roots from the local inhabitants...Every day 2-5 people died from hunger, mostly children and the elderly.*[53]

Again, as with the right to health, the extreme conditions in the "resettlement camps" to which families, even entire villages, were displaced had an impact on education that far surpassed the inadequacies of the "normal" education system (see Vol. II, Part 3: Forced Displacement and Famine). The Commission's own research and secondary sources show that for years at a time children in the camps received either no education at all or a thoroughly inadequate one. In internment camps in Lautém and Liquiçá Districts, there were no schools at all from the time of the invasion until 1982-83.[54] In another camp, at Uma Metan (Alas, Manufahi), the military set up a "school", that was ostensibly for the teaching of Indonesian but in fact became a notorious rape centre:

An emergency school was built at Uma Metan on the orders of Infantry Battalion 700, Nanggala [Kopassandha] and the Koramil. The building was made of traditional materials and was 12 metres long. It was built so that the population that wanted to learn Indonesian could. The process was that each evening all women in Uma Metan washed themselves and then took Indonesian language classes, which were of course taught by [ABRI] from the area. The unusual thing was that the school was also used by Nanggala, Infantry Battalion 700 and Koramil to give free rein to their sexual desires on every woman that they took a liking to...this was known about by their commander – in fact the commander also took part.[55]

Where there were schools, the extreme conditions in the camps, which made sheer survival the highest imperative, ensured both that education would be low on the list of children's priorities and that attending school for children suffering from malnutrition and severe emotional stress would be a taxing experience.

Children's education also suffered on Ataúro. The Indonesian authorities told a visiting delegation that 17 teachers were available: yet the delegation observed that few children were in class at the time of the their visit.[56]

Housing and land

62. The peaceful enjoyment of one's home and property is an essential ingredient of human dignity and security of person, in both a physical and emotional sense. In agrarian societies, such as Timor-Leste, land is the fundamental commodity needed to survive. As such, rights to housing and land are integral to the rights to an adequate livelihood, including food, health and the ability to earn a decent living. Land also has deep social, cultural and spiritual value,[57] and is symbolic of "rootedness" and origin.*

63. Land tenure and conflicts over housing and land are complex issues. The Commission is barred by its mandate from dealing with specific disputes.[58] The discussion that follows, therefore, sets out in general terms the nature of the problem and its origins in the conflicts that occurred between 1974 and 1999.

64. Conflict was named as motivating 50.7% of forced displacements, but the range of circumstances in which people were forced off their land over the period of the Commission's mandate indicates the complexity of the problem:

* This is particularly true in conflict and post-conflict situations, where land and the connections (or lack thereof) between certain groups and the land become central organising rhetoric behind violence. See for example, Liisa Malkki, *Purity in Exile: Violence, Memory, and National Cosmology among Hutu Refugees in Tanzania*, University of Chicago, Chicago, 1997.

- During the UDT armed movement and the Fretilin armed insurrection, members and supporters of both political parties participated in house burnings, property destruction and violence that drove civilians from their villages. In some instances, civilians in the western districts fled or were forced across the international border into West Timor, Indonesia.
- There is evidence that Fretilin and Falintil forces moved some civilians into the mountains. Of displacement cases reported to the Commission, 12.8% of deponents say Falintil asked them to move. Qualitative evidence suggests that sometimes this was motivated by concerns for civilian safety, but sometimes was politically motivated. Hundreds of thousands of civilians were evacuated with the Fretilin forces, although there had been little planning to ensure that they were fed or provided with shelter. Fretilin also burnt some civilian houses and crops.
- The Indonesian military repeatedly unlawfully displaced civilians. In 30.7% of displacement cases, victims stated that the Indonesian military asked them to move. In 1999, militia groups were also responsible for forcefully displacing people, and were named in 6% of cases overall.
- Displacement out of Timor-Leste included forcible displacement into camps in West Timor. This occurred both before the Indonesian invasion and after the 1999 Popular Consultation.
- Indiscriminate attacks on towns by Indonesian security forces and their proxies drove civilians from their homes into the mountains, where they had no food or shelter. Indonesian military forces and their proxies also deliberately drove civilians out of their villages by burning their homes and gardens and looting possessions.
- After they surrendered to the Indonesian military, the Indonesian military held civilians in internment camps, where shelter and sanitation facilities were dangerously inadequate.
- In the early 1980s individuals suspected of supporting the independence movement were sent to Ataúro Island, often for several years.
- Forced displacement was both internal and external: 54.7% were within a sub-district; 16.5% within a district; 15.2% within a region; 9.0% within Timor-Leste; and 4.1% were outside of Timor-Leste. Although most displacement was local, displacement was usually for long periods of time – 50% of displacements lasted more than two years.

65. The impacts of these displacements were wide-ranging. They included, not only violations of rights to housing and property (including land), but also violations of the rights to food and livelihood. The repeated displacement of large numbers of people rent Timor-Leste's social fabric with consequences that are likely to be long-lasting. Each of these events clearly had a retrogressive impact on people's right to adequate shelter and housing.

66. Military data put the number of displaced people who had been put in camps, as of 6 December 1978 (that is, immediately after the fall of the *zonas libertades* on Mount

Matebian) at 318,921, almost half the estimated total pre-invasion population of Timor-Leste.[*] After the referendum some 250,000 people were forcibly displaced into West Timor, often onto land claimed by the local population of West Timor. Displacement not only uprooted those who were forcibly moved but those whose land was occupied by large numbers of incoming refugees. According to one observer:

> People still living in their customary areas who have resettled people living among them all expressed a willingness to accept the settlers in their midst during the Indonesian period, since under crisis conditions there were no alternatives for the displaced people. In addition, protesting land claims under those circumstances could draw unwelcome military attention, and the atmosphere of intimidation suppressed any expressed dissatisfaction with the resettlements. While some traditional landowners were consulted about locations for resettled people, more report that the migrants were placed on their land without consultation or compensation.[59]

67. This displacement, sometimes for decades, meant that many villagers felt they had more invested in their new location than in their original home, where fields and gardens were left neglected or occupied by others. As a result, many displaced people preferred to stay, rather than return to their homes and try to rehabilitate houses and gardens.[60] Fitzpatrick cites three examples from Manatuto District. One village decided to return *en masse* to its original location. Another wanted to stay even though the surrounding village still claimed the land on which people were resettled. A third wanted to move to a transmigration village vacated by Indonesian migrants.[61] Whether they stayed or returned, the displacement of so many has caused widespread land and resource conflicts and uncertainty as to the proper legal standards to apply.[62]

68. Rather than taking measures to allow people secure tenure and peaceful enjoyment of homes and land in Timor-Leste, at best the Indonesian authorities “did not consider it a priority when compared to security and development” and at worst they exacerbated the problem.[63] Accordingly, land was one of the greatest sources of dispute in Timor-Leste during the occupation and remains so today. Apart from the mass displacements described above, disputes have also been inflamed by the non-recognition of traditional claims by either the state or state-protected private interests, and the redrawing of traditionally recognised or administrative boundaries.[64]

69. As well as failing to manage land disputes, Indonesia contributed to the shortage of housing and lack of security of tenure by arbitrarily appropriating large swathes of customary land. The appropriation of customary land by the state, or by private business interests protected by the state, is common in Indonesia. The state views any land not under formal title as belonging to the state, to be managed by the state “in the public

* Alex Dirdja SJ, “Timor Timur: Beberapa Pengamatan dan Pemikiran”, (“Timor-Leste: Some Observations and Reflections”), Dili, 25 April 1979, p. 2 (citing figures given by the Assistant for Territorial Affairs, DaHanKam).] Deponents who gave statements to the Commission about forced displacement rarely described the place that they were displaced to and thus the Commission cannot provide comparable figures of its own on this issue.

interest". However, there is little recourse or compensation for those whose land has been seized for commercial investments deemed by the state to be good for "development".

70. Although the arbitrary use of state power to appropriate land was not unique to Timor-Leste, the degree of militarisation and the level of violence and intimidation exercised by the security forces made the process of land appropriation in Timor-Leste that much more menacing. A report by the East Timorese legal aid NGO, Yayasan HAK, contains cases in which local people were displaced from land by the state for government offices, housing for civil servants, a market, a logging concession, a sugar plantation and a plywood plantation, all with little or no compensation. If people protested, the military intimidated them into acquiescing.[65] In one of these cases, in 1997, a planned 200,000ha sugar plantation, involving a US$800million investment by interests that were reported to have included President Soeharto's son, Tommy, would have absorbed the whole village of Lore I (Lospalos, Lautém).[66] The village's 240 families all signed a letter of protest to the district head, which was ignored. Yayasan HAK was asked to intervene on behalf of the village in the courts, but security forces sealed the village to outside visitors.[67] This case illustrates the nature of land dispossession in Timor-Leste:

> Under the Indonesian occupation, there was little or no compensation to occupiers, very few independent mechanisms for valuation, no effective right of appeal to an independent judiciary, harassment and intimidation of complainants, no natural justice in either determining the status of land or in the lodging of complaints, and no clear definition of what constituted a "public purpose" development.[68]

71. The Indonesian occupation authorities considered that with the passage of Law 7/76 proclaiming Timor-Leste part of the Indonesian state, all national legislation came into force in the territory. This included land and forestry laws that deemed all land not under statutory private title to be state property. This land passed to the UN Transitional Administration in 1999 and then to the independent state of Timor-Leste in 2002. Fitzpatrick notes that in Dili alone, 40% of total land area was classified as "free state land" (not having recognised informal occupiers). It is unlikely that under the occupation this land was indeed unoccupied.

72. Indonesian records from the districts of Bobonaro, Covalima, Oecussi, Baucau, Manatuto, Aileu and Liquiçá show a total of 189,660 ha, or 55% of the total land area of these seven districts, as "free state land". A further 50,440 ha, 14.6% of the total land area, were classified as "occupied state land". This left just 7.4% of land in the seven districts that was classified as customary land.[69]

Economic effects of the 1999 scorched earth policy

To discuss the economic effects of the wave of violence unleashed by the TNI and the militias following the 1999 referendum is to risk understating the terror of the period and the chilling gravity of the

human rights violations against the Timorese people. Nevertheless, the scorched-earth policy that accompanied the pull-out had severe and long-lasting economic effects.

The 1999 World Bank-led Joint Assessment Mission to East Timor estimated that the post-referendum destruction:

- Destroyed virtually every modern piece of equipment and physical infrastructure
- Effectively eliminated all administrative structures through the flight of staff, and the destruction of over 70% of buildings and all government records
- Displaced 75% of the population
- Caused massive inflation, including a sevenfold increase in the price of cooking oil, a fivefold increase in the price of salt, a six-fold increase in the price of canned milk and a tenfold increase in the price of laundry soap
- Severely disrupted telecommunications by badly damaging transmission towers and many switchboards and cables
- Rendered 80-90% of housing in the main towns and many rural areas uninhabitable
- Caused massive urban unemployment
- Caused a decline in real GDP of 40-45% in 1999 alone.

In addition, agricultural output was reduced by some 30-40% due to:

- Shortages of agricultural labour due to displacement,
- The loss of traction due to the killing of livestock and the destruction or looting of farm equipment, and
- The unavailability of seeds because of the consumption of seeds as food in the absence of alternatives.[70]

The violence caused a total breakdown of the health system. Hospitals and clinics were destroyed, all drugs and equipment lost, and almost all senior health staff, including 130 of the 160 doctors left the territory.[71] The situation was similar in the education system: 95% of schools and other educational institutions were destroyed; buildings furniture and materials were lost and 70-80% of administrative and high school teaching staff fled.[72]

Given the destruction wrought by the Indonesian military and its proxies as they left Timor-Leste, it is a bitter irony to note the statement

in the Indonesian Regional Government's "Twenty years of East Timor Development":

> *"Development in the former Portuguese colony had to begin right from the ground. Nothing of any significance was left behind by the colonial administration. Development of the region was to be undertaken step by step".*[73]

Right to health

The meaning of the "right to health"

73. The right to health is essential for the enjoyment of many other human rights. The right is expressed in the ICESCR as not a right to be healthy, but:

> The right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Article 12(1)).

74. The steps to be taken by governments to achieve realisation of this right include:

- provision for reduction of the stillbirth-rate and infant mortality and for the healthy development of the child
- the improvement of all aspects of environmental and industrial hygiene
- the prevention, treatment and control of epidemic, endemic, occupational and other diseases
- the creation of conditions which would assure access to all medical services and medical attention in the event of sickness. (ICESCR, Article 12(2))

75. The right to health includes freedoms such as the right of everyone to control his or her own health and body, including sexual and reproductive freedom, and to be free from interference such as torture or non-consensual medical treatment.[74]

76. It also involves entitlements: a right to information and education on healthcare and maintenance. For women, adequate information on reproductive services must be provided.[75] Fulfilment to a minimum standard of rights discussed above, such as access to essential food, housing and sanitation are also core obligations of states in realising the right to health.[76]

77. The Commission is satisfied that Indonesia violated the right to health in several ways. The primary reason for the failure of the Indonesian state to respect and fulfil the right to health was the priority it gave to security without regard to the impact of its security policies on public health. Many security measures were clearly retrogressive in relation to public health, for example:

- The use of "resettlement camps" to isolate the Resistance and punish their relatives and supporters
- The widespread use of torture to gather information and to intimidate*
- The forcible recruitment of children as "operations assistants" (*tenaga bantuan operasi*, TBOs), endangering their health and lives by exposing them to combat and gruelling forms of forced labour and by neglecting their nutritional and medical needs.

78. Although the amounts invested by Indonesia in health in Timor-Leste were large both in absolute terms and certainly by comparison with Portuguese spending, the greater part of government investment in Timor-Leste was directed towards spending intended to enhance military control. Indonesia also failed to take steps to realise progressively fulfilment of the general population's right to achieve the highest attainable standard of health. As Table 8 (par. 82, below) demonstrates, Indonesian investment in health in Timor-Leste was ineffective in overcoming chronic public health problems and early mortality. One reason for this was the failure to address poverty as the underlying cause of disease and poor health. Another was an approach to healthcare delivery that was top-down and paternalistic. This approach provided patients with little information about the healthcare being offered and little opportunity for choice.

79. In Indonesia itself, people were treated with the same paternalism. The difference was that in Timor-Leste the degree of militarisation was unusually high and the level of fear and distrust correspondingly intense. The harmful effects of these structural factors were particularly obvious in the area of reproductive rights, where women and girls were exposed to health risks by an overemphasis on targets and the consequent neglect of their individual health needs.

Public health under Portuguese rule

80. Even in the absence of armed conflict, persistent poverty coupled with non-participatory, unaccountable government meant that under both Portugal and Indonesia East Timorese did not enjoy "progressive realisation…to the maximum of [the state's] available resources" of their right to health.[77] Although there is little public health data from the Portuguese period, the tiny investment of the colonial government in public services, the harsh climate and endemic malaria all indicate that the state of health of the general population must have been very poor. There was one well-equipped hospital in Dili,† a rudimentary health facility in every district with four nurses and one doctor, and every sub-district (*posto*) had a health post with one nurse (for roughly 10,000 people). One health policy expert told the Commission that her estimate of the total number of medical personnel at the end of Portuguese rule – roughly 14 doctors and 88-120

* Note that both UDT, and more particularly Fretilin, also used torture to obtain information or to intimidate civilians. [See Vol. III, Part 7.4: Detention, Torture and Ill-Treatment].

† The Australian Red Cross deemed the hospital to be sufficiently well-supplied to need no additional equipment or antibiotics. Report of activities of International Committee of the Red Cross Medical Team in East Timor from August 30 - September 4, 1975, p. 2.

nurses – was "generous". She added that even these few staff were poorly trained and often absent from their workplace.[78] Health services were clustered around the main towns and were virtually unavailable at the village level.* One observer reported that there were "vast areas with no medical care whatsoever, including medicines".[79] Thus, the Portuguese healthcare system was primarily geared to the needs of expatriates and the local elite in urban centres, rather than to those of the general population living in rural areas, whose health was most at risk.

The Indonesian occupation

81. When it invaded in 1975, therefore, Indonesia undoubtedly encountered a population already in a dire state of health. Indonesia subsequently devoted some 5% of its development budget for Timor-Leste to investment in healthcare. However, Indonesia's comparatively large investment notwithstanding, late in the occupation most public health indicators remained poor, even in comparison with Indonesian provinces. Life expectancy was only 55 years in 1999,[80] lower than in any Indonesian province and lower than in any country in Asia and the Pacific, except Laos.[81]

Infant and mother mortality and child development

82. Over the period of Indonesian occupation, infant and child mortality rates declined but not to the extent that they should have done. From the extremely high rates of 14% and 24% respectively in 1980, the rate fell to 13.5% and 15.7% respectively in 1996.[82] The 1996 levels were still high by any standard, higher, for example, than in any Indonesian province. Infant mortality was still more than triple the Indonesian average (see Table 8).

Table 8: Selected development indicators, 1996

	Infant Mortality (per 1000 live births)	Illiteracy (%)	Life Expectancy
Timor-Leste	135	60	54
East Nusa Tenggara	51	21	64
West Nusa Tenggara	75	32	59
Maluku	47	7	65
Papua (Irian Jaya)	51	33	65
Indonesia (average)	44	15	66

Sources: BPS 1999, UNDP 1997, 2001; www.undp.org/Depts/unsd/social/health.htm

* This was confirmed by John Whitehall, from Australian Society for Intercountry Aid – Timor (ASIAT), who noted that typhoid was endemic, malaria malignant, and TB "absolutely untapped." [EN: Major General CM Gurner, Joint Services medical advisor, 25 November 1975. John Whitehall, presentation made to the East Timor Consultation, Melbourne, 26 September 1975].

83. Like child and infant mortality, maternal mortality remained high under the Indonesian occupation. Even by 1990-94, the period officially dubbed the "long-term development phase", maternal mortality in Timor-Leste was still 8.3%, the fifth highest for any country in the world.* This was due in part to the high birth rate among mothers in Catholic Timor-Leste. On average East Timorese women have 7.4 births during their lifetime, but even as the risks associated with pregnancy become higher with each birth, according to World Bank data, in 1999, 75% of births were not attended by a trained medical professional. This added to the dangers mothers faced during delivery[83] and also meant that the rate of mortality in childbirth may have been significantly under-reported.[84] The large number of unattended births may well be due to women's widespread distrust of Indonesian medical staff imbued through the highly militarised birth control programme (see par. 92-108 below).

84. Poor health conditions during the political conflicts not only threatened the lives of children but also stunted the development of those who survived. The effects of chronic malnutrition and micronutrient shortages have long-lasting detrimental effects on physical and mental development.[85] They are almost certainly one of the reasons for the close correlation between low education and poverty in Timor-Leste (see Table 10 par. 120 below).[86] With impaired development, children in poverty are vulnerable to experiencing problems in education and employment later in life. These obstacles make it very difficult for children to break out of poverty in adulthood. The Commission believes that the problems of poverty, illness and lack of education were intimately linked in a self-perpetuating cycle under the Indonesian occupation.

Reduction of disease

85. Preventable infectious disease remained the leading cause of death in Timor-Leste.[87] A range of sources reporting between 1993 and 1997 said that malaria, tuberculosis, pneumonia, and gastroenteritis were endemic, and were the leading causes of death in Timor.† The same sources reported that people suffering from malaria accounted for one third of all medical visits during the same period.[88] Cholera was also commonly reported in statements and testimonies given to the Commission, particularly in the period of famine and forced displacement in the late 1970s, but also during the 1980s. The East Timor Relief Association (ETRA) reported that in 1988 a cholera epidemic caused the deaths of hundreds of children.‡ The prevalence of infectious diseases is an indicator of Timor-Leste's poverty; they are opportunistic diseases that prey on the poor, who live in crowded and unsanitary conditions without access to potable water or sufficient food. According to Pederson and Arneberg the prevalence of tuberculosis reflects a deeper

* Only Guinea Bissau, Eritrea, Central African Republic and Mozambique are higher. UNICEF. *State of the World's Children*, UNICEF, New York, 1998, cited in Pederson and Arneberg, p. 64.

† Pederson and Arneberg, pp. 70-72. The World Health Organisation's 2000 East Timor Health Sector Report also estimates that infectious disease accounts for 60% of deaths.

‡ Reportedly, this was partly because hospitals and clinics were giving children under two too high a dosage of the medicine for treating cholera. Ines Almeida, "The Role of Women in the Struggle" in ETRA, *Its Time to Lead the Way: Timorese People Speak about Resistance, Exile and Identity – Writings from a Conference on East Timor and its People*, East Timor Relief Association (ETRA), Collingwood, Australia, 1996.

problem: "The fact that TB is a main killer in Timor-Leste paints a picture of a health system which fails to provide even the most basic level of health to the population."[89]

86. On the other hand, the coverage of immunisation programmes expanded dramatically during the Indonesian occupation. Indonesian WHO sources, quoting government data, report that by 1997, 99.6% of infants born in that year received their first DPT vaccination, 100% received their BCG vaccination, 92% received inoculation against measles and 94% had had their fourth polio vaccination. The Indonesian National Socio-economic Household Survey (Susenas) reported lower but not necessarily inconsistent numbers: only 49% of children under five in 1995 and 1996 had full immunisation coverage, while by 1998 full coverage for this age group had increased to 59%. If these different figures are mutually consistent, they indicate a dramatic increase in vaccination. Whatever the case, the low prevalence of measles, tetanus, diphtheria, whooping cough and polio suggest a successful immunisation programme.

Access to health services

87. Between 1975 and 1999, the number of general practitioners working in the territory increased from 14 to 160 (of whom 25 were East Timorese). In the same period the number of nurses rose from 88-120 to some 1,000. By the end of the Indonesian occupation, there were eight district hospitals, 67 sub-district community health centres and 309 satellite health posts.[90]

88. Despite the increased physical presence of the health system, access to medical care continued to be seriously constrained. Over nearly 20 years of occupation (a full run of budget figures is available only until the 1993/94 fiscal year) an estimated US$13.5m was allocated to the sector.* However, health facilities under Indonesia remained remote, poorly equipped and understaffed. The World Bank country poverty assessment report dated May 2003 showed that most East Timorese lived over an hour from the nearest basic healthcare facility and that the trip cost them Rp6,700,[91] about the cost of a kilogramme of rice.[92] The average health facility was open only eight days a month and staffed for only four of those days.[93] In addition, medical personnel were generally poorly trained and inexperienced, often being new graduates sent by Indonesia on compulsory tours of duty.[94]

89. Other sources cite cultural barriers between the predominantly Indonesian medical staff and East Timorese patients as an obstacle to effective healthcare delivery (according to Indonesian government statistics, in 1999 only 26 of the 141 doctors were East Timorese)[95] and a patronising style of service that offered little of the information necessary for informed patient choice.[96] Medicines were unavailable and often prohibitively expensive.† Clearly, in all but the most desperate cases, there was

* This calculation is drawn from "Sectoral Projects" development funds allocated from FY1976/77 through 1993/4. Allocation figures and sectoral breakdown was drawn from Saldanha, 1994, pp. 160-162. and assumes that healthcare represented a consistent 5% of the budget, as it did in FY 1993/94.

† Medicines were often diverted from aid shipments to the military and then sold in local shops in Dili. Pat Walsh, "East Timor in transition: briefing paper," unpublished paper presented on behalf of ACFOA at the CNRT *Strategic Development Planning for East Timor Conference*. Melbourne, April 5-9, 1999.

little incentive to make the long expensive trip to the health post. This resulted in lack of preventive care, and patients finally arriving at poor medical facilities with already advanced conditions.

90. The persistence of poor health conditions begs the question of why this large investment was so ineffective in improving health. One reason for the ineffectiveness of the health system was that investment in "bricks-and-mortar" health facilities did not address the causes of illness: persistent poverty, itself reinforced by poor health and education.

91. The priority given to security also played an important role. There are sharp variations in infant and child mortality rates from district to district, the highest being in Baucau, Manufahi, Ainaro and Covalima Districts.* One report notes that elevated child mortality in Baucau District in the period 1990-1994 may be related to the relatively higher concentration of "guided villages" in that district.[97] This observation, although inconclusive without further investigation, is significant, as it highlights what the Commission considers to be the highly likely correlation between the strength of resistance to the occupation and increased poverty and mortality rates. "Guided villages" were used to control the population. They were often new villages built in areas that had previously been avoided because of their infertile soils or high incidence of malaria. The high rate of child mortality prevalent in Baucau may illustrate once again the economic and social impact of an overriding concern with security. In addition, in areas where the political conflict was most intense and where killings, disappearances and detentions were most frequent,† the resulting absence of household heads was likely to have had a range of economic and social impacts, including a decrease in families' ability to provide for their children.

Economic and social impact of displacement to West Timor in 1999

The roughly 250,000 Timorese forcibly deported to West Timor after the announcement of the result of the referendum in September 1999 were exposed to extremely harsh conditions in the camps where they were placed. There was insufficient food provided to camp internees and what was provided was controlled by the military and the militias, which channelled it as they saw fit, discriminating against families whose loyalty to the pro-integration cause was in doubt.

* It should be noted, however, that district level mortality rates are subject to significant sampling error – especially for the 1985 and 1998 Sample Surveys on which the FAFO analysis is based upon.

† One way of measuring the strength of the Resistance is by the number of civilian killings and arbitrary detentions in a district relative to other districts. The Commission's statistical research has found that 64.3% (788/1224) of reported civilian killings between 1979 and 1984 occurred in the eastern districts, which includes Baucau. Reported detentions between 1977 and 1984 are concentrated both in the eastern and central districts (which includes Ainaro and Manufahi) - with 43.0% (4220/9815) of reported detentions between 1979 and 1984 occurring in the East and 47.8% (4695/9815) in the Central districts.

One local NGO monitoring the camps described how violence and the threat of violence affected the day-to-day life of the refugees:

> *Several cases…corroborate a widely held belief that these armed (or potentially armed) men are the ones actually in charge of the camps, often holding positions of power as food distributors, camp leaders or guards at security posts...There can be no doubt that the real and threatened presence of firearms contributes to a climate of violence in the camps.*
>
> *Clearly, those who control the camps also control the aid flowing into them. Team members in one camp reported seeing what appeared to be stockpiles of rice. Although food aid has generally been distributed according to a quota system, it has been difficult to follow the distribution path once the rice is in the camps. If there have been stockpiles of food or other aid, they have probably benefited armed East Timorese.*[98]

Conditions in the camps were especially hard for children. UNICEF estimated that in the camps 25% of refugee children were malnourished.*

The children forced to West Timor flooded local schools, which were unprepared to meet the increased needs of tens of thousands of new pupils. The trauma of displacement, the malnutrition and illness rampant in the camps and added burden of having to look for food put the refugee schoolchildren at a severe disadvantage compared with their West Timorese peers.[99]

Coerced birth control

92. In 1980, soon after Indonesia established control over the territory, one of the first development and health policies it launched was a territory-wide birth control programme.† From the start the programme was rife with violations of women's reproductive rights. The fact that 80-90% of Timor-Leste's population was Roman Catholic meant that birth control was culturally unacceptable to the vast majority.‡ Rather than seeking participants' informed consent, the programme's administrators presented it as compulsory and made little effort to provide women with information about potential benefits and risks. In their zeal to reach "acceptor" targets, programme workers exerted strong pressure on women to accept birth control, with little attention given to side-effects or health risks. The coercive nature of the programme was increased by the prominent role played by the military in implementing it.

* The UNICEF press release stated that a malnourishment percent of over 15% is considered a "serious nutritional emergency". UNICEF, press release CF/DOC/PR/2000/03UNICEF, 18 January 2000, available at <www.unicef.org/newsline/00pr03.htm> as of 3 March 2005.

† Family planning in Indonesia is referred to as KB (keluarga berencana) and is managed centrally by the National Coordinating Agency on Family Planning referred to as BKKBN

‡ *Timor Timur dalam Angka*, 1981. It is not clear whether government figures on religion include the military.

93. While these aspects of the programme were also found throughout Indonesia, its coercive dimension was more than usually pronounced in Timor-Leste. This was because Indonesian militarisation reached its highest expression in Timor-Leste, involving extreme levels of surveillance and control, and a general climate of fear and intimidation. The concept of *dwifungsi* (dual function), under which ABRI/TNI combined defence and civil functions, legitimised its central role in the programme, which was called "ABRI Manunggal KB" (ABRI United with Family Planning).* "ABRI Manunggal KB" was not unique to Timor-Leste, but what distinguished its operation in the territory were the circumstances in which the military had come to be there and the traumatic consequences of its presence. The behaviour of the military since the invasion, including its treatment of women, needs to be borne in mind when trying to understand the impact of ABRI's involvement in promoting family planning in Timor-Leste.

94. The Commission has documented how the Indonesian military was involved in maximising the number of "acceptors", which became the leading indicator of the success of the programme. Again, the national programme was also target-driven. A report of the National Coordinating Agency on Family Planning issued in 1995 noted that "regional competitions based on the number of "acceptors" provide prestige and may contribute to officials' promotions, and regions are judged on eight aspects of success, one of which is quantitative achievement in family planning."† In the cases documented by the Commission, women talked of the frequent changes in the method of birth control that they were prescribed.[100] According to a World Bank document Report 7760, "contraceptive acceptors" were defined as the number of women who become (or whose husbands become) users of a contraceptive method they have not used in the months immediately prior, for a given time period."[101] Aside from medical reasons, it seems highly likely that women were switched from one method to another because each time they would be registered as new acceptors.

95. John Fernandes was an Indonesian member of staff of the Indonesian family planning agency (Badan Kordinasi Keluarga Berencana Nasional, BKKBN) in Manufahi District from 1983 to 1999. His criticisms of the family planning programme echo those of others with direct exposure to the programme as it was implemented in both Timor-Leste and Indonesia:

> *The Indonesian government…was more interested in numbers than in taking an individual's physical condition into consideration – was the person too thin (and therefore better exempted from the KB programme) or was she healthy enough to take part in it. The important thing was the pursuit of targets.*

* This was a variation of "ABRI Manunggal Rakyat" (ABRI United with the People), which was the title for military involvement in village development projects.

† Indonesian Co-ordinating Agency for Family Planning, Government Report 2, October 1995. An independent commentator also states: "Family planning was placed on a list of select policy sectors, established in 1982, for evaluation of gubernatorial performance. Governors were assessed on nine numerical family planning targets, including the crude birth rate, the number of active users of family planning methods and the number of village family planning groups created." Jeremy Shiffman, "Political Management in the Indonesian Family Planning Program", *International Family Planning Perspectives*, Vol. 30(1), March 2004.

I can say that the programme was "compulsory" because that was how it was organised from above. The family planning programme was a national programme and it therefore had been given legal backing by the government that ran from provincial to district level. Whatever they might want, the East Timorese had to take part in the programme just like in any other province.

ABRI's involvement in the promotion of birth control was based on a directive from the Udayana [regional] commander. The Babinsas [village-level NCO] and Bimpoldas [village-level policeman] became Village Family Planning Assistants and received Rp3,000 a day from the BKKBN. When they were promoting family planning in the villages, they wore their military uniforms.

Everybody, but especially the wives of civil servants and people living in transmigration sites, had to join the programme. Civil servant families were allowed to have no more than three children because that was the number fixed in their contracts. If they had more than three children, the extra ones would be called a "Hansip child" or a "private child".

The government and ABRI also forced ordinary people living in remote areas to take part in the programme, telling them that they had to raise [their other children's] educational standards and reduce maternal and child mortality. The reality was that when people did take part in the programme, maternal and child mortality rates were higher than their previous levels. [There were cases of women who] took part in the programme and then once they became pregnant exhibited symptoms such as dizziness, ectopic pregnancies, yeast infections, loss of appetite, weight loss, swelling and rheumatism. There were also cases of women who when they were about to give birth had unexpected loss of amniotic fluid. The babies too were affected.[102]

96. John Fernandes said that BKKBN promoted and implemented birth control by working with ABRI through a programme called KB Manunggal/KB Kes ABRI.[*] This district programme was devised by the commander and usually implemented through the District military command. Women belonging to Persit (Persatuan Isteri Tentara, the Association of Military Wives) were an integral part of the programme, visiting villages in their Persit uniforms to recruit participants. They also took part in the programme themselves:

* It is highly likely that John Fernandes was explaining the Safari Manunggal KB Kesehatan Programme. According to the official definition given by BKKBN: "the term 'safari' means the collaboration of village-level offices in encouraging the recruitment of acceptors …In practical terms, 'safari' is the mass distribution or more accurately the mass fitting of contraceptive devices, which directly involved other officials and was carried out on special days like Armed Forces' Day, Mothers' Day or Independence Day." [EN: See for example: Nirwan Dewanto, "Coersion in Family Planning still exists in the Family Planning Movement," paper presented at the 8th INGI Conference on Society in Economic Liberalisation, 21-23 March 1992, Odawara, Japan; Sita Aripurnami, *Hak reproduktif antara kontrol dan perlawanan: wacana tentang kebijakan kependudukan Indonesia*, Kalyanamitra, Jakarta, 1999, p. 36.]

It was not just women unconnected to the military who were forced to take part in the programme. The military also drove up the number of acceptors by making women from within its own structures participate. Just because a woman was a member of Persit did not mean that she did not have to take part in the programme. On the contrary, she would be a front-line target, subject to both direct and indirect pressures to ensure her participation.[103]

97. Natalia dos Santos was the wife of a member of Infantry Battalion 744, Saturnino Maubuti, when in 1979 she was told she had to enrol in the family planning programme. Natalia was brave enough to argue with an army doctor from Java, pointing out that as a childless woman her participation should not be mandatory. However, when the doctor told her that those were the rules, she realised that continued resistance could, at the very least, put her husband's career at risk. For almost 20 years she was prescribed various forms of contraception, all of which had unpleasant side-effects. Now and again, she furtively stopped using the contraceptives in an attempt to get pregnant or to end the discomfort they caused. On two occasions, she did get pregnant. On the first occasion she miscarried; on the second she was forced to have an abortion after a doctor diagnosed a "thin womb". She felt free to abandon birth control only after being evacuated to Atambua, West Timor (Indonesia) after the 1999 referendum, when the programme was no longer being strictly implemented. In her interview with the Commission, she summed up her experience:

When I was being told to keep using different forms of contraception by the doctors, it was very stressful because I felt like I was being treated like a guinea pig for the sake of the family planning programme. But there was not much I could do about it because of my husband's position; I just had to do what they wanted. I am very disappointed because I still don't have a child. The effect of the different kinds of birth control that they used was that I have constant irritation in my vagina… and every day I become thinner.[104]

98. Natalia's fears that her refusal to join the programme could have serious consequences were well-founded. Women were induced to join up through a system of rewards and punishments. John Fernandes explained how the rice ration that civil servants' families received from the government depended on how many children they had. Other incentives included the granting of scholarships to the children of families participating in the programme.[105]

99. There were also negative incentives. Like Natalia, Lucia Maria Pereira understood that her husband, Carlito das Regras, a Hansip from Same, would have been punished if she did not agree to use birth control. She told the Commission that the wives of the Same, Manufahi Hansips were all pressured into joining the programme, irrespective of whether they were still of child-bearing age. If a wife refused to take part, Indonesian soldiers would plunge her husband in water.[106] Another kind of punishment, non-promotion, was experienced by Florindo da Conceição Mendonça da Costa. For six

years, from 1980 to 1986, Florindo and his wife, Raimunda da Conceição, refused to join the programme. He remained a private first class during that time, while his colleagues, whose wives had accepted birth control, were being promoted. In 1986, the couple finally relented. Raimunda registered for the birth control programme. Her husband immediately won promotion and then rose through the ranks to end up as company sergeant major in 1999. However, the consequences of their decision were painful for Raimunda. She was prescribed implants, the pill and the coil but suffered serious side-effects from all of them. In early 1989, shortly after she had started using the coil, she collapsed:

> *Luckily, my husband came back from the office at that moment. When he saw me sprawled on the floor, he took me to the public health centre in Oecussi Town and looked for a doctor who could give me first aid, but no doctor was willing to attend to me, causing a commotion in the clinic. My husband gave an ultimatum to the doctor: "If anything happens to my wife, it will be your responsibility." At first the doctor didn't want to remove the [coil], but my husband kept on demanding that they refer me to the public hospital to remove the coil from my body. In the end, the coil was taken out.*

100. Only then was Raimunda prescribed contraception by injection, from which she experienced no side-effects. John Fernandes suggested that the failure to treat side-effects like those suffered by Raimunda might have been systematic. He also said that when there were side-effects, medical attention was discriminatory, giving preference to Indonesian over Timorese women:

> *In fact, there was a special drug to treat the side-effects, but the nurses who worked at the hospital discriminated in favour of the wives of Indonesians, leaving East Timorese who suffered side-effects untreated.*

101. There have been frequent allegations that Indonesia's intent in instituting the birth control programme was not to improve the health of East Timorese women, but to achieve a much more sinister objective.[107] The charge is that the programme was intended as a part of a strategy of genocide aimed at wiping out an indigenous population that had already been seriously depleted by displacement and famine and to transfer more Indonesian transmigrants to the territory.[*] Allegations of the forced sterilisation of women without their knowledge or consent of the woman have also been made. The Commission has investigated these serious allegations. It has found no evidence to support them. It does appear that in the early 1980s young East Timorese girls were given a course of three injections over a period of one year. Boys and Indonesian girls of the same age were not included in the programme. Neither the girls nor their parents received any explanation for the injections other than that they were "good for their health", and the injections

* Sarah Storey has argued: "[T]he coercive birth control policies imposed on the East Timorese by Indonesia, when combined with Indonesia's settler infusion strategies in Timor-Leste, are insidiously acting to preclude any long-term claim of the East Timorese to self-determination." Storey, 1996, p. 1.

were administered in a coercive manner. Isabel Galhos describes what happened to her and her classmates when she was in her fourth year of primary school:

> *[My younger sister and older brother and I] went to Tuana Laran primary school in Vila Verde (Dili). One day, around lunchtime, we were about to go home. The boys were already outside; it was just the girls inside. There was no announcement made but the teachers, mainly male teachers, came in with the headmistress. Suddenly the doors and the windows were shut… We all screamed because the doors were shut so suddenly. We jumped up, and ran here and there. We were caught and held and then given the injection. I am someone who is really afraid of injections. I was held by two male teachers, who said to me: "If you don't want it, then you'll get the injection in your thigh." All of the girls were injected.*[108]

102. Some East Timorese concluded that the girls were being sterilised. Even prominent East Timorese were suspicious. The former governor of Timor-Leste, Mario Carrascalão, told the Commission that in the early 1980s (he could not recall the date) he received several visits from parents wanting to know why their high-school-age daughters had been vaccinated and whether the purpose of the injections was to sterilise them. He in turn asked the Indonesian head of the local health department to explain why only girls were being vaccinated and why the programme was being conducted surreptitiously. The official said that the girls were being vaccinated against tetanus, but was unable to explain the secretiveness surrounding the programme or allay the suspicion that the government might be conducting an experimental sterilisation programme. Bishop Belo believed that women who had not registered in the birth control programme, for whatever reason, were routinely being sterilised when they went into hospital for operations. According to Isabel Galhos, he issued a pastoral letter on the issue.[109]

103. The Commission consulted Dr José Guterres, of Family Health International[*] for clarification on why health workers might have separated Timorese girls for immunisation in the way Isabel Galhos describes it. Dr Guterres said that WHO guidelines recommend that girls in developing countries, who are at particular risk of contracting tetanus during childbirth, be immunised against tetanus on the following schedule:

- First immunisation as early as possible in childbearing years or as soon as possible during pregnancy;
- Second immunisation at least four weeks after the first;
- Third Immunisation at least six months after the second.

104. According to Dr Guterres, the schedule described by women who had been injected would be in accordance with WHO guidelines for tetanus. Dr Guterres also suggested that, in principle, it would be reasonable for Indonesian girls not to be innoculated since they had probably received tetanus shots as part of their childhood immunisations,

* Dr. José Guterres received his medical degree in an Indonesian university and had a medical practice in a health post in Ainaro.

while East Timorese children, particularly those who in early childhood had joined the general evacuation to the bush, were unlikely to have been immunised.

105. The allegation that birth control was intended to reduce the Timorese population, while the transmigrant population would be allowed to grow unchecked, is not supported by the testimony of Carlito das Regras, who noted that, like army wives, transmigrants were also required to use birth control. In the case of transmigrants their agreement to take part in the programme was a precondition of their becoming transmigrants.[110]

106. Finally, the most conclusive evidence that there was not a sterilisation programme is perhaps that East Timorese women, including ones who were injected in the early 1980s in the circumstances described above, were not subsequently infertile.[111]

107. The allegations about forced sterilisation may not stand up, but what is indisputable is that the style in which innoculation programmes were conducted did nothing to allay the worst fears of East Timorese about what their purpose might be. As Miranda Sissons has noted:

> Whether or not the extensive rumours of coercive injections are justified, this series of incidents has rendered most East Timorese women extremely suspicious of any kind of injection, including those in the regular government vaccination programme. In some cases, girls have been withdrawn from high school as a result.[112]

108. The prevalence of the belief among East Timorese people that the Indonesians tried to reduce their population growth as part of a strategy to commit genocide obviously contributed significantly to resentment of the occupation and distrust of the intentions of the Indonesian state regarding the well-being of the East Timorese people. In addition, the allegation, at a minimum, illustrates the lack of information given patients in a very paternalistic style of health service delivery. This lack of information and health education makes informed patient consent impossible and further deepened the prevailing climate of fear. The distrust of Indonesian medical staff and services also had consequences for the general health of the population by discouraging them from seeking treatment or preventive health advice.

Mental health and trauma

109. Psychological trauma is one of the lingering legacies of any conflict. The Commission cannot estimate precisely the number of East Timorese people who were subjected to, were forced to commit or witnessed acts of extreme violence, including torture, rape, and murder. Months of daily aerial bombing and the resulting carnage continue to haunt those who sheltered in the mountains. Vast numbers of people were displaced from their homes, many repeatedly. Tens of thousands of people had their homes burned and personal property looted or destroyed, many of them more than once. Witnesses often told the Commission of having to leave behind children and the elderly to die, as they fled attacks by the Indonesian military and their auxiliaries.

110. Research in other countries emerging from conflict suggests that between 1% and 2% of those who suffer war-related trauma will develop serious mental illness. A further 5-15% will develop post-traumatic stress disorder (PTSD), exhibited through a variety of symptoms, from long-term debilitating depression to disrupted sleep patterns. PTSD may develop immediately, or can manifest itself months or even years after the triggering event. The remainder of the population will recover with the help of community, or family-based support mechanisms, traditional healing, religious beliefs and rituals, or simply because the routines of daily life, in which employment plays a crucial part, restore their sense of identity.[113]

111. In 2000, an independent preliminary survey of trauma and torture was conducted in communities across all districts in Timor-Leste, through interviews with heads of households. Of the 1,033 respondents surveyed, 97% said that they had experienced some traumatic event and 34% were classified as having PTSD.[114] Some of the findings include:

- 76% were exposed to a combat situation
- 64% found themselves without shelter
- 60% found themselves in ill-health without access to medical care
- 57% had experienced some form of torture*
- 31% lost a father to political violence
- 24% lost a mother to violence
- 22% witnessed the murder of a family member or friend
- 22% had children who were injured or from whom they had been separated
- 14% lost a spouse to violence
- 12% lost a child to violence
- 20% believed they would never recover from their experiences
- 41% believed they would recover only with help.

112. Some of these events are part of the sorrow of war. However, others were the result of the security policies employed by the Indonesian military, purposely designed to harm the mental well-being of those suspected of resisting the occupation. Torture techniques during detention, in addition to inflicting unimaginable pain, are at their core designed to make the detainee feel completely disempowered and at the mercy of their captors, and to destroy their sense of dignity and personal security. The long-term effects of such treatment cannot be overestimated. In the general population, a climate of fear was sown intentionally and systematically as part of a policy of terrorisation. There can be no clearer example of policies whose impact was retrogressive. Mass forced displacement, long periods of severe food insecurity and hunger, separation from family, and authoritarian government also placed severe psychological and emotional pressure on members of the community.

* Only 5% of respondents said they had been raped, but rape is a crime that is notoriously under-reported [see Vol. III, Part 7.8: Sexual Violence].

113. The severity of these violations of the right to health were made all the worse by the Indonesian administration's failure to provide mental health services. Under the occupation there were no mental health services, and according to some sources, mental disorders were not considered a health issue.[115] The Commission has not heard of any steps taken by Indonesia to improve the mental health situation in Timor-Leste, either through formal hospital services or counselling.

Forced recruitment

Forced recruitment by the TNI, as operational assistants (Tenaga Bantuan Operasi, TBO) and as human shields in operations to flush out guerrillas, of which the best known was Operation Security, is covered elsewhere in this report (see Vol. I, Part 3: The History of the Conflict, section on : Operation Security; Vol. III, Part 7.5: Violations of the Laws of War and Part 7.8: The Rights of the Child).

The Commission documented 2,157 individual cases of forced recruitment. As Figure 2 shows, the bulk of these cases were reported as taking place in 1999 and between 1977 and 1984. An analysis of the victims of these forced recruitment reveals that 92.1% (1987/2157) were males and the most frequently documented age group was military age (between the ages of 20 and 34). However, relative to their share of the population, males in the 50-54 age group had the highest reported rate of forced recruitment. Of the forced recruitments documented by the Commission, institutional responsibility was attributed almost exclusively to the Indonesian military, police and their East Timorese collaborators. This is shown in Figure 3.

Narrative statements received by the Commission reveal that individuals forcefully recruited, such as TBOs, were generally not paid for their services and were often taken away from their homes and families for months at a time, in some cases for more than a year. Victims of forced recruitment were primarily in the most productive years of their lives and, in many cases, were responsible for the livelihood of their families. This official government policy therefore had a clear retrogressive measure in respect to the right to choose work and receive an adequate wage, and to have a livelihood.

Further, it had a retrogressive impact on the right to health. TBOs and other forced recruits were exposed to harsh and often dangerous conditions. They walked long distances carrying heavy loads, and often found themselves under fire. There are also reports that TBOs were used as human shields, forced to walk out in front of their unit when on patrol. There are a few reports of deaths from crossfire, and recruits also died from hunger, exhaustion, and illness.

Finally, where children were recruited, the policy and practice clearly violated their right to an education. One of the explicit aims of the right to education is to protect children from exploitative and hazardous labour. The military's policy of recruiting children, often as young as 12 and some even as young as ten, to assist in combat operations achieved the opposite by deliberately placing children in danger. The Commission has found that a military guideline stating that TBOs should be returned to school after their service was over was often flouted: in practice, they could be left stranded or could be abducted to Indonesia to work as servants to their soldiers.

Number of reported acts of forced recruitment, 1974–1999



Source: Database of narrative statements given to the CAVR

Count of forced recruitment by perpetrator, 1974–1999



Source: Database of narrative statements given to the CAVR

Note: Some violations may be counted more than once because responsibility may be shared among perpetrators.

Right to education

The right to education

Education, like health, is a right that is indispensable for the realisation of other rights, and is vital for both individuals and societies. The Committee on Economic, Social and Cultural Rights General Comment 13 observes that:

[E]ducation is the primary vehicle by which economically and socially marginalised adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities."[116]

The right to education entails the "essential features" of availability, accessibility, acceptability and adaptability:

- "Availability" is interpreted by the Committee as being measured by the quantity and quality of instruction, including buildings, sanitation facilities and drinking water, as well as by trained teachers receiving domestically competitive salaries, teaching materials and so on.[117]
- "Accessibility" is interpreted as both physical and economic, and without discrimination on any of the prohibited grounds.[118]
- "Acceptability" requires education to be relevant, culturally appropriate and of high quality.[119]
- "Adaptability" requires that it should be flexible so that it continues to meet the needs of students in diverse social and cultural settings.[120]

In addition, the ICESCR states the overall principle that:

[E]ducation shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. [The State Parties] further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.[121]

114. During all but the last decade of Portuguese colonial rule, education was unavailable to the vast majority of East Timorese. Like the health system, the education system under the Portuguese primarily served the needs of the colonial and indigenous elite.[122] Secondary schools were virtually non-existent for most of the colonial period.[123]

115. However, in the early 1960s, Portuguese policy changed and a school-building programme got underway. The main impulse for this change was the rebellion of 1959, which the state believed would not have happened had the people not been so "backward". Saldanha notes that from the early 1960s to the end of the colonial period, both the Catholic Church and the Portuguese government used education "as a 'psycho-social strategy' (*accão psico-social*) to embrace the population".[124] This view of development as a means to win "the hearts and minds" of the people was also an explicit rationale for Indonesian development programmes.[*]

116. From 4,898 in the 1959/60 school year, the number of primary school pupils rose to 57,579 in 1971/2, while the number in secondary schools increased from 175 to 1,275 in the same period. Yet, even after this investment, because the base was so low, at the time of the Indonesian invasion only about 10% of the population was literate.[125]

117. The consolidation of Indonesian control over the territory in late 1979 was quickly followed by a sharp increase in investment intended to bring Timor-Leste's development up to the level of the rest of Indonesia. One of the key priorities of Indonesia's development programme for Timor-Leste was the education sector.[†] Investment was immediately directed toward building schools and bringing in Indonesian teachers to raise enrolment. Rp3.3bn was allocated for education in fiscal years 1982/83-1988/89.[‡] In terms of enrolment, the results were dramatic (see Table 9 below). The number of primary school pupils rose to 167,181 in 1998. This amounted to an enrolment rate of 70% of the relevant age group. Every village had at least one primary school (although not all were operating). There were 6,672 primary-school teachers serving the 788 primary schools.[126] There was a huge increase in the number of secondary schools: by 1998 there were 114 lower secondary schools, 37 academic higher secondary schools and 17 vocational higher secondary schools. In the same year, there were 32,197 pupils in junior secondary schools and 18,973 attending higher secondary schools. A national university was established. This rapid expansion created staffing problems, particularly at the secondary and tertiary levels where shortages of teachers were most acute.[127]

Table 9: Students and teachers in Timor-Leste, 1998/1999

	Schools	Pupils	Total number of teachers	East Timorese teachers	Students per teacher
Kindergarten	66	2,168	183	30	12
Primary	788	167,181	6,672	5,172	25

* KORPRI, 1996, specifically notes the need for ABRI's "Security-Prosperity Approach" (Pendekatan Keamanan Kesejahteran) to be balanced with a "Psycho-Cultural Approach" (Pendekatan Psikolgis-Budaya) in order to achieve stability and overcome the resistance. p. 240.

† Bappeda Tingkat I Timor Timur and the Christian University of Satya Wacana, *Evaluasi Repelita IV Daerah Timor Timur*, UKSW, Salatiga, 1988, cited in Saldanha, 1994, p. 144.

‡ Due to high levels of corruption of centrally allocated development funds, it is not known how much was actually spent on the education sector. See Provincial Parliament letter to President Soeharto detailing some of this misallocation, cited in Vol. II, Part 7.3 Forced Displacement and Famine.

Junior Secondary (Middle)	114	32,197	1,963	65	16
Academic Senior Secondary	37	14,626	1,059	87	14
Vocational Senior Secondary	17	4,347	478	55	9
University	1	3,498	78	36	45
Polytechnic	1	450	160	60	3
Agricultural Institute	1	260	16	2	16
School of Economics	1	473	32	17	15
Teacher Training	1	40	7	1	6
Health Academy	1	400	32	12	13
Total	**1,028**	**225,640**	**10,680**	**5,537**	**16**

Sources: BPS 1997, 1999; Sousa, 1999, cited in Pedersen and Arneberg, p 91.

118. Despite the greatly increased intake of pupils, about 30% of primary school-age children (7-12 years) were not enrolled in school in 1998. This was partly due to late enrolments and high repetition rates.[128] Direct educational costs were also high. In 1995, for the poorest 20% of the population, monthly spending on education was US$0.82 per capita.[129]

119. As with health, the large investment in education increased the physical availability of facilities, but did not produce a corresponding improvement in its quality. In 1998, the percentage of the working age population who had never received any education was still 58% in Timor-Leste compared with 18% in West Timor.* After 20 years of heavy investment, the literacy rate had increased significantly but was still only 40%. Timor-Leste's literacy rate was thus lower than the rate in any Indonesian province and lower than that in any country in the Asia Pacific region.[130]

120. Part of the problem was the quality of instruction. Between 1983 and 1998, there was a substantial increase in the number of teachers, most of whom came from Indonesia. However, student-teacher ratios were still high at primary, middle school, high school and especially university levels (see Table 9 par. 117 above). Further, a large percentage of teachers did not have the minimum teaching qualification.† In addition, as with health workers, many of the teachers were assigned to Timor-Leste immediately after graduating from colleges in Indonesia. They often did not like life in the villages they were sent to. Many took second jobs to supplement their low salaries (of between US$28–145 per month in 1999).[131] As a result, teachers were often absent.[132] Instruction

* Susenas 1998. Gomes cites this percentage not as those with no schooling as in the original, but as "illiterate". However, the actual illiteracy rate might be much higher, as schooling is no guarantee of literacy. Gomes, 2002, p. 205.

† Estimates range from 30% (Gomes, 1999) to 90% of primary school teachers did not have the minimum teaching qualification. J.N.D. Carvalho, Strategic Development Planning for East Timor; Education, Culture, Environment, (unpublished) CNRT *Strategic Development Planning for East Timor Conference*, Melbourne, 5-9 April 1999.

was conducted in Indonesian, which was poorly understood;[133] unlike in Indonesia, local languages were banned in schools although Tetum could be used in the first three years of primary school to ease pupils into fully Indonesian instruction.[134] There were few books or teaching materials, and so pupils' progress was almost entirely dependent on the highly variable quality of their teachers.[135]

Table 10: Poverty and educational levels in Timor-Leste

	Poorest 20%	21-40%	41-60%	61-80%	20% Highest	Average
No School	75	71	67	49	28	58
Some Primary	13	13	11	14	8	12
Complete Primary	7	8	11	12	13	10
Jr Secondary	3	4	5	7	10	6
Sr Secondary +	2	4	6	18	41	14
Total	**100**	**100**	**100**	**100**	**100**	**100**

Source: Pederson and Arneberg, p. 108.

121. One researcher who interviewed East Timorese who grew up during the occupation, noted that they often described their experience in Indonesian schools as an important influence in the development of their pro-independence views:

> Nearly all those interviewed spoke of the poor quality of the education provided by the Indonesians. This was particularly the case in areas outside Díli. In the Ponta Leste region…Honorio de Araújo reflected that when he left school at thirteen, "I really had nothing of value in my head. It was a very primitive form of education, where the pupils were physically abused. There was constant corporal punishment. It was a sort of boot camp school, very rough and ready.[136]

122. In addition to the poor facilities and teaching, a fundamental problem with the education system under the Indonesians was what was taught. Rather than focusing on basic learning needs,* the curriculum was explicitly oriented towards pro-Indonesian propaganda. The curriculum was guided by educational objectives set out in Indonesian Law No. 2 1989:

- Formation of Pancasila citizens who have a high quality and would be able to stay independent;
- Contribution to the development of the Indonesian community, nation and state that is materialised in a solid national resilience;

* The World Declaration, Article 1, defines "basic learning needs" as literacy, numeracy, oral expression, and problem solving. Committee for ESCR General Comment 13, paragraph 9, further states that primary education "must…take into account the culture, needs, and opportunities of the community." World Declaration on Education for All-World Conference, Thailand 5-9 March 1990

- Increase people's capacity to protect the nation from the intrusion of any ideology, concept and teaching that is against Pancasila.[137]

123. The institutional problems described above and a curriculum in which indoctrination played a major part were not unique to Timor-Leste; they are in fact the rule in Indonesian education more generally. Morning recitals of the five Pancasila principles are a daily ritual in schools throughout the country, and courses on the "Full Understanding and Culturalisation of the Principles of Pancasila" are required for graduation from primary and secondary schools. Rote learning of nationalist slogans and songs, the teaching of an approved version of history, and conformity and unquestioning respect for authority are emphasised at the expense of basic skills development, especially of critical thinking and problem solving.* Communal unrest in Indonesia is often officially explained as arising from a poor understanding of the principles underlying the unified state of Indonesia. It is routinely followed by official public statements about the need for the local population to be better educated in Pancasila and the Archipelago Concept.

124. However, as with the birth control programme, the context of invasion and occupation added an extra dimension to these policies. While the explicit use of propaganda in an educational setting is contrary to the spirit of the right to education in any context,† in an occupied territory indoctrination that aims at advancing the occupying power's integrationist goals takes on a more repressive hue.

125. Military documents and government reports both stressed the need to "socialise" development, which was described as one of the two ways of overcoming resistance to integration with Indonesia (the other being the Security Defence Approach).[138] The military had responsibility for pursuing both of these approaches. In many rural areas military personnel served as teachers.[139]

126. Official documents such as the Act respecting the National Educational System also make it clear that teaching the Indonesian language was to be a core task of the educational system, both as a means to communicate the benefits of integration and as a

* Carol Warren examines the New Order's approaches to institutionalising Pancasila ideals through school curriculum that includes "Pancasila Studies" and village role-playing games. In the latter, villagers were encouraged to practice applying the Pancasila principles through "simulation games" in which villagers role-play local officials and members of the public to deal with situations including: "Mr Putu refuses to join in *gotong royong* (group unpaid work projects) for road repair because he says only a few people in the village benefit from the road concerned. As village head, how would you deal with it? Ibu Kartini is having trouble with her IUD and comes to you, her neighbor, for advice. What would you tell her?" Carol Warren, *Adat and Dinas: Balinese Communities in the Indonesian State*, Oxford University Press, New York, London, 1995.

† CRC, Article 29(1). The Committee on the Rights of the Child states: "Article 29 (1)…insists upon the need for education to be child-centred, child-friendly and empowering…The education to which every child has a right is one designed to provide the child with life skills, to strengthen the child's capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate human rights values," and, "it emphasizes the need for education to be designed and provided in such a way that it promotes and reinforces the range of specific ethical values enshrined in the Convention, including education for peace, tolerance, and respect for the natural environment, in an integrated and holistic manner." Committee on the Rights of the Child, *General Comment 1: Aims of Education*, UN Doc. CRC/GC/2001/1, 17 April 2001, paras 2 and 13.

way of establishing control.* The strong bias towards inculcating the occupiers' values is reflected in a breakdown of the textbooks procured for use in schools: between 1984 and 1989 the government bought 161,560 textbooks on the Indonesian language, 39,926 on the Indonesian governmental and administrative systems, and 9,398 on natural history and physics.[140] There is no doubt that the campaign to teach Indonesian in schools was effective: by 1998, 99% of children aged 10-19 and 85% of those aged 20-29 could speak Indonesian (compared with 20% of those 60 and older).[141]

127. Propaganda was not limited to schoolchildren. Adult community education programmes taught "reading, writing, and arithmetic including the Indonesian language…adapted to the principles of daily social intercourse, modernisation, and development".[142] Propaganda campaigns were aimed not just at influencing those who were undergoing formal education, but also the younger generation as a whole. For example, a document setting out educational goals for Timor-Leste in 1996, as part of the Sixth Five-Year Development Plan, contains a section entitled "Fostering Consciousness of Nationalism, Especially of the Younger Generation" (that comes just after another section called "Coping with Social Problems"):

> Recently problems in the development of the social-economic situation have been brought about by the younger generation who seem dissatisfied with the present situation. To handle such social and political unrest, the regional government, among other things, has given guidance to the…students of junior and senior high school by socialising the history of East Timor's integration into the Republic of Indonesia. In addition, guidance has also been given to university students studying at universities in and outside East Timor province… and to youth organisations.[143]

128. These statements from official documents provide insight not only into official thinking about education, but also into the depth of the state's misunderstanding of the source of Timorese discontent and the ineffectiveness of the Indonesian "development" solution in a highly militarised and repressive setting. To illustrate this point, in his defence against charges of subversion in connection with the demonstration held in Jakarta on 19 November 1991 after the Santa Cruz massacre, the chairman of the student organisation Renetil, Fernando de Araújo, argued that self-determination could not be traded for paved roads and other symbols of development:

> Only if the people of Timor-Leste were materialistic would it be possible that they would exchange their fundamental right to be free for development…The right to freedom, the right to independence cannot be traded for a car with a red licence plate, asphalted roads and other

* "[T]he development of national education is aimed, first, at building a skilled and self-reliant Pancasila society, and, second, at supporting the development of Indonesian society and social relations so that a durable national resilience becomes the foundation for establishing the nation's capacity to resist any doctrine, opinion or ideology that is inconsistent with Pancasila." KORPRI Timor Timur, 1996, p. 181 (official translation).

material things…Our right to have relations with other states, our right to manage our own natural resources, our right to ask foreign countries for assistance on the grounds that the people of Timor-Leste have many shortcomings (as this [the Indonesian] government has frequently done) – all these rights have been taken from us. Don't just look at what we have, but also please consider how we got it.[144]

Findings

General findings

The Commission finds that:

129. Taking the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other relevant international instruments as the standard, that Indonesia failed both to fulfil its core responsibilities as a State with regard to economic and social rights and to do its utmost to realise progressively those rights to the extent that its resources allowed.

130. Indonesia repeatedly failed to carry out its core responsibilities with regard to economic and social rights. It failed to meet the basic needs of the population for food, shelter and essential medicines. By dispensing its resources selectively, whether by channelling them to favoured groups or by withholding resources from those in dire need of them, it acted in a discriminatory fashion. It repeatedly took measures that placed members of the population in situations that caused their economic and social situations to deteriorate, that is, it took measures that were retrogressive.

131. Instances where Indonesia failed to fulfil its core responsibilities to the people of Timor-Leste occurred with regularity throughout the occupation. For example, the treatment of East Timorese who were "resettled" after surrender or capture in the late 1970s and the effects of the scorched earth policy implemented by the TNI and its militia allies in 1999 were clear examples of policies which resulted in the denial of the population's economic and social rights, with extreme impact on its rights to an adequate standard of living, livelihood, to the highest attainable standard of health, to education, and to undertake work freely chosen.

132. Despite its claim to be bringing development to Timor-Leste, in fact the Indonesian government also failed to realise the economic and social rights of the East Timorese to the maximum extent possible.

133. The Indonesian authorities, both civilian and military, disregarded those provisions of the Geneva Conventions of 1949 and the Hague Convention of 1907 bearing on an occupying power's obligations to respect defined economic and social rights of the people of an occupied territory. They were in breach of specific obligations not to destroy or seize property arbitrarily, not to profit from the resources of the occupied territory, and not to subject members of the population to compulsory service with the occupying forces. As already noted, they failed in their duty to meet basic needs for food, medical

supplies and shelter, violating not just the standards set out in the ICESCR but also their obligations under international humanitarian law.

134. Many of the actions of the Indonesian authorities during the occupation had long-lasting impacts on the economic and social conditions of the people of Timor-Leste and, in many cases, continue to this day. The plunder of resources such as timber depleted to precariously low levels, assets that are essential to the long-term well-being of the population. No less damaging was the social impact of these measures. The discriminatory use of resources served to create new divisions and to entrench existing ones. The arbitrary use of powers to move the population and evict them forcibly has left an unresolved legacy of uncertain tenure and landlessness. The exposure of the overwhelming majority of the population to terror of various kinds, including torture, killings and rape, has undermined the mental health of an unknown number of East Timorese. The Commission takes the view that all of these social impacts are impediments to reconciliation and need to be addressed within that context.

135. Timor-Leste was not the only area under Indonesian control in which violations of economic and social rights occurred during the occupation period. Many of the violations reported above were also commonplace in Indonesia itself during this period. However, the exceptional degree of military control and the context of invasion and occupation of Timor-Leste often made these violations more intense and limited the population's ability to rectify them through seeking redress or by other means.

Specific findings

The right to an adequate standard of living

Development and government spending

136. Despite the Indonesian Government's large investment in Timor-Leste and the rapid economic growth that it produced, particularly when compared with the performance of the Portuguese colonial power, government security concerns rather than the interests of the majority of the population guided the distribution of that investment. The contrast between investment and growth in such sectors as transport and communications and government administration, and that in agriculture on which the vast majority of the population depended for its livelihood, strikingly illustrates the occupying power's distorted priorities. Income and poverty indicators at the end of the Indonesian occupation, which show Timor-Leste lagging behind most other countries and all the provinces of Indonesia itself, provide strong evidence of the harmful effects that this choice of priorities had on the living conditions of the majority of East Timorese.

Rights over natural resources

137. The Commission is satisfied that trading companies with direct links to the military and the Indonesian government deliberately and systematically underpaid coffee smallholders, thereby abridging their right to an adequate livelihood.

138. The arrangements that the Indonesian authorities put in place in the coffee industry was one of several instances where Indonesia denied the people of Timor-Leste an essential component of their right to self-determination, namely their right to dispose of their natural wealth and resources freely. The Indonesian authorities committed similar violations by exploiting other resources, including sandalwood and timber, without regard to sustainability and by failing to regulate the exploitation of these resources by others. These forms of exploitation of natural resources were also positively harmful to the well-being of the population and were sometimes used to fund military operations, and as such violated the duties of an occupying power.

139. In a further breach of the people of Timor-Leste's right to dispose of its natural resources, the Commission finds that Indonesia and Australia concluded the Timor Gap Treaty in 1989 without consulting the people of Timor-Leste or paying due regard to their interests.

The right to adequate food

140. The Indonesian government took measures that worsened the food situation of the people of Timor-Leste. Timor-Leste's climate and the uneven quality of its soils make the food situation precarious at the best of times, and survival dependent on the population's ability to move freely. The Commission has found that the Indonesian authorities did not just neglect agriculture; they also took security measures that positively worsened the chances of the farming population to make a living, primarily by forcibly settling them in infertile areas under conditions in which their movement was restricted.

Housing and land

141. The Commission finds that all sides to the conflict – Fretilin, UDT and the Indonesian security forces and their auxiliaries – engaged in activities, including forcible displacement, the destruction of houses and other property, and the looting of possessions, that violated the right to housing.

142. The Commission finds that repeated displacements, the redrawing of administrative boundaries and the non-recognition of customary land-ownership and land-use practices produced a legacy of landlessness and highly complex land disputes. Although security considerations played an important part in producing this outcome, the unchecked pursuit of economic interests by military and civilian officials and their business associates were also crucial factors. The disruption of landholding and land-use patterns has had, and will continue to have, profoundly damaging effects on the economic, social and cultural fabric of East Timorese society.

Rights to health and education

143. Although Indonesian investment in health and education was significant and resulted in the physical installation of territory-wide health and education systems, the Commission found that it was ineffective in overcoming chronic public health problems or meeting basic learning needs.

144. Many factors contributed to this outcome. Among the side-effects of extreme violations, such as torture and forced recruitment, were ill-health and the disruption of education. The skewed economic development promoted by the Indonesian authorities created a self-perpetuating cycle in which poverty, on the one hand, and poor health and low educational achievement, on the other, fed on each other. The highly militarised context and other structural factors, such as the lack of expertise and commitment of the Indonesian medical personnel and teachers assigned to Timor-Leste, resulted in services that were sub-standard and mistrusted by the local population. Basic health and educational needs were often subordinated to security considerations, as exemplified by the forced settlement of large numbers of the population in disease-ridden areas that had previously been shunned and the heavy emphasis on propaganda in schools.

145. The implementation of the family planning programme in Timor-Leste was wholly at odds with principles that are integral to the right to health, namely the freedom to control one's health and body and the right to information that will enable one to have such control. The Commission has found that the programme contained a strong element of compulsion, which was reinforced by a target-driven approach and direct military involvement in the programme's design and implementation. The programme was also pursued without regard to the possible and actual side-effects of the birth-control methods that were prescribed.

146. The suspicions generated by the authoritarian approach to patient care were reflected in the widespread credence given to allegations that the Indonesians were secretly engaged in a campaign of forced sterilisation whose intent was genocidal. The Commission has not found these allegations compelling, but they do highlight the kind of suspicions fostered by an authoritarian approach to medical care in which medical personnel felt no obligation to give patients information about their treatment.

147. The use of schools for propaganda and indoctrination severely interfered with the education of an entire generation of East Timorese youth. Education was used in this way as part of an integrated security approach whose overriding objective was to ensure that pro-independence sentiment did not take root in a new generation. In this context, teaching children the skills that would enhance their prospects and enable them to fulfil their human potential was secondary.

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After looking at forty truth commissions world-round, I concluded that the truth commission of East Timor was among the five strongest. It was an impressive, passionate and scrupulous exercise. And its report, *Chega!*, stands in testament to this careful and rigorous exercise, honestly re ecting the victims' stories as well as the far-reaching conclusions that emerged from this work. It is wonderful that this will now be available, in full, in English; it will be an important reference for others embarking on a similar path.

Priscilla Hayner,
Author, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd ed., 2011)

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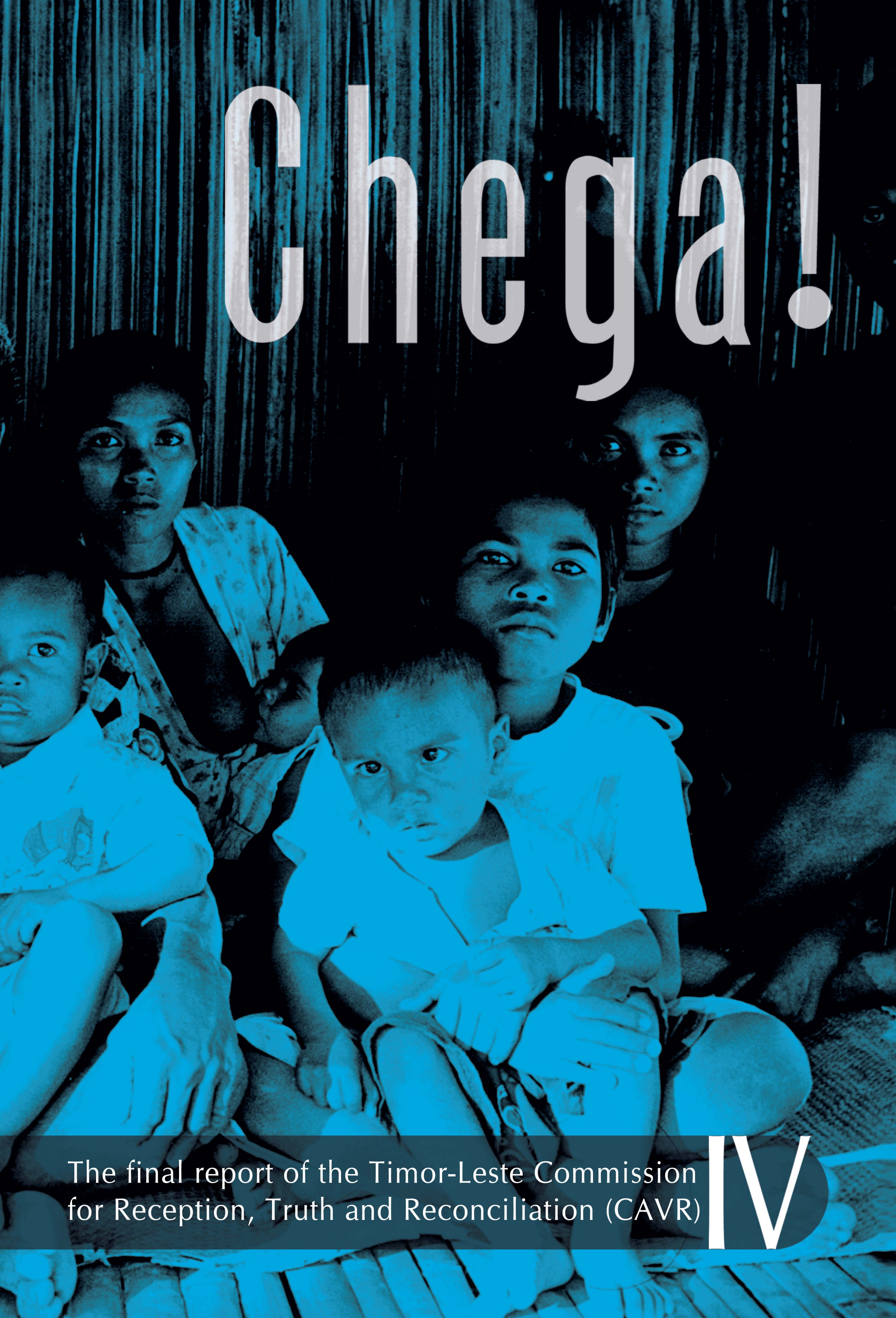
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Chega!



The final report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)

IV

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Volume IV

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Chega!

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Chega!

Part 8.

Responsibility and Accountability

Part 8. Responsibility and Accountability

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8. Responsibility and Accountability

Introduction

State, institutional and individual responsibility*

1. Regulation 10/2001 provided the Commission with a mandate that included a duty to inquire into the context, causes and commission of human rights violations which occurred in Timor-Leste from 25 April 1974 to 25 October 1999.† Within this framework the Commission was specifically given the duty to inquire into and make findings as to which persons, authorities, institutions and organisations were involved in the violations, and whether they were the result of a deliberate plan or policy by a state, political organisation, militia group, liberation movement, or other group or individual.[1]

2. As it is not a judicial institution, the Commission has not made any findings of law. However, its findings in relation to responsibility for human rights violations have been guided by the principles of customary international law.‡ The Commission has also considered political, moral and historical responsibility.

3. In accordance with its mandate the Commission has made findings of responsibility in respect of states, institutions, organisations and individuals.

4. States are legally and morally responsible for the conduct of their organs and agents. This includes not only those who are officials and employees of the state, but

* A full account of the laws giving rise to accountability on the part of states, organisations and individuals can be found in Vol. I, Part 2: The Mandate of the Commission.

† See Vol. I, Part 2: The Mandate of the Commission, for a thorough discussion of the Commission's mandate.

‡ The mandate of the Commission required it to use the standards of international humanitarian law, international human rights law and domestic criminal law in deciding what constitutes the commission of a human rights violation.

also individuals whose actions are controlled by the state. A state will be accountable under international law when its conduct (through its organs or agents) breaches an international obligation owed by that state under treaty or international law. This can occur through the commission of positive acts. It may also occur when the state fails to prevent violations or to investigate and prosecute the individuals responsible.

5. The Commission has held organisations and institutions, including political parties, to be institutionally responsible for violations committed by their members or agents while acting as representatives of the organisation, institution or party.

6. Individuals have been held to be responsible where, in the opinion of the Commission, there is sufficient evidence to establish that they have a case to answer for crimes recognised under customary international law or domestic criminal law which was applicable at the time of the violation.

7. Individuals can be held to account in any of three situations. The first of these is where he or she intentionally commits, plans, orders, aids or abets the planning, preparation or execution of a crime. Secondly, an individual will be accountable for taking part in a common plan or conspiracy to facilitate the commission of a crime. Thirdly, an individual may be held responsible according to the principle of command responsibility.

8. Under international law a person who is in the position of a superior (either in law or in fact) and who has effective control over his or her subordinates[2] will have command responsibility where a crime is committed by a subordinate and the superior knew or should have known of the crime but did nothing to prevent it, or to punish those responsible.[3]

Crimes under international law

9. Although it is not a court the Commission has made findings where it considers that certain international crimes have been committed and has identified who it believes to be responsible for these crimes. Although many international crimes provide a legal remedy only against individuals who violate them, the Commission has made more general findings about the responsibility of institutions which individual perpetrators represented, including state responsibility for the actions of its agents. In making these findings the Commission has applied the legal standards which are described in Vol. I, Part 2: The Mandate of the Commission. These can be summarised as follows.

Crimes against humanity

10. A crime against humanity occurs when certain prohibited acts are committed as part of a widespread or systematic attack against a civilian population. The civilian population in question may be any civilian group. It might be, for example, a group connected through ideological, political or cultural association and gender,[4] including civilian groups advocating liberation or supporting resistance to occupation. Prohibited acts include: murder; extermination (including by deprivation of food); enslavement; deportation or forcible transfer of population; forced labour; imprisonment; torture;

rape; persecution on political, racial, or religious grounds; enforced disappearances; and other inhumane acts "of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health". These prohibited acts must be committed as part of a widespread or systematic attack against the civilian population. "Widespread" refers to the large-scale nature of the attack and the number of targeted persons, while the phrase "systematic" refers to the organised nature of the acts of violence and the improbability of their random occurrence.*

War crimes

11. Two categories of war crimes exist in the context of an international armed conflict, such as that between the Indonesian security forces and those of the East Timorese national liberation movement between 1975 and 1999.† The first are "grave breaches" of the Geneva Conventions.‡ A "grave breach" occurs when certain criminal acts are committed against vulnerable persons, namely the wounded, the sick, prisoners of war and civilians. These acts include:

- Wilful killing, torture or inhuman treatment, intentionally causing great suffering or serious injury to body or health
- Extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly
- Compelling a prisoner of war or a civilian to serve in the forces of a hostile power
- Wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial
- The unlawful deportation or transfer or unlawful confinement of a civilian; and the taking of civilians as hostages.

12. The second category consists of serious breaches of the laws and customs of war. These include, for example, the murder, torture, ill-treatment or deportation of civilians; the murder or ill-treatment of prisoners of war; the plunder of public or private property; and the wanton destruction of towns or villages or devastation not justified by military necessity.

* *Kunarac Appeal Judgement*, para. 94. According to the ICTR an attack is "widespread" if it is a massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims. [Prosecutor v Akayesu, Judgement, No. ICTR-96-4-T, para. 580 ,Sept. 2, 1998]. The ICTR defined "systematic" as constituting "organised action, following a regular pattern, on the basis of a common policy and involving substantial public or private resources …[T]here must exist some preconceived plan or policy." [Prosecutor v Musema, Judgement, No. ICTR-96-13-T, para. 204, Jan. 27, 2000]. The plan or policy need not be formally articulated; it may be inferred from the circumstances, including "the scale of the acts of violence perpetrated." [Prosecutor v Blaskic, Judgment, No. IT-95-14-T, para. 204, March 3, 2000].

† For a full discussion of the legal basis for the Commission's finding that the conflict between Indonesian forces and Fretilin/Falintil was an "international armed conflict" see Vol. I, Part 2: The Mandate of the Commission.

‡ Both Indonesia and Portugal ratified the Geneva Conventions of 1949 and Additional Protocol I.

13. In an internal armed conflict, such as that between the followers of Fretilin and UDT in 1975, war crimes consist only of the most serious violations as set out in Common Article 3 of the Geneva Conventions or under the laws and customs of war.[5] Serious violations of Common Article 3 are specified to include crimes committed against persons taking no active part in the hostilities, such as members of armed forces who have laid down their arms or who are sick, wounded or in detention. These crimes include murder, violence to the person, mutilation, cruel treatment and torture; committing outrages upon personal dignity, in particular humiliating and degrading treatment; the taking of hostages; and the issuing of sentences and the carrying out of executions without affording due process.

Genocide

14. Genocide is defined as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such by:

- Killing members of the group
- Causing serious bodily or mental harm to members of the group
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- Imposing measures intended to prevent births within the group
- Forcibly transferring children of the group to another group.

15. Although there has been much criticism of this definition, including that it is too narrow, it is almost universally accepted that the definition reflects the position under customary law.

16. The legal definition of the international crime of genocide does not include actions directed at political groups, such as a movement supporting political independence. The issue of whether the victims of the attacks of the Indonesian security forces constituted a national group seeking to uphold their right to self-determination is one which would require highly technical legal consideration by a court with relevant jurisdiction. The Commission does not consider making such highly technical decisions of international jurisprudence to be within its mandate. It has, therefore, chosen not to reach any findings on whether the actions of the Indonesian security forces did or did not amount to genocide. It has, however, reached findings on crimes against humanity and war crimes, both of which clearly apply to the facts under consideration.

Legal killings and detentions

17. The killing and detention of combatants by members of opposing forces are not considered to be violations of international humanitarian law if they fall within the limits of acceptable methods of warfare. Such acts have therefore not been included in the definition of human rights violations used by the Commission. They do not form part of this Report, and are not included in the acts defined as violations for the purposes of statistical analysis.*

* See Vol. I, Part 2: The Mandate of the Commission, for a summary of the principles of humanitarian law adopted by the Commission.

The focus on institutional responsibility

18. The Commission was designed as part of a larger enterprise aimed at satisfying the needs both of justice for past crimes and of reconciliation after 25 years of conflict in Timor-Leste. It was created as a mechanism that would be complementary to the United Nations-sponsored Serious Crimes process. Before the creation of the Commission, the Serious Crimes Investigations Unit and the Special Panels of the Dili District Court were established, in accordance with UN Security Council Resolution 1272,[*] with a mandate to investigate and prosecute those responsible for serious crimes committed between 1 January and 25 October 1999.[†] Because of the principle of universal jurisdiction (not limited by time or place), the Serious Crimes Investigation Unit was also given the authority to investigate and prosecute those responsible for crimes against humanity, war crimes and genocide throughout the entire period of the Commission's mandate, from April 1974 to October 1999.[‡]

19. Rather than duplicate the work of the UN Serious Crimes Investigations Unit, whose focus was the investigation of individual cases, the mandate of the Commission included the duty to inquire into the broader patterns of violations, including their context and background, which had taken place during the entire 25-year period of conflict. The inquiries and deliberations of the Commission have therefore been primarily focused on establishing the truth about the responsibility of states and other institutions for broad patterns of violations, particularly those committed as part of an organised plan or programme.

Principal findings

The State of Indonesia and the Indonesian security forces

20. The Commission finds that:

The military invasion of Timor-Leste by Indonesia on 7 December 1975 was a violation of one of the most fundamental and universally accepted principles of international law – the prohibition on the illegal use of force by one state against another. The Commission holds the State of Indonesia to be accountable for this violation and responsible for its consequences.

21. Throughout the period of the illegal military occupation of Timor-Leste, members of the Indonesian security forces committed massive, widespread and systematic human

* Security Council Resolution 1272 (1999) established UNTAET on 25 October 1999, granting a mandate to "exercise all legislative and executive authority, including the administration of justice".

† UNTAET Regulation 16/2000, *Regulation on the Establishment of a Public Prosecution Service* (6 June 2000); UNTAET Regulation 15/2000, Section 22 (6 June 2000) provided that panels of judges sitting on "Serious Crimes" cases, and on the Appeal Court, would be made up of two international judges and one East Timorese judge.

‡ Universal jurisdiction is explicitly granted by UNTAET Regulation 15/2000, Section 2.

rights violations against the civilian population of the territory. The Commission is satisfied that these violations amounted to crimes against humanity and war crimes.

22. Integral to the military operations designed to overcome resistance to the Indonesian invasion and occupation was official acceptance of the commission of gross violations including widespread and systematic executions, arbitrary detention, torture, and rape and sexual slavery.

23. The Commission finds that the Government of Indonesia and the Indonesian security forces are primarily responsible and accountable for the death from hunger and illness of between 100,000 and 180,000 East Timorese civilians who died as a direct result of the Indonesian military invasion and occupation. The Commission received conclusive evidence that between the years 1976–1979 the Indonesian security forces systematically:

- Failed to discriminate between civilian and military targets in conducting repeated large-scale bombardments from land, sea and air and other military operations which caused large numbers of East Timorese civilians to flee their homes and once having done so to flee again, often repeatedly, with the result that their capacity to make a livelihood was severely curtailed.
- Destroyed food sources by burning and poisoning crops and food stores, slaughtering herds of livestock. Forced tens of thousands of East Timorese who surrendered or been captured by Indonesian forces to move into designated settlements from which they were not free to leave.
- Failed to supply those interned in these settlements with sufficient food or medicines to ensure their survival, even though the needs of the internees were entirely foreseeable since the Indonesian forces' military campaigns had aimed precisely at achieving the outcome they did in fact achieve – namely the mass surrender of the population under Fretilin control into areas under Indonesian control.
- Denied those who had been interned in these settlements the freedom to search for food.
- Refused to allow access by international aid organisations which offered to provide food to those confined to the settlements.
- Continued to implement these policies even after thousands of men, women and children had starved to death in the camps and restricted areas.

24. The Commission finds that the only logical conclusion that can be drawn from these actions is that the Indonesian security forces consciously decided to use starvation of East Timorese civilians as a weapon of war, as part of its strategy for destroying resistance to the military occupation.

25. The Commission finds that the intentional imposition of conditions of life which could not sustain tens of thousands of East Timorese civilians amounted to extermination as a crime against humanity committed against the East Timorese civilian population.

26. The Commission finds that during the invasion and occupation members of the Indonesian security forces summarily executed thousands of East Timorese non-combatants. The executions included mass executions and massacres, the killing

of prisoners who had been captured or had surrendered, and collective and proxy punishment for actions carried out by others who had evaded capture. Collective punishment was a central and systematic component of an Indonesian military strategy designed to overcome resistance to the military occupation. These illegal killings amounted to crimes against humanity and war crimes.

27. The Commission finds that throughout the entire period from the Indonesian invasion in 1975 to the arrival of international peacekeepers in 1999, members of the Indonesian security forces implemented a programme of widespread and systematic arbitrary detention, which routinely involved the torture of thousands of East Timorese non-combatants. These practices were systematic and were condoned and encouraged at the highest levels of the security apparatus and the civil administration. The use of torture amounted to crimes against humanity and war crimes.

28. Throughout the period of the conflict members of the Indonesian security forces systematically raped and imposed conditions of sexual slavery on thousands of East Timorese women, often inside military facilities, police stations and government offices. Gang rape by military personnel inside military facilities was common, as was sexual torture. The Commission finds that the systematic rape of these mostly young women by members of the Indonesian security forces amounted to crimes against humanity and war crimes. The Commission bases these findings on the first-hand accounts of hundreds of individual, unrelated victims who courageously told of their experiences despite the significant personal sacrifice involved in providing such evidence.

29. The Commission finds that all of the major categories of human rights violations committed by members of the Indonesian security forces against adults were also committed against children. Children (persons under 18 years of age) were systematically killed, detained, tortured, raped and otherwise violated on a widespread scale by members of the Indonesian security forces inside military facilities and at other official locations.

30. The Commission finds that commanders and personnel of ABRI/TNI committed significant violations of their obligations under international law by using illegal methods of warfare in their campaign in Timor-Leste. Actions routinely carried out which were in violation of the Geneva Conventions included:

- The targeting of civilians in military attacks
- A failure to discriminate between civilian and military targets
- The collective punishment of civilians for the actions of members of the Resistance forces
- The killing, torture and ill-treatment of civilians who had surrendered and been taken prisoner
- The use of prohibited weapons including napalm and chemical weapons
- Large-scale forced recruitment, including of children
- The deliberate destruction of civilian food sources.

31. The Commission finds that Indonesian judges, prosecutors, defence counsel, police, and military intelligence operatives collaborated to conduct sham trials of several hundred East Timorese after their arrest for engaging in pro-independence political

activities. These trials involved the systematic use of torture to produce confessions, the fabrication of evidence and the manipulation of judicial proceedings. Those who participated in the preparation and conduct of these trials are responsible and accountable for the illegal imprisonment of hundreds of supporters of independence for Timor-Leste.

32. The Commission finds that the State of Indonesia violated the right of the East Timorese to use and enjoy the benefits flowing from their own natural resources. This right was violated in a variety of ways including: by allowing the Indonesian security forces and their business associates to control the East Timorese coffee crop and to remove large quantities of resources, such as sandalwood and other types of timber, from the territory. Indonesia also violated the rights of the East Timorese people by illegally entering into an agreement with the Government of Australia to exploit the oil and gas resources in the Timor Sea.

The systematic programme of violations in 1999

33. The Commission finds that senior members of the Indonesian military, police and civil administration were involved in the planning and implementation of a programme of mass human rights violations intended to influence the outcome of the United Nations-organised Popular Consultation conducted in Timor-Leste in 1999. One of the main ways in which this programme was implemented was through the creation of new East Timorese militia groups and the strengthening of existing ones.

34. The Commission finds that the militia groups were formed, trained, armed, funded, directed and controlled by the Indonesian security forces. Indonesian military personnel served as commanders of some militia groups, senior commanders endorsed the militias, they operated from Indonesian military bases, and commonly committed atrocities in the presence of or under the direction of uniformed members of the TNI.

35. The programme conducted by members of the Indonesian security forces used violence and terror, including killing, torture, beatings, rape and property destruction in an attempt to force East Timorese voters to opt formally to "integrate" with Indonesia. When this strategy failed to produce the intended result, the security forces and their auxiliaries went on a rampage of violence, directed against people and property, and forcibly deported several hundred thousand East Timorese to West Timor.

36. The Commission finds that the massive human rights violations committed during 1999 were not the result of a conflict between East Timorese groups with different political preferences. Nor was it the result of "rogue elements" of the TNI acting out of the control of their superiors. The violations were committed in execution of a systematic plan approved, conducted and controlled by Indonesian military commanders up to the highest level.

37. The systematic violations that occurred in 1999 were facilitated through both the direct participation and the inaction of members of the Indonesian police force, who systematically failed to intervene to prevent the violations taking place and to punish perpetrators when they did.

38. Members of the local civil administration in Timor-Leste and national-level government officials, including ministers, knew of the strategy being pursued on the ground, and rather than taking action to halt it, directly supported its implementation.

39. The violations committed by the members of the Indonesian security forces during 1999 included thousands of separate incidents which constituted crimes against humanity. The Commission holds the leadership of the Indonesian security forces at the highest levels responsible and accountable for their role in planning and executing a strategy of which violations of human rights were an integral part, for failing to prevent or punish perpetrators under their command, and for creating a climate of impunity in which military personnel were encouraged to commit abhorrent acts against civilians known or perceived to be supporters of East Timorese independence.

Principal findings on the responsibility of Fretilin

40. The Commission finds that representatives of Fretilin were justified in taking up arms to defend themselves and the right of the East Timorese people to self-determination in response to the actions of representatives of the UDT party during the armed movement in August 1975.

41. However, representatives of Fretilin responded by committing serious human rights violations against members and leaders of UDT and, on a smaller scale, of Apodeti which are inexcusable under any circumstances. In particular members of Fretilin were responsible for the arbitrary detention, beating, torture, ill-treatment and execution of civilians who were known or thought to be members of UDT and Apodeti. These acts were violations of their obligations under Common Article 3 of the Geneva Conventions, which applies to internal armed conflicts.

42. Representatives of Fretilin executed prisoners in Aileu (Aileu), Maubisse (Ainaro) and Same (Manufahi) between December 1975 and February 1976. The Commission finds that in addition to local-level Fretilin and Falintil leaders and commanders in Aileu, Maubisse and Same, senior leaders and commanders, including members of the Fretilin Central Committee present in these areas at the time, were responsible for the torture and execution of prisoners in these places in late 1975 and early 1976. While accepting that the Fretilin Central Committee did not take a formal decision to commit these violations, the Commission finds that these senior leaders and commanders were either aware that they were taking place, were directly involved in deciding that they should take place, or were present when they did take place.

43. The Commission finds that when differences over military strategy and ideology emerged within the Resistance during 1976 and 1977–1978, leaders of Fretilin belonging to the dominant faction within the party and their supporters responded in a grossly intolerant manner. This intolerance manifested itself in serious human rights violations, including the torture and ill-treatment of detainees and the execution of leaders and members of Fretilin and Falintil who disagreed with the mainstream Fretilin leadership. The victims were often treated in this way after being accused of collaborating with, spying for or otherwise acting as agents of the Indonesian security forces. The Commission

finds that these accusations were often politically-motivated, and that Fretilin/Falintil subjected victims accused of these crimes to severe punishments, including indefinite periods of detention in deplorable conditions and execution, without any form of due process which in any way met international standards for procedural fairness.

44. The Fretilin leadership is also responsible for the detention of hundreds of persons in Renals and other detention centres established by Fretilin. The Renals were established to "re-educate" persons who differed from the leadership in their political views or whose loyalty was in doubt. Those detained included many ordinary people living in Fretilin-controlled areas who were believed, often on tenuous grounds, to be planning to surrender to Indonesian forces or to have had contact with Indonesian forces or their East Timorese collaborators. They also included those accused of common criminal offences. These people were often subjected to inhumane conditions, beatings and torture, which led to their death in detention, and many were executed.

45. The Commission finds that to the extent that it subjected persons it detained during the period 1976–1978 to a process of "popular justice", the Fretilin leadership within Timor-Leste was responsible for sanctioning a trial process which was grossly unfair in that it denied the accused their rights to be informed of the nature of the accusations beforehand, to be presumed to be innocent and to reply to the accusations made. As a result of these "non-trials" the accused persons were often subjected to further severe violations, including execution.

46. The question of whether individuals should or should not have been prevented from surrendering to Indonesian forces in the years following the invasion is complex, and some decisions are understandable when the totality of the situation is considered. However, the Commission found that the severe ill-treatment, torture, and, in some cases, killing of persons who favoured surrender was always inexcusable. Whatever the rights and wrongs of the debate over surrender, the Fretilin leaders who condoned and in some cases implemented these practices remain responsible for these extreme violations of victims' rights, which cannot be justified under any circumstances.

47. The Commission finds that the actions of the members of the Fretilin, and those associated with it, in cases of detention, torture and killing of civilians, prisoners, the wounded and the sick, were violations of their duties under Common Article 3 of the Geneva Conventions.

Principal findings on the responsibility of the UDT political party

48. The Commission finds that on 11 August 1975 the leadership of the UDT party launched an armed movement, the purpose of which was to gain control of the political leadership of the territory of Timor-Leste. UDT had no legal authority to undertake this action, and by doing so acted in violation of the rights of the East Timorese people to determine voluntarily their own political destiny.

49. During the armed movement UDT committed widespread human rights violations against members of the civilian population and combatants not engaged in combat,

and particularly against individuals believed to be leaders and supporters of Fretilin. Hundreds of civilians were arbitrarily detained, many of whom were tortured, killed and otherwise mistreated.

50. The Commission finds that the actions of the leaders and members of the UDT party, and those associated with the party, in cases involving the detention, torture and killing of civilians, prisoners, the wounded and the sick, were violations of their obligations under Common Article 3 of the Geneva Conventions.

51. The Commission finds that the leadership of UDT at the time are responsible for inciting their members to participate in an armed action without putting in place systems of command and control which could effectively regulate the behaviour of their members. They also did not prepare adequate facilities for the hundreds of prisoners who were detained. The Commission therefore finds the leaders of the UDT party at the time of the armed movement responsible for the violations committed by the members of UDT who were acting under their overall command.

52. The Commission finds that the local UDT leaders who incited hatred and who ordered victims to be detained, beaten, tortured or killed to be responsible and accountable for the consequences of these actions. The most extreme forms of abuse reported to the Commission occurred at the UDT headquarters in Dili, and in the districts of Ermera and Liquiçá, which were UDT strongholds.

53. The Commission holds the UDT district party leaders in Dili, Ermera and Liquiçá Districts in August 1975 to be responsible and accountable for the serious mass violations committed by those acting under their command and control. These violations included ordering or allowing the torture and summary execution of groups of unarmed civilians by party members acting under their authority.

54. The Commission finds the leadership of the UDT party to be responsible for contributing to the violation of the right of the East Timorese people to self-determination by contributing manpower to assist the invading Indonesian forces, inviting Indonesia to invade Timor-Leste and signing the Balibó Declaration, which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of the territory.

55. Members of UDT joined Indonesian forces training in West Timor after September 1975 and participated in the military invasion of Timor-Leste, accompanying Indonesian military personnel and assisting them both militarily and by providing local knowledge and intelligence. The leaders and members of UDT involved in these operations are responsible for the violations in which they were directly involved and to which they contributed, both directly and indirectly.

56. The Commission finds that UDT leaders assisted Indonesia by presenting false and misleading information to the United Nations and its member states in the period after the Indonesian invasion. It thereby prevented members of the international community from gaining a true picture of the situation in Timor-Leste, which might have formed the basis of international initiatives on behalf of the people of Timor-Leste. By taking on this role they contributed to the suffering of the East Timorese people, for which they must be held morally responsible.

Principal findings on the responsibility of the Apodeti political party

57. Although the Commission received significantly fewer reports of violations committed by members of Apodeti than by either Fretilin or UDT, the evidence clearly demonstrates that apart from their direct role in violations, members of Apodeti participated in the Indonesian invasion and supported the military occupation in a variety of ways.

58. Apodeti members worked with Indonesian intelligence agents, both military and civilian, inside Timor-Leste and in Indonesia during 1974–1975. They were responsible for undermining the decolonisation process and destabilising the situation in Timor-Leste.

59. Beginning in December 1974 approximately 200 members of Apodeti participated in military training exercises near Atambua, West Timor, which led to their participation with Indonesian military personnel, in covert military action inside Timor-Leste from August 1975 and possibly earlier, including the attack on Balibó on 16 October 1975. These East Timorese "Partisans" subsequently took part in the invasion of Timor-Leste, accompanying Indonesian military personnel and assisting them both militarily and by providing local knowledge and intelligence. The leaders and members of Apodeti involved in these operations are responsible for the violations in which they were directly involved and to which they contributed, both directly and indirectly. They are also responsible for the consequences of signing the Balibó Declaration, which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of the territory.

60. The Apodeti leaders and those directly involved in compiling lists and pointing out individuals who were targeted by Indonesian forces during the invasion are responsible for the consequences of these actions, including the detention, torture and killing of those who were identified.

Principal findings on the responsibility of the KOTA and Trabalhista parties

61. Although members of the Trabalhista and KOTA parties were not identified as direct perpetrators of a large number of violations, they did play a role in supporting the Indonesian invasion and occupation, and therefore contributed to the mass violations committed by members of the Indonesian security forces. By taking up arms in the "Partisan" force, members of these parties are also responsible for contributing to the Indonesian military invasion and occupation.

62. Members of Trabalhista and KOTA also contributed to the formulation and signing of the Balibó Declaration which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of Timor-Leste.

Methodology for identification of institutional responsibility

63. A total of 85,164 human rights violations were reported to the Commission through its statement-taking process. Each violation recorded in the statements of victims or witnesses was entered into the Commission's database. The identity of the perpetrator, the institution to which he or she belonged, and when, where and how the violation was committed were also recorded. By combining this information, the Commission was able to generate data on, for example, the scale of violations by type and the perpetrator groups most often identified as responsible for violations. It could also break down these categories further to yield data on trends and patterns of violations, their perpetrators and victims over time and space.

64. Aside from this quantitative information derived from the database, the Commission also collected a large amount of qualitative information, including the detailed accounts of events provided by witnesses and victims in statements and interviews, and secondary sources. Much of this qualitative evidence is contained in volumes 2 and 3 of the Report which are devoted to specific types of violation.

65. Table 3 (All reported violations, 1974–1999, between par. 70-71) summarises the total number of reported violations according to the institutional identity of the perpetrators. There are separate tables for each type of violation, including the total number and percentage of reported cases of illegal killings, torture, rape and other violations attributed to the Indonesian security forces and their auxiliaries, Fretilin/Falintil, UDT and Apodeti. Each of these tables is accompanied by another table which gives a breakdown of the data for different components of the Indonesian security forces and their auxiliaries. This table provides figures for the Indonesian military and police acting alone, for East Timorese auxiliaries (such as Hansip and militia groups) acting alone, and for the total reported cases in which the identified perpetrators were Indonesian military and police acting together with East Timorese auxiliaries. A separate set of tables has been produced which includes only data relating to violations reported to have been committed in 1999.

66. Annexe 2 to this Part entitled Command Responsibility, lists the military and other units most commonly identified in the database as perpetrators of violations and, where the information is available, their commanders and senior officers. Because of the limitations of the statement-taking process (see Vol. I, Part 6: Profile of human rights violations), this analysis does not purport to identify definitively the units and individuals which committed the largest number of serious human rights violations. However, based on the totality of the evidence available to it, both quantitative and qualitative, the Commission believes that these units did commit large-scale violations and that where it has been possible to identify their commanders and senior officers, they should be held accountable for these actions.

67. In relation to the data in all tables, perpetrator groups are exclusive. That is, each violation is attributed to one and only one category of institutional perpetrator.

68. The following table presents a summary of the institutional affiliation of perpetrators of human rights violations reported to the Commission, based on the identification provided by the witnesses and victims who provided statements. A similar table dealing specifically with reported violations committed in 1999 appears later in this Part, in the section which deals with the responsibility of the Indonesian security forces for the violations committed in 1999.

Table 1: Perpetrator responsibility for violations reported to the CAVR: 1974–1999

Violations by:	Total number of violations reported to the CAVR	Total violations by Indonesian military, police & Timorese auxiliaries	Total violations by Fretilin/Falintil	Total violations by UDT	Total violations by Apodeti	Others
All violations	85,164	71,917	8,306	2,151	344	2,446
	100%	84.40%	9.80%	2.50%	0.40%	2.90%
Illegal killings	5,108	3,455	1,297	150	41	165
	100%	67.60%	25.40%	2.90%	0.80%	3.20%
Disappear-ances	833	719	71	8	1	34
	100%	86.30%	8.50%	1.00%	0.10%	4.90%
Torture	19,578	16,150	2,250	-	-	1,178
	100%	82.5%	11.5%	-	-	6.0%
Detention	25,347	20,779	3,001	831	90	646
	100%	82.00%	11.80%	3.30%	0.40%	2.50%
Ill-treatment	8,436	6,706	917	379	24	410
	100%	79.50%	10.90%	4.50%	0.30%	4.90%
Sexual violence	853	796	27	1	-	29
	100%	93.30%	3.20%	0.10%		3.40%
Forced displacement	13,967	13,166	426	106	86	183
	100%	94.30%	3.10%	0.80%	0.60%	1.30%
Forced recruitment	2,157	1,986	94	34	1	42
	100%	92.10%	4.40%	1.60%	0.00%	1.90%
Property/ economic violations	4,735	4,096	348	53	43	195
	100%	86.50%	7.30%	1.10%	0.90%	4.10%

Table 2: Breakdown of Indonesian Security Forces responsibility for violations reported to CAVR: 1974–1999

Violations by:	Indonesian military, police & Timorese auxiliaries	Timorese auxiliaries acting alone	Indonesian military & police acting alone	Indonesian military and police acting together with Timorese auxiliaries
All violations	71,917	14,704	43,323	13,550
	84.40%	17.30%	50.90%	15.90%
Illegal killings	3,455	835	1,972	630
	67.60%	16.30%	38.60%	12.30%
Disappear-ances	719	105	494	120
	86.30%	12.60%	59.30%	14.40%
Torture	16,110	4,380	8,890	2,880
	82.5%	22.4%	4.54%	14.7%
Detention	20,779	3,005	12,004	5,630
	82.00%	11.90%	47.40%	22.20%
Ill-treatment	6,706	2,059	3,341	1,287
	79.50%	24.40%	39.60%	15.30%
Sexual violence	796	184	518	89
	93.30%	21.60%	60.70%	1.40%
Forced displacement	13,166	1,451	10,144	1,521
	94.30%	10.40%	72.60%	10.90%
Forced recruitment	1,986	426	1,221	333
	92.10%	19.70%	56.60%	15.40%
Property/ economic violations	4,096	2,256	1,032	773
	86.50%	47.60%	21.80%	16.30%

Perpetrator identification in the human rights violations database

69. Analysis of the 85,164 reported violations according to the institutional affiliation of the perpetrators leads to the following broad conclusions:

- Members of the Indonesian security forces and their auxiliaries were responsible for the overwhelming majority of all categories of violations committed during all periods following the invasion. They were identified as the perpetrators in 84.4% (71,917/85,164) of the total violations reported to the Commission.

- Members of ABRI/TNI and the police were the categories of perpetrator responsible for the most violations.
- East Timorese members of auxiliary forces, including Hansip and the militias, which were almost entirely armed, funded and controlled by the Indonesian military, were also responsible for a large number of violations, although less than ABRI/TNI. Reports of violations by the auxiliary forces were proportionally much higher in 1999 than other periods of the conflict.
- After representatives of the Indonesian security forces, members of Fretilin/Falintil were identified as next largest perpetrator group, although the number of violations they are reported to have committed is much smaller than those reportedly committed by agents of the Indonesian security forces. Members of Fretilin/Falintil were identified as perpetrators in 9.8% (8,306/85,164) of the total violations reported to the Commission.
- Most reported violations by members of Fretilin/Falintil took place during the internal party conflict of 1975 and the years immediately following.
- The proportion of violations committed by members of UDT was significant during and after the period of the internal armed conflict in August 1975.
- The number of reported violations committed by UDT is substantially lower than those reported to have been committed by Fretilin/Falintil. UDT members were identified as perpetrators in 2.5% (2,151/85,164) of the total number of cases reported to the Commission.
- There were very few violations committed by Fretilin/Falintil or any other pro-independence group during 1999.

Responsibility and accountability of the Indonesian security forces

> In every village there was and still is a prison and every day five to ten people are tortured, burned with cigarettes, systematically electrocuted with high voltage electricity, or become victims of the Nanggala killer knives. They pull out fingernails and squeeze testicles with pliers. They put the victims' fingers under the leg of a table, and the killer Red Berets sit on top of it. All this during interrogation to get information about people's organisations in concentration camps. Then [there are] the killings. Mass shooting executions, with the victims dying in front of the graves they dig themselves. Or they die drowned in a barrel full of water. The victims' families then are told that they "have gone to Jakarta to study". Then, as if all this was not enough, the women of the struggle or the slaughtered victims' wives, are taken for interrogation at night. They have to submit, under death threats, to pleasure the Nanggala, police, Koramil, Kodim, because these women are accused of having connections with Fretilin. The captured strugglers and Fretilin members are interrogated to gain information about the Resistance with the most

brutal tortures till they die, after which they are tied to the back of a vehicle and dragged around the village while the villagers are forced to watch and "welcome Fretilin's visit to the village". The women captured in the forest cannot avoid [the perpetration of] criminal acts [against them]. They are stripped naked, their hair shaved, and are told to walk among the people standing in line and forced to humiliate them.

Xanana Gusmão 14 October 1982. Letter to the 37th UN General Assembly. *

Evidence relied on in this section

70. In addition to the almost 8,000 statements and 85,164 reported violations, the Commission conducted interviews with witnesses, including persons who served with the Indonesian military, police and civil administration, and members of auxiliaries such as Hansip and the militia groups. Secondary materials, including official Indonesian military documents, were also consulted.

Violations committed by members of the Indonesian security forces

Table 3: All reported violations, 1974–1999

Perpetrator	Count	Percent
Indonesian military & police acting alone	43,323	50.9
Timorese auxiliaries acting alone	14,704	17.3
Indonesian military and police together with Timorese auxiliaries	13,550	15.9
Resistance movement	8,772	10.3
Other institutions	4,167	4.9
Civilian population	450	0.5
Pro-autonomy groups	198	0.2
Total	85,164	100.0

Unlawful killings and enforced disappearances

71. The Commission has found that approximately 18,600 unlawful killings and enforced disappearances of East Timorese non-combatants were perpetrated between 1974 and 1999. The overwhelming majority, 70%, were committed by the Indonesian

* Xanana Gusmão, *To Resist Is To Win!*, edited by Sarah Niner, Aurora Books, 2000, pp. 77-78.

security forces, including East Timorese auxiliaries.* The nature and scale of these killings and disappearances changed over time in step with the different phases of the Indonesia's occupation, reaching peak levels in 1978–1979, 1983–1984 and 1999. However, the Commission has found that the Indonesian military's consistent resort to killings and disappearances throughout the occupation and the impunity enjoyed by those responsible for them indicate that they were an integral part of its strategy for enforcing its control of the territory of Timor-Leste through the instrument of terror.

Table 4: Reported cases of unlawful killings, 1974–1999

Perpetrator	Count	Percent
Indonesian military & police & Timorese auxiliaries	3,455	67,6
Fretilin & Falintil	1,297	25,4
Other institutions	165	3,2
UDT	150	2,9
Apodeti	41	0,8
Total	5,108	100,0

Table 5: Breakdown of perpetrator groups: unlawful killings 1974–1999

Perpetrator	Count	Percent
Indonesian military & police acting alone	1,972	38.6
Resistance movement	1,335	26.1
Timorese auxiliaries acting alone	835	16.3
Indonesian military and police together with Timorese auxiliaries	630	12.3
Other institutions	270	5.3
Civilian population	45	0.9
Pro-autonomy groups	21	0.4
Total	5,108	100.0

Table 6: Enforced disappearances, 1974–1999

Perpetrator	Count	Percent
Indonesian military & police & Timorese auxiliaries	719	86.3
Fretilin & Falintil	71	8.5
Other institutions	34	4.1

* Auxiliaries comprise "civil defence" groups (including Hansip, Ratih, Wanra and Kamra), members of the local administration acting in a "security" role, paramilitary groups (such as Tonsus and the various "Teams" that were forerunners of the militia groups formed in 1998–1999), and the militia groups themselves.

UDT	8	1.0
Apodeti	1	0.1
Total	833	100.0

Table 7: Breakdown of perpetrator groups: enforced disappearances, 1974–1999

Perpetrator	Count	Percent
Indonesian military & police acting alone	494	59.3
Indonesian military and police together with Timorese auxiliaries	120	14.4
Timorese auxiliaries acting alone	105	12.6
Resistance movement	76	9.1
Other institutions	36	4.3
Pro-autonomy groups	1	0.1
Civilian population	1	0.1
Total	833	100.0

Terror and impunity

72. In attempting to overcome resistance to the occupation ABRI/TNI made strategic use of terror to force the population into submission. It did so by directing and allowing personnel to be involved in horrific acts committed against any person suspected of being affiliated with the Resistance.

73. In every culture, particularly among members of institutions entrusted with employing physical force over others, there are individuals who derive personal gratification through the exercise of this power over defenceless victims. The commanders and senior leaders of ABRI/TNI allowed horrific practices to go unpunished and encouraged the development of an institutional culture in which torture, rape and arbitrary execution came to be accepted as standard operating procedure. Throughout the period of occupation (1975–1999) methods and circumstances in which representatives of the Indonesian security forces committed unlawful killings included:

- A common practice of slow killing of detainees by leaving them naked and alone, without sufficient food and water, in totally dark cells, following repeated and prolonged torture
- Killing prisoners in military custody by repeated and severe beatings and prolonged torture
- Execution of unarmed civilians by close-range shooting
- Random, indiscriminate shooting of unarmed groups of civilians
- Targeted killing of suspects from lists drawn up by military personnel
- Execution of detainees in detention centres, and in isolated places in the

countryside, including in lakes, ravines and from bridges
- Immediate execution after capture during military operations
- Ordering of victims to dig their own grave before execution
- Ordering of victims to line up in formation, before line by line execution
- Dividing groups of unarmed civilians by sex, and then executing the men
- Throwing of grenades at unarmed groups of civilians
- Throwing live persons from cliffs, sometimes after being wounded
- Forcing of persons to kill other civilians, under severe duress and threats to their own lives
- Rape and sexual torture of female victims before executing them
- Tying victims to a moving vehicle and publicly dragging them along the ground until they were dead
- Burning people alive
- Burying people alive
- Tying up victims to a cross and then executing them
- Displaying human ears and genitals to family members of the disappeared.

74. As an element in the creation of terror the execution of opponents was sometimes carried out in public. The fact that such executions could take place repeatedly in public places provides strong evidence that the practices were systematic and an accepted practice within the Indonesian military institution. They were either ordered or condoned by the senior levels of command, and officers could torture and kill political opponents openly without any due process or apparent reason, and without fear of being held accountable in any way. Some of the examples of public executions which witnesses reported to the Commission were:

- Beating victims to death in public
- Public beheading with an axe
- Publicly cutting off body parts of victims while still alive
- Public display of decapitated head, or severed limbs or body parts
- Public execution of a married couple, in which both were stripped naked, then hit on the back of the neck, knocking them into a grave that had already been dug
- Parading of corpses in public.

Illegal killings related to military operations

Illegal killings before the invasion of Timor-Leste

75. Before the full-scale invasion of Timor-Leste on 7 December 1975 Special Forces (Kopassandha) units of ABRI armed and trained East Timorese members of Apodeti and UDT in West Timor (Indonesia), designating them "Partisans". Indonesian troops and Partisans conducted covert military operations in the territory of Timor-Leste between August and December 1975, during which they unlawfully killed dozens of civilians in Bobonaro, Covalima and Ermera Districts. The Commission finds that the Government of Indonesia, the institution of ABRI/TNI, individual Kopassandha officers

and men and Partisans involved are responsible and accountable for the deaths of those civilians.

Illegal killings and arbitrary executions during the invasion

76. The invasion of Timor-Leste was a violation of international law regulating the permissible use of armed force.* Not only was the fact that Indonesia forcibly invaded the territory a serious violation, but also the manner in which it was conducted involved mass violations against civilians, prisoners, the sick and wounded. Members of ABRI did not limit their attacks to those who resisted the occupation or were armed combatants. They specifically targeted unarmed civilians and failed to differentiate between civilian and military targets during this operation and the following efforts to subdue the population.

77. In the capital, Dili, on 7–8 December 1975 Indonesian soldiers executed scores of civilians, including women, in areas of the city which had been actively defended against the armed Indonesian invasion. These areas were Colmera, Vila Verde, Matadouro, along the Maloa River and Ailok Laran. They also targeted captured Fretilin members and their relatives and executed several of them on the day after the invasion.

78. The Commission received many reports of Indonesian forces killing civilians as they advanced into other parts of the territory during 1976–1978. Sometimes those killed had been denounced as members of Fretilin, but many of the victims of these killings were randomly targeted members of the civilian population. Ordinary civilians were targeted in a variety of other circumstances: while looking for food or going about their daily activities, when encountered by Indonesian security forces on operations, in retaliation for Falintil attacks, and on suspicion of having contact with or having knowledge about Fretilin/Falintil.

79. The Commission has found that while engaged in offensives against Fretilin/Falintil bases and attacks on their positions and in the aftermath of such operations Indonesian security forces killed civilians and others not engaged in combat, including surrendered and captured combatants. The majority of reports of this nature which it received related to the period 1977–1979, when many of those who had fled to the mountains and came into the custody of the Indonesian forces through surrender or capture were summarily executed. Some of those who were executed were members of Fretilin and Falintil, who had surrendered after receiving personal assurances from ABRI personnel, other members of the Indonesian security apparatus or members of the civil administration that they would be safe on the basis of an amnesty offered first announced by President Soeharto in November 1977 and subsequently renewed.

80. The Commission received information indicating that violations of this kind continued to be committed after that time. For example, the Commission has found that in September 1981, at the conclusion of the Operasi Kikis of June-September 1981, Battalions 321, 744 and/or 745, Marine Units, and Hansip attacked Falintil

* The principles of international law relied on by the Commission are included in Vol. I, Part 2: Mandate of the Commission.

forces who had gathered in the area of Mount Aitana on the Manatuto-Viqueque border and subsequently executed more than one hundred and, possibly several hundred, Falintil troops and civilians, including women and children, who were accompanying them. At the time that they were killed these victims were either at the mercy of Indonesian forces or in their custody after surrender or capture.

Systematic killings and disappearances of targeted individuals and groups

81. During the early years of the occupation, but in particular in 1978–1979 and in 1983–1984, ABRI commanders, troops and auxiliaries committed systematic and widespread unlawful killings and enforced disappearances of persons who had been active members of the Resistance and persons suspected of having clandestine contacts with members of Fretilin/Falintil still fighting.

82. In most of these incidents the Indonesian security forces spread their net extremely wide to the point that it is often not easy to distinguish instances of targeted killings from the instances of collective and proxy punishment described below.

83. After the attacks in Dili on 10 June 1980, for example, those who were arrested, some of whom were among the 121 persons reported to the Commission as having subsequently been killed or disappeared, were persons who had taken part in the attacks; persons known to have played an active role in the Resistance before their surrender or capture but who are believed not to have taken part in the attacks; persons who had a supportive role in preparing for the attacks but who did not participate directly in them; persons who may have still have been active in the Resistance but who did not play any role in the attacks; and unfortunate bystanders such as persons who happened to have been on compulsory guard duty in places near where the attacks took place on the night of 9–10 June. The Commission notes that under international human rights and humanitarian law the right to life of all categories of non-combatant is absolute, and that therefore all unlawful killings and disappearances are illegal acts irrespective of the reason why the victim has been targeted. To the extent that it is possible to do so, it distinguishes between collective punishment and more discriminate forms of killings and disappearance not because one is more or less reprehensible than the other – both are equally reprehensible – but to establish grounds for accountability.

84. The Indonesian security forces and their auxiliaries carried out a widespread and systematic campaign of killings and disappearances directed at surrendered and captured members of Fretilin and Falintil in February–June 1979. The Commission found that these killings and disappearances were carried out as part of a systematic plan, devised at the highest levels of the military command structure and coordinated by the newly-created Sub-Regional Command (Korem) for Timor-Leste under the command of then Colonel Adolf Sahala Radjagukguk, whose purpose was to eliminate surviving leaders and activists of the Resistance movement. It reaches this conclusion on the basis of a number of considerations, including the scale and widespread nature of the killings and disappearances, their known targets, their timing, the uniform treatment of the victims and other similarities in the methods used during the

campaign across many districts, and the involvement of military units at all levels of the command structure.

85. After the breakdown of the ceasefire between Indonesian forces and the Resistance in March 1983 and the launch of Operasi Persatuan (Operation Unity), aimed at the total eradication of the Resistance, the Indonesian military targeted civilians involved in clandestine activity. The Commission received testimonies about the execution and disappearance of more than 250 civilians in the districts of Lautém, Viqueque, Baucau, Dili, Aileu, Manufahi, Ainaro, Bobonaro and Covalima between August 1983 and mid-1984 (excluding those killed in Viqueque in the immediate aftermath of the attack on Kraras), as well as the arrest, detention and torture and ill-treatment of many others.

86. While this campaign was avowedly aimed at breaking up clandestine Resistance networks, in practice it was both systematic and indiscriminate. The systematic nature of these executions is evident to the Commission from their scale and from documentary evidence received by the Commission that village chiefs and members of the civil defence forces were ordered to draw up lists of people who had been active in the Resistance in the past, which in some cases at least formed the basis for the violations that followed. In addition, as with the executions and disappearances of 1978–1979, the similar operation of 1983–1984 involved the mobilisation of a wide range of institutions within the security apparatus and the civil administration, including the Special Forces (Kopassus), all levels of the territorial structure, combat battalions, the civil defence forces, paramilitary teams, the civilian and military police, and local government officials.

87. Its indiscriminate nature is evident from what is known about some of the persons who were its victims. For example, the Commission learned that many of the approximately 40 individuals arrested in Bobonaro and Covalima who were then executed or disappeared from the Bobonaro Koramil in December 1983 had no connection with the Resistance other than a name similar to that of another person believed to have such a connection.

Collective and proxy punishment of civilians by ABRI/TNI

88. Throughout the occupation, but in particular in the early 1980s, ABRI commanders, troops and auxiliaries committed unlawful killings and enforced disappearances of civilians to punish communities collectively that were suspected of supporting Falintil forces. The indiscriminate punishment of persons known to have previously been involved with the resistance movement and the collective punishment of communities were particularly severe in the aftermath of Falintil attacks on military targets. The Commission finds that the illegal and immoral practices of proxy and collective punishment, targeting innocent victims for actions carried out by others who had evaded capture, was a central and systematic component of the Indonesian military strategy to overcome the resistance to the military occupation. ABRI/TNI commanders and troops carried out collective punishment directed at unarmed civilians in response to attacks by Falintil from the earliest days of the occupation.

Among the incidents reported were a number in which large numbers of civilians were detained and tortured, women raped, and unarmed civilians who themselves had not taken part in the attacks by Falintil were summarily executed or disappeared.

89. In the weeks after a Falintil-led attack on ABRI posts and facilities around Mau Chiga (Hato Builico) and Rotuto (Same, Manufahi) on 20 August 1982, ABRI and Hansip took massive retaliatory action aimed at punishing the whole population of Mau Chiga and surrounding villages. In the course of this operation the population, the vast majority of whom had not participated in the Falintil-led attack, suffered multiple violations of their rights, including detention, torture, rape and other sexual violations, forced displacement to the island of Ataúro and other places, and executions. At all of the sites to which the people of Mau Chiga were forcibly transported those detained were subjected to hunger as a form of collective punishment. The Commission compiled a list of approximately 120 people who died from hunger-related causes as collective punishment for attacks of 20 August 1982. At least 75 men from Mau Chiga were summarily executed by ABRI and civil defence forces between 1982 and 1987. Many of them were killed in the most brutal fashion, both publicly and at an execution site, called Jakarta 2, at Builico, near the town of Ainaro, where victims were hurled into a deep ravine. In a special project conducted by the Commission, it received extensive testimony that personnel from the Ainaro and Manufahi Kodims, the Dare Koramil, the 5th Combat Engineering Battalion (Zipur 5), and Hansip, including commanding officers, were implicated in these violations.

90. Following the attack by East Timorese Ratih (Civil Defence Force) in Kraras (Viqueque) on 8 August 1983, in which 12 Indonesian troops were killed, and their subsequent defection, the Indonesian security forces took reprisals against the population of the area in September–October 1983. These included a series of executions, including mass executions. In separate events reported to the Commissions around 270 people were killed in groups of up to 181. A wide range of military and auxiliary forces were reported to have perpetrated these executions, including members of Kodim 1630/ Viqueque, Battalions 328, 501 and 745, Special Forces (Kopassus) and Hansip.

91. After the defection of more than 30 armed members of Hansip, with their families and members of a clandestine youth group, in Mehara (Lautém) on 9 August 1983, smaller-scale defections in Leuro in Lospalos Sub-district and Serelau in Moro Sub-district, and the discovery of a plan for a similar action in Iliomar Sub-district, Indonesian military forces detained hundreds of men and women throughout the district, executing and causing the disappearances of many of them. According to information received by the Commission, between August and December 1983 at least 28 people were executed or disappeared in the sub-district of Iliomar and another 20 in the *aldeias* of the village of Mehara alone. Executions were frequently held in public; in several instances reported to the Commission members of the security forces compelled villagers to kill their fellow villagers publicly or in detention centres.

92. In later years civilians continued to be executed in reprisal for Falintil attacks. Examples include the killing of six civilians in Gariana (Maubara, Liquiçá) in January 1995 after a Falintil soldier being pursued by ABRI troops evaded capture and the

killings in Alas and other parts of Manufahi District that followed Falintil attacks and executions in October–November 1998.

1985–1998: a continuing climate of impunity

93. In the period 1985–1998 the number of killings and disappearances committed by ABRI and its auxiliaries declined relative to the earlier years of the occupation. However, the Indonesian security forces continued to kill and cause the disappearance of civilians with real and suspected association to groups resisting the occupation, including members of Fretilin/Falintil, the clandestine networks and other pro-independence groups.

94. Although the number of fatal violations decreased, those that occurred could not be regarded as the exceptional acts of "rogue elements". A climate of impunity permitted practices such as the following to continue to occur with virtual impunity into the 1990s:

- Opening fire into a crowd of unarmed demonstrators, as at the Santa Cruz Cemetery in Dili on 12 November 1991
- The execution and disappearance of civilians in reprisal for Falintil attacks and execution, as occurred in Alas and other sub-districts of Manufahi in October–November 1998
- The execution of civilians in place of escaped combatants, as in Gariana (Maubara, Liquiçá) in January 1995
- The execution of civilians who were forcibly recruited to take part in military operations or exercises during military action
- Opening fire on a group of unsuspecting people or individuals carrying out daily activities, for no apparent reason.

95. Responding to international and domestic pressure, the Indonesian military conducted internal investigations and brought judicial proceedings against relatively junior personnel in at least two cases, following the Santa Cruz Massacre in Dili in 1991 and the killing of six civilians in Gariana (Maubara, Liquiçá) in 1995. In both cases court martial proceedings resulted in the low-ranking soldiers receiving light sentences, of between eight months and four years. The Commission found that these proceedings were not conducted in such a way as to establish accountability for those atrocities.

1999

96. In 1999 the Indonesian security forces and their auxiliaries conducted a coordinated and sustained campaign of violence designed to intimidate the pro-independence movement and ensure a pro-Indonesian result in the UN-organised Popular Consultation. Thousands of civilians were detained, hundreds of thousands were forcibly displaced, and 1,400-1,500 were killed or disappeared during the course of the year. The majority of fatal violations took place in April, before the signing of the 5 May Agreements, and in September–October, after the announcement of the result of the ballot.

97. The Commission found that during 1999 the TNI relied to a far greater extent than in earlier years on East Timorese auxiliaries, in this case militia groups, acting alone, to carry out its campaign against the civilian population. Although it was part of the TNI's strategy to encourage such an interpretation, this did not mean that that the TNI was not directly responsible for the actions of the militias, including the killings and disappearances they committed.

98. The Commission received overwhelming evidence that during 1999 the TNI, the police and militia groups acted in a coordinated manner. Military bases were openly used as militia headquarters, and military equipment, including firearms, were distributed to militia groups. Some TNI personnel were also militia commanders or members. TNI intelligence officers provided lists of the names of people to be targeted, and coordinated attacks. Civilian authorities openly provided state funding for militia groups and participated in militia rallies and other activities. And, the Commission found, on many occasions TNI personnel were directly involved with the militia in fatal attacks or carried out such attacks acting alone. Instances of such open involvement include:

- The attack on the Liquiçá Church on 6 April 1999, conducted by Besi Merah Putih militia, and troops from the local Kodim and Brimob (police mobile brigade), in which at least 30-60 civilians were killed.
- The retaliatory killing by Halilintar militia and TNI personnel of at least 20 civilians in the days following the alleged Falintil killing of a TNI soldier and a pro-autonomy leader in Cailaco Sub-district (Bobonaro) on 12 April 1999.
- The attack on Suai Church on 6 September 1999 by Laksaur militia and Indonesian security forces, in which at least 27 people, including three priests, were killed.
- The attacks in Dili on 5–6 September 1999 by Aitarak militia and Indonesian security forces on a number of buildings and complexes where civilians had taken refuge, and at least 19 civilians were killed or disappeared.
- The attacks on 8 September 1999 and succeeding days by Dadurus Merah Putih and other militias, under the command of Indonesian security forces, on persons who had sought safety in the Maliana police station (Bobonaro) and subsequently on those who had managed to flee the police station, in which at least 26 civilians were killed or disappeared.
- On 12 September 1999, Laksaur militia and Indonesian security forces, during an attempt to forcibly deport villagers from the village of Laktos, Fohorem (Covalima) killed 14 men who resisted being moved to West Timor.
- The random shootings by members of Battalion 745 during their retreat from Lospalos (Lautém) to Dili on 21–22 September 1999, in which at least eight people were killed.
- The execution of 12 persons around 20 October 1999 by Sakunar and Aitarak militia and Indonesian security forces during and after rounding up villagers from Maquelab (Pante Makassar, Oecussi) for deportation to West Timor.

Arbitrary detention, torture and ill-treatment

Introduction

99. The Commission finds that throughout the entire period from the Indonesian invasion in 1975 to the arrival of international peacekeepers in late September 1999 members of the Indonesian security forces arbitrarily detained thousands of East Timorese on a scale and in a manner that was widespread and systematic. The Commission also found that detainees were routinely tortured. The Commission received statements from witnesses and victims which reported 20,779 cases of arbitrary detention, 11,123 incidents of torture and 8,436 incidents of ill-treatment. Thousands more incidents of torture and ill-treatment were described by witnesses during interviews, in victims' hearings, community reconciliation hearings, community profile workshops and thematic public hearings conducted by the Commission.

100. The picture which emerges from the analysis of this information is clear and highly corroborated. The Commission finds that there was a systematic policy and practice within the Indonesian security forces, which extended to its highest levels, that condoned and encouraged the use of arbitrary detention and torture of East Timorese who were suspected of political opposition to the invasion and occupation of Timor-Leste. Analysis of all reported cases entered into the Commission's database demonstrates that arbitrary arrests, detention and torture occurred in all districts of Timor-Leste, although it was most common in Dili and markedly less frequent in Oecussi, and in every year from 1975 until 1999. One of the challenges for the Indonesian security forces in overcoming the Resistance was a lack of knowledge of who was actively part of the clandestine pro-independence movement. A tactic used to gain access to this information was to detain arbitrarily individuals or groups of people who were either themselves suspected of being connected in some way to the independence movement, or who had family members or lived in a community that was suspected of being pro-independence. Those detained would then often undergo the ordeals of torture and deprivation aimed at breaking their reluctance to provide information, or at convincing activist family members to cooperate.

Cases of arbitrary detention, torture and ill-treatment reported to the Commission, 1974–1999

Table 8: Detention, 1974–1999

Perpetrator	Count	Percent
Indonesian Military Police & Timorese Auxiliaries	20,779	82.0
Fretilin & Falintil	3,001	11.8
UDT	831	3.3
Other Institutions	646	2.5
Apodeti	90	0.4
Total	25,347	100.0

Table 9: Breakdown of perpetrator groups: detention, 1974–1999

Perpetrator	Count	Percent
Indonesian Military & Police Acting Alone	12,004	47.4
Indonesian Military and Police together with Timorese Auxiliaries	5,630	22.2
Resistance Movement	3,128	12.3
Timorese Auxiliaries Acting Alone	3,005	11.9
Other Institutions	1,399	5.5
Civilian Population	127	0.5
Pro-Autonomy Groups	54	0.2
Total	25,347	100.0

Table 10: Torture and ill-treatment, 1974–1999

Institution	Torture & Ill-Treatment	
	Count	% Share
Indonesian Military, Police & Timorese Auxiliaries	16,135	82.4
Fretilin	1,713	8.7
Falintil	419	2.1
UDT	730	3.7
Apodeti	63	0.3
Other	335	1.7
Total	19,578	100.0

Table 11: Breakdown of perpetrator groups for torture and ill-treatment, 1974–1999

Institution	Torture & Ill-Treatment	
	Count	% Share
Indonesian Military and Police Acting Alone	8,890	45.4
Timorese Auxiliaries Acting Alone	4,380	22.4
Indonesian Military and Police together with Timorese Auxiliaries	2,880	14.7
Resistance Movement	2,250	11.5
Other	747	3.8
Civilian Population	509	2.6
Pro-Autonomy Groups	157	0.8
Not Reported	27	0.1
Total	19,578	100.0

Arbitrary detention

101. Of the 20,779 unique reports of arbitrary detention by members of the Indonesian security forces documented by the Commission, the victims were reported to have been subjected to torture or ill-treatment by members of the Indonesian forces in 19,559 cases. This mass of evidence has provided the Commission with a highly corroborated and reliable picture of the appalling treatment to which detainees were routinely subjected. These thousands of cases, which form the basis for the findings in this section, provide a strong and consistent account of the manner in which these violations were commonly carried out.

102. Arrest and detention were arbitrary in several respects. The Commission knows of no case in which persons who were arrested were informed of their rights, and it was rare for them to be told whether they were being charged, or why they were being detained. The Commission did not receive one account of a person who was detained being released on bail. Excessive force, including heavy beatings, was routinely used during the arrest of suspects. In most cases evidence implicating suspects in a crime was not presented to them, and they were often detained on the basis of information passed on by informants. In the absence of any real evidence against suspects they were then routinely tortured to try to make them confess or provide information.

Conditions of detention

103. The conditions in which those detained were kept were often deplorable. Prisoners frequently died of starvation and illness due to lack of clean water in their places of detention until the mid-1980s when the number of detainees declined and new state prisons were constructed to house those detained. Even after this time there were frequent reports of detainees being deprived of food for several days at a time or being given food that was unfit for human consumption.

104. Conditions in which detainees were commonly held included:

- Long periods of extreme hunger, during which the only food that was provided was intentionally inedible, being mixed with broken glass and animal faeces, badly burned or obviously rotten.
- Keeping prisoners naked for long periods of time. In some places of detention the practice was to keep prisoners naked or in their underwear, to heighten their sense of shame and vulnerability.
- Keeping prisoners in solitary confinement for long periods, sometimes of up to one year, without human contact.
- Detention centres, including prisons, police stations and military command headquarters, had "dark cells" into which prisoners would be placed. These cells had poor ventilation, no windows and no light.*
- Prisoners were often kept in small cells with no toilets and were not allowed outside their cells, forcing them to sit in their own excrement or that of other prisoners. This also applied to the "dark cells".

* The Commission's report on this public hearing is entitled *Political Imprisonment, CAVR National Public Hearing*, 17–18 February 2003.

105. These abhorrent conditions were often combined. Victims gave personal testimony to the Commission about their experience of being kept alone and naked in tiny "dark cells" in which there was absolutely no light, without toilet facilities and with food mixed with faeces and soapy water as their sole source of nourishment. The only time they were removed from these conditions was to be tortured by being subjected to electric shocks, beatings and other inhumane forms of treatment. In many cases these conditions were prolonged, causing the slow and excruciating physical collapse and death of the victim. The Indonesian security forces intentionally used a variety of specially designated centres to carry out interrogation and torture, some of which were specifically designed for the torture of victims. Often victims would be moved to a number of these sites during a single night, undergoing interrogation and torture at each, to increase their confusion, sense of isolation and vulnerability. Once held in detention, victims were liable to be passed from one branch of the intelligence services to another for interrogation. This tactic was routinely used to increase the sense of terror and vulnerability of the victim.

Torture and ill-treatment

106. The striking similarity in the treatment of those held in detention, across different locations in the territory and throughout the 24-year period of occupation, provides evidence of the systematic and widespread nature of these violations and the fact that they were institutionally tolerated and encouraged. It also indicates that the institutions of the Indonesian security forces applied these practices as a standard part of their operations in Timor-Leste. The Commission finds that the systematic use of torture by the Indonesian security forces amounted to crimes against humanity.

107. Torture is a violation of the rights of both combatants and civilians. The Commission has received reports of the torture of Falintil combatants by members of the Indonesian security forces. However it received a far greater number of reports of torture of civilians who were not part of the armed opposition.

108. The totality of the evidence considered by the Commission leads it to conclude that the purpose of this systematic use of torture was:

- To attempt to force civilians to provide information about others who might be involved in resisting the occupation
- To demonstrate the terrible punishment that would be summarily handed out to anyone who resisted the occupation
- To demonstrate that members of the Indonesian security forces could act in an arbitrary manner and with total impunity against the East Timorese population
- To demonstrate that the East Timorese people were in a totally subjugated, vulnerable and powerless situation with no means of defending their human rights and dignity, and that therefore they must accept the occupation
- To create pervasive conditions of terror among the population in order to force them not to resist the occupation.

109. In the case of persons who were going to be brought to trial, written confessions were often prepared before the interrogation of suspects began. The suspect was forced to sign the confession by the use of torture during the interrogation.

110. In addition to the use of physical torture, other methods, such as death threats against the victim and his or her family, and deprivation of sleep, food, water and sanitary facilities, were also employed. Often interrogations ran continuously over several days in order to break the victim's will.

Methods of torture

111. The types of torture which victims and witnesses reported to the Commission were strikingly uniform.

112. On the basis of extensive corroboration the Commission accepts that the following acts of torture and other cruel, inhumane and degrading treatment were commonly used by the Indonesian security forces:

- Beating with fists or with implements such as a wooden club or a branch, an iron bar, a rifle butt, chains, a hammer, a belt or electric cables
- Kicking, usually by torturers wearing military or police boots, including around the head and face
- Punching and slapping
- Whipping
- Cutting with a knife
- Placing the victim's toes under the leg of a chair or table and then having one or more people sit or jump on it
- Burning the victim's flesh with cigarettes or a gas lighter, including the victim's genitalia
- Applying electric shocks to the most sensitive parts of the victim's body, including his or her genitalia
- Firmly tying the victim's hands and feet and hanging him or her from a tree or roof
- Using water in various ways, including holding the victim's head under water; keeping a victim in a water tank for a prolonged period, sometimes for up to three days; soaking and softening a victim's skin in water before beating him or her; pouring very hot or very cold water over the victim; pouring very dirty water or sewage over the victim
- Sexual harassment, sexual forms of torture and ill-treatment, or rape while in detention. Women were the main victims of this kind of widespread abuse
- Cutting off a victim's ear or ears to mark the victim as a supporter of the Resistance
- Tying the victim behind a car and forcing him or her to run behind it or be dragged across the ground, sometimes until the victim died
- Placing lizards with sharp teeth and claws on the victim and then goading it to bite different parts of the victim's body
- Pulling out fingernails and toenails with pliers
- Running over a victim with a motor-bike
- Forcing a victim to drink a soldier's urine or eat non-food items such as live small lizards or dirty socks
- Leaving the victim in the hot sun for extended periods
- Humiliating detainees in front of their communities, for example by making them stand or walk through the town naked

- Torturing and mistreating a member of the victim's family in front of them, including their children.

113. In addition to the above methods, each of which was reported to have been committed in several cases, the Commission received reports directly from victims of many other forms of torture and cruel and inhumane treatment. The following methods of torture were reported by individual victims:
- Rubbing chillies in the victim's eyes
- Forcing the victim to carry a decapitated head around his village
- Beating two naked male victims while their genitals were tied together with wire
- Cutting off of the victim's ear and forcing him to eat it
- Tying the victim inside a sack filled with snakes
- Dousing a group of prisoners with petrol and threatening to burn them alive
- Tying a victim in a sack and burning him alive.

114. As well as physical abuse, detainees were also subject to mental and emotional torture and cruel, inhumane and degrading treatment. Methods commonly used included:
- Keeping prisoners in detention indefinitely without access to family and friends
- Keeping prisoners for extended periods in solitary confinement or in cells with no light and little ventilation
- Taking a detainee to a place used for extra-judicial executions and pretending to the victim that they were going to be killed, even to the point of firing a shot in the victim's direction
- Verbal abuse and insults
- Forcing victims to beat each other
- Torturing a family member in an adjoining room so that the victim could hear his or her screams, or torturing or threatening to torture a family member in front of the victim
- Blindfolding or placing a black cloth, helmet or bucket over a victim's head during interrogation and torture
- Using symbolism to humiliate and break the spirit of the victim, such as beating a detainee with a Portuguese or Fretilin flag, or tying victims to the flag-pole of an Indonesian flag
- Insulting a victim's religion such as by tearing off the victim's crucifix or tying the victim to a cross
- A team of interrogators spitting on the victim.

Rape, sexual slavery and other sexual violations

115. The Commission finds that during the period of the invasion and occupation of Timor-Leste, members of the Indonesian security forces and their auxiliaries were involved in widespread and systematic rape, sexual torture and other acts of sexual violence committed against East Timorese women, which amounted to crimes against humanity.

116. The Commission bases this finding on its consideration of the testimony of over 850 individual victims or witnesses to rape, sexual torture and sexual slavery. Most of the evidence in relation to rape, sexual slavery and other sexual violations was given during in-depth interviews with victims. These interviews were undertaken under a cooperative arrangement with the East Timorese non-governmental women's rights organisation Fokupers, due to its expertise and experience in dealing with female victims of sexual assault.

117. The Commission considers the evidence of the victims to be especially reliable and compelling, because it was provided despite the significant personal and emotional cost involved in recounting such horrific experiences and because giving such evidence might well result in the social stigmatisation of the victim.

118. The Commission also considers it likely that because of the personal and social consequences many other victims who suffered similar experiences did not come forward to recount them to the Commission. On the basis of the interviews it did conduct, the likelihood of under-reporting and the strongly corroborated patterns of widespread and systematic rape, conducted openly and with impunity, the Commission considers that the more than 850 victims and witnesses who did give testimonies represent a much larger number who did not come forward.

119. The actual reports of cases of sexual violations reported directly by victims and witnesses to the Commission are summarised in the following tables.

Sexual violations, 1974–1999

Table 12: Sexual violations, 1974–1999

Perpetrator	Count	Percent
Indonesian Military Police & Timorese Auxiliaries	796	93.3
Other Institutions	29	3.4
Fretilin & Falintil	27	3.2
UDT	1	0.1
Total	853	100.0

Table 13: Breakdown of perpetrator groups: sexual violations, 1974–1999

Perpetrator	Count	Percent
Indonesian Military & Police Acting Alone	518	60,7
Timorese Auxiliaries Acting Alone	184	21,6
Indonesian Military and Police together with Timorese Auxiliaries	89	10,4
Resistance Movement	28	3,3
Other Institutions	27	3,2
Civilian Population	7	0,8
Total	853	100,0

Sexual violence inside Indonesian military installations

120. On the basis of the hundreds of first-hand accounts provided by victims, the Commission finds that the following acts directed at East Timorese women took place inside official Indonesian military installations:

- The repeated rape of women detainees by several members of the Indonesian security forces. In some cases women victims stated that they could not count the number of men who raped them. Victims who gave evidence at the Commission's National Public Hearing on Women and Conflict stated that they were raped by different military officers every day during months of detention.
- Gang rape by members of the Indonesian security forces both inside and outside official military installations.
- The rape of women who had their hands and feet handcuffed and were blindfolded. In some cases women bound in this way were raped until they were unconscious.
- The mutilation of women's sexual organs, including cutting with knives, inserting sticks and bayonets into vaginas and burning nipples and genitals with cigarettes.
- The application of electric shocks to genitals, breasts and mouths.
- Forcing detainees to engage in sexual acts with each other, while watched and ridiculed by members of the security forces.
- The common practice of keeping lists of local women who could be ordered to come to the military post or headquarters so that soldiers could rape them. Lists were traded between commanders. In some cases these women were commanded to appear at the military post every morning in order to be raped by members of the security forces.
- The rape of detainees following periods of prolonged sexual torture.
- The rape of pregnant women. The Commission received repeated evidence of this, including one account in which a woman was raped only hours before she gave birth.
- Forcing victims to appear naked or to be sexually violated in front of strangers, friends and family members. In one case a woman was raped in front of her mother and later killed. More commonly victims were raped and tortured in front of their children.
- Women raped in the presence of fellow prisoners as a means of terrorising both the victims and the other prisoners.
- Placing women in tanks of water for prolonged periods, including submerging their heads, before being raped.
- The use of snakes to instil terror in naked women during sexual torture.
- Threats issued to women that their children would be killed or tortured if they resisted or complained about being raped.
- Insertion of objects, such as large batteries into a victim's vagina or anus.
- Insertion of guns and bayonets into victim's vagina or anus.

- Forced oral sex, constituting rape.
- Urinating into the mouths of victims.
- Rape and sexual violence indiscriminately inflicted on married women, unmarried women and young teenage girls.

121. The number of rapes and other forms of sexual violence was related to the patterns and intensity of military activity at the time. Sexual violations increased dramatically at times when major military operations were being conducted, and decreased when such operations were less frequent. For example, 64% of sexual slavery reported to the Commission took place during periods of large-scale Indonesian military operations.

Rape of women who had surrendered or been captured

122. Women who had surrendered or been arrested or captured by the Indonesian security forces in connection with resistance activities were particularly vulnerable to rape and sexual torture. The mass arrests following the civil uprisings between 1981 and 1983 led to increases in the number of women who were raped or placed into situations of sexual slavery by members of the security forces.

123. Women who had surrendered were forced to take part in military operations, usually to cook or to perform other services. In some cases, women were subjected to torture, rape and sexual slavery during their participation in these military operations.

124. Women were among tens of thousands of East Timorese civilians who were forcibly recruited for civil defence activities and made to patrol around their villages. During these patrols, supervised by armed members of the Indonesian security forces, women were commonly raped or sexually harassed.

125. The large-scale violence during 1999 led to a significant increase in the number of women who were raped. Those who had become displaced or who were refugees were particularly vulnerable. These acts of sexual violence were perpetrated by members of the militia groups, the TNI or in some cases members of both of these groups acting together.

Sexual slavery

126. Throughout the occupation it was common practice for members of the Indonesian security forces to force East Timorese women into situations of sexual slavery. These activities were conducted openly, without fear of being held to account, inside military installations, at other official sites and inside the private homes of the women who were targeted often in the presence of parents, children and other family members.

127. It was common practice for members of the Indonesian security forces to keep East Timorese women in detention on military bases for reasons which had no legitimate military objective. These women, who were sometimes detained for many months and sometimes years, were often raped daily or on demand by the officer who controlled

them, as well as by other soldiers who saw them as easy targets. In addition they were forced to do menial domestic work.

128. The victims of this form of sexual slavery were not free to move about or travel, or to act independently in any way. It was common for the "ownership rights" over these women to be passed on from an officer who was finishing his tour of duty to his replacement or another officer. In some situations women forced into these situations became pregnant and gave birth to children several times by a number of different officers during the years in which they were the victims of sexual slavery.

129. In general Indonesian officers who were responsible for fathering these children through rape or situations of sexual slavery did not accept responsibility for the children's support or their material well-being.

Impunity for perpetrators of rape, sexual torture and sexual slavery

130. The practice of procuring, raping and torturing women was conducted openly, without fear of any form of sanction, by senior military officers, civilian officials, junior ranking officers, police officers, teachers and members of the auxiliary groups such as Hansip and the militias. When victims of sexual violence or persons representing their families complained to the legal authorities about what had taken place, their requests for help were generally met with denial and aggression. In some cases family members who complained were beaten and otherwise punished for doing so.

131. The participation in and acceptance of such practices by military commanders and civilian officials, the widespread knowledge that rape and sexual torture was officially condoned, the use of military and official facilities for these purposes, and the almost total impunity for offenders led to a situation where such practices could be undertaken by members of the security forces at will. This led to an increase in sexual violence in the years following the invasion, and expanding participation by officers of lower rank and members of auxiliary forces such as Hansip and the militias, operating under the control and protection of the security forces. In some cases members of Hansip or low-ranking local civilian officials would forcibly procure women and pass them on to the military commanders in return for increased status and rewards.

132. The scope and nature of the violations which were being committed and the complete impunity enjoyed by all classes of perpetrators was well-known at all levels of the security forces and civil administration during the occupation. They could not have enjoyed this impunity without the knowledge and complicity of senior members of the Indonesian security forces, the police and the civilian administration.

133. Indonesian police officers were also involved in torture and rape, but to a significantly lesser extent than military personnel. Police officers enjoyed the same general impunity for sexual violations as was extended to other members of the security forces.

134. Incidents in which members of the Indonesian security forces were involved in the rape of males, including forced oral sex, and in other sexual violations against East Timorese male prisoners and other civilians, also occurred. The incidence of this type of violation was far less frequent than for East Timorese women.

135. In his evidence before the Commission the former Governor of East Timor, Mario Carrascalão, stated that it was accepted among military commanders and government officials that they could rape young East Timorese women at will, and that women were passed around between different commanders and officials. He told of occasions when senior military commanders asked him to choose any of the young women who were attending an official function and to take them away and rape them as he desired. He refused the invitation. Mario Carrascalão stated that this kind of behaviour was common, and was institutionally accepted.[6]

136. In many cases Indonesian military personnel threatened to kill or torture other members of their families or community if a desired woman did not make herself available as a sexual slave. In these cases community representatives and family members were in effect faced with an impossible choice of between allowing the woman to be repeatedly violated and suffering even worse consequences, such as the torture and killing of other members of the community, if they refused.

Responsibility for famine and displacement during the 1970s and 1980s

Introduction

137. The Commission has found that during the late 1970s and the early 1980s, massive displacement of civilians occurred in the territory of Timor-Leste. This was a major factor contributing to the creation of a famine and the death by deprivation of more than 100,000 East Timorese people.

138. The Commission finds that during the late 1970s the Indonesian military forces implemented a strategy containing the following elements:

- The heavy bombardment from land, sea and air of areas where members of the Resistance and the civilian population living with them were thought to be based
- The destruction of food sources
- Forcing people who had been captured or surrendered after living in Fretilin-controlled areas into settlements and restricted areas under military control
- Failing to provide sufficient food to these people to keep them alive
- Forcibly preventing them from moving freely in search of food
- Refusing repeated requests from international aid organisations to provide food to those who were starving.

139. These were the components of a strategy that resulted in the deaths of tens of thousands of East Timorese civilians.

140. The Commission considers that in pursuing this strategy Indonesia violated many of its obligations under international humanitarian law and bears state responsibility for the deaths of these civilians. It also considers that members of the Indonesian armed forces and government officials committed war crimes and crimes against humanity in formulating and implementing policies which caused mass starvation and death.

Responsibility for massive civilian displacement

141. During the initial invasion of Timor-Leste in 1975 and early 1976, thousands of civilians fled their homes to escape the actual or expected arrival of the Indonesian military. More East Timorese fled as Indonesian forces moved into other parts of the territory. The Commission has found that terror among civilians was brought about not only by the fact of the invasion itself, but by news of massacres and executions carried out by ABRI and the use of grossly disproportionate force that targeted the armed resistance and civilians indiscriminately. In this context it was entirely foreseeable that a substantial portion of the East Timorese civilian population would flee from the invasion.

142. The Commission considers that Indonesia must bear responsibility for the massive displacements that resulted from its invasion and gradual occupation of the East Timorese territory. The displacement of a significant portion of the population was a direct and foreseeable consequence of the means of warfare employed by ABRI, including its attacks on civilians.

143. Many of the civilians who fled their homes during the initial invasion and sought refuge in Fretilin base areas were subjected to a repetition of this process when those bases were targeted by Indonesian forces, often using massively disproportionate and indiscriminate forms of attack. During this period some Fretilin leaders forced their followers not to surrender to the Indonesian authorities, and they share responsibility for the consequences of their actions. Many who remained in the mountains, hiding from the Indonesian troops, perished from hunger and disease. In the light of what had happened to those who had already surrendered and their own treatment when they themselves eventually surrendered, it is unclear, however, whether they would have fared better had they surrendered.

144. The Commission has found that when civilians did leave Falintil-protected areas and "surrendered" to Indonesian forces they were in most cases forced into camps and tightly-supervised settlements in an attempt to prevent them having any association or contact with the Resistance. Many were forced to live in such camps for several years. Security was tight, particularly in areas where Falintil forces were thought to be present, and people were forbidden to travel, other than within a small perimeter close to the camps. They were therefore unable to search for food.

145. From the early 1980s the Indonesian authorities introduced new forms of displacement. On the one hand they dismantled most of the resettlement camps that had been established in the late 1970s; on the other hand they were faced with the reality that a reorganised Resistance was now capable of launching localised attacks on ABRI, often with clandestine support from within the villages.

146. Those moved out of the resettlement camps were sent to heavily militarised strategic villages, to newly-created villages, often in areas that were not sufficiently fertile to support them, back to their own villages, or especially if they had relatives still with the Resistance, to the island of Ataúro. In all of these situations living conditions continued to be hard. Each aspect of the programme was still guided by military objectives. Even those settled in fertile areas found that restrictions on their freedom of movement

continued to have a serious impact on food production and thus on their well-being. For those interned on Ataúro, the majority of whom were women and children, life on the barren island was difficult, particularly in the early years before the ICRC was permitted to operate there, and many died.

147. In addition to moving people out of the resettlement camps, the Indonesian authorities also displaced people in some way thought to be connected to Falintil-led attacks and uprisings, such as those in Mau Chiga (Hato Builico, Ainaro) and Rotuto (Same, Manufahi) around Mount Kablaki in August 1982 and the *levantamentos* in Kraras (Viqueque) and Lautém District in August 1983. These displacements amounted to the collective punishment of whole communities and the proxy punishment of relatives of people still fighting in the forest and mountains. Some of those detained in these circumstances were also sent to Ataúro. Others were displaced from their home villages and sent to areas where they had to rebuild their lives virtually unaided in extremely inhospitable environments. This was the fate of many of the inhabitants of the villages in Ainaro and Manufahi that took part in the Kablaki uprising of August 1982 and of the mainly women survivors of the mass executions that followed the Kraras (Viqueque) uprising in August 1983. The latter group were sent to the previously uninhabited area of Lalerek Mutin where they were left to fend for themselves under tight military surveillance. The population of Lalerek Mutin suffered sexual violations, disappearances, hunger, disease and death there. Their treatment was strikingly similar to that of the people from Ainaro who had been moved to the villages of Raifusa and Dotik the previous year.

148. Responsibility for these various forms of displacement and their consequences must be borne entirely by the Indonesian authorities who designed and implemented the policies. The Commission rejects any suggestion that they were carried out for the benefit or protection of the civilian population. Indonesian military documents reveal that the overriding concern was to deprive Resistance fighters of the support of the local population (see Vol. II, Part 7.3: Forced Displacement and Famine). In addition, displacements were intended to weaken the will of the population to resist the occupation and to move civilians to places where they could more easily be controlled. The manner in which these displacements were conducted leads the Commission to conclude that the effect of the displacement on the well-being of those moved was inconsequential to the Indonesian military forces. Their only concern was to crush the Resistance by removing its support base no matter what the human cost.

149. The Commission finds that the Indonesian civilian and military authorities are responsible for the forced displacement of hundreds of thousands of East Timorese civilians during the late 1970s and early 1980s and are therefore accountable for the consequences of these actions which were reasonably foreseeable at the time.

Responsibility for famine and deaths by deprivation

150. From 1976 to 1978 the Indonesian armed forces systematically destroyed or removed food crops, food stores, agricultural implements, gardens and fields, and livestock belonging to East Timorese people who had fled from their homes and villages.

The Commission received hundreds of consistent accounts of witnesses who told of their fields being burned by Indonesian soldiers, herds of animals being slaughtered, food stocks burned, water sources poisoned, and the destruction of wild food sources.

151. These actions were taken with the intention of punishing those suspected of supporting the Resistance, forcing the population which was dependent on this food to move into areas where they could be controlled and to ensure that no food was available to the Resistance.

152. Between late 1977 and late 1978 the effect of driving large segments of the East Timorese population from their homes and the destruction of food sources, as well as bombing campaigns that prevented them growing food crops in the interior where they had sought shelter from the invading army, had produced a situation of famine. Death from hunger and associated weakness began to occur on a large scale among those who had been displaced. These conditions were most prevalent among people constantly on the move because they were being harried by Indonesian forces and among those driven in large numbers into circumscribed areas where encirclement by Indonesian forces effectively prohibited further movement, even in search of food.

153. The Commission has examined rainfall records and other climatic data in considering whether there was an El Niño effect which could have caused severe food shortages at this time. These records show that in fact there was not a major fluctuation in rainfall causing severe drought. It is clear to the Commission that the famine was the direct result of Indonesian military policy and activities, and was not caused by drought or other conditions due to natural causes.

154. The starving were faced with an impossible choice between starvation in these remote areas or surrender to forces which they knew had tortured and killed large numbers of those who had entrusted themselves to their custody. Eventually many chose to surrender but not before tens of thousands of them had died.

155. Tens of thousands or people who had been forcibly displaced, or who had emerged from the mountains and forests to surrender to Indonesian forces, were placed in secured camps and restricted areas under the control of the military. The defining feature of these camps was insufficient food for detainees to survive and a prohibition on detainees moving around to search for food.

156. Already in a weakened state when they entered the camps, internees endured extended periods without access to food gardens or emergency humanitarian aid. The food that they received from the military was utterly inadequate to keep them alive. It was also often inappropriate for people already suffering severe malnutrition. Even the meagre rations that the military made available to camp inmates were distributed in a discriminatory way. In exchange for food the military and their auxiliaries extorted money, family heirlooms and other valuables, and sexual favours.

157. Reports of famine began to reach international relief agencies as early as April 1977, prompting requests to the Government of Indonesia from the agencies to enter the territory. A high-level visit by nine foreign ambassadors in September 1978 to

resettlement camps in Timor-Leste increased international awareness of the need for a major humanitarian aid programme. The Government of Indonesia continued to refuse requests from the international aid agencies to supply food to those who were starving to death.

158. The scale of the famine in mid- to late 1979 and the fact that it was rapidly worsening can be seen in international aid agency reports of the time. For example, as a result of its survey in April 1979 US Catholic Relief Services estimated that 200,000 people were in a "serious or critically malnourished condition". By September 1979 it found that the number of people in this condition was closer to 300,000. The International Red Cross described 60,000 out of the 75,000 people it surveyed in July 1979 as being "in a state of alarming malnutrition" including "20,000 dying from hunger".

159. The Government of Indonesia refused permission for any international humanitarian aid agencies to operate inside Timor-Leste from the day of its invasion on 7 December 1975 until late 1979. There can be no doubt that the Indonesian military authorities in Timor-Leste were aware of the rising death toll due to famine in the camps under its control.

160. From at least late 1976 the Government of Indonesia allowed food aid to reach the people and camps under its control through the Indonesian Red Cross and the Catholic Church. All reports to the Commission show this aid was far too little or too late to prevent famine in the camps between 1977 and 1979. The efforts of the Catholic Church to provide more aid and to handle or monitor its distribution were systematically frustrated.

161. The refusal by the Government of Indonesia to permit international aid programmes, and to limit aid to inadequate amounts delivered by the Indonesian Red Cross and a modest supply from the Catholic Church, was clearly related to the same policies which had led to the Indonesian security forces to cause the displacement of the population, destroy their food sources, intern them in camps and not allow them to move to grow or search for food. All of these actions were undertaken with the goal of overcoming resistance to Indonesian occupation, using whatever methods were available irrespective of whether they were inhumane or in violation of international law or domestic law.

162. If international aid agencies had been given access to the starving they could have quickly prevented the occurrence of thousands of deaths. The Commission finds that the refusal to allow international aid to be delivered to those threatened with starvation was because the Indonesian military did not want any witnesses or impediments to its military campaign to bring the population under its control and weaken the Resistance.

163. The decisions to permit the Catholic Relief Services and the International Committee of the Red Cross to carry out surveys in Timor-Leste, in April and July 1979, and then to allow the agencies' operations to begin only in September 1979, were not because by that time the scale of the famine had reached massive proportions – that had already been known many months earlier. What had changed by September 1979 was that the Indonesian military believed that the campaign to destroy the Resistance was essentially over. In the period between the initial requests and the final approval tens of

thousands of East Timorese civilians had starved to death, both inside and outside the camps.

164. The international aid operation that began in late 1979 reached most of the population in the camps and others in need. It effectively ended the famine conditions prevailing across Timor-Leste.

165. The Commission received evidence from East Timorese people who had worked with the international aid agencies, from Church representatives and from the intended recipients of the aid, that relief aid was routinely diverted from its supposed target, either to be sold for personal gain or to be used for personal consumption.

Conclusion

166. In considering the responsibility of the Indonesian civilian and military authorities for the deaths of at least 100,000 East Timorese people from starvation and hunger-related disease during the period of the conflict but particularly during the late 1970s, the Commission considered the following facts, all of which were substantiated by hundreds of corroborated witness statements, interviews and secondary documents:

1. Between 1976 and 1979 members of the Indonesian military forces deliberately destroyed large quantities of food crops, slaughtered herds of animals, destroyed wild food sources, and moved large sections of the East Timorese population who were dependent on these food sources into situations in which their lives were entirely under the control of the Indonesian military forces.
2. Those detained were not provided with sufficient food for them to survive and they were forcibly prevented from moving around to grow or search for additional food.
3. The Indonesian military must have had access to large quantities of food from government food stocks. They did not distribute this food to those under their care and control.
4. When it became obvious that large numbers of civilians were dying from hunger, there was no change in these practices – the military still did not supply sufficient food to those who were starving.
5. When international agencies requested permission to deliver large quantities of food, which would have prevented significant further deaths, they were refused.

167. The Commission is convinced that those on the ground who directed and conducted military operations that directly caused food shortages must have been aware that mass hunger would follow and indeed intended for this to happen. Such individuals deliberately used hunger as a military tactic to neutralise active civilian support for Fretilin. The Commission holds them directly accountable for creating famine conditions to achieve military ends.

168. The Commission is satisfied that the repercussions of Indonesia's military operations were also clearly foreseeable to its military and political leadership at national level. Those leaders are therefore responsible and accountable for these actions and their consequences.

169. The Commission, however, does not need to rely on reasonable foreseeability alone in holding the Indonesian leaders responsible because at some point the Indonesian leadership did indeed gain direct knowledge of the catastrophic circumstances unfolding in Timor-Leste. Once military operations were well under way, Indonesia's national military and political leadership would have received regular reports and updates from field commanders. However the causes of the famine were represented in these reports, whether as the result of drought, the already dire condition of the people who came down from the mountains or insufficient food supplies in the camps, the Commission believes that they must have conveyed the fact that thousands of people were starving, particularly in the light of increasing international concern.

170. At least from 1977 international aid agencies began requesting permission to enter Timor-Leste to provide relief. The Diocese of Dili made a formal request for food aid to foreign ambassadors in Jakarta in July 1977. The US-based Catholic Relief Services said that its requests to enter Timor-Leste had been "regular" throughout 1977 and 1978. The Commission can therefore safely conclude that at least by 1977 the Indonesian leadership possessed direct and full knowledge of the critical situation and was furthermore aware that their military operations had created the conditions of famine. Armed with this knowledge they failed to take steps to prevent the mass starvation which followed.

171. On the basis of the totality of this evidence the Commission finds the actions of the Indonesian government officials and military personnel involved in the programme of destroying food sources, interning large numbers of East Timorese civilians in camps and preventing them from receiving sufficient food to sustain themselves, amounted to extermination as a crime against humanity.

Unfair trials

172. In late 1983, as an aspect of its policy of "normalising" Timor-Leste, the Government of Indonesia decided that some of the persons suspected of working for independence should be prosecuted in the courts on charges of subversion and treason. Hundreds of East Timorese people were tried and convicted of these offences during the next 16 years.

173. The Commission studied the court files of over 200 of these cases conducted in the Dili District Court. In addition it interviewed and received statements from scores of individuals who were directly involved in these and other cases (including the trials of East Timorese arrested in Jakarta during the early 1990s), as defendants, witnesses and lawyers, both East Timorese and Indonesian. On the basis of this evidence the Commission finds that there was little relationship between justice and the conduct of these trials, which were in effect show trials. They were in fact sophisticated charades, designed to create an illusion of justice and due process. The trial process hid the reality that the trials were an instrument to ensure the conviction of political opponents to sentences of imprisonment which could have kept some of them in detention for life, while providing a sop to foreign criticism of the military's reliance on purely extra-judicial methods.

174. The trials involved a range of violations of both the Indonesian criminal code and international law. Suspects were routinely tortured and intimidated into signing Records of Interview which contained confessions and evidence against other defendants. These Records of Interview were the basis for many convictions. Indonesian military and police officers consistently gave false evidence under oath in court, and intimidated other witnesses into doing the same, or into not providing testimony at all. Defendants were refused the right to select lawyers to defend them and in most cases were assigned defence lawyers who did little more than support the prosecution case. Judges ignored indications of unethical behaviour and of the fabrication of evidence, and handed down judgments of guilty in all cases. The sentences were disproportionately harsh and did not take into account the lengthy periods of time already spent in military detention. The Commission did not find a single case where a defendant was completely acquitted in any of the hundreds of case files examined. Appeal proceedings invariably rubber-stamped the tainted decisions of the trial judges.

175. The degree to which the trial process was corrupted to produce predetermined guilty verdicts dictated by political goals is demonstrated by the results of the first wave of political trials, conducted between 1983 and 1985.

The Commission examined 232 case files relating to these trials. These cases resulted in:

- 232 convictions on charges involving treason and subversion
- 232 defendants were represented by government appointed defence counsel
- 0 defence witnesses were called
- 0 cases of acquittal of all charges were recorded
- 0 appeals against conviction were lodged.

176. The Commission finds that the systematic manipulation of the judicial process to persecute political opponents in hundreds of investigations and trials was made possible through a collusive and collaborative effort involving military intelligence officers who detained and interrogated suspects, police who prepared cases, prosecutors who presented the cases before the court, defence counsel who failed to provide a real defence for their clients, and judges who presided over and controlled the proceedings - and handed down verdicts of guilty in all cases.

177. The Commission finds that the violations involved in the political trials were part of a planned and systematic programme which must have involved senior members of the Indonesian justice department, senior military commanders and lower-ranking military officers, the police, judges, prosecutors and defence counsel.

Members of the Indonesian armed forces

178. Indonesian military personnel arbitrarily detained persons engaged in pro-independence activity and held them in custody for long periods, lasting in some cases for several years, before trial, even though in many cases there was little or no evidence against them. They routinely used threats, torture and intimidation during interrogation to obtain confessions to be used as evidence in trials. They also routinely fabricated material evidence, perjured themselves, failed to inform suspects of their rights, and failed to allow persons being interrogated to have access to an interpreter or a lawyer.

179. The Commission finds that the intelligence services of the Indonesian security forces were involved in guiding the outcome of the political trials at every stage of the interrogation and trial process. They ensured that the trial process succeeded in achieving its goal of persecuting political opponents of the occupation.

180. The Commission finds the commanders of the direct perpetrators of these violations are also responsible and accountable for arbitrary detention, torture, fabrication of evidence used in trials, and influencing the outcome of the trial process in hundreds of political trials.

Members of the Indonesian police

181. The Commission finds that members of the Indonesian police involved in preparation of the political trials examined are responsible and accountable for collusion with the intelligence sections and other members of the armed forces in the use of torture and intimidation to ensure that confessions were signed, for preparing falsified material evidence for use in the courts, and for working with prosecutors to ensure that evidence which supported defendants' cases was not introduced in court. They are responsible for the suffering endured by the victims of the unfair trials through years of imprisonment, ill-treatment and deprivation which followed as a direct result of their actions.

Prosecutors

182. The Commission finds that the prosecutors who presented the cases in court are responsible and accountable for collusion and conducting common purpose enterprises with military intelligence officers and police, involving serious violations. The methods used were torture, intimidation and the fabrication of evidence with a view to guaranteeing guilty verdicts against those brought to trial. They therefore failed to execute their sworn duty to act in an independent manner in the interests of justice.

183. The behaviour of the prosecutors cannot reasonably be explained in any way which does not implicate them in the commission of the violations. They routinely presented tainted evidence to the courts, particularly confessions which were obviously the result of torture and denial of due process, failed to cross-examine prosecution witnesses robustly or challenge fabricated evidence, and did not present any exculpatory material, which was their duty under the civil law system. They too are responsible for the suffering endured by the victims of the unfair trials through years of imprisonment, ill-treatment and deprivation which followed as a direct result of their actions.

Court-appointed defence counsel

184. The vast majority of court-appointed defence counsel in the hundreds of political trials examined by the Commission acted not in pursuance of the best interests of their clients, but as part of a collusive effort aimed at guaranteeing findings of guilt against political opponents of the occupation. The Commission finds that there is no other conclusion which can explain the fact that these lawyers failed to call a single defence witness in any of the 232 political trials held in Dili between 1983 and 1985.

185. The role of defence counsel in legal systems operating under the rule of law is extremely important, as they are in a position to expose agents of the state who have violated the rights of individuals charged with criminal offences. Defence counsel are bound to act on the instructions of their clients. Counsel could not have been ignorant of the fact that their clients had been detained without due process, had been tortured, and had signed confessions under extreme duress, and that evidence presented against them had been fabricated. Through failing to carry out their duty to bring these matters to the attention of the court and to defend their clients vigorously against the serious charges they faced, with some notable exceptions defence counsel share in the responsibility for the unjust imprisonment of their own clients and the suffering through ill-treatment and deprivation they endured as a result of the trial process.

Judges who presided over the trials

186. The panel of judges holds ultimate responsibility for the conduct of a trial. In the Indonesian civil law system the panel of judges has the power to question all witnesses, to examine all evidence and to explore the manner in which evidence presented to the court has been produced.

187. There is only one logical explanation of the performance of judges in the political trials which is consistent with the following facts:

- In the hundreds of trials that were conducted not a single defence witness was called
- No judge inquired whether any of the defendants had been coerced and tortured into signing confessions
- No judge questioned the validity of any of the evidence presented by the prosecution
- The judges themselves committed numerous procedural irregularities.

188. The explanation is that the judges who presided over the trials were also active in the collusive effort to ensure that pro-independence activists were punished. The Commission therefore concludes that judges involved in the trials are responsible for betraying their sacred oaths of office, and for allowing the courts to be used as a tool to persecute political opponents of the occupation. Through these actions the judges also contributed to the institutionalisation of the practice of allowing the law to be manipulated to serve political ends.

189. Each of the judges who presided over what were actually political show trials is personally accountable and responsible for the suffering endured by the victims of these unfair trials through years of imprisonment, ill-treatment and deprivation which followed as a direct result of their actions.

Violations committed against children

190. Indonesia, as the effective state power in Timor-Leste, had a clear legal duty to respect the rights of children. These duties arose under the customary law provisions of international humanitarian law as contained in Geneva Convention IV. Aside from its specific obligations, Indonesia had a general duty to protect children and not endanger

them by exposing them to dangerous situations. According to international law a child is any person who is under the age of 18 years old. Even after it ratified the Convention on the Rights of the Child in September 1990, Indonesia failed to meet its legally binding obligations.

191. Throughout the course of the occupation Indonesia was also bound by human rights standards as set out in the Universal Declaration on Human Rights. These were consistently breached in a variety of ways, including by forcibly recruiting children to assist its armed forces, arbitrary detention, the torture and ill-treatment of children, the killing of children in a variety of circumstances, including where they or their family members were perceived to be political opponents, and the rape and subjection to sexual slavery of children by military personnel inside and outside military installations.

Arbitrary detention of children

192. Throughout the occupation, agents of the Government of Indonesia arbitrarily detained children and were responsible for widespread and systematic violations of the rights of children while they were in custody. The treatment of unarmed civilians who were suspected of being politically opposed to the illegal occupation of Timor-Leste made no distinction between adult and child victims. From 1975 to 1999 children were commonly bound, beaten, kicked, raped, electrocuted, burnt with cigarettes, immersed in water, held in isolation in dark cells, threatened with death and otherwise terrorised by agents of the Indonesian security forces. Some children died as a direct result of this treatment. Perpetrators of these violations were, with very rare exceptions, not subject to any form of punishment or discipline.

193. In the years after the invasion, children were detained on a massive scale following capture or surrender and were subsequently placed in resettlement camps. The food, shelter and healthcare they received were seriously inadequate, and their restricted movement limited their and their families' ability to supplement what little food they received. Children were sometimes also detained in formal detention centres and military facilities after surrender or capture. Children also constituted a significant portion of those detained on the island of Ataúro between 1980 and 1986, either with family members or separated from them. It is estimated that thousands of children died as a result of the harsh conditions and lack of food in the resettlement camps and on Ataúro.

194. Children were also detained because of the actions of their parents or other family members, constituting an insidious form of proxy punishment.

195. Students and school children were targeted for arrest and detention when public demonstrations began to be held in the 1990s. The Indonesian authorities detained children during and after demonstrations, and sometimes to prevent demonstrations taking place. Many of those detained were subjected to severe violations, including torture. Children were also arrested and detained by members of the Indonesian security forces and their militia agents during the violence surrounding the Popular Consultation in 1999. The threat of force was also used to coerce children to join militia groups.

Killing of children

196. Children were killed in a wide variety of contexts, including during open armed conflict, in mass killings, in custody and by summary execution. In the early years of the conflict many were killed together with their families during military operations, or when caught by either side in contested areas. In later years, child victims were likely to be teenagers targeted for suspected pro-independence activities.

197. Indonesian forces and agents killed children in the period 1975–1979 within the wider context of the Indonesian campaign to bring Timor-Leste under its control. It did not distinguish children from adults in this regard. Children out looking for food, either on their own or in the company of adults, ran the risk of being shot by ABRI or Hansip members. Groups of unarmed civilians, including children, living outside Indonesian-controlled resettlement camps were in some cases randomly executed.

198. From 1980, children were killed when ABRI undertook wide-ranging and often indiscriminate reprisals in response to attacks by the Resistance. Children were among the victims killed in the large-scale crackdowns that followed the Falintil-led attacks on Dili in June 1980, on the Sub-district command headquarters in Mau Chiga (Hatu-Builico, Ainaro) in August 1982 and on the ABRI Zipur unit in Kraras (Viqueque, Viqueque) in August 1983. In these cases, children were killed in indiscriminate attacks on groups of civilians and because they themselves were suspected of giving support to Falintil.

199. In 1999, children were killed during operations in search of members of the clandestine network or Falintil, in the course of militia attacks to punish communities for supporting or assisting the the pro-independence cause, or in the killings that took place after the announcement of the result of the ballot. Both before and after the ballot, children made easy targets when churches and other places where people had taken refuge came under attack. The reported perpetrators were militia aligned to the Indonesian military or the TNI acting alone.

Sexual violations against child victims

200. The Indonesian security forces, their East Timorese auxiliaries and other persons in positions of authority used sexual violence against children, both strategically and opportunistically, throughout the occupation. Children were raped and otherwise violated on a widespread scale by members of the Indonesian security forces inside military institutions, at other official locations and even in their homes with family members present. For children, as for adults, sexual violence was perpetrated openly without fear of sanction by all ranks of the military and by East Timorese auxiliaries, as well as by persons in positions of civilian authority such as village heads.

201. The scale of opportunistic sexual violence towards children reflected a climate of impunity that extended from the higher reaches of the military to their East Timorese auxiliaries and to civilians in positions of authority.

202. Many of the victims of sexual violation were young girls whose family members were suspected of supporting Fretilin/Falintil. Once violated girls became vulnerable to

long-term exploitation, leading to an extended period of sexual slavery or other forms of repeated sexual violence by members of the Indonesian security forces.

203. Although senior members of the Indonesian and civilian hierarchies would certainly have known that such conduct was unlawful, the Commission has found only one case in which an agent of the government was prosecuted. It is noteworthy that that case involved a low-ranking East Timorese member of Hansip.

Forced recruitment of children into military service

204. The Indonesian military recruited several thousand children to undertake roles as Operations Assistants (Tenaga Bantuan Operasi), as assistants to individual military personnel and units while on operations and at the bases. Although as TBOs these children worked full-time for the Indonesian security forces, they were not members of the armed forces and did not enjoy the perquisites of regular soldiers, such as a salary, a rank or a uniform.

205. TBOs were recruited throughout the period of the occupation but numbers peaked during the period 1976–1981 when military operations were at their height. ABRI used a variety of methods to recruit children as TBOs, ranging from outright coercion to the offer of inducements. Some children enlisted as TBOs voluntarily. However, in the desperate circumstances of the time, the dividing line between voluntary and forced recruitment was never clear cut. The Indonesian military preferred to use children as TBOs and actively sought to recruit minors as opposed to adults.

206. The recruitment of children by individual soldiers was known about at the highest levels of the military structure. No attempt was made to prevent it occurring. Indeed attempts to regulate the practice indicate that it was condoned. In practice there was no regulation of the treatment of child TBOs by individual soldiers.

207. The relationship between child TBOs and the soldiers they served was wholly unbalanced. Soldiers treated their TBOs as if they had rights of ownership over them. They controlled their movement, duties, living conditions and, ultimately, whether they lived or died. Sometimes these soldiers retained control over their TBOs after their tour of duty ended; sometimes they passed them on to other soldiers; sometimes they were simply left to fend for themselves.

208. Child TBOs performed tasks, which, although not usually involving them directly in fighting, exposed them to physical danger. At the very least the conditions in which they worked put their health at risk and jeopardised their educational chances.

209. Aside from their recruitment as TBOs, children were also enlisted with adults for military operations. In the case of the Operasi Kikis held during July–September 1981, in some areas children as young as ten years old were among the tens of thousands of East Timorese forcibly recruited to undertake duties accompanying Indonesian military personnel.

210. From late 1998 children were recruited into the militias which were organised, armed, trained and funded by ABRI/TNI. Some children joined out of their own free choice, usually because they or their families were pro-integration and agreed with the

objectives of the militias. Child members of the militia were involved in the commission of grave human rights violations including killings, physical assault and rape as well as in the widespread destruction of property. In some cases recruits were paid, either with small amounts of money or with food. In the majority of cases they were not paid.

Forced removal of East Timorese children to Indonesia

211. East Timorese children were removed from their families and homeland to Indonesia frequently throughout the period of occupation. The transfer of children to Indonesia took many forms, ranging from abductions by individual soldiers to government-sponsored educational programmes. Although the degree of coercion exercised by persons and institutions in effecting the transfer of children varied, there was frequently an element of duress and, sometimes, outright force was used.

212. In the first years after the invasion, regular soldiers were the main perpetrators of the removal of East Timorese children. As in the case of child TBOs (some of whom were also transferred to Indonesia by the soldiers they had served at the end of their tours of duty), children who were removed to Indonesia were frequently treated as chattel by being removed forcibly, transported in boxes and required to perform menial tasks for the families with whom they lived.

213. Institutions, including hospitals and the Seroja orphanage, facilitated the removal of children by Indonesian soldiers. Although individual staff members told the Commission that they had concerns about the practice, there is no evidence that the institutions refused to take part.

214. Efforts to regulate the practice were instituted in the early 1980s, but the Commission heard little evidence that the regulations were followed or that there was monitoring of the way in which they were applied. Where consent was sought from parents, they were often not given complete information or were openly lied to. Further, the Commission was informed of instances where consent was extracted under threat of violence.

215. The Commission heard of no case in which an attempt was made to provide education to East Timorese children by people of the same nationality, language or religion. Rather the Commission heard of many cases in which there was an explicit attempt to convert the child to another religion and transform him or her into an Indonesian child.

216. There is insufficient evidence to determine whether the large-scale removal of East Timorese children was official Indonesian government or military policy. Nevertheless, there is clear evidence of high-level involvement in some of its manifestations, extending to President Soeharto and members of his family.

217. The Government of Indonesia made no genuine attempt to regulate the practice of the removal of children through the institution of adoption policies undertaken by competent authorities according to the applicable law.

218. The Commission finds the Indonesian security forces failed to distinguish adequately between children and others in its military campaign in Timor-Leste. In addition, it

specifically targeted children whose families were suspected of being affiliated with the pro-independence cause, resulting in their detention, torture, killing and rape. The number of reported violations committed against children, the fact that members of the senior military and government hierarchies in Timor-Leste must have known about these violations, the direct involvement of senior military and government officials in sexual violations committed against children and the widespread and systematic use of children as largely unpaid military assistants all lead the Commission to a finding that children were violated in a widespread and systematic manner throughout the conflict. The high command of the Indonesian armed forces and senior government officials in Timor-Leste are responsible for participating in this activity, not taking effective steps to prevent it, and not punishing those directly responsible for these violations.

Responsibility for violations of humanitarian law committed during the conduct of hostilities

Attacks on civilians and indiscriminate attacks

219. Throughout the conflict members of the Indonesian military forces systematically attacked civilians, particularly those suspected of being supporters of the independence movement. Often collective punishments were carried out against the families and the communities of people suspected of supporting Falintil. These direct and intentional attacks on civilians claimed thousands of civilian lives.

220. In addition, attacks were often carried out against military targets in a disproportionate and indiscriminate way, so that associated civilian deaths were unnecessarily caused. This was particularly the case during the early years of the occupation, when large numbers of civilians were still living in Fretilin bases. Where attacks were to be launched in areas containing civilian populations, no warnings were given to civilians in advance of those attacks.

Destruction of civilian property

221. The Commission has found that members of ABRI/TNI systematically destroyed property, including buildings and personal items belonging to civilians, as a routine part of military operations. The purpose of this destruction was to punish East Timorese for opposing the occupation, to produce a climate of terror which it was hoped would render the population easier to control, and to deter support for the pro-independence movement.

222. Members of ABRI systematically destroyed food sources during the late 1970s and early 1980s. They also routinely stole and looted private property belonging to those suspected of supporting Fretilin/Falintil.

Mistreatment of enemy combatants

223. Prisoners captured by the Indonesian military forces were often subjected to torture and many were killed or disappeared. A significant number of Fretilin and

Falintil members surrendered on the basis of an offer of amnesty first made by President Soeharto in 1977 and subsequently renewed, only to be executed or to disappear after surrender.

Unlawful means of warfare

224. The Commission has found that at times ABRI/TNI used weapons which are prohibited by the international laws governing armed conflict. These included chemical weapons which were used to poison water supplies and kill crops and vegetation, and resulted in the deaths by poisoning of hundreds of civilian victims.

225. The Commission has also found that ABRI/TNI used napalm and other incendiary devices, which caused terrible suffering to civilian victims including the death by burning of unarmed men, women and children.

Forced recruitment

226. The Commission has found that ABRI/TNI forcibly recruited tens of thousands of East Timorese men, women and children to assist them in their military operations, particularly during the years 1975–1981 and in periods of heightened military activity, across the entire territory of Timor-Leste. Those who refused to participate were subjected to beatings and torture. The illegal forced recruitment of civilians for military operations was carried out to provide cheap practical assistance and weaken the morale of their opposition to the occupation.

227. Other civilians were forced to perform duties as night-guards in their villages or to search for family members in the mountains. Some Falintil fighters who were captured were forced to join operations against Falintil, either unarmed or armed only with spears in order to ensure they did not rise up against their ABRI commanders.

Responsibility for violations of the economic and social rights of the East Timorese people

Introduction

228. The Government of Indonesia made significant economic investment in the territory of Timor-Leste during the period of the occupation. In particular it was responsible for building many new roads, bridges, buildings, hospitals and schools, needs which had been seriously neglected during the Portuguese colonial period.

229. However, despite these undoubted improvements in infrastructure, the social and economic rights of the East Timorese people were consistently violated throughout the occupation. Moreover, if the investment in infrastructure was intended to win the "hearts and minds" of the East Timorese people it failed because it could not offset the large-scale violations of civil and political rights which the same people were suffering.

230. The gross violations of the people's civil and political rights also directly affected the basic social and economic rights of the people. Time and time again impoverished East

Timorese farmers, who make up the majority of the population, lost all their possessions as a result of military operations. It could take years to recover from these losses. The impact of the massive displacement of civilians for military reasons, particularly where it caused famine and death, is equally long-lasting. Whatever benefits the people of Timor-Leste derived from Indonesian investment in the territory were largely undone by the massive and systematic violence and destruction wrought by the TNI and its militia auxiliaries after the 1999 Popular Consultation. This rampage destroyed the houses, and the possessions they contained, of approximately 60,000 families.* The Indonesian security forces and their agent militias also systematically destroyed hospitals, schools, electricity generators and water systems, and took moveable valuables and capital assets, such as motor vehicles, computers and machines, to West Timor. The widespread destruction of housing and infrastructure during the Indonesian evacuation from the territory served no military purpose. It ensured that once again the population of Timor-Leste would be unable to feed or house themselves, and greatly increased the challenge of building the new independent nation of Timor-Leste.

231. The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises that because they are at different stages of economic development, states are not equally able to realise fully all the rights set out in the Covenant. The obligation on states is to take steps to achieve the progressive realisation of social and economic rights to the maximum extent that their resources allow. However, at the same time, states have core responsibilities, which they must always fulfil. These include responsibilities to provide for certain basic needs such as food, shelter, essential medicines and basic education. It is also required that states not act in a discriminatory manner in the provision of economic and social benefits and that they not take retrogressive measures that cause people's enjoyment of these rights actually to deteriorate.

232. The Commission finds that Indonesia violated economic and social rights at all these levels. In many instances the state took extreme security measures that were utterly at odds with meeting its core responsibilities.

233. Because of the excessive priority given to military imperatives, the State failed to provide for the population's basic needs, and frequently took measures that were both retrogressive and discriminatory.† At the same time the Commission has found that the State of Indonesia failed to realise the economic and social rights of the East Timorese to the maximum extent possible, and that at the end of the occupation, Timor-Leste's development still lagged well behind that of even the poorest Indonesian provinces.

Rights over natural resources

234. The Commission is satisfied that trading companies with direct links to the military and the Government of Indonesia deliberately and systematically underpaid coffee smallholders, thereby abridging their right to an adequate livelihood.

* World Bank, Joint Assessment Mission, 1999, and Survey of Sucos in Timor-Leste

† Many of the violations discussed in this Part are violations of these core obligations, often involving multiple breaches of a retrogressive nature.

235. The arrangement that the Indonesian authorities put in place in the coffee industry was one of several instances where Indonesia denied the people of Timor-Leste an essential component of their right to self-determination, namely their right to dispose of their natural wealth and resources freely. The Indonesian authorities committed similar violations by exploiting other resources, including sandalwood and other types of timber, without regard to sustainability, and by failing to regulate the exploitation of these resources by others. These forms of exploitation of natural resources were detrimental to the well-being of the population and were sometimes used to fund military operations, in violation of the duties of an occupying power under international law.

236. The Commission finds that, in a further breach of the right of the East Timorese people to dispose of their natural resources, Indonesia and Australia concluded the The Timor Gap Zone of Cooperation Treaty in 1989 without consulting the people of Timor-Leste or paying due regard to their interests.

The right to adequate food

237. Timor-Leste's climate and the uneven quality of its soils mean that the population's ability to support itself is precarious at the best of times. Survival is dependent on the population's ability to move freely so as to gain access to food sources. The Commission has found that the Indonesian authorities' investment programme neglected agriculture. But beyond that the Indonesian authorities also took security measures that positively worsened the chances of the farming population making a living, primarily by forcibly settling them in infertile areas under conditions in which their movement was restricted. The overriding motivation of this policy was to keep the civilian population away from the Resistance and in areas where they could be easily monitored and controlled by the military.

Housing and land

238. The Commission finds that repeated displacements, the redrawing of administrative boundaries and the non-recognition of customary land-ownership and land-use practices by the Government of Indonesia produced a legacy of landlessness and highly complex land disputes. Although security considerations played an important part in producing this outcome, the unchecked pursuit of their economic interests by military and civilian officials and their business associates also contributed greatly to these developments. The disruption of landholding and land-use patterns has had, and will continue to have, profoundly damaging effects on the economic, social and cultural fabric of East Timorese society.

Health and education

239. Although Indonesian investment in health and education was significant and resulted in the physical installation of territory-wide health and education systems, the Commission found that it was ineffective in overcoming chronic public health problems or meeting basic learning needs.

240. Many factors contributed to this outcome. Among the side-effects of extreme violations, such as torture and forced recruitment, were ill-health and the disruption of

education. The skewed economic development promoted by the Indonesian authorities created a self-perpetuating cycle in which poverty, on the one hand, and poor health and low educational achievement, on the other, reinforced each other. The highly militarised context and other structural factors, such as the lack of expertise and commitment of many of the Indonesian medical personnel and teachers assigned to Timor-Leste, resulted in services that were sub-standard and mistrusted by the local population. Basic health and educational needs were often subordinated to security considerations, as exemplified by the forced settlement of large numbers of the population in disease-ridden areas that had previously been shunned and the heavy emphasis on propaganda in schools.

241. The use of schools for propaganda and indoctrination severely interfered with the education of an entire generation of East Timorese youth. Education was used in this way as part of an integrated security approach whose overriding objective was to ensure that pro-independence sentiment did not take root in a new generation. In this context, teaching children the skills that would enhance their prospects and enable them to fulfil their human potential was a secondary consideration.

Individual responsibility for widespread and systematic violations

242. On the basis of the totality of the evidence available to it, the Commission finds that the following individuals were responsible for widespread and systematic patterns of serious human rights violations committed in Timor-Leste between 1975 and 1999. These individuals held command positions in the Indonesian military forces during periods when individuals under their command committed widespread and systematic violations of human rights. They were either directly responsible for these violations or knew they were being committed and failed to prevent them, or to punish those directly responsible.

High-level responsibility

243. As already noted individuals can be held to account for a crime against humanity or a war crime in any of three situations. The first of these is where an individual him or herself intentionally commits, plans, instigates, orders, aids or abets in the planning, preparation or execution of a crime. Secondly, an individual will be accountable for taking part in a common plan or conspiracy to facilitate the commission of a crime. The common plan or purpose may be inferred from the fact that two or more persons acted in unison to put into effect a joint criminal enterprise. There is no necessity for the plan, design or purpose to have been previously arranged. Knowledge of a common plan to ill-treat people may be reasonably inferred from a person's position of authority within the group.

244. In some cases senior officers and civilian officials were directly responsible for perpetrating illegal acts. This is clearest in the case of the incursions which led up to the full-scale invasion of 7 December and the invasion itself, which violated the fundamental principle of international law that prohibits the illegal use of force by one state against

another. The main architects of this policy – Major General Ali Moertopo, Head of Opsus (Special Operations), Major General Benny Moerdani, Assistant for Intelligence in the Department of Defence and Security and Deputy Head of Bakin (the State Intelligence Coordinating Board), Lieutenant General Yoga Sugama, Head of Bakin, and General Maraden Panggabean, Minister of Defence and Security and Commander-in-Chief of the Armed Forces – bear responsibility for devising and implementing it. President Soeharto bears responsibility for authorising it.*

245. It is rare but not unknown for senior officers to have been directly involved in the perpetration of human rights violations.† However, both as a matter of law and as a matter of fact, responsibility for crimes of the kind that were committed in Timor-Leste extends beyond those who were the direct perpetrators.

246. Under international law they are responsible not just for violations which they themselves may directly have committed as murderers, torturers or rapists. As already noted in this chapter (and at greater length in Vol. I, Part 2: The Mandate of the Commission), persons may also be responsible as individuals for crimes against humanity if they aided or abetted the commission of the crimes or if they acted to further a "common criminal purpose".* They may also bear command responsibility for, and thus be held accountable for, acts committed by others. They bear this responsibility not only where they order a subordinate to commit a crime. In addition, a person who is in the position of a superior (either in law or in fact) and who has effective control over his or her subordinates[7] will have command responsibility where a crime is committed by a subordinate and the superior knew or should have known of the crime but did nothing to prevent or punish it.[8] Both East Timorese and Indonesian law have incorporated these principles into domestic law.

247. On the basis of these principles the Commission takes the view that many individuals at the highest levels of the Indonesian military and civilian structures carry individual and command responsibility for human rights violations under international and domestic law.

248. As it has stressed several times, the Commission is not a court of law. It has often not been able to establish clear lines of responsibility or to determine whether a commander was responsible as an individual for, say, "aiding and abetting" a crime or was responsible for failing in his duties as a commander. One reason for these difficulties is that the Commission was charged with investigating a conflict which resulted from an invasion and whose character was therefore unique for a truth commission. The main

* The Commission believes that the evidence against these individuals is extremely strong for two reasons: first, because the international community plainly expressed its view that the invasion was illegal by overwhelmingly condemning it as such in votes in the UN General Assembly and the Security Council; second, because of the insight into Indonesian official Indonesian thinking and the principles involved in developing it given by the release of their records pertaining to this period by the Governments of Australia, the USA, New Zealand and the UK.

† The Commission received several reports implicating Korem commanders directly in violations. In addition, as juniorranking officers, individuals who subsequently rose to senior positions in the Indonesian military were reported to have been implicated in human rights abuses.

perpetrators were citizens of another country, who were part of a chain of command that ran beyond the borders of Timor-Leste and was opaque to most Indonesians.

249. Despite these difficulties the Commission believes that there are strong grounds for concluding that many members of the Indonesian military hierarchy – and some members of the civilian hierarchy – should be held accountable for violations of international and domestic law in Timor-Leste. It has reached this conclusion on the basis of a number of considerations, all of which tend to one conclusion, that systematic violations of human rights by members of the armed forces were institutionally and individually condoned by commanders at the highest levels of the military structure.*

The scale of violations

250. The Commission received information testifying to the massive scale of the violations perpetrated by members of the Indonesian armed forces. Through its statement-taking process alone it received reports of more than 85,000 such violations, in the overwhelming majority (84%) of which members of the Indonesian security forces, including their auxiliaries, were implicated. The Commission believes that the sheer scale of the violations is evidence that they were condoned at the highest level.

The pattern of violations

251. Human-rights violations were at their most intense during and immediately after the large-scale military operations of 1975–1984 and in 1999 during the lead-up to, and in the aftermath of, the Popular Consultation. All types of "physical integrity" violations, including ill-treatment and torture, rape and killings, as well as displacements, including forced displacements, were simultaneously at peak levels during these periods. At the same time the Commission has also found that human-rights violations were a persistent feature of the Indonesian occupation. The Commission received reports of violations that had occurred in every year between 1975 and 1999. These violations occurred in a systematic fashion. In many years repression was largely localised, to Dili in 1980, Ainaro in 1982 and Ermera in the early 1990s, but nonetheless systematic. Throughout the occupation a territory-wide system of detention centres was put in place in which military personnel assigned to these duties detained, tortured and ill-treated using uniform methods.

Strategy

252. The scale and pattern of violations indicate to the Commission that the Indonesian armed forces adopted an overall strategy which relied on the use of overwhelming force and terror to subdue the population. Elements of this strategy included: the adoption

* In addition to the considerations outlined below, evidence that the same practices as were employed in Timor-Leste were also employed in Indonesia itself would also be germane to an assessment of high-level responsibility. The Commission has not been able to investigate this question, although the research of others in this area is highly suggestive. See, for example, Geoffrey Robinson, People's War: militias in East Timor and Indonesia, *South East Asia Research*, 9, 3, pp. 271–318.

of all means at the disposal of the armed forces to defeat the Resistance, including the indiscriminate targeting of civilians; the exploitation of divisions among the East Timorese population; the use of a "repressive" rather than a "persuasive" approach; and the subordination of the welfare of the general population to security objectives. Whether, as in the late 1970s, directed at the large population concentrations which came under merciless bombardment and then surrendered, or, as in the 1980s and 1990s, at individual members of the clandestine movement, or, as in 1999, at the whole population in the campaign to win a majority for integration, these strategic assumptions were unvarying.

Institutional norms and culture

253. The Commission considers it significant that many of the individuals who had participated in operations during which widespread human rights violations were committed subsequently rose to senior positions in the military hierarchy (see Annexe 3, this Part). These included officers who had participated in the incursions that preceded the invasion, in the invasion itself, in the campaigns to subdue the Resistance in the late 1970s, in the implementation of the "resettlement" programme that caused the deaths of tens of thousands of surrendered and captured East Timorese civilians, and in the operations designed to prevent a revival of the Resistance in the early 1980s. The Commission finds this phenomenon significant for several reasons. It is another indication of the impunity of the armed forces during their occupation of Timor-Leste, which has been a theme of this Report. However, it also throws light on the mindsets of those who commanded those operations and of those who gained preferment as a result of them.

254. Against this background the Commission has taken the view that, aside from persons who were individually responsible for crimes against humanity and crimes under humanitarian law, a large number of senior members of the Indonesian military hierarchy, comprising those who held positions that gave them authority over operations in Timor-Leste during 1975–1999, may satisfy the criteria for command responsibility and thus could be held accountable for the violations that occurred during that time.

255. These individuals may meet the relevant criteria for command responsibility for the following reasons.

1) There was a superior-subordinate relationship

256. Although for the reasons outlined above it is not always clear to the Commission how lines of command operated in practice, it is clear that these lines of command converge in Jakarta in the person of the Commander-in-Chief of the Armed Forces and his closest subordinates, such as his Chiefs of Staff, his Assistants for Operations, Territorial Affairs and Intelligence, and the Commander of such special units as Kopassus and Kostrad. For most of the period of the occupation the President of Indonesia was formally and in fact the Supreme Commander of the Armed Forces. The civilian arms of government and the police were subordinate to the President and the Commander-in-Chief of the Armed Forces or to both. While nominal superiors in all these instances may not have

had effective control over their nominal subordinates, persons vested with authority should be required to show that in fact they did not have such effective control.

2) The superior "knew or had reason to know" that a crime was about to be or had been committed

257. A blanket plea of ignorance by superiors of what their subordinates in Timor-Leste were doing would be difficult to sustain. In some cases, most clearly in the period surrounding the ballot in 1999, where the situation was being closely monitored by outsiders, including some such as UN officials who were directly informing senior Indonesian military officers and civilian officials of the situation on the ground, the Indonesian authorities at least "had reason to know" that crimes were being committed. There is also documentary evidence that in 1999 subordinates in the field were sending accurate reports to their superiors on the situation. In earlier years, too, such reporting would have been going on. In addition throughout the occupation, governments, international organisations and NGOs were making their and their constituents' concerns known to members of the Indonesian government and the military command. The problem does not seem to have been that senior officials and officers were ignorant of the situation. During the famine of 1977–1979 these representations were ignored until the military's objectives had been met.

3) The perpetrator failed to take "necessary and reasonable measures to prevent such acts or to punish the perpetrator thereof"

258. As already noted, a marked feature of the Indonesian occupation was the impunity enjoyed by members of the armed forces. This finding is not mitigated by the two prosecutions that are known to have taken place in the 1990s, after the Santa Cruz Massacre and the killing of six people in Gariana (Maubara, Liquiçá) in 1995. They were exceptions which did not alter the climate of general impunity, not least because they did not raise the question of command responsibility. It might be argued that the fact that the level of violence did moderate during the course of the occupation, and that from late 1983 detainees were brought to trial showed that the Indonesian authorities had taken "necessary and reasonable measure" to end the reliance on extra-judicial means. However, the diminution of violence did not mean an end to violence, as shown most dramatically by Santa Cruz and the events of 1999, while as described in Vol. III, Part 7.6: Political Trials, the trials became an additional weapon in the armoury of repression and did not mark the ending of the customary types of abuse.

Violations of international law by the Indonesian security forces

Killings and disappearances

259. The Commission is satisfied that the involvement of ABRI/TNI in unlawful killings and disappearances violated numerous rules of international law, giving rise to responsibility on the part of Indonesia for these violations. In particular:

- The Commission finds that, through massacres and summary executions of civilians at all stages of the international conflict, ABRI/TNI was responsible for violating one of the fundamental principles of customary international humanitarian law, namely the principle of distinction which protects civilians from becoming the targets of attack. Such acts also violated Article 27 of the Fourth Geneva Convention, to which Indonesia was a party, requiring the humane treatment of civilians, and Article 32 of that Convention which prohibits the taking of any measures such as to cause the extermination of civilians, including murder.
- More specifically the Commission finds that the use of collective punishments against civilians, including mass killings, violated the customary prohibition on the use of reprisals against civilians and Article 33 of the Fourth Geneva Convention which reflects this principle.
- Although Indonesia, as the occupying power, was entitled to impose sentences for criminal offences, these, including the death penalty, should only have been passed in accordance with the principle of legality and after the holding of a proper and regular trial by a court of law.[9] Indonesia failed to comply with these obligations.
- The summary executions of prisoners of war by ABRI/TNI violated Article 13 of the Third Geneva Convention which requires the humane treatment of prisoners of war and prohibits acts causing the death of prisoners of war in custody. Executions without trial of prisoners of war also violated the requirements of Articles 99 to 102 of the Third Geneva Convention which require that sentences, including the death penalty, may be imposed only in accordance with the principle of legality and following a regular trial with proper safeguards against abuse.
- The killing of civilians and captured combatants by ABRI/TNI outside those circumstances in which killing is permitted by international humanitarian law amounted to violations of the right to life held by its victims. The Commission considers that that right had attained the status of customary international law well before the beginning of the conflict.

260. The Commission also considers that the individuals within ABRI/TNI who were involved in carrying out killings and disappearances were involved in the commission of war crimes and crimes against humanity:

- The willful killing of civilians during an international armed conflict constitutes a grave breach of the Fourth Geneva Convention, under Article 147 of that Convention.
- The willful killing of prisoners of war constitutes a grave breach of the Third Geneva Convention, under Article 130 of that Convention.
- The summary execution of civilians or captured enemy combatants and the perpetrating of forced disappearances constitutes a serious violation of the laws and customs of war and is therefore a war crime under customary international law.
- The widespread and systematic killing, extermination or enforced disappearance of members of a civilian population constitutes a crime against humanity. The

Commission has found that these acts were carried out by the ABRI/TNI in Timor-Leste during the conflict in a widespread and systematic manner.

Detention

261. The Commission considers that the practices employed by the TNI for the detention of civilians and captured enemy combatants, and the manner in which such detainees were treated during their imprisonment violated international humanitarian and human rights law.

- Although as a party to an international conflict and an occupying power, ABRI/TNI was entitled to take measures necessary for security, the Commission considers that the detention of civilians not necessary for security violated the customary right to those detained to be free from arbitrary detention.
- In any event the torture and ill-treatment of civilians by ABRI/TNI, whether justifiably detained or not, violated the provisions of the Fourth Geneva Convention, by which Indonesia was bound. Article 27 of that Convention requires the humane treatment of civilians. Article 31 provides that no physical or moral coercion may be used against civilians, including to obtain information. Article 32 prohibited Indonesia and ABRI/TNI from taking any measure such as to cause physical suffering to civilians including torture, corporal punishment and mutilation.
- In addition, where civilians are detained, they must be treated humanely, including in the conditions of their imprisonment. This is required by Article 37 of the Fourth Geneva Convention, which provides that civilians who are confined for the purpose of criminal proceedings must be treated humanely, and also by customary international human rights law. The Commission considers that in many cases ABRI/TNI were involved in the violation of these principles by the provision of grossly inadequate conditions of imprisonment for those in detention.
- Similarly, while captured enemy combatants may be detained, they must be treated humanely and provided with adequate conditions of detention. In the case of prisoners of war this is required by numerous detailed provisions of the Third Geneva Convention, including under Article 21 and Chapter II of the Convention. In the case of captured combatants not entitled to prisoner of war status, customary human rights law nonetheless provides that the conditions of imprisonment must be humane. The Commission considers that the TNI violated these requirements by the housing of many captured combatants in grossly inhumane conditions.

Torture and ill-treatment

262. The Commission finds that the ABRI/TNI was responsible for the widespread torture and ill-treatment of captured enemy combatants and non-combatants in flagrant violation of international humanitarian and human rights law.

- In the case of prisoners of war, the Third Geneva Convention provides that prisoners of war must at all times be treated humanely, that they must not be subjected to physical mutilation and acts of violence or intimidation (Article

13), or to physical or mental torture or any other form of coercion in order to secure information (Article 17). This prohibition was violated in all cases in which captured Falintil fighters were subjected to physical abuse at the hands of ABRI/TNI.

- In the case of enemy combatants not entitled to prisoner of war status such persons may be tried but must, according to customary international law, and Article 5 of the Fourth Geneva Convention, be treated humanely and not punished other than following a fair trial. The Commission finds that even where a captured person may not have been entitled to prisoner of war status in a given case, ABRI/TNI nonetheless bears responsibility for any physical mistreatment of that person.
- In all cases the principles of human rights that guarantee all persons an entitlement to freedom from torture and cruel, inhuman or degrading treatment or punishment apply, regardless of questions of security or the status of the detainee. The Commission considers that this principle was a part of customary international law throughout the mandate period and that it was systematically and routinely violated by ABRI/TNI.

263. Finally the Commission also considers that there are strong grounds for concluding that the individual members of ABRI/TNI who were involved in the detention and mistreatment of civilians and captured members of Falintil bear individual criminal responsibility for their actions. Its reasons for this conclusion are that:

- The torture or inhuman treatment of civilians constitutes a grave breach of the Fourth Geneva Convention, under Article 147 of that Convention.
- The torture or inhumane treatment of prisoners of war constitutes a grave breach of the Third Geneva Convention, under Article 130 of that Convention.
- Torture or cruel, inhuman or degrading treatment or punishment in the context of an international armed conflict constitutes a serious violation of the laws and customs of war and is therefore a war crime under customary international law regardless of whether it is perpetrated against a civilian, prisoner of war or an unprivileged combatant.
- The widespread or systematic commission of torture or inhumane treatment against a civilian population can amount to a crime against humanity. The Commission has found that the use by the ABRI/TNI of torture and cruel, inhumane or degrading treatment or punishment against the East Timorese population was both widespread and systematic. There are therefore strong grounds for believing that individual members of the ABRI/TNI must bear individual criminal responsibility under international law for crimes against humanity.

Sexual violations

264. The Commission holds ABRI/TNI responsible for many breaches of international law through acts of rape, sexual slavery and other sexual violations.

265. The Commission finds that in perpetrating and allowing acts of rape and sexual assault against East Timorese women, ABRI/TNI violated the provisions of the Fourth

Geneva Convention, by which Indonesia was bound. Article 27 of that Convention requires the humane treatment of civilians. It requires that women must be especially protected against attacks on their honour including rape, enforced prostitution or any form of indecent assault.

266. In addition Article 31 provides that no physical or moral coercion may be used against civilians, including to obtain information. Article 32 prohibited Indonesia and ABRI/TNI from taking any measure such as to cause physical suffering to civilians.

267. By engaging in and permitting sexual violence the ABRI/TNI violated these provisions.

268. In addition, rape and sexual assault constitute types of torture or cruel, inhuman or degrading treatment. The Commission finds that by engaging in and permitting others to engage in this form of activity ABRI/TNI violated the rights of its victims to be free from torture or ill-treatment.

269. Incidents of sexual slavery, characterised by the purported exercise of any or all of the powers attaching to the right of ownership over a person, violated the fundamental prohibition on slavery contained in customary international law.

270. The Commission also considers that individual members of ABRI/TNI are criminally responsible for their involvement in sexual violations during the conflict.

- Acts of rape against civilian East Timorese women constituted grave breaches of the Fourth Geneva Convention, under Article 147 of that Convention.
- Rape constitutes a serious violation of the laws and customs of war and was therefore a war crime under customary international law, at least during the latter part of the mandate period.
- Where rapes or other sexual violations constituting inhumane acts, or incidents of sexual slavery, are carried out as part of a widespread and systematic attack on a civilian population a crime against humanity may have occurred. The Commission has found that there are strong grounds for concluding that throughout the conflict period ABRI/TNI was engaged in widespread and systematic attacks on the East Timorese civilian population, and therefore those involved in sexual violations as a part of those attacks may bear individual criminal responsibility for crimes against humanity.

Unfair trials

271. The Commission has concluded that the trials carried out during the Indonesian occupation had many substantive and procedural defects. In many cases this caused Indonesia to violate its international obligations under the Geneva Conventions and international customary law. The Commission considers that the following rules were violated by Indonesia during the trial of civilians:

- Article 64 of the Fourth Geneva Convention required Indonesia, as occupying power, to refrain from altering the existing penal law of the occupied territory other than as necessary for the maintenance of security, and to allow existing courts and tribunals to function.

- Article 71 of the Fourth Geneva Convention provides that sentence shall not be pronounced for an offence except following a regular trial. Accused persons must be informed promptly in a language which they understand of the charges against them.
- Article 72 of the Fourth Geneva Convention provides that accused persons have the right to present evidence and to be assisted by a qualified lawyer of their choosing who has the necessary facilities for preparing the defence, including the ability to visit the accused.
- Article 72 of the Fourth Geneva Convention also requires that accused persons must be given the opportunity to be assisted by an interpreter, and the right to object to the interpreter and request his or her replacement.
- Article 73 of the Fourth Geneva Convention requires that all convicted persons must have the right to appeal and must be fully informed of this right.

272. In respect of the trial of captured combatants entitled to prisoner of war status, the Commission finds that Indonesia was responsible for violations of various similar provisions, including the following:

- Article 84 of the Third Geneva Convention provides that prisoners of war must in no circumstances be tried by a court that does not offer the essential guarantees of independence and impartiality.
- Article 105 of the Third Geneva Convention provides that, when tried, prisoners of war are entitled to call evidence, and to have access to a qualified lawyer of their choice and an interpreter if necessary. The accused's lawyer must be given adequate facilities to prepare the defence and have the ability to visit the accused.
- Article 106 requires that if convicted a prisoner of war is entitled to appeal the sentence or conviction.

273. In addition the Commission has found that in many cases torture or ill-treatment was used to obtain confessions or evidence that was subsequently used in a trial. The use of such evidence was in violation of the customary prohibition on torture and the provisions of the Geneva Convention outlawing the use of torture to extract information (see paras. 262-3 above on torture and ill-treatment).

Violations against children

274. The Commission has concluded that numerous violations were carried out against East Timorese children. Many of these mirrored the violations directed at the adult population: for example killings, arbitrary detention, torture and ill-treatment and sexual violations. In respect of those violations the Commission holds ABRI/TNI and Indonesia responsible for breaches of the same principles of international law as set out above. However, further responsibility also accrued in many cases by virtue of the status of the victim as a child.

275. The Fourth Geneva Convention requires special treatment to be provided to children during an international armed conflict and in occupied territories. It provides, in Articles 24 and 50, for the special care and protection of children orphaned or

separated through the conflict. Most significantly, it prohibits an occupying power from enlisting children in organisations subordinate to it (Article 50) and from compelling children to work (Article 51). The Commission considers that ABRI/TNI violated these provisions regularly and systematically, as it not only failed to provide special care for children affected by the conflict in the occupied territory of Timor-Leste, but actively recruited children to work as TBOs (operations assistants) and in other related roles.

276. In addition, the Commission notes that Indonesia ratified the Convention on the Rights of the Child on 5 September 1990. Once it was a party to that Convention, Indonesia was bound under international law to comply with its provisions. However the Commission has found that many provisions of the Convention were violated by the conduct of the ABRI/TNI in Timor-Leste. The Commission holds Indonesia responsible for breaches of the following provisions of the Convention during the 1990s:

- Article 6, which provides that every child has the inherent right to life and required Indonesia to ensure to the maximum extent possible the survival and development of the child
- Article 13, which guarantees the right of the child to freedom of expression
- Article 14, which guarantees the right of the child to freedom of thought, conscience, and religion
- Article 15, which guarantees the right of the child to freedom of association and peaceful assembly
- Article 37, which requires that children must not be subjected to torture or other ill-treatment or to arbitrary detention, that children deprived of their liberty must be treated with humanity and in a manner taking into account their age, and must be granted access to appropriate legal remedies including the right to challenge their detention in a court
- Article 19, which requires states to take measures to protect children from all forms of physical or mental violence or exploitation
- Article 34, which requires states to take all necessary steps to protect children from sexual exploitation and abuse
- Article 36, which required Indonesia to protect East Timorese children against all other forms of exploitation.

277. The Commission considers that, in particular, the transfer of East Timorese children to Indonesia during the 1990s involved the violation of various specific provisions of the Convention on the Rights of the Child, including the following:

- Article 8, which required Indonesia to respect the right of every child to preserve his or her identity, including nationality, name and family relations
- Article 9, which provided that children must not be separated from their parents against their will except where competent authorities subject to judicial review had determined that it is in the interests of the child
- Article 11, which required Indonesia to take steps to combat the illicit transfer and non-return of children abroad
- Article 20, which requires that where a child is separated from his or her family, the state must provide special protection, the nature of which shall be determined with due regard to the desirability of continuity in a child's upbringing, and the child's ethnic, religious, cultural and linguistic background

- Article 21, which requires that adoption of children must be properly regulated.

278. The use of children in its military auxiliaries by Indonesia was also in violation of the provisions of the Convention:

- Article 32 required Indonesia to protect children from economic exploitation and from performing work that was likely to be hazardous or to interfere with their education or development
- Article 38 required Indonesia to take all feasible steps to prevent children under the age of 15 from taking part in hostilities, and to refrain from recruiting children under the age of 15.

279. On a more general level, the Commission finds that Indonesia made no attempt to comply with the obligation under Article 3(1) of the Convention to treat the best interests of the child as a primary consideration when taking any action concerning children.

Displacement and famine

280. The Commission is satisfied that Indonesia violated its obligations under international humanitarian law by bringing about mass civilian displacements and causing a devastating famine in the following ways:

- By relocating villages, Indonesia was in breach of Article 49 of the Fourth Geneva Convention which prohibits an occupying power from forcibly transferring civilians other than for the purpose of evacuating areas for the safety of civilians or where it is required for imperative military reasons.
- By failing to provide adequate food at resettlement camps and relocated villages Indonesia further breached Article 49 of the Fourth Geneva Convention which requires that where civilians are transferred or evacuated by an occupying power they must be provided with proper accommodation and satisfactory conditions of hygiene, health, safety and nutrition.
- By interning members of the families or communities of those suspected of resistance activities, rather than only persons who posed an actual security risk, Indonesia violated Article 42 of the Fourth Geneva Convention requiring that persons be interned only if the security of the detaining power makes it absolutely necessary.
- By failing to provide adequate food to those persons it interned, Indonesia violated Article 89 of the Fourth Geneva Convention which requires that sufficient food must be provided so as to keep internees in a good state of health.
- By engaging in a tactic of destroying civilian food and food sources so as to starve civilians in order to encourage them to surrender and prevent them from supporting the Resistance, Indonesia violated the customary principles reflected in Article 54 of the First Additional Protocol to the Geneva Conventions that prohibit the starvation of civilians as a method of warfare and attacks on or the destruction of objects indispensable to the survival of the civilian population such as food and food sources or to make such objects the target of reprisals.

- The Commission is also of the view that individuals involved in Indonesian civilian and military institutions were involved in the commission of international crimes in relation to the displacements and famine.
- The Commission considers that there are strong grounds which indicate that those individuals involved in the unlawful transfer and confinement of civilians committed grave breaches of the Fourth Geneva Convention, as set out in Article 147 of that Convention.
- The Commission also considers that there are strong grounds indicating that those individuals involved in formulating policies whereby civilians would be deprived of food supplies, in order to bring about their surrender and undermine support for Falintil, committed grave breaches of the Fourth Geneva Convention by wilfully causing great suffering or serious injury to the body or health of civilians, as set out in Article 147 of that convention.
- The Commission also considers that there are strong grounds indicating that those individuals involved in the deliberate destruction of civilian food and food sources committed serious violations of the laws and customs of war amounting to war crimes.
- Finally, the Commission is of the view that there are strong grounds indicating that certain individuals in the Indonesian military committed the crime against humanity of extermination. The Commission considers that the series of actions taken by the Indonesian military described above are sufficient to amount to extermination[*] carried out as part of a widespread and systematic attack on the civilian population of Timor-Leste. The Commission considers that those who designed and implemented the policies discussed above did so intentionally and knowingly. In any event, the Commission considers that those in positions of command within the Indonesian military and civil administration must have known of the acts committed by their subordinates, but failed to take any action to prevent or punish them. On this basis the Commission considers that crimes against humanity were committed through the infliction of famine upon the East Timorese people.

Violations of the laws of war

281. In addition to the examples cited above the Indonesian security forces were also responsible for the violation of the international laws governing the conduct of warfare in a number of specific ways.

These included the following:

282. The Commission considers that the senior commanders of the Indonesian military forces at the time and the Government of Indonesia are responsible for violations of

* The Statute of the International Criminal Court defines "extermination" as including the intentional infliction of conditions of life, *inter alia*, through the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population. Extermination has constituted a form of crime against humanity under customary international law since at least the trials of the International Military Tribunal at Nuremberg.

the fundamental principle of international humanitarian law that civilians must not be made the target of military attacks during hostilities.

283. The Commission finds that the senior commanders of the Indonesian security forces at the time and the Government of Indonesia are responsible for violations of the principles of the laws and customs of war prohibiting indiscriminate and disproportionate military attacks. The Commission also considers that the Indonesian security forces breached the requirement under the laws and customs of war, reflected in Article 26 of the Regulations annexed to the Fourth Hague Convention of 1907, to warn of impending attacks.

284. The Commission finds that the senior commanders of the Indonesian security forces at the time and the Government of Indonesian are responsible for violating the principles of the laws and customs of war that prohibit the direct and intentional destruction of civilian property, and are also responsible for breaching Article 53 of the Fourth Geneva Convention which prohibits an occupying power from destroying real or personal property except where it is absolutely necessary for military operations.

285. The Commission considers that the Indonesian security forces also violated the prohibition on pillage contained in Article 33 of the Fourth Geneva Convention.

286. The Commission finds that Indonesian security forces use of chemicals to poison food and water supplies violated the customary prohibition contained in Article 23(a) of the Regulations annexed to the Fourth Hague Convention of 1907 on the use of poison.

287. The Commission considers that the Indonesian security forces' use of napalm and other incendiary devices violated the customary prohibition on the use of weapons causing superfluous injury or unnecessary suffering.

288. The Commission considers that the Government of Indonesia and its security forces violated Article 51 of the Fourth Geneva Convention which prohibits an occupying power from compelling civilians to serve in its armed or auxiliary forces, and from using pressure or propaganda to secure voluntary enlistment; and the customary rule reflected in Article 23 of the Regulations annexed to the Fourth Hague Convention of 1907 that prohibits any belligerent from compelling nationals of a hostile party to take part in operations of war directed against their own country.

Economic and social rights

289. The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises that because they are at different stages of economic development, states are not equally able to realise fully all the rights set out in the Covenant. The obligation on states is to take steps to achieve the progressive realisation of social and economic rights to the maximum extent that their resources allow. However, at the same time, states have core responsibilities, which they must always fulfil. These include responsibilities to provide for certain basic needs, such as food, shelter, essential medicines and basic education. It is also required that states not act in a discriminatory manner in the provision of economic and social benefits and that they not take retrogressive measures

that cause people's enjoyment of these rights actually to deteriorate. The Commission believes that Indonesia violated economic and social rights at all these levels.

290. In many instances the state took extreme security measures that were at odds with meeting its core responsibilities, and that had retrogressive and discriminatory impacts. Examples of rights violated as a result of such measures and policies are the following:

- Rights to health (International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 12, Convention on the Rights of the Child (CRC) Article 24) were violated in political prisons and through the use of torture and in the deplorable conditions of the relocation camps. In 1999 the TNI and the militias damaged 77% of health facilities and virtually all of the country's medical equipment and medicine was looted or destroyed.[10]
- Rights to education (ICESCR Article 13, United Nations Declaration on Human Rights (UNDHR) Article 26, CRC Articles 28-29) were violated for those forced into resettlement camps and into military service as "operations assistants" (Tenaga Bantuan Operasi, TBO).
- Rights to freely chosen work (ICESCR Article 6, UDHR Article 23, International Covenant on Civil and Political Rights (ICCPR) Article 8(3a), CRC Article 32, 38(2)) were violated by forced recruitment into military operations as TBOs, civilian militia or human shields and by forced labour of other kinds.
- Rights to housing (ICESCR Article 11, UDHR Article 25) were violated through forced evictions and mass destruction of houses.
- Rights to an adequate standard of living (ICESCR Article 11, UDHR Article 25, CRC Article 27) were violated in the displacement of civilians to squalid detention camps.
- The right of the East Timorese people to freely dispose of their natural wealth and resources (ICESCR Article 1(2), ICCPR Article 1(2)) was violated by the forcible extraction of a variety of agricultural commodities and natural resources, including coffee, sandalwood and other types of timber, and by the Timor Gap Zone of Cooperation Treaty, signed between Indonesia and Australia, that divided up proceeds of lucrative oil and gas fields without consultation with the East Timorese people or their interests being taken into consideration.

291. At the same time the Commission has found that, largely because security was its overriding preoccupation, the State of Indonesia failed to realise the economic and social rights of the East Timorese people to the maximum extent possible. Thus its investment programme in the territory was heavily skewed towards sectors, such as transport, communications and public administration, which could directly enhance security, at the expense of other sectors, such as agriculture and health, which might have alleviated poverty and increased the people's welfare. In addition the Commission received much evidence that the funds that were allocated to sectors such as health and education failed to enhance the welfare of the East Timorese for a number of reasons, including the highly militarised context in which they were delivered.

292. Finally, whatever economic advances had been made during the occupation were largely undone by the comprehensive destruction after the ballot in 1999 by the TNI and the militia groups of assets, ranging from public buildings to irrigation projects to power

stations, in which the Indonesian state had invested. To describe this orgy of violence as "retrogressive" is plainly grossly inadequate in relation to its scale and mean-spirited vindictiveness (see Vol. III, Part 7.9: Economic and Social Rights).

Responsibility and accountability of the East Timorese political parties

> *I initiated the 11 August movement [of 1975]…There was no control. Who is at fault? I am at fault. I accept this. You do not need to look for many people to blame. So many people killed…we forgot our biggest responsibility…I did wrong, because I did not understand the Timorese people…*
>
> *It is important that we have tolerance in our hearts, reconciliation in our hearts. I do not believe that Timorese people wish to take justice into their own hands…if we recognise (our mistakes), we do not forget in order to forgive…We should look at the past, to see who did wrong, who did bad things, but analyse this with one intention – so that in the future we understand what was bad and do not repeat this.*
>
> João Carrascalão, testimony to the CAVR National Public Hearing on the Internal Political Conflict of 1974–1976, 15–18 December 2003 (speaking in his capacity as President of the UDT)

> *I say that the massacres by Fretilin [in Aileu and Same], Fretilin as an organisation must take responsibility…Fretilin as an organisation must take responsibility…and I do not run away from this…When I hear people who come to me say "my brother, my father, my family was killed by Fretilin who accused them of being traitors. Are we now traitors or not? We want to know this." When we hear this…we know that we need to resolve this, that it cannot go on like this.*
>
> Mari Alkatiri, testimony to the CAVR National Public Hearing on the Internal Political Conflict of 1974–1976, 15–18 December 2003 (speaking in his personal capacity as an Historical Actor).

293. The issue of responsibility for the outbreak of hostilities during the period of internal conflict in Timor-Leste in 1975 is complex for a number of reasons:

- After the Carnation Revolution a number of factors blunted the effectiveness of successive Portuguese Governments in their handling of the Timor-Leste question: politics in Portugal were highly fluid and unstable, including at crucial moments during the period leading up to the Indonesian invasion of Timor-Leste; there were many competing power centres in Lisbon which were unable

to develop a coherent policy on the future of the territory; and the succession of governments that came to power after the revolution saw the decolonisation of Portugal's African empire as a primary responsibility. Although Portugal did eventually devise a broadly acceptable timetable for the decolonisation of Timor-Leste, all of these factors contributed to its failure to do so in a timely fashion. Moreover, it did not seriously attempt to offset its weak position vis-à-vis Indonesia by making a firm commitment to the principle of self-determination or by taking steps to internationalise the issue.

- Due to centuries of arbitrary rule and the exclusion of the East Timorese people from participation in government, the legacies of Portuguese colonialism included weak respect for the rule of law and poorly developed state institutions.
- A host of factors neutralised the colonial army's capacity to intervene in events. These included: low morale among the Portuguese-born conscripts in the territory, the running down of troop strength, the determination not to shed another drop of blood for the colonies, the ambivalence of some conscripts and men to the principle of political neutrality at a time when the colonial wars in Africa and the revolution in Portugal had had the effect of radicalising the Portuguese armed forces, and the politicisation of East Timorese conscript and regular soldiers
- The political inexperience of the Fretilin and UDT leaderships prevented them from seeing the dangers of a descent into violence and the urgency of finding common ground. Instead the youthful leaders of these political parties used violent rhetoric against their political opponents, encouraging their members to resort to actual physical violence.
- The absence of key institutions, including those of civil society and an independent media, and the failure of existing non-governmental institutions, including the Catholic Church, to rise above politics meant that where they played any role at all it was to exacerbate rather than calm tensions.
- Indonesia's role in destabilising the situation in Portuguese Timor from 1974 through a range of actions that included assistance to Apodeti and the manipulation of internal politics through its contacts with elements in the UDT leadership further heightened tensions.
- For a variety of reasons, of which the most important was a desire not to alienate Indonesia, all the international and regional actors who might have restrained Indonesia refused to make it clear from the beginning that a forcible Indonesian takeover of Portuguese Timor would be an unacceptable violation of the principle of the right to self-determination.

294. All of these factors had already helped create a highly unstable and unpredictable situation by August 1975. However, the Commission finds that UDT is responsible for irreversibly changing that situation when it launched its armed movement on 11 August 1975.

295. This armed movement introduced large-scale armed violence as an element in the political conflict which led to a response in kind by Fretilin. It definitively ended already slim hopes that the Portuguese plan for decolonisation might work. The subsequent

defeat of UDT when Fretilin launched its armed insurrection led to the flight of its leadership over the border into Indonesian West Timor where it aligned itself with Indonesian aims. Furthermore this series of events gave the Indonesian Government a pretext for intervention, allowing it to claim that it was doing so to put an end to an intra-Timorese conflict that was threatening regional stability.

296. The eventual result of this resort to violence was the death of thousands of East Timorese people, and a polarisation of the population the legacy of which continues to the present day. The ICRC reported that a total of 3,000 persons were killed during the main period of violent "civil war".

297. Although Fretilin launched its general insurrection in response to UDT's illegal action, the Commission finds that members of Fretilin involved in the insurrection were responsible for significantly more unlawful killings and other violations against civilians, prisoners, the sick and wounded than had been committed during UDT's armed movement.

298. Members of the Apodeti, KOTA and Trabalhista parties share in the responsibility for the invasion of Timor-Leste by Indonesia by their political actions in the signing of the Balibó Declaration and for their participation as "Partisan" troops in the Indonesian invasion of Timor-Leste.

The responsibility and accountability of Fretilin/Falintil

299. The Commission received reports of over 5,000 human rights violations committed by members of Fretilin/Falintil during the whole period of conflict from 1974 to 1999.

Unlawful killings

300. Witnesses and victims of violations identified representatives of Fretilin/Falintil as the perpetrators in almost half of all reports of unlawful killings of civilians during 1975, including those by ABRI and its auxiliaries. This figure dropped significantly to approximately 16% during the period which included the internal purges, 1976–1984. In later years the proportion of all reported unlawful killings which were perpetrated by Fretilin/Falintil again fell sharply, to about 4% during the years 1985–1998.[*]

301. During the mass violence in 1999 less than 1% of all the executions reported to the Commission were committed by representatives of Fretilin/Falintil. The very low percentage of unlawful killings attributed to Fretilin/Falintil in 1999 is consistent

* In 1987 Falintil was separated from Fretilin. As Commander-in-Chief of Falintil, Xanana Gusmão, resigned from Fretilin. The following year he became President of the National Council of Maubere Resistance (Conselho Nacional da Resistencia Maubere, CNRM), the more broad-based successor to the Conselho Revolucionaria da Resistencia Nacional (CRRN) and the forerunner of even more broad-based the National Council of Timorese Resistance (Concelho Nacional da Resistencia Timorense, CNRT), which was formed in 1998. Reflecting the leading role of the armed front of the Resistance, as represented by Falintil, from the early 1980s the overwhelming majority of violations attributed to Fretilin/Falintil, though much smaller in number than in the early years of the Resistance, were perpetrated by Falintil. See Vol. I, Part 4: Resistance: Structure and Strategy.

with the qualitative information received by the Commission about Falintil's strategic response to militia and TNI violence. The Falintil Commander-in-Chief, Xanana Gusmão, ordered his troops not to retaliate against militia and TNI attacks, and in early August Falintil took the further step of unilaterally "cantoning" its troops at four separate regional sites. The goal of this policy was to neutralise any Indonesian attempt to explain away the violence as a purely intra-Timorese affair and to avoid giving the TNI a pretext for openly which matter.

Table 14: Fretilin/Falintil responsibility for unlawful killings and enforced disappearances as reported to the CAVR

1975	49,0%	(561/1145)
1976–1984	16,6%	(563/3398)
1985–1998	3,7%	(18/488)
1999	0,6%	(5/898)

Violations committed in 1975

Detention and torture

302. The Fretilin reaction to the armed movement by UDT involved the arbitrary detention of hundreds of UDT leaders and supporters. Fretilin detained the largest number of UDT supporters in the first week of the armed general insurrection, 20-27 August 1975. As Fretilin controlled the territory, many UDT leaders and members fled over the border to West Timor. Leaders of the Apodeti, KOTA and Trabalhista political parties were also detained. Sometimes family members of these victims were detained as well.

303. Members and supporters of Fretilin and Fretilin forces inflicted widespread cruel, inhumane and degrading treatment on the prisoners they detained during the internal armed conflict. These acts occurred in every district of Timor-Leste except Oecussi but were concentrated in the districts of Ermera, Dili, Manufahi, Bobonaro, Liquiçá, Manatuto and Baucau.

304. Many former detainees of Fretilin report being heavily beaten and otherwise tortured. Representatives of Fretilin also actively engaged the civilian population in the punishment of UDT members. Many detainees died or were killed while in detention. After the Indonesian invasion, Fretilin continued to hold up to several thousand people, depriving them of food and water and making them perform forced labour such as carrying heavy goods and cultivating fields. Some prisoners died in these conditions and others were executed.

305. Evidence provided to the Commission included reports of the following methods of torture committed by representatives of Fretilin during this period:

- Heavy beatings by hand or with an implement including a rifle, an iron bar, wooden sticks, bamboo, rattan, car-brake cords, a helmet, a pestle, nails

and a barbed whip. Some detainees were beaten to death or until they were unconscious, blind or deaf.

- Prisoners ordered to beat each other, including prisoners who were related to each other
- Stabbing
- Whipping
- Tying detainees up before beating them so that they could not defend themselves
- Dragging detainees along the ground until they were torn and bleeding
- Stripping detainees naked and forcing them to sleep on the rough ground.

306. In the immediate aftermath of the Indonesian invasion most of Fretilin's prisoners were concentrated in Aileu. To prevent them from joining forces with the Indonesians or supplying them with information, those prisoners who were not executed in Aileu (see par. 307, Arbitrary Executions, below) were moved *en masse* either west to Ainaro or south to Maubisse and then to Same Town (Manufahi). The prisoners taken to Ainaro were released when they reached there. With Indonesian forces also advancing along the southern route and from the southern coast, their captors and local Fretilin leaders and supporters succumbed to vicious resentment towards those suspected of collaborating with the invaders, who became the victims of further violations.

Arbitrary executions

307. The Commission finds that before the UDT armed movement of 11 August 1975 members of the Fretilin and UDT parties were involved in a number of violent confrontations in the districts of Dili, Ainaro and Ermera. After the armed movement by UDT, Fretilin's armed insurrection involved not only the detention of UDT supporters but also the summary execution of individuals suspected of affiliation with UDT, and a lesser number who were affiliated with Apodeti.

308. The killings occurred largely in Liquiçá, Aileu, Ermera, Dili and Manufahi. In most cases these killings were committed against specifically identified UDT leaders and individuals who had been involved in violent acts during the armed movement. However there were also some random killings and instances of mass executions of prisoners, such as in Aileu and Manufahi. Over one hundred detainees were executed by Fretilin forces in Aileu, between December 1975 and January 1976.

309. Evidence given to the Commission included reports of the following methods used by members of Fretilin in the execution of civilians and captured combatants:

- Beheading
- Ordering detainees to line up and then executing them by shooting
- Tying prisoners to flag poles and then executing them by shooting
- Beating civilians and detainees and then executing them
- Random shooting of groups of civilians in communities suspected of political opposition
- Failing to treat the wounds of those captured, which resulted in death
- Execution of prisoners and civilians using traditional weapons, such as machetes, spears and knives

- Mass execution of detainees by throwing a grenade into a group of non-combatants
- Tying of victims to a tree then beating to death.

310. Victims and witnesses reported that the following incidents involving serious violations against prisoners by persons identified as being affiliated with Fretilin took place between August 1975 and February 1976 in the districts of Aileu, Ainaro, Ermera, Liquiçá, Manatuto and Manufahi.*

- On 7 August 1975, Fretilin forces attacked the *aldeias* of Maleria, Lumluli and Usululi in Maulau Village (Maubisse, Ainaro), killing scores of civilians and destroying property and livestock.
- On 20 August 1975, Fretilin captured eight men in Fatisi (Laulara, Aileu) on suspicion of being UDT spies; all of these men were subsequently killed by Fretilin forces.
- On 20 August 1975, Fretilin members captured and detained 40 UDT members in Asumanu (Liquiçá, Liquiçá). Eight persons from this group were subsequently killed by Fretilin in the *aldeia* of Hatumatilo.
- On 20 August 1975, Fretilin abducted seven members of UDT in Kaitugloa (Liquiçá), the men were taken to Darulete (Liquiçá, Liquiçá) and executed.
- On 22 August, Fretilin forces entered Paramin village (Atsabe, Ermera) and killed 11 people on suspicion of being Apodeti supporters.
- On 22 August 1975, a Fretilin member shot and wounded a UDT supporter in Maubisse (Ainaro). Family members of the victim believe he was later executed in Aissirimou (Aileu) on 26 August 1975.
- On 27 August 1975, Fretilin forces detained and executed an Apodeti leader, Celestino da Silva, in Same (Manufahi).
- On 30 August, Fretilin forces killed a UDT member in Tokoluli (Railaco, Ermera).
- Some time in August 1975, Fretilin forces, armed with arrows and spears, captured eight persons in the village of Seloi-Malere (Aileu, Aileu). The victims were tied up and dragged along the street, one man was severely beaten during the attack.
- On or around 3 September 1975, Fretilin forces killed four persons in the district of Aileu.
- On 4 September, Fretilin forces attacked the village of Hatuconan (Laclo, Manatuto) and arrested 12 members of UDT. Fretilin forces subsequently executed nine of these men in a place called Makati.
- On 7 September, Fretilin forces shot and beheaded another man in Laclo (Manatuto).
- On 15 September, Fretilin forces entered the village of Katra Kraik (Letefoho, Ermera) and executed seven UDT supporters.
- On 25 September, two members of Fretilin shot a UDT Commander in Ermera. The victim had been subjected to a Fretilin-led Commission of Inquiry hearing in Ermera the same day.

* Further details of each of these killings are provided in Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances.

- Some time in September 1975, Fretilin forces executed one person in Railaco (Ermera) who was part of a group of 50 UDT supporters who had surrendered to Fretilin troops.
- In December 1975, Fretilin forces killed ten detainees held at the Fretilin prison in Aissirimou, Aileu, including the former chief of the Portuguese police, Colonel Rui Gouveia Maggiolo. Fretilin troops, armed with G-3 weapons, ordered the prisoners to stand in a line and shot them.
- In December 1975, Fretilin forces executed up to 160 prisoners in Manifunih Hun, Aissirimou (Aileu).
- In December 1975, Fretilin forces shot up to 26 prisoners in Aissirimou (Aileu).
- On 28 December 1975, Fretilin forces executed six prisoners in Maubisse, Ainaro.
- On or around 27 January 1976, Fretilin forces took eight persons out of detention in Hola Rua (Same, Manufahi), including the Secretary General of Apodeti, José Fernando Osório Soares, and executed seven of them in a place nearby called Hat Nipah.
- On 29 January 1976, Fretilin forces transferred 34 detainees from Hola Rua to an elementary school building in Same where they were held with ten other detainees. Nine detainees managed to escape while being transported from the school to a "public hearing", though two others were killed. In apparent reprisal for the escape, Fretilin forces opened fire on the remaining prisoners held in the school building. Approximately 30 people died in this incident and four survived.

1976–1999

Detention and torture

311. After the Indonesian invasion Fretilin continued to detain people across the territory within the Fretilin controlled "liberated zones" (*zonas libertadas*). The Fretilin Central Committee routinely used detention to maintain discipline and to punish persons known or suspected of political opposition or contact with the occupying forces. In practice any political or non-political act or suspected act that Fretilin leaders or officials disapproved of could be denounced as a breach of Fretilin rules.

312. Detainees were held in primitive structures such as enclosures resembling pig pens and chicken coops, bamboo huts and holes in the ground. In the beginning these were simply places in which people were detained, but in 1977 many detention centres were turned into national rehabilitation camps, known as Renals.

313. Renals were nominally established for the purpose of the political "re-education". In some Renals detainees did in fact receive political "re-education" and literacy training as well as being required to work in communal fields. In others, however, the regime was extremely harsh: detainees told the Commission of heavy forced labour, minimal food rations and frequent beatings. Many detainees died as a result of these conditions.

314. Sentences of imprisonment were theoretically indefinite (until a detainee was deemed rehabilitated) and periods of detention often lasted until Indonesian forces captured or forced the abandonment of the base where the Renal was located.

315. Evidence considered by the Commission included witness accounts of the following methods of torture and ill-treatment commonly suffered by victims:

- Heavy beatings by hand, with a rifle, with thorny branches or other pieces of wood
- Burning the victim's flesh with heated iron rods, cigarettes, or burning pieces of wood
- Whipping
- Tying victims to a tree or pole and leaving them in the sun for long periods
- Tying victims in a way that their movement was highly restricted and they could not feed themselves or go to the toilet
- Urinating on victims
- Placing victims in a hole filled with ants
- Kicking with heavy military boots.

316. Detainees were subject to a layered practice of justice (*critica-autocritica*, *justo correctivo* and *justiça popular* – see Vol. I, Part 5: Resistance: Structure and Strategy) with different procedures depending on the gravity of the offence.

317. Those accused of the most serious offences, such as treason, had to submit to *justiça popular*, which did not recognise even the most basic safeguards for procedural fairness. The accused was not informed of the nature of the accusations before "trial", was not presumed to be innocent and had no right of reply to the accusations made. Many of the accused were detained for months before being subjected to the process of "trial". The people attending the "trial" were asked to give their verdict. There was no appeal against decisions or punishments. Sentences were decided on by senior Falintil or Fretilin officials, often the same ones who had been involved in the initial arrest, and were often harsh and disproportionate to the alleged crime, commonly including death by execution.

Arbitrary executions

318. The Commission heard extensive testimony about the killing of non-combatants perpetrated by Fretilin and Falintil during the period February 1976–1979. During this period leaders and members of both organisations were implicated in fatal violations in most districts across the territory. Senior Fretilin leaders and Falintil commanders ordered many of the killings reported to the Commission, and in some instances themselves perpetrated them. Although some of those killed were civilians previously associated with UDT and Apodeti, who were collaborating with the Indonesians, most of those who killed, disappeared or died of deprivation or other kinds of ill-treatment during this period were themselves members of Fretilin or Falintil or members of the civilian population living in Fretilin bases.

319. Between 1980 and 1999 the scale of reported killings by Falintil was far lower than in 1976–1979. Moreover the pattern of killings was very different from the earlier

period. The victims were persons who were not part of the Resistance but who were working with the Indonesians (sometimes against their will) and the random casualties of Falintil attacks.

320. The Commission heard of a number of killings committed by Fretilin in 1976–1979 against persons who were associated with other parties, most of the victims known to the Commission being associated with UDT. The killings tended to occur in areas, such as the districts of Ermera and Manatuto, where support for both UDT and Fretilin had been strong and the level of violence during the "civil war" had been particularly intense.

321. In some instances UDT members were killed by ordinary Fretilin members motivated by feelings of revenge. In other cases, such as the killing of at least nine people in Venilale (Baucau) between 1 and 12 February 1976, there is evidence of higher-level involvement. The Commission also received reports of the killing of former UDT members who were suspected of spying for the Indonesians and of persons who were executed because they had allegedly been in contact with UDT relatives in the Indonesian-controlled areas.

322. In 1976–1977 around 60 people were executed or died in detention, as a result of conflicts within the Resistance. They included:

- Aquiles Freitas, commander of the Bero-Quero Command in Quelicai (Baucau), and several of his chief associates, including Ponciano dos Santos, Antonio Freitas and João Teodoso de Lima were executed at Lobito (Vemasse, Baucau) and in Baguia (Baguia, Baucau) in December 1976-January 1977;
- Francisco Ruas Hornay and at least 14 of his followers, who were executed in Iliomar (Lautém) in November 1976;
- The former Falintil Deputy Chief of Staff, José da Silva, and possibly 40 of his followers, who were executed or died in detention between October 1976 and August 1977 after being arrested in Ermera District in October 1976.

323. In the Fretilin internal conflict that erupted in 1977 several hundred followers and suspected followers of the Fretilin President, Francisco Xavier do Amaral, were executed or died as a result of torture and ill-treatment in detention. The purge was concentrated in Aileu, and Manufahi in the North Central and South Central Sectors, to a lesser extent in Quelicai in Baucau District, Uato Carbau and Uatolari in Viqueque District in the Central Eastern Sector, and Covalima and Ermera in the South Frontier and North Frontier Sectors. Those targeted included members of the Central Committee, senior military commanders and middle-level cadres of Fretilin and its affiliate organisations as well ordinary Fretilin members, Falintil troops and members of the civilian population living in the Fretilin bases.

324. Many of the victims of these purges died in horrific circumstances, including:

- In public mass executions conducted with the utmost brutality;
- As a result of severe deprivation in extremely primitive detention centres and Renals where the food, shelter, sanitation and medical treatment that prisoners were given were grossly inadequate, their inadequacy seemingly being an intrinsic part of the prison regime;

- As a result of severe torture in detention involving such methods as burning with hot irons, repeated heavy beatings, hanging the victim from a tree and cutting of the victim's body.

325. The Commission finds that the senior Fretilin leaders not only knew of and approved these practices, which generally occurred at or near places where the Fretilin Central Committee and the Sectoral and Zone administrations had their bases, but in many instances were themselves direct perpetrators.

326. In addition to the killings and deaths related to political conflict within Fretilin there were other circumstances in which Fretilin/ Falintil committed these violations. Among the categories of victims reported to the Commission to have been executed or to have died of deprivation or other kinds of ill-treatment while in detention were the following:

- Civilians who were suspected of planning to surrender, were in the process of surrendering, or who had actually surrendered;
- Local Fretilin or Falintil leaders or members who had encouraged the civilian population to surrender;
- People who broke away from the main population concentrations, were captured and some or all of their members executed;
- Detainees killed as Indonesian forces closed on the areas where they were detained;
- Villagers suspected of or actually belonging to "pro-integration" parties killed as Indonesian forces advanced on an area;
- Persons holding dissenting ideological views;
- People who after surrender were ordered by ABRI, Hansip or members of the civil administration to return to the jungle to try to persuade people still holding out to surrender;
- Persons who rejoined the Resistance after previously surrendering or being captured by the Indonesians;
- The relatives of collaborators, as well as collaborators themselves;
- Persons blamed for failed Fretilin attacks on Indonesian bases and successful Indonesian attacks on Fretilin and Falintil bases;
- People living in Fretilin bases who had been in contact with people in Indonesian-controlled areas;
- People living in the resistance bases, under Indonesian control or in areas not fully under the control of either side who were found looking for food or going about their daily activities.

327. While acknowledging the intense pressure created by indiscrimate Indonesian offensives against their bases, particularly in the later years of this period, the Commission holds the Fretilin/Falintil leadership of the time responsible for creating an atmosphere of violence and ideologically-based intolerance which provided the preconditions in which this extraordinarily wide range of killings occurred. In addition the Commssion finds that Fretilin/Falintil leaders and commanders were responsible for ordering or directly perpetrating many of these killings.

1980–1999

328. Between 1980 and 1999, there was a sharp drop in the number of killings attributed to Falintil. Because East Timorese society became so heavily militarised during this period, the status of many of the civilians who were killed by Fretilin/Falintil was often ambiguous. These included people who were forcibly put in harm's way, whether as Hansip, as persons forcibly recruited as TBOs (*tenaga bantuan operasi*, operations assistants) or to take part in the various Operasi Kikis, persons required to perform night-guard duties or as unwilling recruits to the militia groups. The Commission believes that responsibility for deaths in these circumstances should rest primarily with those who put the victim in harm's way, namely the Indonesian security forces. In addition many of the victims of Falintil killings were Hansip, village chiefs and other members of the civil administration, holding positions that, unlike in most of Indonesia, had become highly militarised in occupied Timor-Leste.

329. Because the dividing line between combatants and non-combatants was often blurred and because it is not always clear from the available information that a particular victim was a specific target, it has not always been possible for the Commission on the basis of the information available to it to judge whether a violation has in fact occurred, and if it has, where responsibility for it lies.

330. The downward trend in unlawful killings by the Resistance, which was particularly marked during the final decade of the Indonesian occupation, is explained by several related developments. A new policy was adopted shifting the focus of the struggle to urban protest. Although Falintil remained alive and militarily capable, this policy shift gave greater prominence to public protests in the towns than to Falintil's previously favoured tactic of demonstrating that it was a force still be reckoned with through shows of force in the countryside. This trend was accelerated by the Indonesian decision in late 1988 to "open" the territory partially to outsiders. At the same time the decision to pursue the National Unity strategy and to build as broad as possible a base of support for the Resistance, including by winning over East Timorese who were collaborating with the Indonesians, probably also contributed to the decline in violence in these years. As a part of this strategy in 1987 the armed Resistance, Falintil, was formally separated from Fretilin.

331. During this period 1980–1999 Falintil killed civilians in the following circumstances:

- During attacks on military-controlled settlements in early 1980s, which were apparently intended to demonstrate to the population now under Indonesian control that Falintil had survived;
- During Indonesian military operations for which East Timorese had been recruited, usually forcibly;
- During attacks on villages in the mid-1980s, which were apparently in response to major Indonesian operations and intended to show that Falintil still retained a military capacity to launch such attacks; village guards and Hansip were particularly vulnerable to be killed during such incidents;
- During attacks launched at particular times, including anniversaries (such as Indonesian Independence Day and the anniversary of the founding of Falintil)

and during national elections, when they could be expected to attract attention internationally and in Indonesia and Timor-Leste.

332. These killings occurred in the context of military operations and, as noted above, the Commission often found it difficult to establish whether civilians killed in these circumstances were specifically targeted.

333. There were reported instances of targeted killings during this period when, for example, Falintil killed civilians who had been ordered by ABRI/TNI to search for relatives in the forest on their own, when it assassinated members of Hansip and other collaborators, and before and after the Popular Consultation in 1999. In at least some of these cases the Commission received credible information that the Falintil High Command did not institutionally condone these violations.

Forced displacement and famine

334. The massive programme of bombing and execution of civilians by the Indonesian security forces during and after the invasion caused hundreds of thousands of East Timorese to flee their homes and villages. In response Fretilin declared a policy of evacuating the civilian population to safety and of organising a national liberation movement in the mountains.

335. In many Fretilin-controlled areas living conditions in the months after the initial flight were extremely difficult. Their problems were somewhat alleviated once structures had been established to support activities such as communal farming and to provide for the needs of the most vulnerable. However, even where such organisation was in place the death rate continued to be abnormally high.

336. As the Indonesian military campaign intensified, Fretilin and the population under their control were forced to move into more isolated areas. Food became increasingly scarce and the question of whether the civilians who accompanied Fretilin should surrender became a major issue. Those affected were in a dire predicament. They had heard that those who surrendered to the Indonesians were placed in camps, and often tortured or killed. They knew, however, that if they remained in the mountains they were likely to starve to death. The issue of surrender could not be discussed openly, for fear of reprisals from the Fretilin leadership.

337. The Commission recognises the extremely difficult decisions faced by the Fretilin leadership at this time. The survival of those under their command was their direct responsibility, as was the survival of the entire Resistance movement. There was a real danger that persons who surrendered would, either under duress or voluntarily, divulge the whereabouts of those who remained. If this happened those remaining in the jungles and mountains would be likely to come under attack. At the same time individual families also needed to make life-and-death decisions. They were faced with the prospect of starvation and death if they did not surrender, and an uncertain future with quite possibly the same outcome, if they did.

338. Although the issues surrounding surrender are complex, it is clear that inexcusable decisions to inflict severe ill-treatment and torture, and in some cases to kill people who wanted to surrender, were taken. The Fretilin leadership at the time remain responsible

for extreme violations of victims' rights entailed by their decisions, which cannot be justified under any circumstances.

1999

339. During the period before the ballot in 1999, Falintil exercised genuine restraint, including through the cantonment of its forces. In general they acted with extraordinary discipline, in the face of widespread killings of civilians conducted by the Indonesian security forces and their auxiliaries.

Violations of principles of international law by Fretilin/Falintil

340. The Commission holds the Fretilin party institutionally responsible for violations committed during the internal armed conflict. For the period 1976–1999 it has used the term Resistance, which comprised armed combatants[*] and civilian members of the clandestine movement some of whom were members of Fretilin.[†]

The internal armed conflict

341. During the period of the internal armed conflict, Fretilin's conduct violated the standards set out in Common Article 3 of the Geneva Conventions. This Article prohibits certain types of behaviour directed at civilians or combatants who have laid down their arms because of capture, wounding or another cause. Prohibited conduct includes:

- Killing
- Violence to the person, including torture or cruel treatment
- Humiliating or degrading treatment or other outrages upon personal dignity.

342. The Commission finds that Fretilin's conduct during the period of the internal armed conflict included multiple and repeated prohibited acts. Executions of civilians, as well as suspected or known UDT supporters or members, were clear violations for which Fretilin was responsible under international humanitarian law.

343. While the detention of civilians and enemy combatants is not specifically prohibited by Common Article 3, the torture, beating and other cruel treatment of those detained are in violation of that provision. The Commission finds that in this regard Fretilin is also accountable for numerous violations of humanitarian law. In addition the Commission finds that the treatment of those held in detention by Fretilin was often degrading or humiliating, in violation of the principles of humanitarian law.

The international armed conflict 1976–1999

344. During the international armed conflict the rules contained in the Geneva Conventions of 1949 and those that are part of customary international law were binding

* Described in this Report as "Fretilin/Falintil", due to difficulties to accurately distinguish between the membership of the party and the Falintil combatants.

† Because international human rights law imposes obligations on states rather than non-state organisations such as political parties and liberation movements, Fretilin cannot be responsible under international law for breaching such standards. However, international humanitarian law imposes obligations not only on states but also on non-state organisations, such as Fretilin.

on Fretilin/Falintil as a party to the international conflict. The Commission has found that Fretilin/Falintil's conduct was at times in violation of these rules, giving rise to legal responsability on the part of Fretilin/Falintil.

345. The Commission has found that Fretilin/Falintil's forces perpetrated executions, arbitrary detentions, torture and ill-treatment of civilians and held many detained civilians in inhumane conditions. All such conduct is prohibited by Article 27 of the Fourth Geneva Convention which requires that civilians be treated humanely and with respect for their persons and honour, and that they particularly be protected against violence or threats of violence. While the Convention provides that the parties to a conflict may take steps in respect of civilians that are necessary for security as a result of the war, this could never extend to practices such as unlawful killings, and torture and ill-treatment. Such conduct is expressly prohibited by Article 32 of the Fourth Geneva Convention along with any act that causes the physical suffering or extermination of civilians. The use of physical or psychological torture to extract information from civilian prisoners is expressly prohibited (Article 31 of the Fourth Geneva Convention). The Commission finds that members of Fretilin/Falintil in some cases violated this principle in an attempt to gather intelligence from known or suspected supporters of Indonesia.

346. Although Fretilin/Falintil was entitled, according to Article 5 of the Fourth Geneva Convention, to deny some of the protections of humanitarian law to those who were engaged in activities hostile to it, it was required nonetheless to treat those persons with humanity, and to provide them with the rights to a fair trial. By failing to guarantee that those suspected of betraying Fretilin/Falintil were entitled to a fair and regular trial and humane treatment, members of Fretilin/Falintil breached this obligation in every case in which these suspects were subjected to unfair trials, or summarily beaten, tortured, subjected to inhumane treatment or killed.

Responsibility of Fretilin/Falintil leadership and members

347. The armed conflict between combatants fighting in support of Fretilin and UDT was of sufficient severity to fulfil the definition of an "internal armed conflict" according the body of international law which governs the conduct of war (see Vol. I, Part 2: The Mandate of the Commission). Parties to such a conflict are obliged to comply with international law, and in particular Common Article 3 of the Geneva Conventions. Legitimate acts of warfare committed against opposing combatants are not violations of these obligations. However, the killing, torture, and other mistreatment of civilians, prisoners, the sick and wounded is strictly prohibited.

348. The Commission finds that the actions of the members of Fretilin/Falintil in hundreds of cases of detention, torture and killing of civilians, prisoners, the wounded and the sick were violations of their duties under Common Article 3 of the Geneva Conventions.

349. The Commission has received a number of eyewitness accounts from victims and witnesses that members of the Fretilin Central Committee were directly involved in or witnessed the torture and killing of prisoners during and after the internal armed conflict and took no action to halt it.

350. The evidence before the Commission is insufficient to establish that these killings and atrocities were carried out in compliance with a directive from the Fretilin Central Committee. However, it had ultimate authority over its members and its armed forces which were deployed at its direction. Members of the Fretilin Central Committee certainly at least knew that widespread atrocities were taking place and did not take sufficient steps to halt them. They also did not take steps to discipline or punish those who were directly responsible for the torture, executions and other serious mistreatment. They are therefore responsible for the consequences of creating a disciplinary framework for the treatment of these prisoners, even when it became apparent that horrific violations were being committed against unarmed and defenceless prisoners and civilians.

351. The Commission finds that some members of the Fretilin Central Committee in December 1975 share in the responsibility for the premeditated and planned execution in Aileu in December 1975 and in Same in January 1976 of possibly as many as 200 UDT and Apodeti supporters whom Fretilin had taken prisoner. It has been able to ascertain that certain individual members of the Fretilin Central Committee took part in the decision to execute at least some of these prisoners and sometimes in the executions themselves. The Commission was informed that the killings in Aileu and Same were with some exceptions carried out according to a set routine in which lists of victims were drawn up, graves prepared and the executions carried out by squads under the command of specific individuals. The Commission considers the employment of such a consistent *modus operandi* is itself evidence that the killings were carried out systematically. It also believes that other Fretilin Central Committee members, including some of the most senior, who were present in the areas where the executions took place must have been aware that they were being carried out.

352. The Commission has learned of instances between August 1975 and January 1976 where Fretilin leaders did intervene successfully to stop the mass execution of detainees. This indicates to the Commission that these leaders, who included members of the Central Committee, could have put to stop to the killings on other occasions. It seems that it was the intervention of middle-level Falintil commanders from other areas, who had rushed to Same in late January 1976 after hearing of the killings there in late January 1976, that did in the end put a stop to the killings. This suggests to the Commission that more senior leaders could have ended the killing earlier, had they been so inclined. Fretilin's treatment of UDT and Apodeti supporters varied between districts. The Fretilin commanders in the districts personally knew the UDT and Apodeti leaders in their area and many were responsible for identifying those who should be detained. The most brutal treatment of detainees occurred in the Quartel Geral in Taibessi (Dili) and in Aissirimou (Aileu). Prisoners held in Baucau said that they were beaten regularly but only by the guards after their superiors had left. In the districts of Manufahi and Aileu, however, Fretilin leaders were present at the torture of UDT and Apodeti leaders and not only allowed it but sometimes incited the community to attack members of UDT and Apodeti.

353. The number and nature of the violations committed lead the Commission to find that members of the Fretilin Central Committee, senior Falintil commanders and

Fretilin district level leaders in the districts of Aileu and Manufahi were either directly involved in the systematic perpetration of violations against civilians, or knew that these violations were being committed by those under their command, and failed to take effective steps to prevent further violations or to punish those responsible. These people were therefore responsible, either directly or indirectly, for the arbitrary detention, torture and execution of prisoners. Some of these individuals are included on the list of multiple perpetrators of serious human rights violations which has been forwarded to the Office of the Prosecutor General with a recommendation for investigation and potential prosecution, and to the Office of the President of the Democratic Republic of Timor-Leste, with a recommendation that they be barred holding certain strategic or senior public offices in Timor-Leste.

The responsibility and accountability of the UDT political party

354. The Commission considered hundreds of interviews and witness statements provided by victims and witnesses who had themselves been the victims of human rights violations or had witnessed others being victimised by members of UDT. On the basis of this evidence the Commission finds that:

355. On 11 August 1975, the leadership of the UDT party ordered an armed movement the purpose of which was to take control of the political leadership of the territory of Timor-Leste. It is unclear whether this purpose was clearly enunciated in the early stages of the armed movement. However, this was the clear import of the demands made by UDT to the Government of Portuguese Timor within hours of launching its movement.

356. UDT had no legal authority to undertake this action, and by doing so acted in violation of the rights of the East Timorese people to determine their own political, social and economic destiny. The party's action also violated the fundamental freedoms of political belief, freedom of expression and freedom of movement.

357. During its armed movement UDT perpetrated widespread human rights violations against the civilian population, particularly individuals known or believed to be leaders and supporters of the Fretilin political party. Hundreds of civilians were arbitrarily detained, of whom many were tortured, killed and otherwise mistreated.

358. As the armed conflict between combatants fighting in support of Fretilin and UDT was of sufficient severity to fulfil the definition of an "internal armed conflict" according the body of international law which governs the conduct of war, UDT was obliged to comply with international law in the same way as Fretilin during this conflict (see section on Fretilin above). The Commission finds that the detention, torture and killing of civilians, prisoners, the wounded and the sick, carried out by the leaders and supporters by UDT violated Common Article 3 of the Geneva Conventions as well as applicable Portuguese law.

Arbitrary detention, torture and mistreatment

359. Members of UDT and UDT forces detained victims in every district of Timor-Leste except Oecussi in 1975. Of the cases of detention attributed to UDT which were reported to the Commission, 25.6% (243/950) occurred in Ermera District, 23.0% (218/950) in Dili District and 16.3% (155/950) in Bobonaro District.

360. Of these detentions 20.1% (191/950), were reported to have occurred on the first day of the UDT armed movement, 11 August 1975, and 20.5% (195/950) occurred in the 10 days immediately following.

361. The leadership of UDT failed adequately to plan their action and kept those detained in deplorable conditions, without food or water. Some detainees died as a direct result of the conditions imposed on them. The reported cases of ill-treatment attributed to UDT were overwhelmingly concentrated in Dili District (36.7% [95/259]), Ermera District (20.9% [54/259]) and Bobonaro District (25.9% [67/259]).

362. The victims of arbitrary detention by UDT reported to the Commission were predominantly male, of military age and believed by the perpetrator to have an association with Fretilin. Sometimes family members of these victims, including their wives, parents and children, were arbitrarily detained. In general prisoners were not mistreated in order to extract information, but as a form of punishment in a general climate where violence had become the norm.

363. Most of the victims detained by UDT were kept in buildings near the place of arrest, including warehouses, schools, private houses, a former Portuguese prison, military barracks and pens resembling chicken pens. It also established central detention centres at its headquarters in Palapaço, Dili and in the mill (*descascadeira*) and the *pousada* in Baucau, to which both persons arrested locally and detainees arrested in other districts were brought.

364. Periods of detention were short because the armed movement was brief. Most detainees were released within two weeks but some were held for longer than one month. While in detention, detainees were regularly forced to perform such work as cooking for other detainees and cleaning detention centres, building roads or carrying rocks and wood. UDT released some detainees of its own accord but most were abandoned when Fretilin forces attacked an area where detainees were being held and UDT forces fled.

365. UDT made no or inadequate provision for feeding the people whom it detained. Detainees from the main UDT detention centres reported being deprived of food; some received no food for up to nine days. At least two people died due to the conditions in detention. The severity of these conditions amounted to cruel, inhumane and degrading treatment.

366. Witnesses reported that members and supporters of UDT committed the following acts of torture and ill-treatment against those persons who had been illegally detained:

- Heavy beatings by hand or with a rifle, by one perpetrator or sometimes by a group of perpetrators
- Whipping

- Being tied up for long periods, sometimes for more than one week
- Cutting the victim with a machete or razor blades
- Slapping and kicking
- One victim reported being burned with lit cigarettes.

Unlawful killings

367. UDT members and supporters conducted widespread unlawful killings between August and early September 1975, targeting persons who were known or suspected of being members of Fretilin in Liquiçá, Dili, Ermera, Manatuto, Manufahi, Bobonaro and other districts.

368. UDT killings of persons identified as being affiliated with Fretilin occurred in a variety of circumstances. In the immediate aftermath of the launching of the armed movement, Fretilin supporters were captured, killed and often beheaded in Manufahi, Liquiçá and Ermera, sometimes by UDT mobs acting on the orders of their leaders. Prison guards killed individual detainees in UDT detention centres, sometimes, as in Palapaço (Dili), on their own initiative and sometimes, as in Aifu, Ermera, on the orders of party leaders. In late August and early September 1975, persons who had been detained in the days after UDT launched its armed movement were executed in Manufahi and Ermera as Fretilin forces advanced on these areas. The victims of these unlawful killings by UDT were predominantly men of military age with a real or suspected association with Fretilin.

369. Methods of unlawful killings included:

- Armed groups of UDT members shooting unarmed civilians in groups
- The execution of civilians using traditional weapons, such as machetes, spears and knives
- The holding of ritual ceremonies before and after killing
- Beheadings, and display of the decapitated heads as trophies
- The severing of body parts, such as hands, and disembowelment
- The display of corpses in front of homes of Fretilin members
- The disposal of dead or fatally wounded bodies in gorges and rivers
- The execution of detainees in detention centres, and in isolated places in the countryside, including coffee plantations. Some detainees had their hands tied with wire at the time of execution. Others were brought out of detention centres in small groups and then executed.
- Beating before execution
- Disappearance.

Incidents of serious violations

370. Incidents reported to the Commission in which the perpetrators were identified as being members or representatives of the UDT party included the following*:

* For further details, see Vol. II, Part 7.2: Unlawful Killings and Enforced Disappearances; Vol. III, Part 7.4: Detention, Torture and Ill-Treatment and Part 7.8: The Rights of the Child.

- During August 1975, UDT forces detained at least 70 persons in the Ermera Prison; the detainees were beaten and starved while in detention. Scores of victims were also tortured while detained in smaller detention centres throughout Ermera.
- The Commission received a number of reports indicating that detainees suffered torture and ill-treatment while imprisoned in the *pousada* and the *descascadeira* in Baucau in August 1975 when they were being used as detention centres.
- During August 1975, UDT members from Turiscai (Manufahi) killed six members of a family perceived to be Fretilin supporters, including three children aged seven, six and five years old respectively.
- On 11 August 1975, UDT forces killed one male Fretilin supporter in Lete Foho (Same, Manufahi).
- Between 11 and 13 August 1975, UDT members killed at least 13 people in the sub-district of Liquiçá (Liquiçá); in separate incidents in the villages of Asumanu, Darulete, Dato and Leotela (all in Liquiçá Sub-district), three of the victims were beheaded. The head of one of them was displayed in front of the house of a Fretilin leader, while the head of another victim was displayed in front the house of a UDT leader.
- Between 11 and 15 August 1975 in Ermera, UDT members killed three Fretilin officials in separate incidents in the sub-districts of Railaco, Ermera and Hatolia.
- After the armed movement of 11 August 1975, UDT members detained about 70 members of Fretilin in a rice barn in Corluli (Maliana, Bobonaro) for about two months. The detainees were deprived of food and drink while in detention, as a consequence of which two of them died.
- On 11 August 1975, a number of UDT leaders and members arrested a former Fretilin delegate and detained him in Same Prison (Manufahi). The detainee, along with several others, was severely beaten and was not allowed to leave his cell for two weeks.
- During August 1975 (date not specified), UDT members arrested 11 men in Lolotoe (Bobonaro) and detained them in a room for three days without food and water.
- On 14 August, UDT members detained three Fretilin members at the home of a UDT leader in Guda (Lolotoe, Bobonaro). The men were beaten heavily and detained for one week.
- On 14 August, UDT forces killed one man in Aitutu (Same, Manufahi).
- After the UDT armed movement, 100-200 members of Fretilin were detained at the Palapaço detention centre and many suffered severe ill-treatment. During this time three detainees, a member of the Fretilin Central Committee José Siqueira, Domingos da Conceição and José Espirito Santo, were shot dead by their UDT guards.
- Some time in August 1975, all but three members of an 11-person Fretilin peace delegation sent by Francisco Xavier do Amaral to negotiate an end to the cycle of revenge killings that was engulfing the Laclubar-Soibada-

Turiscai area were captured and killed in Fatmakerek (Soibada, Manatuto) on the orders of local UDT leaders.

- On 20 August 1975, an East Timorese woman was gang raped by members of UDT in Maubara Town (Maubara, Liquiçá).
- On 27 August, members of UDT captured a Fretilin *delegado*, Antonio Salsinha, who had escape from the UDT detention centre in Aifu (Poetete, Ermera). They kicked and beat him and then shot him. He did not die immediately, so the UDT members buried him alive.
- On 27 August, as Fretilin forces approached Same, UDT members took 11 members of the Fretilin youth group, Unetim, who had been detained in Alas and Same since 11 August, to the Meti Oan beach in Wedauberek (Alas, Manufahi) and shot them dead.
- On 28 August, four members of UDT arrested a number of Fretilin *delegados* and 14 other men from the village of Guda (Lolotoe, Bobonaro). The men were taken to Maliana (Bobonaro) and subsequently severely kicked by UDT members.
- On 1 September 1975, as Fretilin forces were poised to enter Ermera Sub-district from Leorema (Bazartete, Liquiçá) and the Hatolia Sub-district (Ermera), UDT forces killed at least 30 detainees in the villages of Klaek Reman (Ermera, Ermera) Aifu (Poetete, Ermera, Ermera) - four in Klaek Reman and at least 26 in Aifu.

Responsibility and accountability of UDT personnel

371. The perpetrators of arbitrary detention were predominantly UDT leaders at the district level and those acting under their command. These leaders knew the population in each district and were able to effectively target members or supporters of Fretilin. Both the district leaders and those who directly committed these violations are responsible for them.

372. The Commission finds the local leaders who incited hatred and who ordered victims to be detained, beaten, tortured or killed to be responsible and accountable for the consequences of these actions.

373. The Commission finds that the members of the UDT Central Committee are responsible for the consequences caused by inciting their followers through radio broadcasts and other direct orders, to “purge communists”. When the leadership of UDT planned the armed movement, it plainly gave no thought to ensuring that those whose detention it ordered should be adequately fed and cared for. Nor did it instruct its members to treat detainees with restraint.

374. The most severe forms of abuse reported to the Commission occurred at the UDT headquarters in Dili, and in the UDT strongholds of Ermera and Liquiçá. UDT leaders were reported to have been present when killings and other violations were being committed and with rare exceptions either ordered them to take place or did not take any steps to prevent them from happening.

375. The Commission holds the UDT district commanders of the districts of Ermera, Manufahi and Liquiçá in August 1975 responsible and accountable for the serious mass violations, including torture and summary executions of groups of unarmed victims, which were committed by persons who were under their command and control. Some of these individuals are included on the list of multiple perpetrators of serious human rights violations which have been forwarded to the Office of the Prosecutor General with a recommendation for investigation and potential prosecution, and to the Office of the President of the Republic of Timor-Leste, with a recommendation that they be barred holding certain strategic or senior public offices in Timor-Leste.

376. The actions of the members of the UDT Central Committee and other leaders directly brought about a situation in which large numbers of civilians were forcibly detained without a legal basis. The leaders failed to ensure that detainees were held in appropriate conditions. They became aware that widespread violations were being committed by persons under their overall command and control, but rarely took steps to halt the violations and in no instance known to the Commission did they punish the perpetrators. The Commission finds that the leaders of the UDT party at the time of the armed movement are morally, politically and historically responsible for the violations committed by members of UDT during the internal armed conflict, and for the instability which followed. This, however, does not absolve Fretilin leaders and members of responsibility for committing violations against members or supporters of UDT in reprisal for the latter's abuses.

Violations of principles of international law by representatives of the UDT party

377. The Commission finds that UDT's conduct during the civil war period was in many cases in violation of international humanitarian law.*

378. During the civil war, as a party to that internal conflict UDT was required to comply with the standards set out in Article 3 common to the Geneva Conventions. This Article prohibits certain types of behaviour directed at civilians or combatants who have laid down their arms because of capture, wounding or another cause. Prohibited conduct includes:

- Killing
- Violence to the person, including torture or cruel treatment
- Humiliating or degrading treatment or other outrages upon personal dignity.

379. The Commission has found that in violation of Common Article 3, UDT killed, tortured and otherwise mistreated civilians and captured members of Fretilin. This conduct was in violation of UDT's obligations under international humanitarian law and UDT accordingly bears legal responsibility for its actions.

* As explained above, because international human rights law imposes obligations on states rather than non-state organisations such as political parties, UDT cannot be said to have any legal responsibility for breaching such standards. However, international humanitarian law imposes obligations not only on states but also on non-state organisations, such as UDT.

The responsibility and accountability of the Apodeti party

380. Although the Commission received significantly fewer reports of violations committed by members of the Apodeti party than by either Fretilin or UDT, the evidence clearly demonstrates that apart from having a direct role in the commission of violations, members of Apodeti also played a role in the Indonesian invasion and supported the military occupation in a variety of ways.

381. The Commission has found that from September 1974 members of Apodeti were in contact with Indonesian military officers. From December 1974 they participated in military training exercises in Atambua, West Timor (Indonesia). This training was undertaken for the explicit purpose of preparing for military action within Timor-Leste, although it is unlikely that the members of Apodeti were aware of the exact details of the Indonesian plans. Approximately 200 Apodeti cadres participated in this training. When the Portuguese colonial authorities travelled to Atambua in January 1975 to try to persuade the members of Apodeti to return to Timor-Leste and play a constructive role in the decolonisation process, they refused and instead continued with their military training.

382. Members of Apodeti worked with Indonesian military and civilian intelligence agents inside Timor-Leste during 1974–1975, undermining the decolonisation process and destabilising the situation in the territory. The actions of members of Apodeti during this period included providing information to the Indonesian military. Some of this information was used in Indonesian radio propaganda whose purpose was to increase the level of instability by undermining relations between Fretilin and UDT.

383. The military training in Atambua led to participation of the members of Apodeti, known as "Partisans", with Indonesian military personnel in covert military action inside Timor-Leste from August 1975, and larger-scale military operations that resulted in the Indonesian occupation of towns and territory from October 1975. During this period members of Apodeti participated in Indonesian military actions which included the attack on Balibó on 16 October 1975.

384. Leaders of the Apodeti party helped formulate and then signed the Balibó Declaration, which helped to provide a veneer of legitimacy to the totally illegal Indonesian occupation.

385. Members of Apodeti participated in the full-scale Indonesian military invasion of Dili and Baucau in December 1975, travelling on Indonesian warships from Indonesian ports to Timor-Leste. They then accompanied Indonesian troops on operations following the invasion.

386. Following the invasion members of Apodeti collaborated with the Indonesian forces in a subordinate role. However, they allowed themselves to be portrayed for propaganda purposes as constituting, with members of UDT and other parties, an East Timorese military force which was bearing the brunt of the war against Fretilin. It thereby fell into line with the programme of misinformation produced by the Indonesian military

and government. This described the conflict as essentially an intra-East Timorese affair, when in fact it was the result of an unprovoked Indonesian military invasion. The Commission has also received evidence that some members of the Apodeti party also helped Indonesian intelligence to draw up lists of Fretilin leaders, members and sympathisers, and pointed out individual members of the Fretilin party to the invading Indonesian forces. As a direct result of these activities individuals were detained, tortured and in some cases executed.

387. Throughout the military occupation members of Apodeti worked within the Indonesian security apparatus and the civil administration and continued to do so well after it was abundantly clear that the Indonesian military forces had no intention of allowing the East Timorese people to determine their own political and economic future. By supporting the right of the Indonesian military to occupy and govern Timor-Leste, they share responsibility for the denial of the right to self-determination of the East Timorese people.

388. Members of the "Partisan" force, many of whom were Apodeti members and sympathisers, continued to participate in Indonesian military operations well after the 1975 invasion. They were recruited as members of the TNI, police, Hansip and later as members of militias. In addition some played the role of informers, passing on information to Indonesian military personnel. In all of these capacities members and former members of Apodeti committed serious human rights violations against pro-independence supporters throughout the entire period of the conflict.

389. In summary, representatives of the Apodeti party are responsible for contributing to serious human rights violations committed before, during and after the military invasion of Timor-Leste. They did this by training and participating in military operations with ABRI, and later becoming integrated into the various organs of the Indonesian occupation regime, in which roles they were directly responsible for a significant number of serious violations, as well as supporting the mass violations by the Indonesian security forces.

The responsibility and accountability of the Trabalhista and KOTA parties

390. Although members of the Trabalhista and KOTA parties were not identified as direct perpetrators of a large number of violations, they did play a role in supporting the Indonesian invasion and occupation, and are also responsible for playing a role in the polarisation of East Timorese society.

391. Members of Trabalhista and KOTA contributed to the formulation and signing of the Balibó Declaration which helped to provide a veneer of legitimacy to the totally illegitimate Indonesian occupation. Following this members of these parties in communications to the United Nations also supported the lie that the East Timorese people wished to remain part of Indonesia. Some members of these parties supported the Indonesian administration and became members of the Indonesian security forces and auxiliaries, including Hansip and the militias. In these roles they were involved in serious human rights violations.

392. Although the Trabalhista and KOTA parties were smaller in size and the importance of their role in the conflict was less significant than the other political parties, their members were implicated directly and indirectly in human rights violations. They also played a significant role in supporting the illegal Indonesian occupation and are responsible, together with the other political parties, for contributing to the polarisation of East Timorese society and the continued cycle of violence which this contributed to.

State responsibility

Responsibility of the State of Indonesia

Violation of the right to self-determination

393. The Commission has found that the Republic of Indonesia was responsible for grossly suppressing the right of the East Timorese people to self-determination and subjecting them to a military occupation characterised by repression and violence, against their will.

394. The Commission finds that by 1974 the Government of Indonesia had decided that Timor-Leste should be incorporated into Indonesia. It set out to achieve that goal using various tactics including propaganda, intimidation, subversion, and ultimately, military force. This process ignored the wishes of the East Timorese people and their right to self-determination.

395. The Commission finds that the session of the "Popular Representative Assembly" held on 31 May 1976 did not constitute a genuine act of self-determination. The process was orchestrated by Indonesia with the goal of lending legitimacy to its unlawful invasion. The assembly was not representative of the East Timorese people and did not provide those who were involved with a real and informed choice between various options. The Commission finds that the process did not accord with the requirements set out in General Assembly Resolution 1541 for the integration of a non-self governing territory into a pre-existing State. It did not allow the East Timorese people to freely express their wishes, did not occur in a context in which Timor-Leste had attained a sufficiently advanced state of self-government to properly express those wishes, and did not take place in a relationship of complete equality between the two parties involved. The Commission finds that the "Popular Representative Assembly" was organised by Indonesia for the purpose of justifying its invasion rather than for providing the East Timorese people with a real choice about their future.

396. Indonesia maintained its unlawful presence in the territory of Timor-Leste until 1999. During this period Indonesia was responsible for continuously suppressing the right of the people of Timor-Leste to self-determination. It forcibly suppressed advocacy of self-determination within Timor-Leste, and sought to neutralise East Timorese, Indonesian and international civil society advocates of self-determination. The Commission finds that this constituted a gross violation of the right of the East Timorese people to self-determination as well as a violation of other fundamental human rights such as the right to freedom of expression, opinion and association.

397. During the occupation Indonesia further violated the right of the East Timorese people to self-determination by exploiting the natural resources of the territory for its own benefit rather than allowing the East Timorese people control over the disposal of those resources. Agents of the Indonesian state removed significant quantities of timber, sandalwood and other resources from Timor-Leste, and the Indonesian security forces forcibly implemented a programme under which East Timorese coffee growers receive much less than the full value of their crops. The treaty entered into with Australia in 1989 for the disposal of the resources of the Timor Sea (The Timor Gap Zone of Cooperation Treaty), which was concluded without consultation with or due regard to the interests of the people of Timor-Leste, also violated those rights, particularly because, in its eagerness to reach an agreement, Indonesia settled on terms that were far less favourable to the state than was normal in its own territory.

State responsibility for violations committed by members of the Indonesian security forces and government representatives

398. Under international law a state is responsible for conduct carried out by its organs (Article 4, ILC Articles on the Responsibility of States for Internationally Wrongful Acts). This includes the conduct of the army and police as well as the organs responsible for civil administration. Accordingly the Commission holds Indonesia responsible for the actions of ABRI (as well as the TNI and the police in 1999) as well as the actions of the civil components of the Indonesian government.

399. States are also responsible under international law for the actions of private individuals where the state has effective control over those persons, or where those persons are acting on the directions or instructions of the state (Article 8, ILC Articles on the Responsibility of States for Internationally Wrongful Acts). The Commission is satisfied that militia groups within Timor-Leste, which may not have formally constituted organs of the State of Indonesia, nonetheless acted on the directions and instructions and under the effective control of Indonesia. Indonesia is therefore responsible for violations carried out by those militia groups.

400. The invasion by Indonesia of Timor-Leste constituted violations of a number of principles of international law, including:

- The prohibition under customary international law of intervention in the affairs of other states[11]
- The peremptory norm contained in Article 2(4) of the United Nations Charter, as well as under customary international law, on the unlawful use of force against the territorial integrity of another state
- Indonesia's obligation under customary international law to respect the right of the East Timorese people to self-determination.

401. Indonesia also violated its obligations under the agreements entered into on 5 May 1999 between Indonesia, Portugal and the United Nations. Under these agreements Indonesia was responsible for "maintaining peace and security in East Timor in order to ensure that the popular consultation is carried out in a fair and peaceful way in an atmosphere free of intimidation, violence or interference from any side".[12] Indonesia was also responsible under the agreements for ensuring a "secure environment devoid of

violence or other forms of intimidation" and "the general maintenance of law and order", including by ensuring "the absolute neutrality of the TNI and the Indonesian Police".[13] The Commission finds that Indonesia failed grossly in meeting these obligations and was therefore in breach of its treaty obligations under the 5 May Agreements.

402. The Commission finds the State of Indonesia to be responsible and accountable for the violations of international human rights law, international humanitarian law and international criminal law which were committed by members of the Indonesian security forces and their auxiliaries, including civil defence groups such as Hansip and Ratih, the militia groups which were controlled by the Indonesian security forces, government officials, police, and other individuals who committed violations under the direction of State organs. This responsibility covers multiple incidences of crimes against humanity, including extermination; war crimes, including grave breaches of the Geneva Conventions; tens of thousands of serious human rights violations; and overall responsibility for the deaths of at least 120,000 East Timorese people who died as a result of the systematic programmes of violations which accompanied the 24-year long illegal military occupation of Timor-Leste.

403. The nature and scale of the violations which fall within the ambit of the responsibility of the State of Indonesia are discussed in detail in the various thematic chapters of this report, and in particular in the section on the responsibility of the Indonesian security forces, earlier in this Part.

Responsibility of the State of Portugal

404. The Commission finds that under successive governments Portugal violated the right of the East Timorese people to self-determination.

Historical context to the violation

405. For almost the entire period of its rule in Timor-Leste, Portugal created an environment that was utterly inimical to the realisation of the right to self-determination. No effort was made to achieve an even minimal level of East Timorese self-government, and democratic values were not upheld either in theory or in practice. Under the Salazar-Caetano regime, Portugal:

- Neglected the Timorese economy and thereby helped create an international perception of Timor as an economically unviable territory that would be incapable of subsisting as an independent state
- Failed to prepare the East Timorese people for self-government by permitting broad-based political participation or otherwise instilling democratic values
- Refused to recognise that Article 73 of the United Nations Charter applied to Timor-Leste as a non-self-governing territory and failed to comply with its obligations under that provision. *

* Article 73 required Portugal to promote to the utmost the well-being of the East Timorese people, including by ensuring, with respect for the Timorese culture, their political, economic, social and educational advancement, their just treatment, and their protection from abuses; and developing Timorese self-government, including by the development of free political institutions.

406. After the Carnation Revolution of 25 April 1974 and the subsequent commitment to decolonisation of the governments that followed it, some improvements were seen. In particular, the last Governor of Portuguese Timor, Colonel Mário Lemos Pires, began a programme of reforms and attempted to build a consensus around a decolonisation programme, which was eventually embodied in law. However, despite his efforts, conflicting signals by successive governments about their true intentions created mistrust towards the Portuguese administration in Timor and amplified already existing suspicions among the main parties. Governor Lemos Pires received insufficient support from the Portuguese Government for his programme of reforms. In addition to the denial of his requests for additional Portuguese troops in the face of rising political tensions, a military force sufficient only for the protection of Portuguese nationals was maintained in the territory. As a consequence, on the outbreak of violence in August 1975 Portugal found itself ill-equipped to intervene. Such a small troop presence provided little deterrence to the Indonesian security forces and their strategists at a time when Indonesia's intentions were becoming increasingly clear through its propaganda, its training of East Timorese in Atambua and its covert activities inside the territory. Portugal declined to involve the United Nations directly in the decolonisation process despite increasing tensions in the territory. This was despite recommendations made by the Portuguese administration in Timor-Leste and the Governor to internationalise the process particularly through the United Nations.

407. In addition, Portuguese diplomatic engagement with Indonesia served to encourage rather than discourage Indonesian aspirations for the integration of Timor-Leste. At the meeting between Indonesian and Portuguese officials in Lisbon in October 1974, while Portugal's official position was that the East Timorese people should be entitled to determine their own future, the Indonesian Government was given to understand that the Portuguese Government's preference was for the territory's integration into Indonesia. Portuguese officials conveyed a similar message to their Indonesian counterparts at the London meeting in March 1975.

408. The Commission considers that Portugal must be held accountable for its actions during this period. In particular Portuguese policy had the effect of heightening tensions by encouraging Indonesian integrationist ambitions and by explicitly acquiescing to Indonesian support for Apodeti thereby fuelling the inter-party political conflict. Inadequate steps were taken to prevent the escalation of political tensions, and little or no preparation was made in readiness for the possible outbreak of civil war.

409. Following meetings in Rome on 1 and 2 November 1975, Indonesia and Portugal jointly called for the restoration of peace in Timor-Leste but no reference was made to Indonesia's military incursions into the territory. Almost a month later, on 29 November, when rejecting Fretilin's declaration of independence, Portugal condemned Indonesia's military intervention, but maintained that in finding a resolution of the political differences between Fretilin, UDT and Apodeti, "the legitimate interest of Indonesia's geopolitical territory" must be taken into account. It was only after the full-scale Indonesian invasion on 7 December that that Portugal referred the situation in Timor-Leste to the United Nations Security Council, requesting United Nations assistance.

410. In the Commission's view Portugal took insufficient steps to ward off an Indonesian invasion that was clearly imminent. Although it eventually sought assistance from

the international community, Portugal could have done so earlier. To this extent the Commission finds that Portugal fell short of meeting its obligations as the administering power, including its obligation to protect the people of Timor-Leste from harm.

411. Throughout much of the Indonesian occupation, Portugal made little diplomatic effort to address the situation in Timor-Leste, whether bilaterally or through the United Nations. Although it maintained the official position that it remained the administering power in Timor-Leste, it took few steps to carry out the responsibilities entailed by this role. It was not until 1982 that it began to raise the question of Timor-Leste in international fora, and even after that time the steps that it did take were insufficient to compete with Indonesian diplomacy. The Commission finds that Portugal, although committed in theory to the right of the East Timorese people to self-determination, took insufficient steps to assist in the realisation of this right during the period of Indonesian occupation.

Responsibility of the State of Australia

412. The Commission finds that Australia contributed significantly to denying the people of Timor-Leste their right to self-determination before and during the Indonesian occupation. Australia was well-placed to influence the course of events in Timor-Leste. Rather than playing the role of honest broker, between April 1974 and December 1975 it tilted sharply in favour of the Indonesian stance on Timor-Leste, justifying this position by the need to maintain good relations with Indonesia, whose "settled policy" it understood to be the incorporation of the territory by any means. It took this position even though it violated Australia's obligations under international law to support the right of the East Timorese people to self-determination.

413. After the Carnation Revolution, the Government of Gough Whitlam made it clear to President Soeharto that it shared the Indonesian Government's preference that Timor-Leste be incorporated into Indonesia. In his conversations with President Soeharto Whitlam said that Australian policy towards Timor was guided by two principles: its belief that Timor should become part of Indonesia; and its desire that this should happen with the consent of the people of the territory. When it became apparent that these two components of its policy were at odds with each other, the second was sacrificed to the first. Although its contacts with officials in Jakarta and intelligence gathered on the ground in Timor-Leste both made it clear that, if necessary, Indonesia intended to take control of the territory forcibly, Australia raised no objection. Its appeasement of the Soeharto Government extended to a muted response to the deaths of its own nationals in Balibó (Bobonaro) on 16 October 1975 and in Dili on 8 December 1975.

414. The Commission finds that Australian policy towards Indonesia and Timor-Leste during this period was influenced not only by an interest in maintaining good relations with Indonesia, but also by an assessment that it would achieve a more favourable outcome to the negotiations on the maritime boundary in the Timor if it was dealing with Indonesia rather than with Portugal or an independent Timor-Leste on the issue.

415. The Commission also finds from its examination of the documentary record that Australia's presentation of its stance confirmed the Indonesian Government in its resolve to take over the territory of Timor-Leste. Australia's indifference to Indonesia's

actions in pursuit of its goals, including its incursions into the territory, almost certainly had a similar effect. Conversely had Australia given greater weight to the right of the East Timorese to self-determination and to the inviolability of its sovereign territory in its dealings with Indonesia, it may have been able to avert the Indonesian use of force. The Commission finds that during the Indonesian occupation successive Australian governments not only failed to respect the right of the East Timorese people to self-determination, but actively contributed to the violation of that right. After supporting the first resolution in 1975 it abstained from or voted against subsequent General Assembly resolutions recognising the right of the East Timorese people to self-determination. It refused to receive José Ramos-Horta or other Fretilin representatives, and even banned their entry to Australia for a number of years. In 1978 it recognised *de facto* Indonesian control over Timor-Leste, and implicitly gave *de jure* recognition in 1979 when it began negotiations with Indonesia for the delimitation of the maritime boundary between Australia and Timor-Leste. In 1985 it unequivocally gave *de jure* recognition to the integration of Timor-Leste into Indonesia, and in 1989 concluded the Timor Gap Zone of Cooperation Treaty with Indonesia. Australia also provided economic and military assistance to Indonesia during this period and worked as an advocate for the Indonesian position in international fora.

416. Australia played a leading role in the Interfet force that ultimately ended the violence surrounding the ballot in 1999, and has consequently tended to portray itself as a liberator of Timor-Leste. However the Commission finds that even when President Habibie was moving towards his decision to offer the East Timorese a choice between remaining part of Indonesia and independence, the Australian Foreign Minister, Alexander Downer, made it clear that his Government believed that it should be several years before the East Timorese exercised their right to make that choice and that it would be preferable from an Australian point of view if Timor-Leste remained legally part of Indonesia. The actions of the Government of Australia in supporting Indonesia's attempted forcible integration of Timor-Leste was in violation of its duties, under the general principles of international law, to support and refrain from undermining the legitimate right of the East Timorese people to self-determination[14] and to take positive action to facilitate the realisation of this right.[15] According to the Human Rights Committee:

> States must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination.[16]

417. Australia's actions during the period of Indonesia's illegal military occupation of Timor-Leste did, in fact, adversely affect the East Timorese people's ability to exercise their right to self-determination.

Responsibility of the United States of America

418. The Commission finds that the United States of America failed to support the right of the East Timorese people to self-determination, and that its political and military support were fundamental to the Indonesian invasion and occupation. The support

of the United States for Indonesia was given out of a strategically-motivated desire to maintain a good relationship with Indonesia, whose anti-communist regime was seen as an essential bastion against the spread of communism in South-East Asia. President Gerald Ford met President Soeharto twice in 1975. The second meeting was in Jakarta on 6 December, the day before the Indonesian invasion of Dili, when the impending invasion was discussed. The Commission finds on the basis of the available documentary evidence that the United States was aware of Indonesian plans to invade and occupy Timor-Leste. It also finds that the United States was aware that military equipment supplied by it to Indonesia would be used for this purpose. However, in the light of the its assessment of the importance of good relations with Indonesia, the United States decided to turn a blind eye to the invasion, even though US-supplied arms and military equipment were sure to be used.

419. US-supplied weaponry was critical to Indonesia's capacity to intensify military operations from 1977 in its massive campaigns to destroy the Resistance in which aircraft supplied by the United States played a crucial role. These were the campaigns which resulted in severe suffering and hardship to tens of thousands of civilians sheltering in the interior at the time. The campaigns forced the mass surrender of tens of thousands of civilians, whom it then held in the highly restrictive conditions of the resettlement camps where thousands of civilians died from starvation and illness. During the famine of this time US administration officials refused to admit that the primary reason that East Timorese were dying in their thousands was the security policies being pursued by the Indonesian military. Instead they maintained that that the deaths were due to drought, an argument which the Commission finds to have been without merit.

420. Successive administrations, even those such as the Carter administration which made much of its commitment to human rights, were driven by hard-nosed realism in their policy towards Timor-Leste: they all consistently stressed the overriding importance of the relationship with Indonesia and the supposed irreversibility of the Indonesian takeover, even as they acknowledged that the people of Timor-Leste had been denied their right to self-determination.

421. Although the United States suspended its military cooperation programme with Indonesia after the Santa Cruz massacre in 1991, its policy on Timor-Leste on that and other occasions was reactive rather than proactive. In response to the massive violations that occurred in Timor-Leste in September 1999 President Bill Clinton threw the considerable influence of the United States behind efforts to press the Indonesian Government to accept the deployment of an international force in the territory, demonstrating the considerable leverage that it could have exerted earlier had the will been there.

422. In the Commission's view, the support given by the United States to Indonesia was crucial to the invasion and continued occupation of Timor-Leste. This was so not only because weapons and equipment purchased from the United States played a significant role in Indonesian military operations in Timor-Leste, but also because it never used its unique position of power and influence to counsel its Indonesian ally against embarking on an illegal course of action.

423. The actions of the Government of the United States of America in supporting Indonesia's invasion of Timor-Leste was in violation of its duties, under the general principles of international law, to support and refrain from undermining the legitimate right of the East Timorese people to self-determination[17] and to take positive action to facilitate the realisation of that right.[18]

Responsibility of the United Nations

424. The Commission finds that the United Nations took inadequate action to protect the right of the East Timorese people to self-determination during the period of the invasion and military occupation.

425. The General Assembly passed a resolution on the situation in Timor-Leste every year from 1975 until 1982. During this period the texts of the resolutions became increasingly weak and the number of countries voting in favour of them steadily diminished until in 1981 only about one third of the member states voting on the resolution supported that year's resolution.* In 1982, in a calculated move designed to the keep the question of Timor-Leste alive at the United Nations amid unmistakable signs of growing member-state apathy, the overseas representatives of the Resistance and their supporters at the United Nations narrowly managed to secure the General Assembly's approval of a resolution referring the question to the "good offices" of the Secretary-General who was to consult "all parties directly concerned". Although this mechanism almost entirely excluded East Timorese voices and its direct impact in securing the right of the people of Timor-Leste to self-determination was negligible, it was supported by the efforts of members of the UN Secretariat staff and latterly of the Secretary-General, Kofi Annan, and contributed to keeping the question of Timor-Leste on the United Nations' agenda, which was to prove particularly important in 1998–1999.

426. The Security Council, as the organ of the United Nations with primary responsibility for the maintenance of international peace and security (Article 24(1) United Nations Charter), was best placed to address the situation in Timor-Leste. Although the Security Council condemned the Indonesian invasion in 1975 and again in 1976, it did not find a violation or threat to international peace and security. The Commission considers that there is no question that it would have been entitled to do so under Article 39 of the United Nations Charter and therefore would have been entitled to take enforcement action under Chapter VII. After 1976 no further Security Council resolutions were passed on the question of Timor-Leste until May 1999, when the Council endorsed the 5 May Agreements between Indonesia, Portugal and the United Nations.

427. Under Article 24(2) of the United Nations Charter the Security Council is required to act in accordance with the purposes and principles of the United Nations set out in Articles 1 and 2 of the Charter. Those purposes and principles include the following:

- The maintenance of international peace and security (Article 1(1))
- The development of friendly relations among states based on respect for the principle of equal rights and self-determinations of people (Article 1(2)), and

* See the chart which represents General Assembly voting on East Timor resolutions, in Vol II, Part 7.1: The Right to Self-Determination.

- The promotion and encouragement of respect for human rights and fundamental freedoms (Article 1(3)), and
- The sovereign equality of all member states (Article 2(1)).

428. The Commission finds that by failing to take any enforcement action, and by taking no further action between 1976 and 1999, the Security Council failed to act in accordance with the principles and purposes of the United Nations, and with the specific duties set out in the Charter of the organisation.

429. Moreover, the Commission finds that for most of the period of the Indonesian occupation the five permanent members of the Security Council – the United States, the USSR/Russia, China, the UK and France – as well as states such as Japan, which were non-permanent members at crucial times during the mandate period, put economic and strategic interests above the purposes and principles of the United Nations, which as members of the Security Council they had a duty to uphold. Like the United States, by sanctioning the sale to Indonesia of arms which were used against the Resistance and the civilian population in Timor-Leste, the UK and France were directly involved in supporting an illegal occupation and suppressing the right of the people of the territory to self-determination.

Annexe 1: Responsibility of the Indonesian security forces for violations committed in 1999

Introduction

430. The historical background to the 1999 Popular Consultation is dealt with in detail in Vol. I, Part 3 of the Report: The History of the Conflict.

Evidence considered

431. Statements from victims and witnesses received by the Commission reported 15,681 human rights violations committed in Timor-Leste in 1999. In addition the Commission considered evidence provided in interviews with victims and witnesses, including former serving officers with the TNI, the Indonesian police, former militia members and Indonesian government officials. The Commission was also given access to specific files and statements it requested from the Serious Crimes Unit, which was established by the UNTAET mission and has been under the authority of the Prosecutor General of Timor-Leste since independence. These documents included files and statements used in drawing up indictments for crimes against humanity committed in Timor-Leste during 1999. The UNTAET and UNMISET Human Rights Unit also cooperated with the Commission by providing access to materials relevant to violations committed during 1999.

432. The Commission also closely considered the submission provided by the United Nations Office of the High Commissioner for Human Rights (OHCHR), entitled

East Timor 1999: Crimes Against Humanity, a Report Commissioned by the United Nations High Commissioner for Human Rights, written by Dr Geoffrey Robinson of the University of California, Los Angeles (USA) at the request of the OHCHR. Dr Robinson had access to the files of the UNTAET mission's Human Rights Unit, the statements and other documents compiled by the Deputy Prosecutor for Serious Crimes, the collection of documents recovered from burned-out TNI installations and other sites by the leading East Timorese human rights NGO Yayasan HAK (The Rights Foundation), as well as himself conducting interviews with victims, witnesses and other sources. The Commission has also had access to much of the documentary material considered by Dr Robinson and has reached many similar conclusions based on these sources, and drawn significantly on the evidence presented in his report. The Commission finds the methodology used in compiling the submission from the UN High Commissioner for Human Rights to be thorough, objective and highly professional. The "Robinson Report", referred to in this Report generally as "Robinson, OHCHR Submission to the CAVR", is reproduced in its entirety as an annexe to this Report.

433. A summary of perpetrator responsibility according to the human rights violations reported to the Commission by witnesses and victims is included in the following Table. A complete set of tables showing the number and percentage of violations attributed to various institutional perpetrators is annexed to this part of the Report.

Table 15: Reported violations by major perpetrator groups, 1999

	Total number of violations reported to the CAVR	Total violations by Indonesian Military, Police & Timorese Auxiliaries	Total violations by Fretilin/Falintil	Others
All violations	15,681	14,922	129	630
	100%	95.20%	0.80%	4.00%
Illegal killings	840	761	31	48
	100%	90.60%	3.70%	5.70%
Disappearances	60	51	2	7
	100%	85.00%	3.30%	11.70%
Torture and ill-treatment	4,324	4,083	52	146
	100%	94.4	1.20%	3.40%
Detention	2,779	2,634	24	121
	100%	94.80%	0.90%	4.40%
Ill-treatment	2,098	1,982	8	108
	100%	94.50%	0.40%	5.10%
Sexual violence	142	136	2	4
	100%	95.80%	1.40%	2.80%

Forced displacement	2,111	2,070	0	41
	100%	98.10%		1.90%
Forced recruitment	392	390		2
	100%	99.50%		0.05%
Property/ economic violations	2,766	2,673	9	84
		96.60%	0.30%	3.10%

(Note: Because more than one perpetrator group may have been involved in a particular violation the percentages may not total 100%)

Table 16: Breakdown of responsibility of Indonesian security forces, according to reported violations, 1999

	Total violations by Indonesian Military, Police & Timorese Auxiliaries	Timorese Auxiliaries acting alone	Indonesian Military & Police acting alone	Indonesian Military and Police acting together with Timorese Auxiliaries
All violations	14,922	8,827	2,198	3,822
	95.20%	56.30%	14.00%	24.40%
Illegal killings	761	417	84	258
	90.60%	49.60%	10%	30.70%
Disappearances	51	29	15	7
	85.00%	48.30%	25%	11.70%
Torture and ill-treatment	4,083	2,310	805	968
	94.4	53.40%	18.60%	22.40%
Detention	2,634	1,209	529	890
	94.80%	43.50%	19%	32%
Ill-treatment	1,982	1,173	341	465
	94.50%	55.90%	16.30%	22.20%
Sexual violence	136	93	31	11
	95.80%	65.50%	21.80%	7.70%
Forced displacement	2,070	1,264	187	607
	98.10%	59.90%	8.90%	28.80%
Forced recruitment	390	283	32	71
	99.50%	72.20%	8.20%	18.30%
Property/economic violations	2,673	1,910	32	563
	96.60%	69.10%	8.20%	20.40%

(Note: Because more than one perpetrator group may have been involved in a particular violation the percentages may not total 100%)

The responsibility of Indonesia for maintaining security and protecting the population

434. Under the 5 May Agreements in 1999 between Indonesia, Portugal and the United Nations, Indonesian security forces were given responsibility for "maintaining peace and security in East Timor in order to ensure that the popular consultation [was] carried out in a fair and peaceful way in an atmosphere free of intimidation, violence or interference from any side".[19] The agreement further stated that:

> A secure environment devoid of violence or other forms of intimidation is a prerequisite for the holding of a free and fair ballot in East Timor. Responsibility to ensure such an environment as well as for the general maintenance of law and order rests with the appropriate Indonesian security authorities. The absolute neutrality of the TNI (Indonesian Armed Forces) and the Indonesian Police is essential in this regard. [20]

435. Although under the 5 May Agreements, sole responsibility for the maintenance of law and order was given to the Indonesian police service,[21] in practice the police remained subordinate to the TNI even after the restructuring of 1 April 1999.*

436. Following the announcement of the result of the ballot on 4 September 1999, the TNI once again assumed control over security in Timor-Leste.[22] On 6 September the Indonesian President, B.J. Habibie, ordered the imposition of martial law, to begin at 12 midnight on 7 September.[23] After that time the TNI had complete responsibility for the maintenance of law and order in Timor-Leste. This responsibility did not end until the arrival of the UN-sponsored multilateral force, Interfet, on 20 September 1999.

Perpetrators of violations

437. Members of the Indonesian military, police and East Timorese auxiliaries of the TNI (including militia groups) were identified as the perpetrators in 14,922 (95.2%) of all violations reported to the Commission as having been committed in 1999.

438. For the purposes of determining responsibility, the Commission has grouped together the violations committed by the TNI, the Indonesian police and East Timorese auxiliaries, including the militias, because of the overwhelming evidence that the TNI played a major role in creating the militia groups, and was responsible for arming, funding, directing and controlling them. The evidence supporting this finding is set out in detail below.

* On 1 April 1999 a decision on the restructuring of the Indonesian security forces came into force. Its effect was formally to separate the three branches of the armed forces (the army, the navy and the air force) from the police. ABRI therefore formally ceased to exist, and the three armed services were jointly named the Tentara Nasional Indonesia (TNI). However, the Minister of Defence (at the time General Wiranto) retained authority over both the TNI and the police, and as noted in the text, the separation of the police from military services did not in fact end its long-established subordination to the army, as was evident in Timor-Leste during the following months of 1999.

439. Only a small proportion of violations were committed by persons identified by their affiliation to Fretilin, Falintil, UDT, Apodeti or other groups.*

Responsibility of the TNI for the violations

440. Members of the TNI were involved in the overall planning and coordination of the violations committed in 1999. They were also frequently involved in their direct perpetration. In addition they were responsible for the actions of the militia groups which they directed and controlled.

Members of the TNI as direct perpetrators of violations

441. Major incidents in which members of the TNI were directly involved, acting either alone or with the militias they commanded, included the following.

- On 6 April 1999, approximately 2,000 civilians who had sought refuge in the Liquiçá Church were attacked by Besi Merah Putih militia, together with soldiers from the Liquiçá District Command (Kodim) and members of the police mobile brigade (Brimob). Between 30 and 100 civilians were killed, many of whose bodies were taken away and disposed of in secret locations.
- On 12 April 1999, in retaliation for an alleged Falintil killing of a TNI soldier and a pro-autonomy leader, hundreds of civilians in the villages in the sub-district of Cailaco (Bobonaro) were rounded up and required to attend the funeral of the pro-autonomy leader. At least seven suspected pro-independence supporters were executed by TNI soldiers and Halilintar militia at the Sub-district Military Command (Koramil) post 100 metres from the mourners. At least another 13 men were executed in various locations during the following weeks.
- On 17 April 1999, a pro-autonomy rally was held in front of the Governor's Office in Dili attended by the Governor, the District Administrator of Dili, the Sub-Regional military commander for Timor-Leste, Colonel Tono Suratman, the Assistant for Operations to the Army Chief of Staff, Major General Kiki Syahnakri, and four other senior military officers. During the rally the East Timorese leader of the Aitarak militia group publicly urged his followers to kill pro-independence supporters. Immediately after the rally members of the militia and the security forces went to the nearby house of a prominent pro-independence figure, Manuel Carrascalão, where approximately 150 displaced persons had sought refuge. They killed at least 12 unarmed civilians who were seeking shelter in the house.[24]
- On 6 September 1999, members of Laksaur militia, together with members of Indonesian security forces, attacked thousands of refugees who had sought safety in the Suai Church in the district of Covalima. At least 40 and possibly as many as 200 people were killed, including three priests.[25] The bodies were

* Although the political parties UDT and Apodeti were no longer formally in existence in Timor-Leste after 1976, many people continued to identify perpetrators as affiliated to those parties, even up until 1999.

burned, and some were transported across the border to be buried in West Timor, Indonesia.

- Following the massacre at the church in Suai, approximately 125 surviving women and children were detained by Laksaur militia with the assistance of members of the TNI. Many of the women were raped. The survivors were forcibly deported to West Timor where many more were raped or subjected to sexual slavery.
- On 5–6 September 1999, Aitarak militia, together with members of the TNI, attacked hundreds of people who had sought refuge at a number of sites in Dili, including the house of Nobel Laureate Bishop Carlos Ximenes Belo, the Diocesan Offices, convents, and the Dili office of the International Committee of the Red Cross. At least 19 civilians were killed or disappeared from these places of refuge. The previous day, on 4 September, the TNI and militia carried out attacks on the community in Becora, a pro-independence neighbourhood in the east of Dili, killing at least seven men.
- On 8 September 1999, Dadurus Merah Putih and other militias, under the command of Indonesian security forces, attacked people who had sought refuge in the Maliana police station. Before the attack, leaders of the pro-independence umbrella organisation, the CNRT, pleaded with members of the Indonesian police to protect them. But the police remained sequestered in a section of the building and ordered them to go away. At least 26 civilians were killed or disappeared, mostly local CNRT leaders and suspected pro-independence supporters, including one 12 year-old boy. They included people who had escaped from the police station but who had been hunted down and killed in the following days. The bodies were transported to a secret location and disposed of.
- On 10 September 1999, the Sakunar militia, acting under the direction of the TNI, brought civilians from three villages in Oesilo, Oecussi to West Timor, Indonesia, on the pretext that they would be safer there. Once inside Indonesia, TNI and militia separated 50-70 young men who were selected on the basis that they had received some high-school education. The victims were tied together and brought back into Oecussi, where they were lined up and executed in a river-bed in Passabe.
- On 12 September 1999, Laksaur militia and members of the TNI attempted forcibly to deport villagers from the village of Laktos (Fohorem, Covalima) to West Timor, Indonesia. Fourteen men who resisted were killed.
- During 20–21 September 1999, TNI soldiers from Battalion 745 randomly shot civilians during their retreat from Lospalos (Lautém) to Dili. At least 21 civilians, including a Dutch journalist, were killed or disappeared by members of Battalion 745 as it retreated through Lospalos, Baucau, and Dili.
- On 23 September 1999, members of the Mahidi militia, supported by the TNI, opened fire on a group of villagers from Maununu Village, Ainaro District, whom they had rounded up for deportation to West Timor, killing 11 persons, including women and children.
- On 20 October 1999, Sakunar and Aitarak militias and members of the TNI, while rounding up villagers from Maquelab (Pante Makassar, Oecussi) for

deportation to West Timor, separated and executed a total of six men in the Maquelab market. Another six were killed later during an attack on the village.

442. In addition to these major incidents, the Commission received a large number of reports of individual violations perpetrated by members of the TNI, either acting alone or with East Timorese militiamen. Among these were reports of numerous rapes, sometimes carried out repeatedly over a period of days, in the context of the general campaign of terror before and after the ballot or during forced deportations after the ballot. The Commission received more than 4,000 reports of torture and ill-treatment carried out by or with the involvement of the TNI or Indonesian police. It received some 731 separate reports of property damage or other economic violations carried out with the involvement of the TNI and police (see Vol III, Part 7.4: Detention, Torture and Ill-Treatment).

443. The evidence provided by victims and witnesses in interviews with the Commission, and the statistics compiled from statements compiled by the Commission strongly support the finding that members of the TNI were directly involved in a large number of serious violations during 1999.

The responsibility of the TNI for the actions of militia groups

444. TNI responsibility for the actions of militia groups has three bases. First the TNI was involved in designing, recruiting, funding, arming and training militia groups. Secondly it participated in joint operations with militia groups. And thirdly, knowing the nature and scale of the violations being committed, it failed to take effective action to prevent further violations or to punish the perpetrators.

The role of the TNI in creating and supporting the militias

445. In creating the militias the TNI drew heavily on the variety of East Timorese auxiliary forces that it had developed over the years since 1975. Several of the militia groups had in fact been in existence for a decade or more. Other militia groups recruited their leadership from officially-sponsored "civil defence" and pro-integration groups such as Wanra, Hansip and Gadapaksi. A military document dated April 1998 shows that 12 paramilitary "teams", covering every district of Timor-Leste except Dili and Oecussi, were then in existence. The pre-existing structures greatly facilitated the formation of new groups and the expansion of existing ones, and help explain the speed with which the militias were mobilised in 1999.

446. Senior Indonesian army officers were involved in the planning, formation and recruitment of the militias. Three senior commanders who played a significant role in forming the militia groups were Major General Adam Rachmat Damiri, the commander of the Udayana Regional Military Command (Kodam IX/Udayana) which covered several provinces of central and eastern Indonesia, including Timor-Leste, Colonel Suhartono Suratman who was the TNI Commander of the Sub-Region (Korem) of Timor-Leste, and Lieutenant Colonel Yayat Sudrajat a Kopassus officer who was the commander of the intelligence task force Satgas Tribuana VIII which was deployed in Timor-Leste in

early 1999. The Commission was given access to materials collected by UN international investigators working for the Serious Crimes Unit in Dili. The Commission believes the witness statements taken by the UN investigators provide highly reliable evidence. It is satisfied that the statements of eyewitnesses and participants at meetings between pro-integration figures and senior members of the TNI and the central and local governments are accurately summarised in the following passages from the indictment of eight senior Indonesian officials filed by Timor-Leste's Deputy General Prosecutor for Serious Crimes in February 2003.[26]

1. In or about August 1998 [the commander of Region IX Udayana, Major General] Adam Rachmat Damiri arranged for a pro-Indonesian East Timorese leader to fly from Timor-Leste to Denpasar, Bali for a meeting. At this meeting, Damiri told the East Timorese leader to establish a group to promote integration.
2. In or about August 1998, Damiri travelled to Dili and met with TNI commanders and pro-Indonesian East Timorese leaders. [The commander of Korem 164, Colonel] Suhartono Suratman was present at this meeting. Damiri told the group that international attention was focused on Timor-Leste and this was a problem for Indonesia. He told them that they needed to come up with a plan for creating organisations that would spread pro-Indonesian sentiment throughout Timor-Leste. He told them that they must form a solid civil defence force based on previous TNI-supported models and that this force should be expanded and developed to protect integration.
3. In or about November 1998, Damiri travelled to Timor-Leste. During this visit he again met with pro-Indonesian East Timorese leaders in Dili, including individuals who later became leaders of militia groups. Damiri asked the men to join together and assist TNI to fight the pro-independence group Revolutionary Front for an Independent East Timor [Frente Revolucionaria de Timor Leste Independente, Fretilin]. During this meeting with pro-Indonesian leaders, Damiri praised future militia leader Eurico Guterres as being a young man eager to fight for integration and said that he was willing to give Guterres 50 million rupiah to begin his work.
4. In or about November 1998, Suratman met with pro-Indonesian East Timorese leaders at his headquarters in Dili. [Tribuana commander, Lieutenant Colonel] Yayat Sudrajat was present at this meeting. Suratman told the group that he wanted future militia leader Eurico Guterres to form a new organisation to defend integration similar to the pro-Indonesian youth organisation Gadapaksi.
5. In early 1999, [Major General] Zacky Anwar Makarim [who was head of the armed forces intelligence agency, BIA, until January 1999] received the founding members of the pro-Indonesian East Timor People's Front [Barisan Rakyat Timor Timur – BRTT] at his office in Jakarta. During the meeting he said that guerrilla warfare would be necessary to overcome independence supporters if the autonomy option lost at the ballot.
6. In or about February 1999, Damiri met with pro-Indonesian East Timorese leaders at Regional Military Command IX headquarters in Denpasar, Bali. Damiri told the men that TNI was ready to give secret support to pro-Indonesian forces. He explained that it must be secret in order to avoid international scrutiny and criticism. Damiri asked the men to gather East Timorese who had

served in TNI. He told them that they should meet with Suratman for further instructions.

7. In or about February 1999, Suratman met with a pro-Indonesian East Timorese leader in Dili. He told him that because TNI was under a reformist regime, it could not take part in open operations against the independence movement. Suratman asked the pro-Indonesian leader to form a militia group. Suratman said that TNI was willing to provide any form of assistance required by militia groups.
8. In early 1999, [the Governor, Abilio] Soares encouraged the District Administrators [Bupati] to form militia groups in their districts. Some of these District Administrators became militia leaders.

447. In early 1999 the then TNI Timor-Leste (Korem) Chief of Staff, Lieutenant Colonel Supardi, was quoted as saying that the TNI had recruited 1,200 militiamen and would continue recruitment until March.[27] In addition to using financial incentives to encourage recruitment, the TNI used threats and coercion. Targets were established for the recruitment of militia members in each district, of approximately 10 men per village.[28] There are approximately 450 villages in Timor-Leste.

TNI endorsement of the militias

448. Members of the TNI and the Indonesian administration conferred official status on the militias. They did this, for example, by attending and addressing audiences at militia inauguration ceremonies and rallies throughout Timor-Leste. The Sub-Regional Korem commander, Colonel Suratman, met and gave "guidance" to members of the Besi Merah Putih (BMP) militia at the Liquiçá District Military Command (Kodim) headquarters on 16 April 1999, ten days after the massacre of civilians by members of the BMP, TNI and police at the Liquiçá Church, and one day before the militia attacks in Dili in which BMP militia also took part.[29]

449. As already noted, the Timor-Leste Sub-Regional Military Commander, Colonel Suratman and other military officers, including the then Assistant for Operations to the Army Chief of Staff, Major General Kiki Syahnakri, were present at the rally in front of the Governor's Office in Dili, on 17 April, at which militia leader Eurico Guterres addressed militiamen and encouraged them to kill "those who have betrayed integration".[30] The subsequent killings are also referred to above.

450. TNI officers attended and participated in militia inauguration ceremonies in Cassa (Ainaro) on 12 December 1998; Same (Manufahi) on 11 March 1999; Viqueque (Viqueque) on 11 March 1999; Dili (Dili) on 17 April 1999; Maliana (Bobonaro) in April 1999; Suai (Covalima) in mid-April 1999; Oecussi, (Oecussi) on 1 May 1999; Lolotoe (Bobonaro) on 10 May 1999; Laclubar (Manatuto) on 18 May 1999; and Gleno (Ermera) in April or May 1999. The District TNI commander, district police commander and district administrator attended and participated in these ceremonies in their respective districts. *

* See, for example, Kodim 1631/Manatuto, Secret Daily Situation Report, 12 May 1999 [Yayasan HAK Collection, Doc No. 23].

The recognition of militias as part of the formal security structure

451. In addition to these public demonstrations of support, the Indonesian authorities gave the militias official endorsement by treating them as part of the formal auxiliary military structure. In official internal communications, militia groups were regularly referred to as being part of existing civil defence groups, Wanra, Hansip or Ratih. A letter signed by a Kopassus officer in the district of Baucau, dated March 1999, refers to the militia groups Saka, Sera, and Alfa as "Ratih".[31] From April 1999, militia groups were also officially recognised as Pam Swakarsa (voluntary civil security organisations).[32] Classifying the militias as officially-recognised civil defence groups was intended to provide a legitimate basis for TNI and government support to them. In fact it provided evidence that the TNI and Indonesian government recognised the militia groups as official organisations acting under the authority of the government.

452. The official recognition of the militia groups extended all the way up to the Commander of the Armed Forces, General Wiranto, who described the militia forces as consisting of an "armed force" with a larger supporting base of "militant supporters". The degree of control exerted by the TNI over the militias is reflected in its knowledge of the exact number of weapons they possessed. General Wiranto was cited in the Report of the Indonesian Commission on Human Rights in East Timor (Komnas HAM) as saying:

> The armed force is about 1,100 people with 546 weapons of various kinds, including assembled (home-made) weapons; they are joined in pro-integration organisations. The mass of militant supporters is 11,950 people, joined in opposition organisations like Besi Merah Putih, Aitarak, Mahidi, Laksaur Merah Putih, Guntur Kailak, Halilintar, Junior, Team Pancasila, Mahadomi, ABLAI and Red Dragon [sic].[33]

Participation of TNI personnel in militia groups

453. The close connection between the TNI and the militias is most clearly demonstrated by the overlap in their memberships. Many militia members were enlisted TNI soldiers, a fact that has been confirmed through official Indonesian military and government documents.

- In August 1999, UNAMET officials issued a formal complaint to the chief of the Indonesian government task force responsible for liaising with the UN mission, Agus Tarmidzi, and to Major General Zacky Anwar Makarim, the military representative on the task force, that TNI personnel, specifically two named sergeants serving in the Bobonaro District Command, were also serving in the Dadurus Merah Putih (DMP) militia group.* Major General Makarim acknowledged that the two men were indeed members of both the TNI and the DMP militia. In answer to the UNAMET complaint he stated that the two men

* Sergeant Domingos dos Santos and Sergeant Julião Gomes were named in the letter as being active in the militia.

had been confined to barracks. UNAMET officers stationed in Bobonaro found that this was in fact not true.[34]

- A 1998 document which lists 49 members of the Makikit militia in the district of Viqueque stated that six of the militia members were also members of TNI Infantry Battalion 328.
- A letter from the Aitarak militia leader, Eurico Guterres, to the TNI Dili Military District Commander (Dandim) openly requested that a particular TNI intelligence operative, 1st Sergeant Elizario da Cruz, be given permission to serve with the Aitarak militia for an indefinite period.[35]
- An official list entitled "List of Members of the Pusaka Special Company, Kodim 1628/Baucau", from the District Military Command in Baucau (Kodim 1628/Baucau), dated 3 February 1999, shows that all 91 members of the Team Saka militia group in the district of Baucau were TNI soldiers, and gives their military rank and serial numbers. The list refers to the militia group as a "special company" of the TNI Baucau District Command (Kodim 1638). The commander of this militia group, Joanico Césario Belo, was concurrently a sergeant 1st class in the Special Forces (Kopassus) and the Regional Commander of Sector A of the national militia umbrella group the PPI (Pasukan Pejuang Integrasi).
- A document setting out the wages paid to members of the Aitarak militia in Dili, dated 24 August 1999, describes payments made to 96 members of the militia group who were either TNI members or government civil servants.*
- The Commission received evidence that the following militia groups were commanded by TNI personnel, most of them linked to Kopassus:
- DMP (Dadurus Merah Putih), based in Bobonaro, was commanded by Sergeant Domingos dos Santos
- Team Alfa (also known as Jati Merah Putih, JMP), based in the district of Lautém, was led by Kopassus Sergeant Syaful Anwar and Lieutenant Rahman Zulkarnaen (Kopassus commander for Lautém District)
- Team Saka, based in the district of Baucau, was commanded by Joanico Césario Belo, who was a Kopassus sergeant
- Team Morok, based in the district of Manatuto, led by TNI member Filomeno Lopes da Cruz.

Violations committed by members of the TNI together with militia groups

454. The Commission received strongly corroborated evidence demonstrating that it was common practice for members of the TNI to accompany militias during operations and that on many of these occasions the TNI officers ordered members of the militia to commit violations. In most cases the militia members obeyed these orders. In a smaller

* According to the report, the 96 were each paid Rp.120,000. [See: Memorandum from Treasurer to Eurico Guterres concerning Aitarak budget, 28 August 1999, SCU Collection, Doc #79].

number of reports witnesses stated that when militia members did not obey the orders of the TNI to commit a violation, the TNI members carried out the act themselves.

455. Victims and witnesses provided testimony in statements to the Commission of over 2,000 different violations in which they identified members of the TNI and militia members acting together as perpetrators. The cases reported included 761 cases of illegal killings, 968 cases of torture and mistreatment, 883 cases of arbitrary detention, 553 cases of property and economic violations and 11 cases of sexually-based violations.

456. Drawing on the testimony of rape survivors whom they interviewed during a field visit in late 1999, the combined team of UN Special Rapporteurs reported in late 1999 that:

> [O]n many occasions no distinction could be made between members of the militia and members of the TNI, as often they were one and the same person in different uniforms.[36]

457. An East Timorese former TNI soldier told the Serious Crimes Unit that during the attacks after the announcement of the results of the ballot:

> Combined Aitarak militia and TNI burned houses down in Metinaro Sub-district. The houses were burned down at random…That was because we were not allowed to leave anything from Indonesia behind in favour of the East Timorese pro-Independence people…The orders were still the same: if autonomy lost, East Timor would go back to zero…I knew that things were bad in Dili because we saw [an] enormous [amount of] smoke above Dili. We couldn't identify anymore who was TNI and who was militia, the militia were using the same weapons as the TNI.[37]

TNI directing the actions of the militias

458. In addition to the TNI soldiers who were members of militia groups many officers had roles in directing the militia. The Commission received many reports that members of the TNI who accompanied militia members during incidents in which victims were killed, tortured or suffered other violations, were directing the militias. The Commission accepts the evidence provided by many eyewitnesses, including former members of the TNI and militias, that the TNI directly controlled the actions of militia groups. The Nobel Peace Laureate, Bishop Carlos Ximenes Belo, described the attack on his house on the morning of 6 September:

> Then at approximately 9.15 a Lieutenant Colonel from Kostrad arrived…He asked: "How is the situation here?" I answered that we wanted protection to stop the militias from attacking…but others in my house heard the Lieutenant Colonel…arriving at the end of the road… He shouted at the militias that were waiting there: "Attack now, attack now! If you don't, I'll kill you." At approximately 9.30 they started to ride

> around my house on motorcycles, screaming and throwing stones…The youth at my house later told me the police themselves threw gasoline on the fire at the time.[38]

TNI arming of militias

459. The TNI also provided the militias with training, weapons and operational support. The role of the TNI in arming and training militias has been confirmed by numerous sources including Indonesian government and military documents and highly corroborated eyewitness testimony.

460. In early February 1999, the Army Chief of Staff, General Subagyo Hadisiswoyo, said that the army was arming "Wanra" auxiliaries to help the armed forces secure Timor-Leste.[39] In mid-February the armed forces spokesman in Jakarta, General Sudradjat, confirmed that guns had been distributed to the militias but insisted that "we only give weapons to those we trust".[40]

461. At about the same time the leader of the Mahidi militia in the district of Ainaro, Cancio Lopes de Carvalho, told journalists that the TNI had given his group 20 Chinese-made SKS automatic weapons in late December 1998, which had then been used to carry out a number of deadly attacks on nearby villages.[41]

462. The list of the 91 members of Team Saka militia in the district of Baucau referred to above also detailed the type and registration number of the weapons assigned to members of the group. The weapons listed include: 1 PMI/Pindad, 19 G-3s, 56 SP-IIs, 10 SP-Is, 1 FNC, 1 M16A1, 1 AK, and 1 Mauser. The document is signed by Joanico Césario Belo, who is identified as a First Sergeant and Commander of the Pusaka Special Company.[42]

463. A document entitled *List of Team Makikit Members Authorised to Carry Weapons*, prepared by the TNI District Military Command (Kodim) in Viqueque, lists more than 49 members of the Makikit militia and specifies the type and registration number of the weapon assigned to each member. The weapons listed include 3 M16A-1s, 35 SP-1s, and 11 Garands. Although there is no date on the document, a note in the margin states that it was found at the Kodim headquarters in Viqueque on 28 October 1998.[43]

464. In April 2000 a leader of the Sakunar militia group in Oecussi, Laurentino Moko, reportedly testified in an Indonesian court that he had been given guns in 1999 by two Kopassus officers.[44]

465. In his trial for crimes against humanity before the Special Panels of the Dili District Court, the Team Alfa militia leader Joni Marques testified that he had been trained by Kopassus since 1986, and had received weapons from Kopassus officers after the 30 August ballot.[45] Marques and others were convicted of crimes against humanity for the killing of nuns, priests and others on 25 September 1999. In its judgment in the case the Dili District Court concluded: "Kopassus Special Forces provided weapons and training to the members of Team Alfa".[46]

TNI training of militias

466. In a telegram to all TNI District Commanders dated 13 April 1999 and marked "secret", Colonel Suratman, the Sub-Regional (Korem) commander for Timor-Leste recognised that the militias (referred to as "Ratih") were being trained by TNI personnel in all districts. This provides strong evidence that the programme of support of the militias was being controlled and conducted from at least the level of the Timor-Leste Command. Colonel Suratman ordered the District Commanders to:

> Carry out security precautions and activities in the context of each Ratih training session to ensure that such activities proceed smoothly [and] insist on strict order and discipline in order to prevent any losses, physical or non-physical, inside and outside the training unit.[47]

467. In another document, identified as a TNI intelligence report from the Liquiçá District Military Command (Kodim), dated 18 April 1999, the writer described a visit by Colonel Suratman to that district. The document states that Suratman addressed a large gathering of Besi Merah Putih militia members who had gathered at the TNI Sub-district Military Command (Koramil) post at Maubara (Liquiçá) only two weeks after members of the same militia group, together with TNI and police, had killed scores of unarmed civilians in the Liquiçá Church compound.

> On 16 April 1999 at 1400 hours, the Dan Rem 164/WD [Commander of the Sub-Regional Command, Colonel Suratman] and his entourage arrived at the Kodim headquarters in Liquiçá. Later he visited Koramil post 1638/Maubara in order to offer words of guidance to some 500 BMP members there.[48]

Official use of TNI installations by militia groups

468. In a telegram dated 18 April 1999, the TNI Commander of the Dili Military District Command (Dandim), Lieutenant Colonel Endar Priyanto, reported to his superior officer, Colonel Tono Suratman, that:

> At 1315 hours on 18 April 1999 one element of the Aitarak forces finished their cleansing operation and returned to Company B of Battalion 744/SYB where they joined the other Aitarak groups who had gathered there earlier. They then returned to the Tropical Hotel.[49]

469. This report is dated just one day after the militia rally in front of the Governor's Office in Dili where the militia leader Eurico Guterres, in the company of senior TNI and government officials, exhorted members of the militias to kill independence supporters. The report refers to militia using the TNI base as an assembly point before and after "cleansing operations" just one day after the deadly attacks carried out after that rally, in which militia killed at least 12 people at the Dili home of Manuel Carrascalão.

470. In the district of Lautém, Kopassus (Special Forces) shared its headquarters with the Team Alfa militia group and provided it with logistical support and transportation.

471. In at least two sub-districts in the district of Covalima the Laksaur militia headquarters were located inside the sub-district military headquarters (Koramil). A UNAMET team visited one of these militia bases inside the official TNI compound in June 1999. [50]

472. In Liquiçá, the Koramil in Maubara also served as the Besi Mera Putih militia headquarters.

473. Militia groups used official TNI headquarters as their bases across the entire territory.[51]

474. Weapons were provided, and control over their use maintained by the TNI.[52] The Commission received many reports of militias being armed with modern weapons of the same make and model used by Indonesian military and police.[53]

475. The Commission reviewed and accepted evidence in witness statements and documents collected by the Deputy General Prosecutor for Serious Crimes in Timor-Leste concerning a meeting in March 1999 whose participants included Colonel Suhartono Suratman and Lieutenant Colonel Sudrajat, the Kopassus officer who was in command of the intelligence task force Satgas Tribuana VIII, and the civilian governor Abilio Soares.[54] At the meeting Abilio Soares told pro-autonomy leaders that the TNI and he would supply them with weapons and funding. Weapons were subsequently delivered to militias by Lieutenant Colonel Sudrajat.

476. In April 1999, Major General Zacky Anwar Makarim, who was the military representative on of the PT33 task force assigned to provide liaison with the UNAMET mission, offered to supply militia groups with automatic weapons and gave instructions to Colonel Suratman for this to be done. Colonel Suratman ordered Lietenant Colonel Sudrajat to organise the distribution of firearms. Weapons were subsequently supplied to the militias by Kopassus personnel.[55]

Provision of financial and material support by the TNI and other agencies

477. There is substantial evidence indicating that the Indonesian civilian and military authorities funded the militias and provided resources for their use. An estimated US$5.2 million was spent on the "socialisation" programme aimed at convincing the population that they should vote to remain with Indonesia. Approximately US$400,000 was allocated per district. A portion of this amount was set aside for the payment of militia groups through the Indonesian civilian administration.[56] Standard budgets for the "socialisation of autonomy" were drawn up by each district, containing allocations for the militias, and submitted to the Governor for approval.[57] Additional funds were provided through other arms of the Indonesian government and the TNI.

478. The Commission has inspected a number of documents which contain budgets and militia claims, signed by militia leaders, addressed to both government officials and TNI

officers. It is satisfied that the funding for the militia groups was drawn substantially from the allocation of funds from the World Bank "social safety net" programme, which was supposed to be delivered to vulnerable groups.[58]

479. There is also evidence that the pro-integration political groups, the FPDK (Forum Persatuan Demokrasi dan Keadilan, United Forum for Democracy and Justice) and the BRTT (Barisan Rakyat Timor Timur, People's Front of Timor-Leste), both of which had close ties to the civil administration, were used to channel funds from the government and the military to the militia (see Vol 1, Part 4: The Regime of Occupation).[59]

480. The FPDK was chaired by the district administrator of Dili, Domingos (Koli) Maria das Dores Soares, while the BRTT's chairman was Francisco Lopes da Cruz, the former UDT president who had been Deputy Governor of Timor-Leste in the early years of the occupation and who in 1999 was a roving ambassador with a brief to promote Indonesia's case on Timor-Leste internationally.[60]

Ability of the TNI to control the militias and the level of violations committed

481. The supreme commander of the TNI, General Wiranto, himself appeared to indicate on a number of occasions that the TNI were in a position to order the immediate disarming of militias if they wished to do so. In his statement to the Serious Crimes Unit, the Special Representative of the UN Secretary-General in the UNAMET mission, Ian Martin, stated that during a meeting on 7 July 1999 in Jakarta:

> I clearly recall General Wiranto telling me that if Falintil was ready to surrender its weapons to the Indonesian police, he could guarantee that the militia would be disarmed within two days…I believe this was not the only occasion General Wiranto said this.[61]

482. A member of the United Nations Civilian Police during UNAMET, Stephen Polden, gave evidence to the Serious Crimes Unit that he had observed a plainclothes TNI officer's apparent ability to call off a further militia attack on the Maliana UNAMET compound on 29 June 1999.[62]

483. The large body of witness and documentary evidence demonstrating that the militias were under the control and direction of the TNI is corroborated by the fact that the TNI was able to bring about a lull in militia violence at particular times before the poll, notably during visits from international dignitaries and, particularly important, monitoring agencies.

484. On 28 January 1999, Colonel Suratman issued an order to all of the TNI District Commanders in which he clearly assumed that the TNI commanders in each district had control over the militias, including their weapons, and that they could recall the militias and confiscate their weapons at will. The order also indicated that the TNI commanders had a role in ensuring that the militias were armed appropriately when undertaking combat operations and other tasks. The terms of the order refer to recent killings by militia and then directs TNI officers to prevent militia from carrying and

using weapons which were under the control of the TNI during the forthcoming visit by representatives of the UN Human Rights Commission. It is notable that the reference to the killings is not in the context of any action taken against those militia involved in the killings, only that their programme should be halted during the visit by the human rights group.[63]

485. In the official order Suratman referred to "the planned visit by the UN Human Rights Commission to Timor-Leste on 9 February 1999" and "a number of cases that have occurred in Timor-Leste involving Wanra (that is, militias) that resulted in the loss of life." It then stated:

> In connection with the foregoing, you are ordered to...withdraw the weapons held by Wanra and Ratih [militia] members when they are not conducting special tasks or combat operations in your respective Kodim areas.[64]

486. In another example, on 12 April, Colonel Suratman issued an order by telegram in response to the planned visit by various "foreign guests – including Military Attaches, Ambassadors and NGOs – to Timor-Leste, and specifically to Liquiçá", stating that "in order to avoid criticism of our territorial operations by these foreign visitors, for the time being activities should be limited to base security operations."[65]

Failure of the TNI to prevent militia violence

487. The TNI maintained high troop levels in Timor-Leste throughout 1999 until its withdrawal in September. Troops were stationed at the district, sub-district and village level across the territory. Despite these facts, and the fact that members of TNI were present at numerous scenes of serious human rights violations, the TNI failed to prevent militia violence.

488. One example was the refusal of TNI commanders to intervene to prevent the massacre at Manuel Carrascalão's house in Dili on 17 April 1999. Senior TNI officials had been present at the rally preceding the massacre, where Eurico Guterres spoke and indicated that militia were about to begin "cleansing" Dili of those opposing integration. They witnessed the militia rampage through Dili. Later that day when Manuel Carrascalão went to Colonel Suratman's house to seek his urgent assistance in preventing the militia attack on those taking refuge in his house, Suratman refused to take any action. [66]

489. Another example of a failure to provide effective security was when the TNI refused to take any steps to prevent the ill-treatment and deportation of civilians in Dili on 5 and 6 September, despite personal requests made by Bishop Belo directly to General Wiranto, the Timor-Leste Chief of Police, Colonel Timbul Silaen, and the Timor-Leste Military Commander, Colonel Noer Muis. Rather than take steps to prevent the deportations, TNI personnel took an active role in organising and transporting those being forcibly deported.

490. The Commission considers that there is no substantial evidence to support the proposition that the Indonesian security forces were unable to prevent the violence

of the militia groups. Further, the Commission considers that there is a large body of strongly corroborated evidence to support a finding that they could easily have stopped the violence but chose not to do so. In fact it was not an issue of preventing the violence, as the Indonesian security forces were in fact orchestrating and participating directly in it. There is no other plausible explanation for the widespread failure of TNI soldiers to attempt to disarm militia members who violated the Indonesian law and presented a serious threat to security by carrying weapons openly in public.

491. A former United Nations international staff member of the UNAMET mission gave evidence about his request to a TNI soldier to arrest militia members carrying grenades after the imposition of martial law:

> He [the soldier] said to me: "We don't have orders to do that." I was shocked by that, and placed a great deal of significance on that…[T]o me it meant that they had orders not to arrest them, because it was illegal to carry arms. You wouldn't need orders to arrest people who were carrying arms, but you would need contrary orders not to arrest them.[67]

492. In August 1999, there were 17,941 regular TNI troops stationed in Timor-Leste. In addition, there were more than 6,500 Indonesian police on active duty. The TNI are a modern army, equipped with modern weapons with the readily available backing of aircraft, helicopter gunships, artillery and other heavy military hardware. The Indonesian military had demonstrated its willingness to use the full array of this equipment in Timor-Leste throughout the 24-year period of occupation. The police also were equipped with modern weapons, tear gas and other equipment suited to controlling illegal behaviour. The militia groups were a relatively untrained, hastily formed group of largely uneducated East Timorese, many of whom were very young.

493. If there had been any serious attempt by the Indonesian security forces to control the violent acts committed by the militias, then, at the very least, there would have been armed confrontations between the members of the Indonesian security forces and militia groups and large numbers of arrests made by the police. There were no such confrontations, nor were there large numbers of arrests, despite the presence of thousands of police and the commission of thousands of offences under the Indonesian criminal code. The Commission finds the explanation that a force of over 20,000 organised, well-armed military and police could not control a much smaller group of non-professionals to be totally implausible, made even more so by the absence of any evidence of any serious attempts to prevent the violence or punish those responsible.

TNI knowledge, threats and warnings before the mass violence in September 1999

494. Several warnings issued well before the ballot foreshadowed the destruction and violence that followed the announcement of the result. The TNI military commander for Timor-Leste, Colonel Tono Suratman, told an interviewer for an Australian television programme three months before the vote:

> I want to give you this message: if the pro-independence side wins, it's not going to just be the Government of Indonesia that has to deal with what follows. The UN and Australia are also going to have to solve the problem and well, if this does happen, then there'll be no winners. Everything is going to be destroyed. East Timor won't exist as it does now. It'll be much worse than 23 years ago.[68]

495. In addition the Serious Crimes Unit received evidence that in June 1999 Colonel Suratman held a meeting in Dili at which he told TNI soldiers and militia that if the East Timorese people opted for independence in the Popular Consultation everything that Indonesia had given Timor-Leste would have to be destroyed, that a scorched earth policy would be carried out so that an independent Timor-Leste would have to start with nothing, and that these orders would have to be carried out by all forces in Timor-Leste. [69]

496. The extent to which these warnings represented a fixed government policy on the consequences of a vote for independence rather than mere threats designed to secure a pro-integrationist result is not clear.* However, the fact that they were issued by a senior military officer after the signing of the 5 May Agreements at the very least demonstrates a partisanship that was at odds with Indonesia's obligations under the agreements. Moreover, the fact that the warnings were indeed borne out in the violence and destruction committed by the TNI and its militia allies after the ballot indicates that they were not simply empty threats.

The failure of the TNI to punish perpetrators/institutional rewards to those involved

497. The Commission considers that the TNI's almost total failure to investigate or discipline any of its members for their actions in Timor-Leste in 1999, despite ample evidence of the direct involvement of TNI troops in violations, indicates that the senior levels of the organisation did not consider that these violations should be punished. Taken in combination with the other evidence of direct and indirect participation discussed above, the Commission concludes that the TNI personnel who committed violations were not punished because in participating in the violence they had been acting in accordance with, not in contradiction to, their orders.

498. According to the principle of command responsibility, the failure of the senior TNI commanders to prevent those under their command and control from committing violations and to punish those responsible, when they had direct knowledge that the

* A report written by Major General (retired) H R Garnardi in July 1999 for his superior, the powerful Coordinating Minister for Political and Security Affairs, Lieutenant General (retired) Faisal Tanjung, at the very least indicates that the destruction of facilities and infrastructure was being discussed in high official circles at the time. The widely-circulated "Garnadi document" does not, however, provide conclusive evidence that a well-articulated "scorched earth" policy had already been developed by July [see also Robinson, *East Timor 1999*, OHCHR Submission to CAVR, Chapter 5.3].

violations were being committed, makes them responsible and accountable for the violations committed.*

499. Not only were the perpetrators and their commanders not held to be legally accountable, they were not even punished through institutional mechanisms. It would be expected that the failure of commanders to maintain security despite being provided with more than sufficient resources to control the situation would at least damage their careers. In fact the opposite was true. A number of senior commanders were rewarded with promotions shortly after they had played a prominent role in the events in Timor-Leste. The Commission considers this to be further evidence that the senior levels of the TNI did not disapprove of the role which these officers played, but in fact approved of it.

500. Senior TNI officers who won promotion after the events of 1999 included:

- Major General Kiki Syahnakri, who as the Assistant for Operations to the Army Chief of Staff and then as Martial Law Commander played a prominent role in Timor-Leste in 1999, was promoted to Deputy Army Chief of Staff in November 2000
- Major General Adam Rachmat Damiri, who was Commander of the Udayana Regional Command (Kodam Udayana/IX) during 1999, was promoted to Assistant for Operations to the Chief of the General Staff TNI in November 1999 and has since worked on TNI operations in Aceh
- Colonel Suhartono Suratman, who was the Commander of the Timor-Leste Sub-Region (Korem) during most of 1999, was promoted to the rank of Brigadier General in August 1999 and appointed Deputy Head of the TNI information centre
- Colonel Mohammad Noer Muis, who succeeded Colonel Suratman as Korem Commander in August 1999, was subsequently promoted to the rank of Brigadier General and has served as the Deputy Governor of the Military Academy in Magelang
- Lietenant Colonel Yayat Sudrajat, the head of the Tribuana Task Force, was subsequently promoted to the rank of Colonel and continues to serve with Kopassus.[70]

501. The supreme commander of the TNI, General Wiranto, indicated during the trial of Timbul Silaen, the head of the provincial police force in Timor-Leste during 1999, conducted in the Ad Hoc Human Rights Court on East Timor in Jakarta, that he considered his senior officers had performed their duties well:

> I evaluate all my subordinates, the Regional Police Chief, the Regional Military Commander, and from my observations from the reports I received, because they were chosen from the best people in the police and the army, they carried out the directives I had outlined.[71]

* The principles of command responsibility are summarised earlier in this Part, and in detail in Vol 1, Part 2: The Mandate of the Commission.

The role of members of the Indonesian police

502. The Commission has found that throughout 1999, both before and after Indonesia signed the 5 May Agreements, the Indonesian police failed to prevent or intervene in acts of violence carried out by militia groups, and only on very few occasions took action to investigate or punish such acts after they occurred. Despite the fact that there were thousands of violations committed during the period, the only action against militia groups appears to have been taken in response to international pressure, when several men were arrested and charged over the attacks on the Maliana UNAMET headquarters on 29 June and on the humanitarian convoy in Liquiçá on 4 July, when UN officials were present. However, despite the seriousness of these offences, those accused received only short sentences, most of which were suspended, and the general pattern of police inaction did not change. In addition in some cases police were actively involved in violations perpetrated by militia groups and members of the TNI. The police force's elite paramilitary component, the Mobile Brigade (Brimob), were most frequently reported to have been active perpetrators of violations.

503. Reports of violations to the Commission indicate that during 1999 police involvement in killings, arbitrary detentions, and torture and ill-treatment reached their highest levels for the entire period 1974–1999. This is despite the fact that the 5 May Agreements had specifically given the police responsibility to maintain security for the Popular Consultation.

504. In the Commission's view the inaction of the police was not due to their inability to control the violence, but rather to their subordinate relationship to the TNI. In view of this relationship and knowing that the militiamen had the support of the TNI, and in some cases were themselves members of the TNI, the police were unlikely to intervene to control their activities. The fact that the thousands of police officers all ignored widespread serious criminal offences on a daily basis is strong evidence for accepting that they were issued with orders not to intervene to arrest militia or TNI members involved in serious violations. The only logical conclusion which can be drawn from this systematic refusal to carry out normal duties is that the Indonesian police were either tacitly or explicitly involved in an arrangement with the TNI in a plan to use violence and intimidation to secure the desired result in the ballot.

505. Although the police were formally separated from ABRI on 1 April 1999, in practice the TNI continued to dominate the police. A former member of the Indonesian police stated:

> I saw him [the Kapolres, the Indonesian District Police Chief] as a military Indonesian officer like the Bupati and the Dandim. I say military, in fact Polri [the police force] was separated from ABRI on 1 April 1999, but that was only administratively. When it came to the work in the field nothing changed after that date. [72]

Collaboration and participation of officials of the Indonesian local and central government

506. Indonesian government officials both in Timor-Leste and at central government level were involved in the systematic violations that occurred in 1999 in a number of ways. At the local level officials from the Governor downwards had responsibility for administering and implementing the programme for the "socialisation of autonomy", which aside from its ostensible objective of convincing people to vote for integration, was also one source of militia funding. A number of District Administrators (*Bupati*) worked closely with the militia groups in their districts, and some at least were listed as "sponsors" of these groups on official documentation. Many Sub-district Administrators (*Camat*) were also militia commanders. The general climate of intimidation extended to the civil administration. Many witnesses provided testimony to the Commission that government employees were informed by their superiors that they must support the pro-autonomy programme or forfeit their jobs.

507. Central government ministers played a variety of roles during the period surrounding the Popular Consultation. Some of these roles were peripheral to the programme of violations conducted by the TNI and their militia allies.* However, others were central to the overall strategy pursued both before and after the ballot. Examples include:

- The attendance of the then Foreign Minister, Ali Alatas, at a meeting in Denpasar, Bali in April 1999 at which the role of the militias in the forthcoming months was discussed
- The reportedly key role of the Ministry of Transmigration and Resettlement, headed by Lieutenant General (retired) Hendropriyono, who had had several tours of duty in Timor-Leste as a Kopassus officer, in the preparation of plans for the deportation of East Timorese to West Timor after the ballot
- The involvement of Lieutenant General (retired) Faisal Tanjung, the Coordinating Minister for Political and Security Affairs, in developing the strategy for winning the vote, as well as the contingency plans in the event that the strategy failed.†

Command responsibility within the TNI

508. The Commission has found that senior officers of the TNI actively participated in organising and directing the programme of mass violations. In addition there is abundant evidence that these commanders are responsible and accountable according to the principles of command responsibility. The definition of command responsibility adopted by the Commission provides that persons in positions of authority – whether military or civilian – who had effective control over the direct perpetrators of violations,

* The Ministry of Foreign Affairs, for example, is reported to have provided funding to send a group of Indonesian NGOs to Timor-Leste to act as observers during the Popular Consultation. The UNAMET Electoral Division refused to give them accreditation on the grounds that they lacked the necessary neutrality.

† The fact that the "Garnadi document" discussing such strategic questions (see footnote, above) was addressed to General Faisal Tanjung partially confirms the latter's key role.

and who knew or should have known of the violations, themselves become responsible when they fail to take steps to prevent or punish those violations.*

509. The Commission considers that those in senior positions in the TNI knew or should have known of the crimes that were being committed in Timor-Leste. This information was available through the hierarchy of the TNI itself. For example, General Wiranto gave evidence at the trial of Colonel Timbul Silaen in Jakarta that he (Wiranto) regularly received reports on the situation in Timor-Leste from various sources, including the Military Commander of Udayana/IX Region Major General Adam Damiri, the Sub-regional Military Commander responsible for Timor-Leste, Colonel Suhartono Suratman, and the Regional Police Chief, Timbul Silaen.

510. In addition General Wiranto himself, as well as others, repeatedly visited Timor-Leste during 1999. On his five visits to Timor-Leste, Wiranto was directly informed by senior UN officials, the media and East Timorese leaders of the acts of violence being carried out by TNI and militia groups. Following the arrival of UNAMET in June, the Special Representative of the UN Secretary-General, Ian Martin, made regular reports to Indonesian officials, and to the TNI leadership in particular, which included information concerning the involvement of the TNI and links between TNI and militia groups.[73] In his sworn evidence at the Commission's National Public Hearing on Self-Determination and the International Community, he said:

> *I and my colleagues were constantly putting our information and concerns to the civilian and military members of the Indonesian Task Force. We met often with Major General Zacky Anwar Makarim, who General Wiranto had told me was his personal representative on the ground. Our civilian police and military liaison officers did the same, in Dili and in the districts. Information and protests were directly conveyed to General Wiranto's advisors and to the Foreign Ministry (DEPLU) by UNAMET's office in Jakarta. The diplomatic community watching East Timor from there was kept well informed. After attacks on UNAMET's office in Maliana and on a humanitarian convoy in Liquiçá, I flew to Jakarta to put directly to General Wiranto our evidence of the relationship between the TNI and the militia, in a meeting on 7 July. International concern at this time led President Habibie to send his ministers to Dili, where I and my colleagues put the same concerns to Foreign Minister Alatas.*
>
> *The Security Council was briefed regularly on the basis of our reporting, and it applied pressure on Indonesia through Presidential statements, and through meetings of its President with the representative of Indonesia. The Secretary-General's concern was conveyed repeatedly at many levels, by his Personal Representative, Ambassador Jamsheed Marker, and by senior officials. Key member states, including the USA and Australia, were kept informed in New York, in Jakarta, and when senior members of their*

* Command responsibility is discussed briefly in the introduction to this Part and in more detail in Annexe 2.

governments visited East Timor. I do not know all the details of the various pressures which were applied by individual governments on Indonesia, but they were many.

The central role of Major General Zacky Anwar Makarim

511. From May 1999 Major General Zacky Anwar Makarim was officially a member of the Task Force to Oversee the Popular Consultation in Timor-Leste and from July 1999 he was Head of the Special Team/Adjutant General's Task Force. However the Commission finds that in an unofficial capacity Makarim was involved in the organisation and direction of East Timorese militia groups from at least March 1999 and most likely earlier.

512. Statements by former pro-autonomy leaders to the Deputy General Prosecutor for Serious Crimes indicate that the Assistant for Operations to the Army Chief of Staff, Major General Kiki Syahnakri, told East Timorese pro-autonomy leaders in March 1999 that Makarim was the person who would be responsible for organising activities in the lead-up to the Popular Consultation.

513. Statements of former pro-autonomy leaders to the Deputy Prosecutor for Serious Crimes also indicated that Makarim was responsible for organising the supply of weapons including automatic firearms to militia groups, through Colonel Suhartono Suratman, who was Commander of Sub-Regional Military Command in Timor-Leste until 13 August 1999.

Findings and conclusions

514. The Commission finds the following:

1. Senior TNI officers formed the militia groups, gave them assurances that they would be funded, armed and otherwise supported by the TNI, and told them they would be used against pro-independence supporters.
2. Senior TNI officers publicly endorsed the militia groups at rallies and other public meetings.
3. TNI personnel served in these militia groups. Some militia groups were commanded by TNI personnel.
4. The TNI funded the militias. Government funds were also diverted to pay militia members. Regular payments made to thousands of militia members required significant planning, administration and coordination, involving both military and civilian officials.
5. The TNI armed the militias, and were able to withdraw the arms at will.
6. The TNI trained the militias, at official TNI bases and other sites.
7. The TNI allowed militia groups to use military headquarters as their bases, including at times immediately before and after major human rights violations involving the mass execution of civilians.
8. Members of the TNI frequently committed violations together with members of militia groups, as part of a common enterprise.

9. The TNI were able to regulate the incidence of violence at will, including the actions of the militia.
10. With very few exceptions the TNI took no action against militia members who committed violations, despite the fact that it was commonplace for militia to carry arms openly, and to kill, torture and otherwise mistreat civilians in the presence of TNI personnel.
11. Senior TNI personnel issued threats and warnings that massive violations and the destruction of property would take place after the ballot, if the independence vote won. The violence and destruction did in fact take place following the ballot, in accordance with the warnings.
12. Senior Indonesian government officials were advised to make a contingency plan which included mass evacuation and destruction of facilities and key assets, six weeks before those exact acts were carried out by TNI and militia.
13. The level of violence and destruction increased significantly after the TNI was given wider powers over events in Timor-Leste, following the declaration of martial law on 7 September 1999.
14. Members of the TNI, police and government officials involved in the violations were not arrested or disciplined for their role as perpetrators.
15. Almost no action was taken to stop the violations, despite repeated requests from the UN and governments, and the obvious capacity to overcome any militia resistance due to vastly superior numbers and weapons used by the TNI and police.
16. A number of senior TNI officers who held command positions over troops in Timor-Leste at the time of the violations were rewarded through promotion for their actions in Timor-Leste, despite the fact that troops under their control were involved in mass violations and failed in their duties relating to provision of security in the territory.

Conclusions

515. The Commission finds that senior members of the Indonesian security forces were involved in the planning, coordination and implementation of a programme which included widespread and systematic human rights violations committed against East Timorese civilians amounting to crimes against humanity. These senior commanders hold both direct and command responsibility for the crimes against humanity committed.

516. The Commission finds that the initial purpose of the plan that was implemented was to ensure that a majority of East Timorese voted to remain part of Indonesia in the Popular Consultation conducted in August 1999. An integral part of the plan to achieve this goal was the use of East Timorese militia groups as agents of the TNI, in an attempt to deflect charges of responsibility from the TNI itself. The TNI is institutionally responsible for forming, arming, funding, directing and controlling the actions of the militia groups. In addition a significant number of violations were directly perpetrated by serving members of the TNI, both alone and in company with militia groups. Members of the Indonesian police and civilian government officials were also involved

both directly and indirectly in the systematic commission of violations. The TNI, the police and the Indonesian government were all involved in protecting the perpetrators from accountability for their actions.

Annexe 2: Command responsibility

517. Table 1: Command responsibility of institutions involved in human rights violations, Timor-Leste 1974–1999

Institution	Violation Category							
	Civilian Killings	Detention	Disappearance	Torture	Ill-treatment	Sexual violations	Other violations	Total
Kodam	2	23	0	14	6	0	3	48
Korem	4	245	3	43	57	1	122	475
Kodim (Total)	129	3,321	74	1,198	725	40	1,213	6,700
Kodim 1627 – Dili	16	302	8	104	53	0	56	539
Kodim 1629 – Lautém	20	564	22	92	113	1	180	992
Kodim 1631 – Manatuto	4	285	4	146	41	1	93	574
Kodim 1632 – Aileu	2	202	3	70	70	2	64	413
Kodim 1633 – Ainaro	5	241	0	82	27	9	103	467
Kodim 1634 – Same	14	296	9	126	69	2	81	597
Kodim 1637 – Ermera	11	167	6	101	57	15	78	435
Kodim 1638 – Liquiçá	3	159	1	72	37	3	30	305
KORAMIL	192	3,840	56	1,047	724	90	1,655	7,604
Yonif 744	100	229	12	78	76	4	185	684
Yonif 745	178	328	30	157	91	17	273	1,074
Civil Defence	635	4,510	128	1,615	1,264	124	2,550	10,826
Hansip	563	3,571	110	1,193	827	105	2,074	8,443
Combat Battalions (Total)	437	2,166	120	771	608	96	2,162	6,360
Yonif 144	4	55	0	43	38	0	0	140
Yonif 301	2	28	14	12	2	8	0	66
Yonif 315	17	205	4	82	17	7	85	417

Institution	Violation Category							
	Civilian Killings	Deten-tion	Disap-pear-ance	Torture	Ill-treat-ment	Sexual viola-tions	Other viola-tions	Total
Yonif 321	12	35	12	7	7	13	0	86
Yonif 403	22	47	2	2	5	93	0	171
Yonif 407	12	60	1	12	19	2	21	127
Yonif 512	18	91	3	31	9	7	119	278
Yonif 514	0	22	0	6	2	0	41	71
Yonif 641	8	87	3	12	24	9	13	156
SGI	80	1,118	12	705	337	20	409	2,681
Kopassus	169	2,774	74	1,348	680	100	1,085	6,230
Nanggala	68	1,249	40	546	224	39	338	2,504
Rajawali	19	282	2	255	129	16	178	881
Milsas	19	309	7	229	233	2	228	1027
Police	168	2,068	19	734	588	46	884	4,507
Polres	9	530	1	168	117	12	130	967
Polsek	51	379	1	116	74	7	116	744
Government	217	2,739	63	743	664	54	2,110	6,590
Regional Government	4	105	6	26	23	105	0	269
District Gov-ernment	14	162	4	47	51	10	72	360
Village Gov-ernment	41	821	19	208	117	13	355	1574
Marines	24	67	3	7	10	3	42	156
Brimob	10	249	5	106	82	4	76	532
Total	3,303	33,931	881	12,354	8,297	1,080	17,224	77,070

Territorial Units Kodam XVI/Udayana (1974–1979)/Kodim IX Udayana

518. Table 2: Commanders of Kodam XVI/Udayana/Kodim IX Udayana

Name	Rank	Years served	Position
Ign. Pranoto Koesoemo	Brigadier-General	16/02/1974–03/03/1976	Commander
Soeweno	Brigadier-General	3/03/1976–14/10/1978	Commander
Dading Kalbuadi	Brigadier-General	14/10/1978–18/05/1983	Commander
Try Sutrisno	Colonel	1978–04/05/1979	Chief of Staff
Theo Syafei	Brigadier-General	1980–1982	Deputy Assistant For Operations

Name	Rank	Years served	Position
Yunus Yosfiah	Brigadier-General	?–1985	Assistant for Operations
R. P. Damianus Soetarto	Major-General	18/05/1983–06/03/1986	Commander
Adolf Sahala Radjagukguk	Major-General	06/03/1986–12/08/1987	Commander
Wismoyo	Major-General	1985–1987	Chief of Staff
Djoko Pramono	Major-General	12/08/1987–12/08/1988	Commander
Sintong Panjaitan	Major-General	12/08/1988–13/01/1992	Commander
Moh. Ma'ruf	Brigadier-General	01/07/1989–13/05/1990	Chief of Staff
Dahlan Effendi	Brigadier-General	13/05/1990–05/09/1992	Chief of Staff
HBL Mantiri	Major-General	13/01/1992–13/08/1992	Commander
Soewardi	Major-General	13/08/1992–31/03/1993	Commander
Theo Syafei	Major-General	31/03/1993–08/02/1994	Commander
Adang Ruchiatna Purwadirdja	Major-General	08/02/1994–11/09/1995	Commander
Abdul Rivai	Major-General	11/09/1995–24/07/1997	Commander
Syahrir M S	Brigadier-General	01/02/1995–07/1997	Chief of Staff
Syahrir M S	Major-General	24/07/1997–05/1998	
Yudomo Sastrosuhardjo	Major-General	27/05/1998–04/06/1998	
Adam Damiri	Major-General	16/06/1998–04/11/1999	
Mahidin Simbolon	Brigadier-General	25/06/1998–01/11/2000	

Korem

519. The greatest number of violations was attributed to the Korem in 1980–1984, when 77% of all reported violations (367/475) occurred with the highest number occurring in 1982 (179/475). 80% of all violations attributed to the Korem were reported to have occurred in Dili District (375/475), but there were also individual years when violations were also reported in other districts: Baucau District in 1983 (16/475), Manatuto in 1995 (22/475) and Oecussi in 1999 (16/475).

Table 3: Known Commanders of Korem

Name	Rank	Years served	Position
Adolf Sahala Radjagukguk	Colonel	26/03/1979–1982	Commander
Willem T da Costa	Major-General	1981–1982	Chief of Section 1/ Territorial
Iswanto	Major-General	1979–1980	Chief of Section 1/ Intelligence
A P Kalangi	Colonel	1982?–1983?	
Purwanto	Colonel	1983–August 1983	Commander

Name	Rank	Years served	Position
Rudjito (Rudito)	Colonel	August 1983–1984	Commander
Rahardjo	Colonel	1984–1984/5?	Commander
Yunus Yosfiah	Colonel	1984/5–1987	Commander
Moh. Ma'ruf	Colonel	1987–29/4/89	Commander
Rudolf Warouw	Colonel	29/4/89–13/5/90	Commander
Ketut Wardhana	Brigjen	13/05/1990–13/05/1991	
J P Sepang	Colonel	13/5/91–7/1/92	Commander
Cherry Bolang	Lt. Colonel	1991–14/02/1992	Chief of Staff
Alexander	Major	1992–1993	Chief of Section 1/ Intelligence
Dunidja	Colonel	7/1/92–15/3/93	Commander
Armyn Ali A	Major	1992–1993	Chief of Section 3/ Personnel
Hari Mulyono	Major	1992–1993	Chief of Section 2/ Operations
Mufad Santoso	Lt. Colonel	1992–1993	Chief of Section 4/ Logistics
Sukiman Kadir	Lt. Colonel	1992–1993	Chief of Section 5/ Territorial
H Tambunan	Lt. Colonel	1992–1993	
Suntoro	Colonel	15/3/93–20/7/93	Commander
Johny Lumintang	Brigjen	20/7/93–5/9/94	Commander
Kiki Syahnakri	Colonel	5/9/94–27/5/95	Commander
George Toisutta	Colonel	08/1995–1996	Commander
Daud Napis	Lt. Colonel	03/1995–1996	Chief of Section 1/ Intelligence
Darmawi Chaidir	Lt. Colonel	03/1995–07/1997	Kasrem
Mahidin Simbolon	Colonel	Juli 1995–31/5/97	Commander
Paulus Gatot Rudianto	Lt. Colonel	1996–06/1998	Chief of Section 1/ Intelligence
Dharma Silen	Lt. Colonel	1996 – 1997	Chief of Section 3/ Personnel
Suwarno	Lt. Colonel	08/1997 – 1998	Kasrem
Simon G Sigar	Lt. Colonel	25/11/1997 – 04/06/1998	Chief of Section 2/ Operations Commander Batalion 745
Salamat Sidabutar	Colonel	31/5/97 – 4/6/98	Commander
Soekotjo Hadi	Colonel	1996 – 06/1997	Commander

Name	Rank	Years served	Position
Suryo Prabowo		06/1997 – 13/06/1998	Commander
Haing Tjipto Sularsono	Major	1997 – 1999	Chief of Section 3/ Personnel
Gultom	Lt. Colonel	1997 – 1999	Chief of Section 4 / Logistics
FX Suhartono Suratman	Colonel	10/6/98 – 13/8/99	Commander
Mudjiono	Colonel	13/06/1998 – 05/1999	Commander
Nanang Priadi	Colonel	Juni 1999 – ?	
Mohammad Noer Muis	Colonel	13/8/99 – 30/3/00	Regional Commander
Hardiono Saroso	Lt. Colonel	1999	Chief of Staff
Supadi	Lt. Colonel	1999	Chief of Staff
Bambang Wisnumurthy	Major	1999	Chief of Section 1/ Intelligence

Operational Commanders

Operational Command	Commander	Years served
Bakin	Lt Gen Ali Moertopo	?
Department of Defence and Security	Col Dading Kalbuadi	?
Kogasgab	Brigjen Soeweno	x/10/75 – 3/3/76
Kodahankam	Kolonel Dading Kalbuadi	3/3/76 – 14/10/78?
Koopskam	Brig Gen Damianus Sutarto	? – c. 18/5/83
	Brig Gen Sugito	c. 18/5/83 – c. 9/8/85
	Brig Gen Warsito	c. 9/8/85 – c. 15/1/87
	Brig Gen Mantiri	c. 15/1/87 – Aug. 1988
	Brig Gen Mulyadi	Aug. 1988 – May 1990
	Brig Gen Warouw	Mei 1990 – Jan. 1992
Kolakops	Brigjen Theo Syafei	Jan. 1992 – March 1993

Kodim – general

520. The following data relate to violations committed by personnel serving in the 13 District Military Commands (Kodim) between 1974 and 1999. Table 20 shows the breakdown of violations by Kodim personnel according to type, with the great majority being detentions and the torture and ill-treatment often associated with detention.

Table 4: Breakdown of Kodim violations by type

Type of Violation	Number	%
Detention	3,321	55.0
Torture	1,198	19.9
Ill–treatment	725	12.0
Displacements	545	9.0
Civilian killings	129	2.1
Disappearances	75	1.2
Sexually-based violations	40	0.7
Total	6,033	100.0

521. The greatest number of violations perpetrated by Kodim as a group took place in the period 1981- 83 (41% or 2,462/6,033) and in 1999 (9% or 561/6,033).

Kodim 1627 Dili

Violations

522. The Dili District Kodim committed the largest number of violations in two periods: in 1980–1984 (331/512), and smaller numbers in the period 1990–1994 (100/512).

Table 5: Known Commanders of Dili District Kodim 1627

Name	Range	Years served	Position
Abdul Rivai	Lt Col	08/1981–?	Commander
Suroto	Letnan	1980–1983	Chief of Section 1/ Intelligence
M. K. Sirait	Lt Col	07/1989–24/07/1990	
Sjarifuddin Zein	Lt Col	06/01/1992–04/1993	
Soekotjo Hadi	Lt Col	1994–27/09/1995	Commander
Didit Satrio	Lt Col	27/09/1995–02/08/1996	
Endar Priyanto	Lt Col	25/11/1997–09/08/1999	Commander
Hartono	Captain	1998–1999	Chief of Section 2/ Operations
Sujarwo [Soedjarwo]	Lt Col	08/1999 –	Commander
Endar Priyanto	Lt Col	1999	Commander

Kodim 1629 Lautém

Violations

523. Almost 93% of violations by the Lautém Kodim occurred in the period 1978–1986 (849/916), in three distinct phases. Smaller proportions of the violations occurred in 1978–1980 (86/916) and 1984–1986 (113/916) relative to the middle three year period,

1981–1983 (650/916) when the bulk of violations reported to have been perpetrated by the Kodim occurred. Thereafter the number of violations reported fell sharply, although in 1992 (11/916) and 1999 (26/916) more violations occurred than normal. While there were incidents of torture in many years, by far the greatest number was in 1983 (57/92). Nearly all disappearances were reported in two years, 1981–1982 (98/105).

Name	Rank	Years served	Position
Henricus Harjatmo	Lt Col	1979–1980	
Emmanuel Messu	First Lieutenant	1979–1980	
Hidayat	Lt Col	03/1985–1987	
Paul St. L. Detaq	Lt Col	?–12/01/1991	Commander
Subandi	Lt Col	12/01/1991–01/1992	
Pandu Wibowo	Lt Col	06/08/1996–25/11/1997	Commander
Sudradjat A. S.	Lt Col	10/1998–1999	Commander

Kodim 1631 Manatuto

Violations

524. Most violations reported to have been committed by the Manatuto Kodim occurred in the period 1980–1982 (73% or 384/530) with the greatest number in 1982 (285/530). Unusually there was no increase in 1999. The largest number of incidents of torture occurred in 1982 (130/146).

Table 6: Known Commanders of Manatuto Kodim 1631

Name	Rank	Years served	Position
Frits Binanggal	Lt Col	1987 – 17/07/1990	Commander
Ansori Deas	Lt Col	17/07/1990 – 28/02/1992	
Muhamad Kadir	Lt Col	08/05/1993 – ?	Commander
Bambang Gandhi Baroto	Lt Col	10/1995 – 29/07/1996	
Daud Napis	Lt Col	29/07/1996 – 25/11/1997	
Sulastiyo	Lt Col	25/11/1997 – 08/08/1999	Commander
Gerson Ponto	Lt Col	1999	Commander
Sulastiyo	Lt Col	1999	Commander

Kodim 1632 Aileu

Violations

525. The greatest number of violations occurred in 1983 (113/368). Other years in which the number of violations was higher than usual were 1978 (23/368), 1980 (60/368), 1981 (30/368), 1984 (45/368) and 1998 (22/368).

Table 7: Known Commanders of Aileu Kodim 1632

Name	Rank	Years served	Position
Rochadi	Lt Col	1989 – 22/08/1992	
M Mansyur	Lt Col	1992 – 1993	
Artawi Sahari	Lt Col	22/08/1992 – 08/03/1995	
Maman Rachman	Major	01/1993 – 06/1996	Deputy Commander
Budi Atmono	Lt Col	08/03/1995 – 10/1995	
A A Gede Suardana	Lt Col	10/1995 – 01/08/1996	
Marciano Norman	Lt Col	10/1995 – 01/08/1996	
Soewarno	Lt Col	01/08/1996 – 05/08/1997	
Hardiono Saroso	Lt Col	Awal 1999	Commander
Maman Rahman	Major	1999	Commander

Kodim 1633 Ainaro

Violations

526. The largest number of reports of violations by the Ainaro Kodim, over 60%, were perpetrated in 1982 (255/416), coming after a slow rise in reports in the years 1976–1981 (115/416 in total). After no violations were recorded in 1983, they rose again in 1984 (25/416).

527. There was a slightly higher incidence of reports of sexual violations by Ainaro Kodim (9/416) relative to other Kodims, though as a percentage of all violations they represented a small proportion (about 2%). All nine reports of sexual violations took place in the period 1980–1982.

Table 8: Known Commanders of Ainaro Kodim 1633

Name	Rank	Years served	Position
Hari Saryono	Major	1977–1978	
Yusup	Major	1979–1980	
Sjamsul Rizal		1980–1981	
Mursiono		1981–1982	
Harkito		1982–1983	
Suryadi	Lt Col	16/06/1989–28/07/1990	
Achmad Yahya	Lt Col	?–14/02/1992	Commander
Paulus Gatot Rudianto	Lt Col	September 1998–1999	Commander

Kodim 1634 Manufahi

Violations

528. The highest number of violations committed by the Manufahi Kodim occurred in 1982 (142/542) with the period 1979–1985 accounting for nearly three-quarters (74.3%) of all violations (403/542). There was also a high incidence of violations in 1994 (69/542)

and the incidence was relatively high in 1998 (25/542) and 1999 (15/542). Nearly all disappearances (8/9) and civilian killings (7/15) occurred in 1983. Half the incidents of torture occurred in 1980–1982 (63/126) with a large number in 1994 (34/126).

Table 9: Known Commanders of Manufahi Kodim 1634

Name	Rank	Years served	Position
Bambang R. Gunadi	Lt Col	1985–1986	
Herman S.	Lt Col	1986–1988	
Syahrial B. P. Peliung	Lt Col	?–06/1989	
Sjarifuddin Zein	Lt Col	1988–1991	
Suprapto Tarman	Lt Col	1991–1993	
Jongko Sibarani	Lt Col	1993–03/1995	
Ngadiman Sumarto Putro	Lt Col	23/05/1995–10/1995	
Tony Suhartono	Lt Col	10/1995–01/08/1996	
Endang Nirwan	Lt Col	01/08/1996–25/11/1997	
Suwondo	Lt Col	25/11/1997–1999	
Drs. HM Sinaga	Major	1999	Comannder

Kodim 1637 Ermera

Violations

529. The pattern of reported violations for Ermera Kodim differs in a number of respects from that reported for other districts. Firstly the reports are mostly from the early and the later periods of the conflict, with virtually no violations reported in the 1980s. Secondly, there was a much higher level of sexual violations perpetrated by the Ermera Kodim. More than one third of reported violations (138/378) occurred in 1976–1978 with 1976 the peak year (84/378). However, in 1981–1983 when most other Kodim appear to have been committing high levels of violations, the number reported from Ermera was low (4/378) and there were only eight violations reported during the entire period 1981–1990. By contrast between 1991 and 1998 there were many violations reported (128/378) and violations reached an all-time peak in 1999 (104/378). The level of reports of sexual violations (15/378) was five times higher in Ermera than the average for all Kodim. Most (12/15) were reported to have been committed in the period 1976–1978. The remainder (3/15) occurred in 1999.

Table 10: Known Commanders of Ermera Kodim 1637

Name	Rank	Years served	Position
Darsono	?	Present 1976	Kepala Seksi 1/ Intelijen
Moustan	Major	Present 1976	
Ripomo	Lt Col	Present 1976	

Name	Rank	Years served	Position
Mustafa	Major	Present 1978	
Supadi	Lt Col	1/8/1978	Commander
Istiyono	Major	Present 1979	
Sakan Tampubolon	Major	Present 1995	
Partidjo	Lt Col	10/1995 – 01/08/1996	
Syarid A. R.	Captain	Present 1999	
I Ketut Suarna	Captain	Present 1999	
Hery Mutholib	Second Lieutenant	Present 1999	
T. Beny Firmansyah	Major	Present 1999	
Muhamad Nur	Lt Col	Present 1999	Commander

Kodim 1638 Liquiçá

Violations

530. Nearly half of the violations reportedly committed by the Kodim in Liquiçá occurred in the period 1979–1982 (142/279). There are no reports from 1983, but 15 in 1984. In the following years there were few violations reported until 1995–1999 (108/297).

Table 11: Known Commanders of Liquiçá Kodim 1638

Name	Rank	Years served	Position
Purwanto		Present 1991	Chief of Section 1/ Intelligence
Hotman Sibarani	Lt Col	18/08/1995 – 06/1996	Commander
Sumartono	Major	Present 1995	
Antonio Andrade	Captain	Present 1996	
Bedjo Juwono	Captain	Present 1996	
Suradal Muhajir	Lt Col	06/1996 – 25/11/1997	Commander
Asep Kuswadi	Lt Col	25/11/1997 – 1999	Commander
Asep Kuswadi	Lt Col	1999	Commander

Koramil

531. The Commission received a very large number of reports, 7,486 in total, of violations involving the the 65 Sub-district Military Commands (Koramil) from all periods of the conflict and in all districts. Over half of the reported violations occurred in the period 1978–1984 (3,864/7,486). More than 17% of these violations were reported to have been committed in 1999 (1,301/7,486).

532. While there are reports of violations in every district, the highest number were in Dili District (1,381/7,486, over 18%). Virtually all reported violations in Oecussi District were from 1999 (293/299).

Infantry battalions

Infantry Battalion 744

Violations

533. A total of 675 incidents of violations by Battalion 744 were reported to the CAVR. Almost 62% of these incidents (415/675) relate to the years 1978 (114/675), 1980 (96/675),1998 (153/675) and 1999 (52/675). Battalion 744 was a territorial unitand permanently stationed in Timor-Leste and active in every district. In general there are long periods in the various districts where there are little or no reported violations, interspersed with periods of significant activity as explained by the following.

- Dili District accounted for almost one third of all violations (215/675), of which the majority occurred in 1980 (82/215) and 1998 (44/215).
- Manufahi District also reported a high number of incidents (154/675), with most of these relating to 1998 (129/154), probably relating to the Alas incident (similar to Battalion 745 below).
- In Ermera District (117/675) most of the reports related to 1978 (87/117). There were no reports in the period 1979–95 followed by a rise in 1996/97 (23/117) and none subsequently.
- Violations in Bobonaro District (48/675) were almost all grouped in the periods 1975–79 (33/48) and 1997 (12/48), with only one report in the intervening period, 1980 – 96.

Table 12: Known Commanders of Battalion 744

Name	Rank	Years served	Position
Untung Setiawan		1977 – 1981	Company Commander
Yunus Yosfiah	Major	24/01/1978 – 1979	Commander
Abdul Rivai	Lt. Col	1979 – 08/1981	Commander
Gerhan Lantara		1980 – 1981	Company Commander
Gunawan		1982 –1983	Company Commander
Bambang Wiriadi		1984 – 1985	Company Commander
Hendrik Tingangin		1985 – 1989	Company Commander
Susilo Bambang Yudhoyono	Lt. Col	1986 – 1988	Commander
M. K. Sirait	Lt. Col	1988 – 06/1989	
Syahrial B. P. Peliung	Major	1990 – 1991	
Adi Mulyono	Major	18/03/1995 – 24/07/1995	Commander

Name	Rank	Years served	Position
Endar Priyanto	Major	24/07/1995 – 02/08/1996	Commander
Achmad Mas Agus	Major	02/08/1996 – 27/08/1998	Commander
Heri Subagio		1996 –1998	Company Commander
Yakraman Yagus	Major	27/08/1998 – ?	Commander

Infantry Battalion 745

Violations

534. The Commission received reports of 1,073 human rights violations involving Battalion 745 between 1974 and 1999. Over 57% of violations occurred between 1978 and 1980 with almost 35% taking place in 1979 alone. A further 23% date from 1981–1983, compared with just over 7% in 1998–1999. For each of the years 1984–1995 the number of reports is ten or less. Battalion 745 was a territorial unit permanently stationed in Timor-Leste and was active in most districts of the territory. However the largest number of reports of violations were received from the following districts:

- Lautém: About 29% of all reported incidents were in Lautém (309/1,073), mainly in the period 1979–1983 (254/309).
- Manufahi (199/1,073), mostly in the years 1979 (96/199), 1983 (25/199) and in 1998 (42/199) which is probably related to the Alas incident.
- Baucau (137/1,073), principally in 1979–1980 (83/137).
- Manatuto (123/1,073) again in the year 1979 (90/123). By contrast, in the districts of Aileu, Ainaro, Covalima, Oecussi and Bobonaro reported incidents are generally in single figures, accounting for only about 3% of the total (36/1,073).

Table 13: Known Commanders of Battalion 745

Name	Rank	Years served	Position
Theo Syafei	Major	10/08/1978 – 1980	Commander
Sugiarto	Lt. Co l	1982 – 02/1986	Commander
Haryadi Sutanto	Lt. Col	1992 – 1993	Commander
Didit Satrio	Lt. Col	1995 – 08/1995	Commander
Simon G Sigar	Major	06/08/1996 – 04/06/1998	Commander
Jacob Djoko Sarosa	Mayor	11/1998 – 1999	Commander

Civil defence

535. The Commission received a very large number of reports of violations (19,055) by civil defence groups, including Hansip, at all stages of the conflict and in all districts, acting alone or jointly with Indonesian forces. This represents more than one fifth of all the reports of violations received by the Commission.

536. The years with the greatest number of violations were 1978 (2,222/19,055), 1979 (3,220/19,055) and 1983 (2,285/19,055). In total the six-year period 1978–1983 accounts for 69% (2,726/19,055) of reported violations. Geographically the districts with most violations were: Viqueque (3,709/19,055), Lautém (2,913/19,055) and Baucau (2,739/19,055). Whereas for most reported violations committed by all types of perpetrator groups Dili tended to record higher numbers than other districts, it is only slightly above the average level for reported violations by civil defence groups.

537. The data show some differences from the general pattern as follows:

- Lautém District: 56% (1,277/2,285) of all reports in 1983 relate to Lautém District.
- Ainaro District: 79% (429/540) of all reports in 1991 relate to Ainaro District.
- Viqueque District: 85% (171/204) of all reports in 1996 relate to Viqueque Disrict.
- Manufahi District: 85% (305/357) of all reports in 1998 relate to Manufahi District.
- Oecussi District: nearly all reports in Oecussi District (86/88) were of violations committed in 1999.
- Bobonaro District: there were few reported violations in Bobonaro District between 1984 and 1998 (46/701), but the total rose dramatically in 1999 (170/701).

Combat units

Infantry Battalion 144

538. The Commission received 180 reports of violations by Infantry Battalion 144 grouped in the following districts.

- Dili District, 1981 – 12/180 reports
- Ermera, 1998 – 45/180 reports
- Covalima, 1999 – 82/180 reports

539. The Commission has been unable to determine the names of commanders of Infantry Battalion 144.

Infantry Battalion 301

540. The Commission received 66 reports of violations by Infantry Battalion 301 as follows.

- Lautém, 1985 – 42/66 reports.

541. The Commission has been unable to determine the names of commanders of Infantry Battalion 301.

Infantry Battalion 315

542. The Commission received 415 reports of violations by Infantry Battalion 315 as follows.

- Ermera – 38/47 reports from 1977
- Lautém – over half of all reports (225/415) from 1982 (34/225), 1983 (66/415) and 1984 (122/415)
- Viqueque – 21/23 reports from 1992
- Baucau – 38/74 reports from 1992 and 18/74 from 1983

Table 14: Known Commanders of Infantry Battalion 315

Name	Rank	Years served	Position
Fransiscus Xavierus (?)		1977–1978	Commander
Halasan Simanjuntak (A. 74)	Major	1991–1992	Commander

Infantry Battalion 321 (Kostrad)

543. The Commission received 86 reports of violations by Infantry Battalion 321 as follows.

- Baucau – 12/19 reports from 1979
- Ainaro – 21/25 reports from 1982
- Lautém – 13/31 from 1983 and 17/31 from 1984

Table 15: Known Commanders of Infantry Battalion 321

Name	Rank	Years served	Position
Bambang Sukresno		20.3.92 – ?	Commander

Infantry Battalion 403

544. The Commission received 171 reports of violations by Infantry Battalion 403. A large proportion relate to the period 1976–1979 (148/171 or 87%) and most relate to the three districts listed below.

- Ermera – 28/45 reports from 1976
- Viqueque – 48/78 reports from 1978 and 24/78 from 1979
- Manatuto – reports 23/36 from 1979

Table 16: Known Commanders of Infantry Battalion 403

Name	Rank	Years served	Position
Subianto	Captain	? – 10/03/1993	

Infantry Battalion 407

545. Years served: 1978, 1987, 1989.

The Commission received 127 reports of violations by Infantry Battalion 407 from particular periods and districts as described below.

- Liquiçá – 14/16 reports from 1979
- Bobonaro – all 27 reports are from 1984

- Viqueque – 42/58 reports from 1992
- Covalima – all 13 reports from 1999

546. The Comission has been unable to determine the names of commanders of Infantry Battalion 407.

Infantry Battalion 512

547. Years served: 1975, 1993, 1996.

The Commission received 278 reports of violations by Infantry Battalion 512, 66% (183/278) of these reports relate to the period 1976–1980, and 20% (55/178) to the year 1984.

- Ermera – most of the reports relate to 1976–1979 (148/176) (see also Infantry Battalions 315 and 403)
- Manufahi – all 55 reports relate to 1984.

Table 17: Known Commanders of Infantry Battalion 512

Name	Rank	Years served	Position
M Basofi		1975	
Dede Angga Heryanto	Major	17/06/92–1995	Commander
Agus Suharyanto	Major	1995–10/1995	Commander
Guruh R Manaf		?–[Sept]–X.12.98:	Commander
Nono Musihono		1998	

Infantry Battalion 514

548. The Commission received 71 reports of violations by Infantry Battalion 514, almost all of which relate to 1982–1983 (70/71) and the following districts.

- Viqueque – 19/20 reports are from 1982
- Baucau – all 15 reports are from 1982
- Dili District – 18/19 reports are from 1982
- Aileu – all 18 reports are from 1983

549. The Commission has been unable to determine the names of commanders for Infantry Battalion 514.

Infantry Battalion 641

Year of duty: 1992.

550. The Commission received 156 reports of violations by Infantry Battalion 641, all from Lautém district in 1983 (142/156) and 1984 (13/156).

551. The Commission has been unable to determine the names of commanders of Infantry Battalion 641.

SGI (Satuan Gabungan Intelijen / Joint Intelligence Unit)

552. The CAVR has received a large number (2,659) of reports of violations attributed to the SGI.* The number of violations averaged about 26 per year for the years 1976–1990 (with 64% of these cases in Dili district), then rising dramatically in the period 1991–1999 to an average of 240 per year (or a total of 2,176 out of all the 2,659 reports of violations attributed to the SGI). Reports of violations for the period 1990–1999 (2,167/2,659 or 82%) are concentrated in three districts: Ermera 42% (904/2,167), Dili 27% (581/2,167) and Bobonaro 21% (460/2,167). The term SGI may be too broad to designate a particular commander. The reports therefore refer to the institution in a broad sense rather than a particular commander.

Kopassandha/Kopassus – Special Forces Command

553. The Commission received a very large number (8,710) of reports of violations by Kopassandha/Kopassus in all districts and during all periods of the conflict. The greatest number of violations were reported for the years 1983 (977/8,710) and 1984 (909/8,710), (see Lautém and Viqueque Districts below). There were much fewer reports for the years 1988 (46/8,710) and 1990 (51/8,710), compared to the average. In contrast to the general trend of violations, there was no significant increase in reports for 1999. The reports of violations distributed through the various districts are as follows:

- Viqueque – 20% of all reports were in Viqueque district (1,729). A large proportion of these were for 1983 (352/1,729), which is over a third off all violations for all districts in 1983. Similarily in 1984 (425/1,729) many reports were from Viqueque, accounting for almost half of all violations for 1984 (425/909).
- Dili District – Dili also accounted for a large number of violations (1,480) with most in 1980 (276/1,480).
- Baucau – a large proportion (1,038/8,710) were in Baucau district. Most were in 1986 (415/1,038).
- Lautém – a large proportion of the total violations for Lautém (1,021) were in the year 1983 (331/1,021), which is over a third of all violations for all districts in 1983 (331/977).
- Oecussi – in general there are very few reports of violations for Oecussi before 1999, however nearly all the reports of violations by Kopassus are from 1976 (38/58) and 1977 (18/58) with the remainder (2/58) in 1999.

Table 18: Known Commanders of Kopassus/Nanggala units

Name	Rank	Years served	Position
Yunus Yosfiah	Captain	1975	Commander, Nanggala 2 (Susi)
Tarub	Major	1975	Commander, Nanggala 3 (Tuti)
Sofian Effendi	Major	1975	Commander, Nanggala 4 (Umi)
Soegito	Lt. Col	12/75 –	Commander, Nanggala 5

Name	Rank	Years served	Position
Hendropriyono	Captain	1976: Dan Nanggala 13 (08/1976 – 02/1977 MAD)	
Hendropriyono	Major	10.76 – 02.77 Nanggala 13 (Ton Sus/Tim Moruk)	
Soekiman	Major	4.2.76 – ? Nanggala 8, Kopassandha	
A.M. Hendropriyono	Major	10.76 – 02.77	Commander, Nanggala 13
Prabowo Subianto	Lieutenant	11.1978 – 04.79	Commander Tim Nanggala
Wismoyo Arismunandar	Colonel	06/04/1983 – 22/05/1985	Commander
Soegito	Colonel	8/85 –	Commander Koopskam and Infantry Division 1, Kostrad
Luhut Pandjaitan	Colonel	1986 – 1988	
Sjafrie Sjamsudin	?	1986	
B Ginting	Major	? – 08/1986	
Sintong Panjaitan	Colonel	? – 08/08/1987	Commander
Kuntara	Colonel	08/08/1987 – 08/1992	Commander
Gatot Purwanto	Lt. Col	10.87 – 02.82	Commander, Nanggala 52
M. K. Sirait	Lt. Col	1988 – 06/1989	Commander, Nanggala 2
Syahrial B. P. Peliung	Lt. Col	06/1989	Commander, Nanggala 2
Yayat Sudrajat	Lt. Col	1999	Commander, Satgas Tribuana VIII (Kopassus), Timor Leste
Sunarko	Colonel	1999 Intelligence Assistant	Commander, Sector A (until 21 June 1999)
Irwan Kusnadi	Colonel	1999	
Rahman Zulkarnaen	Letnan	1999	Commander, Tribuana Base Laruara, Lospalos
Syaful Anwar	Sergeant	1999	Deputy Commander, Tribuana Base, Laruara, Lospalos

Marines

Violations

554. The Commission received 156 reports of violations by Marines, mainly in the early part of the conflict and only in certain districts. Over 60% (97/156) occurred in the period 1976–1979. There was a smaller number of reports for 1983 (16/156). There were few reports after this, and a slight increase in 1998 (6/156) and 1999 (6/156).

- Naucau – almost half of the reports are for Baucau distrct in the period 1976–1979
- Viqueque – there were a number of reports (30/156) sporadically in Viqueque district, all before 1986
- Aileu – most reports for Aileu were in the years 1982 (4/17) and 1983 (14/17)

Brimob

555. The Commission received 528 reports of violations by the police mobile brigade (Brimob) in the later phases of the conflict mostly in Dili and Baucau Districts. 90% of violations were reported to have occurred in 1991–1999, with the highest number of violations reportedly committed by Brimob in 1995 (126/528), but their level remained high during the last years of the occupation 1996–1999, averaging 67 per year.

- Dili District – a large proportion of reports were from Dili (205/528)
- Baucau District – a large proportion of reports were from Baucau (178/528)

Rajawali*

Violations

556. The Commission received 881 reports of violations by Rajawali mainly in the later stages of the conflict. The period 1994–1999 accounted for 94% of violations by Rajawali (830/881), especially in 1997 (255/881). While there were reports from all districts (except Oecussi), they were concentrated in the following districts:

- Ermera – over half of all reports are from Ermera (504/881) with the greatest number in 1997 (165/504)
- Bobonaro – accounted for 98/881 reports
- Dili – there was a relatively low number of reports for Dili District (32/881).

Table 19: Known Commanders of Rajawali

Name	Rank	Years served	Position
Priyo Patmonoyogo	Major	10/02/1996	

Milsas

Violations

557. Of the large number of reports (1,026) which the Commission received about violations by Milsas the trend matches the general pattern, namely that the biggest number of activities were in 1982 (112/1,026) and at the end of the 1990s: 1996 (168/1,026), 1998 (193/1,026), and 1999 (194/1,026). However there is a significant difference in the spread of violations which show Milsas involved in a number of big incidents in various districts in specific years, as follows:

- Covalima – 25/30 reports in 1976
- Manatuto – 81/112 reports in 1982
- Ainaro – 52/61 reports in 1991
- Manufahi – 38/43 reports in 1994
- Viqueque – 165/198 reports in 1998.

* In the late 1980s and early 1990s Rajawali were Kopassus units; from 1995 until the end of the occupation they were combat units under Kostrad command.

Police*

Violations

558. The CAVR received a very large number of reports (4,316) of police involvement in violations from all districts and all periods of the conflict. There was a higher number of violations relating to the police in the years 1980–1984 (704/4,316) with an average of 141 per year. There was a much higher lever of violations in the years 1991–1999 (3,065/4,316) with an average of 340 violations per year. One quarter of all reported violations for the entire conflict (1,037/4,316) occurred in 1999.

- Dili – over one quarter of all incidents reported were in Dili District (1,130/4,316).
- Covalima – in 1999 there was a higher level of reports in Covalima (225/301).
- Oecussi – almost all reported incidents occurred in 1999 (463/486).

Polres – District Police

559. The CAVR received 951 reports of violations where Polres was named as the perpetrator. There was a higher number of reports in 1984 (73/951) but over half the reports are from the period 1996–1999 (501/951). Certain districts reported greater numbers of violations as follows:

- Dili District – 177/951 reports
- Ermera District – 174/951 reports
- Liquiçá District – 139/951 reports
- Manufahi District – 124/951 reports
- Oecussi District – all 78 reports were from 1999

Table 20: Known commanders of Polres

Name	Rank	Years served	Position
Bambang Hermanu	Lt. Col (Pol.)	1999	Police Chief, Aileu
Drs Rizali SH	Major (Pol.)	1999	Police Chief, Ainaro
Drs. Sodak C. Marpaung	Lt. Col (Pol.)	1999	Police Chief, Baucau
Drs Budi Susilo	Major (Pol.)	1999 Indicted by Serious Crimes for several incidents in Bobonaro district in 1999	Police Chief, Bobonaro
Gatot Subiaktoro	Lt. Col (Pol)	1999	Police Chief, Covalima
Ery T.B. Gultom	Lt. Col (Pol)	1999	Police Chief, Ermera
Drs Irsan Wijaya	Lt. Col (Pol)	1999	Police Chief, Lautém

* The term 'police' is vague and has possibly been used in database entries to represent all references to the police. Employing the specific name of the institution at the micro level (such as 'polsek') is more useful.

Name	Rank	Years served	Position
Adios Salova	Lt. Col (Pol)	1999 Indicted by Serious Crimes for several incidents in Liquiçá district in 1999.	Police Chief, Liquiçá
Drs. Joko Irianto	Major. (Pol)	1999	Police Chief, Liquiçá
Drs J A Sumampow	Lt. Col (Pol)	1999	Police Chief, Manatuto
Drs Abdul Rachim	Lt. Col (Pol)	1999	Police Chief, Manufahi
Drs Wilmar Marpaung	Lt. Col (Pol)	1999	Police Chief, Oecussi
Drs Abdul Rahman	Lt. Col (Pol)	1999	Police Chief, Viqueque
Hulman Gultom	Lt. Col (Pol)	1999	Police Chief, Dili

Polsek

560. The reports of violations by Polsek follow a similar pattern to that of Polres. The CAVR received 676 reports of violations where Polsek was named as the perpetrator. There was a higher number of reports in 1980 (31/676) but over 64% of the reports are from the period 1996–1999 (434/676), with a large proportion from 1999 (251/676). Certain districts reported greater numbers of violations as follows:

- Oecussi District – 175/177 reports were from 1999. This is a very high figure for Oecussi District, representing over quarter of all reports for Polsek (177/676)
- Ermera District – 94/676 reports
- Dili District – 79/676 reports
- Liquiçá District – 62/676 reports
- Manufahi District – 36/676 reports

Local Government*

561. The Commission received a very large number of reports of violations (6,467) by members of administrative units identified only as "Government" in all districts during all periods of the conflict. Over half the reports of violations occurred in the period 1979–1984 (3,628/6,467), with higher numbers in the years 1979 (656/6,467), 1981 (803/6,467) and 1983 (828/6,467). The greatest number of reports was from the year 1999 (920/6,467). Most reports came from the following districts:

- Dili District (1,327/6,467)
- Viqueque (1,017/6,467)
- Lautém (794/6,467)
- Baucau (632/6,467)
- Oecussi – nearly all reports were from 1999 (410/431)
- Covalima – over half of reports were from 1999 (121/226).

* The term 'government' may have been used generically. It may be more useful to specify which institution (eg at sub-district level) is intended.

Provincial Government

Violations

562. The Commission received 269 reports of violations by provincial government officials. There is no pattern of general or widespread violations, but rather of isolated incidents as described above. Most reports of violations occurred in the period 1979–1983 (226/269 or 85%) and to a lesser extent in 1999 (28/269).

District Government

Violations

563. The pattern of reports of violations is similar to that of the provincial government. The Commission received 360 reports of violations by district. Again there is no pattern of general or widespread violations, but rather of isolated incidents. Most violations occurred in the period 1979–1983 (171/360 or 48%) with similar levels of reports in the years 1991(22/360), 1992 (32/360), 1995 (24/360) and 1999 (32/360).

Village Government

Violations

564. The Commission received a very large number of reports of violations perpetrated by the Village Government (2,266). The pattern is of widespread reports across all districts during all periods of the conflict as well as involvement in particular incidents as for the Regional and District Government as described above. A large proportion or reports are from the period 1979–1984 (983/2,266 or 43%), with greater numbers in 1991 (115/2,266 – 100 of these were in Ainaro District) and 1999 (527/2,266 – 317 of these were in Oecussi).

Annexe 3: Persons with high-level command responsibility

Members of Government	
Soeharto	President, 1967–1998
General Maradean Panggabean	Minister of Defence and Security, 1973–1978/Coordinating Minister for Political Affairs and Security 1978–1983
General Andi Mohammad Jusuf	Minister of Defence and Security, 1978–1983
General S Poniman	Minister of Defence and Security, 1983–1988
General Surono	Coordinating Minister for Political Affairs and Security 1983–1988
General L.B. Moerdani	Minister of Defence and Security, 1988–1993
Admiral Sudomo	Coordinating Minister for Political Affairs and Security, 1988–1993

General Edy Sudradjat	Minister of Defence and Security, 1993–1998
General Soesilo Soedarman	Coordinating Minister for Political Affairs and Security, 1993–1998
General Wiranto	Minister of Defence and Security, 1998–1999
General Faisal Tanjung	Coordinating Minister for Political Affairs and Security, 1998–1999
Lieutenant General A.M. Hendropriyono	Minister of Transmigration and Resettlement, 1998–1999
Lieutenant General Yunus Yosfiah	Minister of Information, 1998–1999

Head, Bakin (Co-ordinating Body for Intelligence)	
General Yoga Sugama	28 January 1974–2 June 1989
Major General Soedibyo	2 June 1989–1 April 1996
Lieutenant General Moetojib	April 1996–17 September 1998
Lieutenant General Zaini Azhar Maulani	17 September 1998–

Head, Opsus (Special Operations)	
Lieutenant General Ali Moertopo	1962–1974 (Deputy III, Bakin, 1974–1978/Minister of Information 1978–1983)

Members of the Armed Forces Command	
Commander-in-Chief, Armed Forces	
General Maradean Panggabean	March 1973–April 1978
General Andi Mohammad Jusuf	April 1978–March 1983
General L.B. Moerdani	28 March 1983–February 1988
General Try Sutrisno	27 February 1988–19 February 1993
General Edi Sudradjat	February–May 1993
Lieutenant General Faisal Tanjung	21 May 1993–12 February 1998
General Wiranto	20 February 1998
Army Chief of Staff	
General Makmun Murod	April 1974–January 1978
General Widodo	January 1978–April 1980
General S Poniman	April 1980–March 1983
General Rudini	March 1983–June 1986
General Try Sutrisno	June 1986–February 1988

General Edy Sudradjat	February 1988–February 1993
General Wismoyo Arismunandar	April 1993–February 1995
General R Hartono	February 1995–June 1997
General Wiranto	June 1997–February 1998
General Subagyo Hadi Siswoyo	February 1998–
Air Force Chief of Staff	
Air Marshall Saleh Basarah	April 1973–June 1977
Air Vice-Marshall Ashadi Tjahjadi	June 1977–December 1982
Air Marshall Sukardi	December 1982–April 1986
Air Marshall Oetomo	April 1986–March 1990
Air Marshall Siboen Dipoatmodjo	March 1990–April 1993
Air Vice-Marshall Rilo Pambudi	April 1993–March 1996
Air Marshall Sutria Tubagus	March 1996–June 1998
Air Marshall Hanafie Asnan	June 1998–
Navy Chief of Staff	
Admiral R Subijakto	June 1974–June 1977
Vice-Admiral Walujo Sugito	June 1977–December 1982
Admiral Mohammad Romly	December 1982–April 1986
Admiral Rudolf Kasenda	April 1986–March 1989
Vice-Admiral Muhammad Arifin	March 1989–April 1993
Admiral Tanto Koeswanto	April 1993–March 1996
Admiral Arief Kushariadi	March 1996–June 1998
Admiral Widodo Adisutjipto	June 1998–
Assistant for Operations to the Commander-in-Chief of the Armed Forces (Asops)	
Air Vice-Marshall Sukardi	May 1975–June 1977
Major General Seno Hartono	June 1977–July 1981
Lieutenant General M Sanif	July 1981–November 1984
First Marshall Ibnu Subroto	November 1984–April 1985
Major General Edy Sudradjat	April 1985–June 1986
Rear Admiral Soedibyo Rahardjo	June 1986–January 1988
Major General I Gde Awet Sara	1988–March 1990
Major General Sugeng Subroto	May 1990–August 1992
Major General HBL Mantiri	August 1992–July 1993
Major General Sofyan Effendi	July 1993–July 1995
Rear Admiral Soeratmin	July 1994–August 1997
Major General Fachrul Razi	August 1997–March 1998

Major General Johny Lumintang	March 1998–October 1998
Major General Endriartono Sutarto	October 1998–
Intelligence Assistant to the Commander-in-Chief of the Armed Forces (Aspam Intel/Asintel)	
Major General L.B. Moerdani	August 1974–March 1983
Major General Sutaryo	March 1983–November 1987
Major General Soedibyo	?–11 November 1987
Major General I Gde Awet Sara	11 November 1987–October 1988
Major General M I Sutaryo	October 1988–August 1990
Major General Asmono Arismunandar	August 1990–August 1992
Major General Bantu Hardjijo	August 1992–25 January 1994
Major General Arie Sudewo	25 January 1994–1 September 1994
Major General Syamsir Siregar	1 September 1994–November 1995
Major General Yusuf Kartanegara	November 1995–August 1997
Rear Admiral Yuswadji	August 1997–March 1998
Rear Admiral Berty Ekel	March 1998–
Assistant for Territorial Affairs to the Commander-in-Chief of the Armed Forces (Aster)	
Major General Dr Oemar Said	14 March 1974–18 January 1977
Major General Azis Bustam	18 January 1977–August 1981
Major General Naja Iskandar Sumantri	August 1981–30 May 1983
Major General Eddy Marzuki Nalapraya	30 May 1983–November 1984
Major General Sarwono	November 1984 (15 May 1985?)–August 1986
Major General Sutahan Mangoensentono [?]	August 1986–7 October 1987
Major General Mochtar	October 1987–
Major General Nana Narundana	1988–21 June 1990
Major General Soegito	August 1990
Major General R Pramono	April 1993–January 1994
Major General Moh. Ma'ruf	January 1994–February 1995
Major General Tamlicha Ali	February 1995–September 1995
Major General Arie Kumaat	September 1995–September 1997
Major General Deddy Sudarmadji	September 1997–June 1998
Major General Sjafrie Sjamsuddin	June 1998–September 1998
Major General Djoko Mulono	September 1998–
Commander, Kowilhan II (Java, Madura, Nusatenggara)	
Lieutenant General Widodo	May 1974–January 1978
Lieutenant General Willy Widjojo Sudjono	January 1978–January 1981
Lieutenant General Wiyogo Atmodarminto	January 1981

Lieutenant General Yogie Suwardi Memet	November 1983
Commander, Kostrad	
Major General Leo Lopulisa	January 1975–January 1978
Major General Wiyogo Atmodarminto	January 1978–March 1980
Brigadier General Ismail	March 1980–January 1981
Major General Rudini	January 1981–May 1983
Lieutenant General Soeweno	May 1983–January 1986
Major General Soeripto	January 1986–July 1987
Major General Adolf Sahala Radjagukguk	July 1987–March 1988
Major General Soegito	March 1988–August 1990
Major General Wismoyo Arismunandar	August 1990–July 1992
Major General Kuntara	July 1992–September 1994
Major General Tarub	September 1994–April 1996
Lieutenant General Wiranto	April 1996–June 1997
Lieutenant General Sugiyono	June 1997–March 1998
Lieutenant General Prabowo Subianto	March 1998–May 1998
Major General Johny Lumintang	May 1998–May 1998
Lieutenant General Djamari Chaniago	May 1998–
Commander, Kopassandha/Kopassus (RPKAD)	
Brigadier General R Yogi Suwardi Memet	May 1975–April 1983
Brigadier General Wismoyo Arismunandar	April 1983–May 1985
Brigadier General Sintong Panjaitan	May 1985–August 1985
Brigadier General Kuntara	August 1987–July 1992
Brigadier General Tarub	July 1992–July 1993
Brigadier General Agum Gumelar	July 1993–September 1994
Brigadier General Subagyo Hari Siswoyo	September 1994–December 1995
Brigadier General Prabowo Subianto	December 1995–March 1998
Major General H Muchdi Purwo Pranyoto	March 1998–May 1998
Major General Syahrir M S	May 1998
Chief of General Staff (Kasum)	
Lieutenant General Himawan Sutanto	February 1983–November 1984
Air Vice-Marshall Udara Oetomo	November 1984–April 1986
Lieutenant General Dading Kalbuadi	April 1986–January 1987
Lieutenant General Ida Bagus Sudjana	January 1987–January 1988
Admiral Soedibyo Rahardjo	January 1988–July 1992
Lieutenant General Feisal Tanjung	July 1992–May 1993
Major General Mantiri	May 1993–February 1995

Lieutenant General Soeyono	February 1995–August 1996
Lieutenant General Tarub	August 1996–March 1998
Lieutenant General Fachrul Razul	March 1998–April 1999
Lieutenant General Sugiono	April 1999–
Commander, Marine Corps	
Lieutenant General Kahpi Suriadiredja	July 1977–May 1983
Brigadier General Muntaram	May 1983–January 1987
Brigadier General Aminullah Ibrahim	January 1987–August 1990
Major General Baroto Sardadi	August 1990–November 1992
Brigadier General Gatur Chaliq	December 1992–April 1994
Major General Djoko Pramono	April 1994–February 1996
Brigadier General Suharto	February 1996–
Assistant for Intelligence to the Army Chief of Staff	
Major General Ari Bandiyoko	May 1983–June 1985
Brigadier General I Gde Awet Sara	June 1985–April 1988
Brigadier General Soeharto	April 1988–January 1991
Brigadier General Soerjadi	January 1991–August 1992
Brigadier General Hadi Baroto	August 1992–July 1994
Brigadier General Kodjin	July 1994–April 1996
Major General Farid Zaenuddin	May 1996–September 1996
Major General Zacky Anwar Makarim	September 1996–August 1997
Major General Yudomo Sastrosuhardjo	August 1997–June 1998
Major General Noor Aman	June 1998–
Assistant for Operations to the Army Chief of Staff	
Major General Prajitno	May 1983–June 1985
Brigadier General Adolf Sahala Radjagukguk	June 1985–March 1986
Major General Zein Maulani	March 1986–March 1988
Brigadier General Putu Sukreta Suranta	March 1988–September 1989
Major General Abdul Nurhaman	September 1989–August 1992
Brigadier General Joko Lelono	August 1992–August 1993
Brigadier General Pieter Sitompul	August 1993–March 1995
Major General Makmun Rasyid	March 1995–August 1997
Major General Suaidi Marasabessy	August 1997–May 1998
Major General Kiki Syahnakri	May 1998–
BIA (Armed Forces Intelligence Agency)	
Major General Syamsir Siregar	November 1994–10 September 1996
Major General Farid Zainuddin	10 September 1996–14 August 1997

Major General Zacky Anwar Makarim	14 August 1997–4 January 1999
Major General Tyasno Sudarto	4 January 1999–
Commander, Kodam XVI Udayana/Kodam IX Udayana	
Brigadier General Ignatius Pranoto Kusomo	February 1974–March 1976
Brigadier General Soeweno	March 1976–October 1978
Brigadier General Dading Kalbuadi	October 1978–May 1983
Major General R P D Soetarto	April 1985–March 1986
Major General Adolf Sahala Radjagukguk	March 1986–August 1987
Brigadier General Djoko Pramono	August 1987–August 1988
Major General Sintong Panjaitan	August 1988–January 1992
Major General Herman Bernard Leopold Mantiri	January 1992–August 1992
Major General Soewardi	August 1992–March 1993
Brigadier General Theo Syafei	March 1993–February 1994
Major General R Adeng Ruchiatna Purwadirdja	February 1994–September 1995
Major General H Abdul Rivai	September 1995–July 1997
Major General Syahrir M S	July 1997–May 1998 (RPKAD)
Major General Yudomo Sastrosuhardjo	May 1998–June 1998
Major General Adam Damiri	June 1998–

Chief of National Police	
Police General Widodo Budidarmo	August 1974–September 1978
Police General Awaloeddin Djamin	September 1978–December 1982
Police General Anton Sudjarwo	December 1982–July 1986
Police General Moch. Sanoesi	July 1986–February 1991
Police General Kunarto	February 1991–April 1993
Police General Banurusman	April 1993–March 1996
Police General Dibyo Widodo	March 1996–June 1998
Police General Roesmanhadi	June 1998–

Annexe 4: Careers of selected Indonesian officers who served in Timor-Leste

Name	Service in Timor-Leste	Senior positions held
Adang Ruchiatna Purwadirdja	1981–?: Commander Battalion 133	February 1994–September 1995: Commander Kodam 9 Udayana
	1986–1987: Assistant for Intelligence to Chief of Staff, Kostrad First Infantry Division/Assistant for Intelligence, Koopskam	
Adolf Sahala Radjagukguk	1976: Commander, 5th Infantry Brigade	June 1985–March 1986; Second Assistant, Operations;
	1978–1979: Commander, RTP 16	March 1986–August 1987: Commander Kodam 9 Udayana
	1979–1982: Commander, Korem 164 Dili	July 1987–March 1988: Commander, Kostrad
		December 1988–August 1992 Deputy Army Chief of Staff
Dading Kalbuadi	1975: Operasi Flamboyan	August 1978–May 1983: Commander, Kodam IX Udayana)
	–March 1976 Assistant for Intelligence, Kogasgab	February 1983–18 April 1986: Assistant for Logistics to Armed Forces Commander-in-Chief
	March 1976–August 1978: Commander, Kodahamkam	April 1986–January 1987: Armed Forces Chief of general Staff
Edi Sudradjat	1978–1979: Chief of Staff, Kogasgab	1986–1988: Deputy Army Chief of Staff
		1988–1993: Army Chief of Staff
		1993: Commander-in-Chief, Armed Forces
Endriartono Sutarto	1976: Company Commander, Battalion 328	October 1998–: Assistant for Operations to the Armed Forces Chief of general Staff
	1979: Company Commander, Battalion 330	
Faisal Tanjung	1975: Chief of Staff, Airborne Infantry (Linud) Brigade 17, Kostrad	1983–: Commander Airborne Battle Command, Kostrad
		July 1992–May 1993: Armed Forces Chief of General Staff
		May 1993–February 1998: Commander-in-Chief, Armed Forces
		March 1998–: Co-ordinating Minister for Political and Security Affairs

Hendropriyono	1976: Served in Nanggala 8; Commander, Nanggala 13	1993–1994: Commander, Kodam Jaya (Jakarta Regional Command);
		1999: March 1998–: Minister of Transmigration and Resettlement
Johny Lumintang	1993–1994: Commander, Korem 164 Dili	August 1994–June 1995: Commander, Kostrad 1st Infantry Division
		August 1996–March 1998: Commander, Kodam VIII Trikora
		March 1998–October 1998: Assistant for Operations to the Armed Forces Chief of General Staff
		October 1998: Deputy Army Chief of Staff
Kahpi Suriadiredja	Commander, Marines operations in Timor-Leste during Operasi Seroja	July 1977–May 1983: Commander, Marines)
		1983–: Commander, Supra-Regional Command IV (Kowilhan IV
Kiki Syahnakri	1981: Deputy Commander, Battalion 744	May 1998: Assistant for Operations to the Armed Forces Chief of Staff
	1981–?: Commander Battalion 502 Kostrad	
	1993–September 1994: Deputy Commander, Korem 164 Dili	
	September 1994–May 1995: Commander, Korem 164 Dili	
	September 1999: Operational Commander, Martial Law Authority Command in Timor-Leste	
HBL Mantiri	1976 (?): Commander, Battalion 700	May 1993–February 1995: Armed Forces Chief of General Staff
	1986–1988: Commander Koopskam/ Kostrad 1st Infantry Division	
	January–August 1992: Commander Kodam IX Udayana	
Mohammad Ma'ruf	1987–1988: Commander, Korem 164 Dil	January 1994–February 1995: Assistant for Territorial Affairs
		1995–: Armed Forces Chief for Social and Political staff
Muchdi Purwo Pranyoto	Reportedly four tours in Timor-Leste, including as intelligence officer conducting interrogations after 10 June 1980 attacks	March 1998–May 1998: Commander, Kopassus

Prabowo Subianto	1976: served with Nanggala 10	1995: Deputy Commander, Kopassus
	1978: Commander, Nanggala 28	December 1995–20 March 1998: Commander, Kopassus
	1983–1984: Commander, Chandraca 8	March 1998–May 1998: Commander, Kostrad
	1989: Yonif 328 Kostrad	
Rudini, 24 January 1981–24 May 1983	1975: Commander, Airborne Battle Force II/Kostrad	1977–1978: Chief of Staff, Kostrad
	1976: Commander, Airborne Battle Command/Kostrad	1981–1983: Commander, Kostrad
		March 1983–June 1986: Army Chief of Staff
		1988–1993: Minister of the Interior
Raja Kami Sembiring Meliala	1979: Commander, RTP 18	Commander, Kodam 17
Slamet Kirbiantoro	1975: Member of Group 2 Kopassandha, serving in Team Susi	
	1987–1988: Commander, Viqueque Kodim	
	1992–1993: Commander, Sector A	
Ryamizard Ryacudu	?–1995: Commander, Sector A	1998: Commander, Kostrad 2nd Infantry Division
		1998–1999: Chief of Staff, Kostrad
		1999–: Commander Kodam V (Brawijaya Commander, Kostrad)
		2002–: Army Chief of Staff
Soegito	1975: Commander, Nanggala 5	1988–1990: Commander, Kostrad
	1983–August 1985: Commander, Koopskam/ 1st Division, Kostrad	
Soeweno	1975: Commander, Kogasgab Seroja	1978–1983: Assistant for Operations to the Central Army Staff
	1976–1978: Commander, Kodam Udayana XVI	1983–1986: Commander, Kostrad
	Commander, Kodahankam	
Sofian Effendi	1975–1976: Commander Nanggala 4 (Team Umi)	1993: Commander, Kodam 7 Wirabuana
		1993–1995: Assistant for Operations to the Armed Forces Chief of General Staff

Tamlicha Ali	1978–1979: Commander Linud 700	1992: Commander Indonesian contingent to UN Peacekeeping Force in Cambodia
		1993: Commander, Kodam VII Wirabuana
		February–September 1995: Assistant to Chief of Staff for Territorial Affairs
		September 1995–January 1998: Assistant for general Planning to Armed Forces general Chief of Staff
Tarub	1975: Commander, Nanggala 3 (Team Tuti)	1989–1992: Deputy Commander, Kopassus
		July 1992–July 1993: Commander, Kopassus
		1993–1994: Commander, Kodam VIII Trikora
		September 1994–April 1996: Commander, Kostrad
		August 1996–March 1998: Chief of general Staff
Theo Syafei	1975: Commander, Nanggala ? (Team Susi)	1995–1995: Commander of Armed forces Command and Staff Academy
	1978–1980: Commander, Battalion 745	
	1980–1982: Deputy Assistant for Operations, Kodam 9	
	1982–1984: Deputy Commander, Kolakops	
	1992–1993: Commander, Kolakops	
	30 March 1993–8 February 1994: Commander, Kodam IX Udayana	
Try Sutrisno	1978–1979: Chief of Staff, Kodam IX Udayana)	1985–1985: Commander, Kodam Jaya
		1985–1986: Deputy Army Chief of Staff
		1986–1988: Army Chief of Staff
		1988–1993: Commander-in-Chief, Armed Forces
		1993–1998: Vice-President
Tyasno Sudarto	1978: Deputy Commander, Battalion 202	1998–1999: Commander, Kodam IV Diponegoro
		1999–: Head, BIA (Head of Armed Forces Intelligence Agency)

Wiranto	1981 or 1982–1983: Commander, Battalion 713	1990–1993: Chief of Staff, Kodam Jaya
		1994–1996 Commander, Kodam Jaya
		1996–1998: Army Chief of Staff
		1998–: Commander-in-Chief, Armed Forces
Yacob Dasto	Served in Operasi Seroja	1992–1993: Chief of Staff, Kostrad
	Sector Commander, Koopskam	1993–1995: Commander of Kodam 6 Tanjungpura
Yunus Yosfiah	1975: Commander, Nanggala 2 (Team Susi)	1994–1995: Commander, Kodam II Sriwijaya
	1978–1979: Commander, Battalion 744	1997–1998: Chief of the Armed Forces Social and Political Staff
	?–1985: Assistant for Operations to the Chief of Staff, Kodam XVI Udayana	May–October 1999: Minister of Information
	1985–1987: Commander, Korem 164 Dili	
Zacky Anwar Makarim	1982: Commander, Kotis Interrogation Centre, Saelari, Baucau	September 1996–August 1997: Assistant for security to Army Chief of Staff,
		August 1997–January 1999: Head, BIA (Armed Forces Intelligence Agency)
		June–September 1999: TNI Senior Representative, Task Force for the Implementation of the Popular Consultation in East Timor

Endnotes

1. Regulation 10/2001 Section 13.1 (i).
2. See *Prosecutor v Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo*, ICTY Case No IT-96-21, Appeals Chamber Judgment, 20 February 2001, paras196-198.
3. See e.g. Article 7(3) Statute of the ICTY; Article 6(3) Statute of the ICTR; and Article 28 Rome Statute for the International Criminal Court 1998.
4. See Article 7(1)(h) of the ICC Statute.
5. *Prosecutor v Tadic*, Appeals Chamber decision on Jurisdiction, para 134.
6. CAVR interview with Mario Carrascalão.
7. See Prosecutor v Zejnil Delalic, Zdravko Mucic, Hazim Delic and Esad Landzo , ICTY Case No IT-96-21, Appeals Chamber Judgment, 20 February 2001, paras 196-198.
8. See for example Article 7(3) Statute of the ICTY; Article 6(3) Statute of the ICTR; and Article 28 Rome Statute for the International Criminal Court 1998.
9. See in particular Article 68 of the Fourth Geneva Convention.
10. Joint Assessment Mission, *East Timor-Building A Nation, A Framework for Reconstruction and Development*, November 1999, p. 20.

11. See the Case Concerning Military and Paramilitary Activities in and against Nicaragua (*USA v Nicaragua*), which is discussed in Vol 1, Part 2, The Mandate of the Commission.
12. Article 3, Agreement between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor.
13. Article 1, Agreement between the United Nations, The Republic of Indonesia and The Portuguese Republic Regarding Security.
14. Article 1(3) ICCPR and Article 1(3) ICESCR.
15. Human Rights Committee General Comment 12, para 6.
16. Ibid.
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Photo/CAVR archives

Chega!

Part 9.

Community Reconciliation

Part 9. Community Reconciliation

Tables:

Diagram:

9 Community Reconciliation

Yes and the perpetrators…must recognise their mistake and ask for forgiveness…the communities already told me bring them back. We will live together, we will punish them in our way, we will demand from them: "Oh, you burnt this house, help us and we will rebuild together."[1]

Former CNRT President, Kay Rala Xanana Gusmão, 2001.

Introduction

Overview of this part

1. One of the Commission's core functions was promoting reconciliation in Timor-Leste. This objective informed the design of all Commission programmes and the way such programmes were implemented. The Commission adopted a holistic, integrated approach to promoting reconciliation in Timor-Leste, involving all levels of society in its work. It also approached the goal of reconciliation from a variety of angles through the broad range of programmes it undertook during its operational period. It was understood by the Commission that, if it was to be truly effective, it must engage individuals, families and community groups from all sides of the conflict, reach to the highest levels of the national leadership, and continue for many years to come.

2. The Commission's main reconciliation initiative at the grassroots level was its Community Reconciliation Process (CRP) programme. This was a novel and previously untested programme designed to promote reconciliation in local communities. It aimed to achieve this through reintegrating people who had become estranged from their communities by committing politically-related, "less serious", harmful acts during

the political conflicts in Timor-Leste.* The underlying belief of the programme was that communities in Timor-Leste, and those who had harmed them in less serious ways, were ready to reconcile with each other. The CRP procedure was based on the philosophy that community reconciliation could best be achieved through a facilitated, village-based, participatory mechanism. This mechanism combined practices of traditional justice, arbitration, mediation and aspects of both criminal and civil law.

3. Accordingly, the Commission was given a mandate by Regulation 10/2001[2] to organise community-based hearings. At these hearings, victims, perpetrators and the wider community could participate directly in finding a solution to enable perpetrators of "harmful acts" to be reaccepted into the community. The regulation set out the basic steps to be followed in a CRP but did not spell out the precise procedure, allowing flexibility for the inclusion of elements from local traditional practice.

4. The CRP was a voluntary process. Hearings were conducted in the affected community by a panel of local leaders, chaired by a Regional Commissioner with responsibility for the district where the hearing was held. At the hearing the perpetrator was required to admit fully his participation in the conflict. Victims and other members of the public were then given the opportunity to ask questions and make comments on the perpetrator's statement. Hearings were often an extremely emotional experience for the participants and could continue all day and into the night. After all relevant actors had spoken, the panel brokered an agreement in which the perpetrator consented to undertake certain actions. These could include community service or the payment of reparations to victims. In return for performing these actions the perpetrator was reaccepted into the community. Traditional practices, or lisan† were incorporated into the procedure, varying according to local custom.

5. Before a hearing could be conducted, the Office of the General Prosecutor (OGP)[3] was required to consider the case and agree that it could proceed through a CRP rather than be prosecuted in the courts. Following the hearing the drafted reconciliation agreement could, after judicial consideration, become an Order of the Court. If the Court approved, and the perpetrator carried out his or her obligations, immunity from civil or criminal action would be granted.

6. The results of the CRP programme indicate that it has made a real contribution to community reconciliation in Timor-Leste, and the reintegration of perpetrators of past wrongs into their communities. 1,371 perpetrators successfully completed a CRP, many more than the initial target of 1,000, and many more requested that the CRP programme continue. Perpetrators, victims and other participants have reported to the Commission that the CRP programme contributed significantly to the maintenance of peace in their communities and to settling past divisions. Perhaps the most important

* During the design of the CRP, community consultations were held at which community members expressed the strong feeling that they could not reconcile with those responsible for more serious crimes, such as murder, rape and torture, until they had been formally prosecuted and tried.

† *Lisan* is a combination of beliefs, customs and traditions of East Timorese people. *Lisan* varies from community to community and is generally an important aspect of community life, especially in rural areas. It is often referred to as *adat* in the Indonesian language.

indicator of CRP's success, however, is that, despite predictions of revenge attacks on perpetrators for their role in the violence of 1999, Timor-Leste has enjoyed a high level of peace and stability during the difficult initial years of nation building.

Background

The situation in 1999

7. The intense violence and destruction that followed the Popular Consultation of 30 August 1999 resulted in the internal displacement of over 300,000 people, while a further 250,000 to 300,000 either voluntarily fled or were forcibly taken to West Timor.[4]

8. Approximately 180,0005 of the refugees to West Timor had returned to Timor-Leste by October 1999. Among those who remained in Indonesia were many of the militia commanders, East Timorese members of the Indonesian military (Tentara Nasional Indonesia, TNI), officials of the civilian administration and pro-autonomy politicians thought to have been responsible for the serious human rights violations that occurred in 1999. The International Force for East Timor (Interfet) and then UNTAET announced that if those suspected of having committed serious crimes returned to Timor-Leste, they would be arrested and prosecuted.

9. The refugees also included people who had played only a relatively minor role in the violence and destruction. Thousands of East Timorese had joined militia groups, including many who had been forced into doing so. Many had participated in house-burning, beatings, intimidation and looting. A large proportion of the refugees were people who had played no role in the violence, but were family members of others who had, or had supported the political goal of integration but not the associated campaign of violence.

10. As the numbers of returnees grew, it became apparent that a significant number of those who had been involved in "less serious crimes", or who had simply supported integration, were afraid to return to their communities. The violence surrounding the ballot had been carried out with the powerful protection of the TNI. Its victims had been unable to resist or fight back. It was widely predicted that, given the opportunity, those victims would take revenge on the people who had attacked them and their families, or even those who had been pro-integration.

11. Although the events surrounding the ballot were freshest in the minds of all East Timorese at the end of 1999, that violence was in fact inseparable from the entire history of the political conflicts going back to 1974. Many were still divided over their political affiliations during the internal conflict of 1975. Many who had supported independence during the Indonesian occupation nursed anger and resentment towards those who had collaborated with the Indonesian security forces; independence supporters, their friends and family members had suffered violations as a result of such collaboration. The Indonesian withdrawal after the ballot seemed to open up the possibility that these long-standing grievances would flare into violence.

12. This climate of uncertainty and apprehension most immediately affected the range of people who had been "on the wrong side" in 1999: those still in the camps in West Timor who had played relatively minor roles in the conflict; those who had returned to Timor-Leste but had taken shelter in the relative anonymity of major towns; and the increasing number who had returned to their villages but were living on the fringes of community life, kept at arm's length by their fellow villagers.

13. At the same time institutional developments were both shaping thinking on, and narrowing the options for, both justice and reconciliation. UNTAET had established the Special Panels of the Dili District Court, the office of the Deputy General Prosecutor for Serious Crimes and the Serious Crimes Investigation Unit. These institutions, collectively known as the "serious crimes process", were mandated to investigate and prosecute perpetrators of serious crimes that had been committed during the conflict. They received significant budgetary support from the UN and were largely staffed by UN international personnel.

14. The Special Panels had jurisdiction over the serious criminal offences of crimes against humanity, genocide, war crimes, torture, murder and sexual offences.[6] Legislation provided that the Special Panels would have exclusive jurisdiction only over cases of murder and sexual offences that occurred between 1 January 1999 and 25 October 1999. Crimes against humanity, war crimes, genocide and torture are internationally recognised as crimes of universal jurisdiction, which meant that technically the Special Panels could deal with these crimes regardless of when or where they had been committed. However, due to its overwhelming workload, the Serious Crimes Unit made an internal policy decision to limit prosecutions for all of the six offences within its jurisdiction to those crimes committed during 1999. These decisions were taken because of the massive caseload arising from 1999, but they meant that serious crimes committed prior to 1999 would not be prosecuted.

15. The Ordinary Crimes Panels of the Dili District Court had jurisdiction to deal not just with new offences, but also with the potentially enormous number of "less serious crimes" committed during the political conflicts. East Timorese judges, prosecutors and defence counsel, most of whom had had little or no practical legal experience before their appointment, had responsibility for the Ordinary Crimes process.

16. Despite the best efforts of these legal professionals and those involved in the administration of the courts, it quickly became apparent that the nascent formal legal system was straining to keep up just with new crimes and those offences that came within the mandate of the serious crimes process. There was little or no possibility that the backlog of "less-serious crimes" could be investigated or prosecuted. Total impunity for these past offences would seriously hamper efforts to promote respect for the rule of law in the emerging nation. It might also encourage vigilante justice and revenge attacks, which could easily ignite the brittle emotions of the population, sparking renewed community violence.

17. In this context policy makers began seeking a solution that would require less resources and would not place further strain on the struggling formal justice sector. It also needed to be able to address a large number of cases in a relatively short period of

time, assist in the reintegration of offenders into their former communities and help to maintain the fragile peace of the territory.

18. In the absence of any formal mechanisms operating at the village level, some communities had sought to resolve outstanding disputes through traditional processes adjudicated by local spiritual leaders. The Community Reconciliation Process was an attempt to draw on the high regard in which these customary practices were held, and fuse them with the legal principles on which the emerging state of Timor-Leste was founded. The resulting mechanism combined direct participation by local leaders, perpetrators, victims and community members with formal requirements involving the OGP and the courts. It was hoped that this combination would not only assist in safely reintegrating perpetrators into their communities, but also reduce the pressure on the formal justice system, contribute to the fight against impunity, and help to settle residual anger caused by the political conflict.

Traditional justice in East Timorese society

19. When the designers of the CRP decided that it should incorporate customary law, they were able to draw on a rich cultural tradition. Customary systems of law, dealing with both criminal and civil disputes, were part of the tradition of *lisan*. This tradition was well-established in Timor-Leste long before the arrival of the Portuguese in the 16th century. Both the Portuguese and Indonesian administrations recognised only the legitimacy of the formal justice systems they had created. However, the mechanisms of the formal sector were not highly developed under either regime, and were concentrated mainly in Dili and other towns. Traditional methods continued to provide the only effective means of resolving disputes for most of the population, particularly those living in remote rural areas. Reliance on *lisan* procedures became even more important during the Indonesian occupation because the formal system of justice was perceived as an instrument of selective oppression rather than a means of protection of the rights of the people.

20. Traditional beliefs continue to play an important role in the life of most East Timorese. Communities rely on traditional conflict resolution practices that allow an aggrieved person to seek resolution of a dispute through the intervention of elders known as *lia nain*[*]. These practices bring together the parties, their families and often other members of the community to participate in a ceremony to resolve a dispute. The ceremony usually takes place with the parties seated on a mat (*biti* in Tetum), hence the term *nahe biti boot* (lit: "spreading the large mat") to describe the traditional procedure for resolving disputes. The opening of the mat marks the opening of the process of seeking a resolution. Normally, the mat should not be rolled up again until a resolution has been reached.

21. Participants believe that their ancestors, who are summoned at the beginning of the ceremony, are witnesses to the *nahe biti boot* ritual and validate the proceedings.

* The *lia nain* (literally: keeper of the word) are considered men of law, involving an important spiritual and customary role.

Their presence makes the process binding, and any failure to accept the outcome is believed to have serious consequences.

22. Within this system the *lia nain* play an important role as both facilitators and adjudicators. A variety of factors influence how a case is handled; including how serious the conflict is thought to be, and whether the dispute is between different families or within the same family. These factors also determine the number, position and social standing of the leaders who should be engaged in the resolution process.

23. The form of *lisan* procedures varies significantly between different regions of Timor-Leste. However, despite these variations the basic procedure of *nahe biti boot* is a cultural constant across Timor-Leste.

Nahe biti boot

A typical *nahe biti boot* ceremony takes the following form:

The *lia nain,* dressed in multicoloured woven *tais* (traditional weaving),* wearing anklets made from horse hair, and adorned with ceremonial items such as *kaibauk* (silver horns) and the chest-ornaments known as *belak,* open the ceremony by performing a dance while chanting and reciting incantations which invite answering calls from the audience. The solemn act of unrolling the mat then takes place. This marks the opening of proceedings and indicates that both sides to the dispute have agreed to sit together to try to resolve their differences. The mat should not be rolled up again until the dispute has been settled. The process usually begins in the morning and depending on the seriousness and complexity of the dispute, can continue until late into the following night.

After the mat has been unrolled, a woven straw basket (*mama fatin*)† containing betel nut, lime, betel leaves, tobacco, palm wine (*tua)* and other items are laid out. The parties to the dispute and the *lia nain* will chew the betel nut, leaves and lime, and drink *tua* after the dispute is successfully settled as a gesture of friendship and a sign that the conflict is over, and to publicly demonstrate that both sides are now reconnected in a peaceful relationship with each other.

"Lulik *is all that is sacred…*lisan *wisdoms and practices…not only sacred objects. The* lia *nain carry sacred objects such as a stick (*rotu*) or a traditional dagger representing the presence of* lisan *so the parties*

* *Tais* are traditionally hand woven textiles with symbols and patterns unique to the clan of the weaver.

† *Mama fatin* is a traditional symbol of hospitality.

in the dispute have to submit to lisan *law.*" – Father Jovito de Jesus Araújo, Deputy Chair of the CAVR.[7]

Once these rituals are complete, the parties to the dispute are given the opportunity to present their cases to the group. Generally, they are invited to give their versions of the events surrounding the dispute. The adjudicators or other participants may then question them. At a certain point, the *lia nain* or the assembled members of the community call a halt to this phase of the process and announce that the time has come to move on to the next part of the proceedings, the determination of penalties.

If the complainant has convinced the *lia nain* of the justice of his case, the penalties are usually punishment of the perpetrator or compensation of the victim, or a combination of both. Although such outcomes may have a retributive dimension, they are reached through an adjudication process that involves discussion and debate with all parties involved. This differs significantly from the formal justice system, where punishment is imposed by the state after considering evidence provided by advocates representing the prosecution and defence.

Punishment meted out under *lisan* traditionally takes one of two forms, social or physical.[8] Social punishments include being ostracised by exclusion from communal activities, or having one's social status lowered. In the past physical punishments could range from incarceration to capital punishment. However, such punishments could be avoided by the payment of an amount of compensation acceptable to the victim or the victim's family. Where a perpetrator will not or cannot pay the agreed compensation, the perpetrator's family may take responsibility for the "sentence" or "fine".

A defining characteristic of the *lisan* system is that it involves the wider community in the discussion about the dispute and how it is to be resolved. If an individual has been wronged, other members of that person's kin group share in the injustice. Consequently, *lisan* ceremonies focus on individuals, but they also engage the interests of wider family groups. In reaching agreements or deciding on sanctions, consideration is often given to relationships between families and between communities. This inclusive approach to justice, based on the individual's sense of the self as part of a greater whole that extends beyond the family group, has been shown to strongly motivate people to reconcile.[9]

Because of its wider communal context, public demonstrations of reconciliation through rituals and ceremonies are a crucial part of re-establishing or maintaining social stability. While practices and rituals vary across the country, certain principles remain constant. Firstly, as with most aspects of *lisan* practice, the ancestral spirits are called upon to witness and validate the process. Secondly, the perpetrator (and sometimes the family of the victim) contributes materials for the performance of the *lisan* ceremonies. These typically include betel nut and palm wine to be shared in a closing ritual – symbolising reunification. Often a sacrificial animal is brought to the meeting. It may play a variety of roles, but commonly its entrails are read to determine whether the process has been completed to the satisfaction of the ancestors. Thirdly, it is customary for a communal meal to follow the ceremony. This ritual helps to generate a binding agreement, allowing closure of the dispute that, in turn, restores social balance and unity.

Origins of the Community Reconciliation Process/CRP

24. In May 2000 the UNTAET Human Rights Unit facilitated a workshop, led by two international experts, on the theme of a possible truth and reconciliation commission for Timor-Leste. Included in the report from this workshop was a recommendation that a more practical, community-based solution be devised for dealing with the large number of perpetrators of less serious crimes, particularly those committed during the period surrounding the Popular Consultation in 1999.[10]

25. In August 2000 the CNRT, which included representatives of East Timorese political parties and other groups that had supported a referendum, held a national congress and unanimously passed a resolution calling for the establishment of a truth and reconciliation commission. The proposal was passed to the National Council, the East Timorese consultative legislative council set up by UNTAET, and a request for assistance was forwarded to UNTAET. The Transitional Administrator, Sergio Vieira de Mello, asked the UNTAET Human Rights Section to take the lead in assisting East Timorese counterparts to conduct background research and take steps towards the establishment of a 'truth and reconciliation commission'. A Steering Committee was formed which included representatives of the CNRT, human rights NGOs, women's groups, youth organisations, the Catholic Church, the Association of Ex-Political Prisoners (Assepol), Falintil, UNTAET (through its legal and human rights sections) and UNHCR.

26. The concept of the community reconciliation procedure was developed during the consultation process conducted by the Steering Committee between September 2000 and January 2001. The consultations were extensive, covering all districts and

including meetings at *aldeia*, village, sub-district and district level. Consultations were also held with the country's main political and human rights groups. During the community meetings participants were asked for their opinions on dealing with "less serious crimes" through community-based hearings rather than through the courts.

Results of district consultations

Community views on reconciliation

Some common community views on a possible reconciliation process included:

- It should be a community-based process, during which perpetrators would be required to tell their victims and those who knew them well the truth about the violations they had committed.
- Any reconciliation process should take place at the village level. Participants expressed dissatisfaction that the reconciliation initiatives up to that point had focused on leaders. Although, it was accepted that leaders had also to reconcile, it was felt that there should also be a formal mechanism to try to resolve grass-roots level differences, whose origins lay in the conflicts of the past.
- It was not realistic to imagine that national leaders could simply command the population to reconcile. A forum was needed where those who had harmed their communities could explain their actions and apologise for them.
- It would be important that aside from victims and communities, *liurai*[*] (chief of a village), spiritual leaders and other figures who enjoyed the respect of the community should be involved in any reconciliation procedure.
- Any mechanism adopted should incorporate traditional *lisan* dispute resolution procedures, however, lisan alone would not be sufficient. An approach was needed which would link traditional mechanisms to the formal justice system.
- The fact that the vast majority of East Timorese belonged to the Catholic Church should be recognised and integrated into the design of the process, particularly their acceptance of the Catholic doctrine of confession and absolution.

* Traditional social structure is based throughout Timor-Leste on "kings" known as *liurai*. Prior to the arrival of the Portuguese, Timor-Leste consisted of numerous small kingdoms under the hereditary control of a *liurai*. The *liurai* system and other customary institutions, retain strong influence in Timor-Leste, particularly in rural areas. However, we also know that this traditional system has been disrupted and factionalised by colonisation and war. For example, after the Dom Boaventura rebellion of 1911-1912, the most significant *liurai*-led revolt against Portuguese rule during the colonial period, the Portuguese administration required that all *liurai* obtain approval before taking up office.

- Anger towards those who had co-operated with the Indonesian occupation forces, particularly those who joined militia groups, remained strong in many communities. Something needed to be done to try to lessen this anger.
- Many perpetrators of "less serious crimes" had not returned to their home communities, but had settled in Dili or other places where they were not known. These persons should return to their home villages, and explain their actions to their communities.
- Pro-autonomy supporters said that there was a need to educate the population so that they understood that supporting the political goal of autonomy was not a crime, and accepted that individuals should not be punished for having taken that political position.
- If a formal programme was to go ahead, it should be backed up by a comprehensive information campaign, down to the village level.

Some common concerns raised about the proposed commission included:

- There is a risk that hearings could open old wounds, especially if the Commission's investigations went beyond recent violations back to 1974. For similar reasons some thought that the Commission's activities should be confined to reconciliation and should not include truth-seeking at all.
- The proposed Commission could not, logistically, deal with a large number of hearings in remote villages, given the difficult terrain and the shortcomings of the transport and communication systems.

27. Following the district consultations, the Steering Committee prepared a draft bill. After several months of discussion, the National Council approved Regulation 10/2001 on 13 June 2001. The Transitional Administrator promulgated the Regulation on 13 July 2001.

The Community Reconciliation Process

Summary of the CRP Procedure

Under the mechanism provided for in Regulation 10/2001 perpetrators of "harmful acts", whether criminal or otherwise, could voluntarily provide to the Commission a statement. The statement included a full description of the acts they had committed, an admission of responsibility and other relevant facts. The statement would then be forwarded to the Office of the General Prosecutor, to decide whether the General Prosecutor's jurisdiction to prosecute would be exercised or, alternatively, whether it was a case that could suitably be handled through CRP. If approved for CRP, the case would then be returned to the Commission, which had to organise a hearing in the perpetrator's community.

Hearings were presided over by a panel of three up to five local leaders, including a Regional Commissioner of the CAVR who would act as chair. At the hearing the perpetrator was required to make a formal public admission, and could be asked questions by victims and community members. Traditional *lisan* procedures and the participation of spiritual leaders were incorporated into the process in accordance with local custom. After hearing from all parties the panel would decide what appropriate "acts of reconciliation" the perpetrator should perform in order to be accepted back into the community. These acts might include community service, an apology or the payment of reparations. If the perpetrator accepted the panel's decision, an agreement would be drafted in simple terms. It would then be forwarded to the appropriate District Court, where it would be formalised as an Order of the Court. On completion of all required "acts of reconciliation" the perpetrator was automatically entitled to civil and criminal immunity for all actions covered in the agreement.

Objectives of the process

28. Part IV of Regulation 10/2001, entitled Community Reconciliation Procedures, sets out the steps to be followed in implementing a Community Reconciliation Process (CRP). The broad objective of the CRP, as set out in the Regulation, was:

> [T]o assist the reception and reintegration of persons into their communities…in relation to criminal or non-criminal acts committed

> within the context of the political conflicts in Timor-Leste between 25 April 1974 and 25 October 1999.[11]

29. The procedures set out in the Regulation incorporated principles drawn from criminal law, civil law and traditional mechanisms for dispute resolution.

The procedural framework

30. The procedural framework of CRP involved the following six steps:

Initiation of the process

31. Any person, who had committed a "criminal or non-criminal act…within the context of the political conflicts in East Timor", which had caused that person to be estranged from his or her community, could approach the Commission to submit a statement.

32. This statement had to include:

- A full description of the relevant acts
- An admission of responsibility
- Identification of the relationship between the acts committed and the political conflict
- Identification of others involved in those acts, both as additional perpetrators and victims
- A renunciation of the use of violence to achieve political ends
- A formal request to participate in a CRP in a specified community.

33. Before accepting the statement, the Commission informed the deponent that the statement would be sent to the OGP, who retained exclusive jurisdiction over all serious crimes, and that the OGP might use the statement in future legal proceedings.[12] The CRP Division staff then forwarded the completed statement to the national office of the Commission.

Determining whether a case was appropriate for CRP

34. The CRP was not intended to impinge on the jurisdiction of the Serious Crimes Unit or the Special Panels. Rather, it was a mechanism designed to deal with "less serious crimes" and to run in tandem with the serious crimes process. This was in accordance with the principle that there could be no reconciliation without justice for those who had committed serious offences. At the same time the procedure recognised the inability of the formal justice system to deal with "less serious" violations and the need to provide an achievable solution while promoting reconciliation. This approach was confirmed by Schedule 1 of the Regulation:

> In principle serious criminal offences, in particular murder, torture and sexual offences, shall not be dealt with in a Community Reconciliation Procedure.[13]

35. Under the Regulation, the OGP made the decision on whether a case could appropriately be dealt with in a CRP, after preliminary review by an internal Commission statements committee. The statements committee checked whether the case came within the Commission's mandate and made a preliminary assessment of its appropriateness for a CRP. This assessment, together with a copy of the statement, was then forwarded to the OGP. The OGP considered the acts admitted to in the statement, and checked the name of the deponent and the events described in his statement against information in its own files. It then decided whether or not to exercise its exclusive jurisdiction to investigate the case with a view to possible prosecution. If the statements committee approved the statement and the OGP decided not to exercise jurisdiction, the CRP could proceed.

36. Schedule 1 to the Regulation set out guidelines, rather than strict rules, for the OGP to make this determination.[14] The criteria to be considered included the nature of the crime committed by the deponent, the number of acts committed and the deponent's role (whether he had organised, planned, instigated or ordered the crime, or was following the orders of others). Examples of acts appropriately dealt with by CRP were "theft, minor assault, arson, the killing of livestock or the destruction of crops". A CRP could also deal with non-criminal actions that were considered to have caused harm to communities, such as collaboration or secretly providing information, which led to violations being committed. CRP was not designed to deal with criminal offences not related to the political conflicts in Timor-Leste.

37. By leaving the decision concerning appropriateness to the OGP, the Regulation recognised that the requirements of justice were paramount and should never be subordinated to the need for reconciliation. This kind of decision was more appropriately made by legal professionals with knowledge of the cases currently being investigated, rather than Commission staff. Decisions as to whether there is sufficient evidence to prosecute someone for a particular crime require consideration of whether the evidence supports the necessary legal elements of the crime. Such decisions involve complicated legal concepts like "common purpose", "conspiracy" and "accessory before or after the fact". In addition the only evidence available to the Commission was the relatively superficial voluntary statement given by the deponent.

38. The inclusion of guidelines, rather than an exhaustive list of offences recognised that, although compiling such a list might seem desirable, it would actually constrain the OGP from using its discretion and making the determination on a case-by-case basis.

39. The OGP had 14 days to make its determination, although it could request an extension of a further 14 days.[15] The Regulation allowed the Commission to proceed with organising a CRP if the OGP did not notify it of its intention to exercise its jurisdiction over the case within two weeks of receiving the statement.

40. In notifying the Commission of its determination, the OGP used one of two standard form letters. One letter was used if the OGP intended to withhold the case, thereby exercising its exclusive jurisdiction over "serious criminal offences". It included the following language:

> The following persons are currently under investigation by the Serious Crimes Unit…The Office of the General Prosecutor exercises its exclusive jurisdiction.[16]

41. The other letter advised that the case could be appropriately dealt with by CRP, as follows:

> Based on the statements provided it appears that the following persons may have been involved in serious crimes as part of a widespread or systematic attack. However, because of the total number of cases currently under investigation, the Serious Crimes Unit will not be investigating these persons in the foreseeable future; accordingly, the Commission may proceed with the reconciliation process.[17]

42. As the content of these letters show, the OGP was not determining through this process whether a case involved a serious crime or not, but only whether, taking all the circumstances presented to it into account, it would exercise jurisdiction to prosecute the matter.

Preparation and completion of a hearing

43. If the Commission received authorisation to proceed with a case through a CRP, it delegated the organisation of a community hearing to a Regional Commissioner with responsibility for the community where the hearing was to take place.[18] The Commissioner was responsible for forming a CRP Panel to preside over the hearing. The panel was constituted by between three and five community representatives, with the Regional Commissioner acting as chairperson. Panel members were selected through consultations between the Commission (represented by the Regional Commissioner) and the community. No guidelines were set out in the Regulation as to how this should be done or what criteria should be used for selection, except for the requirement "to have appropriate gender representation within the panel".[19]

44. The Regulation gave the panels considerable flexibility in determining their own procedures during the hearing, but required that they must hear from the deponent, victims and other community members who could provide relevant information.[20] The panel could question the deponent about the involvement of others in the disclosed acts, including "the identity of those who organised, planned, instigated, ordered or participated in the commission of such acts".[21] The panel could also determine the scope and depth of specific lines of questioning, and probe areas that it felt the deponent had not addressed adequately. Provision was made for holding closed hearings, if it was felt that the disclosure of certain information could endanger the deponent or other members of the community, as well as for information to be submitted to the panel in written form.[22]

Discontinuation of a CRP hearing

45. Once a CRP hearing had begun, there were two possible reasons for adjourning it. Firstly, if the deponent refused to answer a question without justification (as determined by the panel), the hearing could be halted and referred back to the OGP.[23] Secondly, if credible evidence were given at the hearing of the deponent's involvement in a "serious crime", the hearing would be stopped. This evidence should then have been recorded and referred to the OGP along with notice of the adjournment.[24] The OGP was required to respond promptly with a determination on the credibility of the evidence.

46. If the OGP agreed that the referral was justified, the hearing had to be adjourned and official notification provided to the deponent and the OGP.[25] If the OGP did not think there was sufficient evidence to demonstrate involvement in a serious crime, or if the OGP failed to notify the Commission of its decision, the Commission had the authority to resume the hearing if it considered it appropriate to do so.

The Community Reconciliation Agreement

47. After hearing testimony and questions, the CRP Panel was responsible for determining an act of reconciliation "most appropriate" for the deponent to undertake. The options were community service, reparation, a public apology or "other act of contrition".[26] The panel did not have the power to compel the deponent to comply with its decisions, but could only recommend that a particular act of reconciliation be undertaken. If the deponent agreed with the recommended action, the CRP Panel then drafted an official record of the agreement called a Community Reconciliation Agreement (CRA). In the event that the deponent subsequently refused to undertake the act of reconciliation, the Commission was required to refer the matter back to the OGP.

48. In cases where CRAs were successfully brokered, the Commission submitted a copy of the agreement to the District Court that had jurisdiction over the community where the hearing was held. The court then had to register the CRA as an Order of the Court, unless it considered that the act of reconciliation was not proportional to the offences admitted to, or that it would violate human rights principles. On completion of all the required acts of reconciliation listed in the agreement, the deponent received notification of his or her legal immunity from criminal and civil liability for all of the harmful acts admitted and incorporated into the CRA.[27]

49. The Regulation imposed no legal obligation on deponents to participate in CRP hearings, or to enter into Community Reconciliation Agreements. However, once an agreement had been signed, the deponent had a legal duty to fulfil the obligations set out in it. Failure to fulfil these obligations constituted a criminal offence for which the penalty was a maximum term of imprisonment of one year, a fine of up to US$3,000, or both.[28]

CRP's reliance on both *lisan* and law

50. During the planning stages of the Commission, some people expressed the view that *lisan* alone was sufficient to deal with "less serious crimes", and that a more formal process was not needed. However, the Commission's experience of the CRP has led it to conclude that the mixed procedure it adopted gave its work a dimension which *lisan* or the formal justice sector alone would not have provided.

51. The CRP owed its success to a combination of factors: the status of the Commission as a recognised national institution, the use of uniform procedures, and its basis in law, and its inclusion not only of the *lia nain* but also of a broader range of stakeholders that included representatives of the Catholic Church, local government and civil society. The CRP was also able to deal with a large number of cases within a relatively short period of time, in every sub-district throughout the territory, something that neither the formal justice system nor *lisan*-based dispute resolution mechanisms could have been relied on to achieve.

52. Lisan procedures evolved to address isolated cases at the community level. They were not designed to deal with violations and "harmful acts" on the massive scale that occurred during the political conflicts, particularly during 1999. CRP was designed to address this abnormal situation, rather than to handle the routine disputes customarily dealt with by *lisan*. In fact a number of community leaders expressed views that the CRP had reinvigorated *lisan*. The respect which communities accorded to the CRP extended to the community and *lisan* leaders who played such an important ceremonial and mediating role in the hearings, thereby undoing some of the damage that manipulation of traditional procedures by members of the Indonesian security forces had wrought during the occupation.

53. CRP was able to offer a legal solution for "less serious crimes" which were outside the ambit of *lisan*. The role of the OGP and the registration of each successful Community Reconciliation Agreement as an Order of the Court added a degree of formality that participants appreciated and respected. In addition, the immunity from civil or criminal prosecution, which followed successful completion of the agreed "acts of reconciliation", provided a legal finality that was outside the scope of *lisan*.

Implementation of the CRP programme

Staff

54. Responsibility for the CRP programme was divided between the national office and field staff working at the district level. At its peak, the CRP division consisted of 47 staff. At the district level, the co-ordinators in each district co-ordinated the CRP programme. They ensured that reconciliation-related activities were synchronised with other district team responsibilities. District staff worked closely with local communities

to raise awareness of the CRP programme and to encourage prospective deponents to give statements. CRP staff spent much of their time with potential deponents, explaining the process, exploring the possible benefits and drawbacks of participation, and helping them write their statements.

Timeline

55. According to the overall strategic plan of the Commission, district teams were to spend three months working in each of the sub-districts in their respective districts. Each team included staff working on the CRP programme as well as those engaged in truth-seeking, victim support and other activities. These teams operated between July 2002 and March 2004 (see Vol. I, Part 1: Introduction, for more information on the Commission's Strategic Plan).

56. The CRP programme aimed to complete its activities in each sub-district according to the following timeline.

Table 1: Timeline for CRP activities in the three-month operational period in each sub-district

Public education/ socialising	Initial statement taking	Processing and approval of statements at National Office & OGP*	Arrangements for CRP Hearing	Holding hearings
Month 1		Month 2	Month 3	

Initial challenges

57. The CRP was an untried and unfamiliar concept, both in Timor-Leste and internationally and, not surprisingly, there were teething problems. It was clear by November 2002, the end of the first three-month phase of the programme, that most communities were not yet confident or interested enough in CRP to take part in it. In particular, potential deponents were not coming forward and giving statements: in the 13 sub-districts covered by CRP teams in that phase only 143 statements had been taken and only six CRP hearings, involving 50 deponents, had been held.

58. Staff members reported that the slow beginning of the programme was due to the fact that community members did not yet understand what the CRP was and how it worked. Verbal explanations helped, but it was difficult to build sufficient support for a concept that people had not experienced. There was also some confusion about the difference between statements given for truth-seeking purposes and statements

* OPG by law had a 14-day period to review statements, and the right to request an additional 14-days if required. This request, with time, became standard practice. Hence the time taken for processing (including transporting statements to and from the district and the Commission's own review process) frequently exceeded the month shown here.

that would be used as the basis for CRP. In addition, the relationship between the Commission and the formal justice system was, for many people, unclear. Many said that the only information they had received on issues related to justice for the massive violations that had been committed came from the Commission's education campaigns.

59. In order to overcome these problems, the CRP teams began to ask local leaders to encourage individuals in their communities to participate. A film of a CRP hearing was produced and shown to village audiences. However, the greatest spur to involvement in CRP, came from the experience of an actual hearing. News of a successful hearing travelled fast and far. Early fears that communities would not participate began to dissipate as news of the steadily growing number of hearings that had been completed persuaded more and more communities that they too should hold hearings.

60. Because the Commission had to cover the entire country within its operational timeframe, it could not extend the time spent in each sub-district beyond the three months. However, a CRP could be held only after a number of preliminary steps had been completed – the public information meeting, the collection of deponents' statements and the OGP approval process. These steps ate up much of the allocated three months. Consequently, in any particular sub-district, hearings were usually held at the end of the three-month period. Successful hearings then stimulated requests for others, but sadly, not all of these could be organised because it was time to move on to a new sub-district.

Community involvement

61. Educating communities about the CRP was essential if potential deponents, local leaders and the broader community were going to involve themselves in the process to the extent that they felt that they owned it. One aspect of this was that they not only hold the hearing, but that they contribute to its design. The Regulation set out the basic elements of the CRP, but it left much leeway for local communities to determine its precise character in accordance with local custom.

62. Local communities were also able to give the district team information about the area and helped the teams identify which villages and individual cases would be most appropriately dealt with through the CRP, bearing in mind such factors as the impact the conflict had had on particular villages and whether perpetrators had already returned from West Timor. This was essential knowledge for the teams to be able to work effectively.

63. The consultations before a CRP included meetings at the district, sub-district, village and *aldeia* level. The district meetings gave a general introduction to the role and legal basis of the Commission, and presented the timetable it intended to follow in the district. At the sub-district level meetings, government officials, community leaders and representatives of civil society would attend. Participants with local knowledge were also invited to raise other issues that might complicate or facilitate the CRP.

64. Further consultations were then held in the villages and sub-villages selected as locations for CRP hearings. Those attending this meeting discussed and agreed on the hearing's format, including what role local custom and traditional leaders would play. The membership of the panel for each hearing was chosen. Panel members were selected for their ability to act in a just and impartial manner, their influence and credibility in the community, and their demonstrated commitment to reconciliation.

65. The district team also arranged a series of preparatory meetings to brief participants on their roles in the forthcoming hearing. Deponents, panel members and victims named in deponents' statements were each invited to attend separate briefings. The sessions involving panel members included training in mediation and arbitration skills, and role-plays of situations that might arise during the hearing. Typically these briefings took place a few days before the CRP hearing, so that the information provided would be relatively fresh in participants' minds.

The CRP hearing

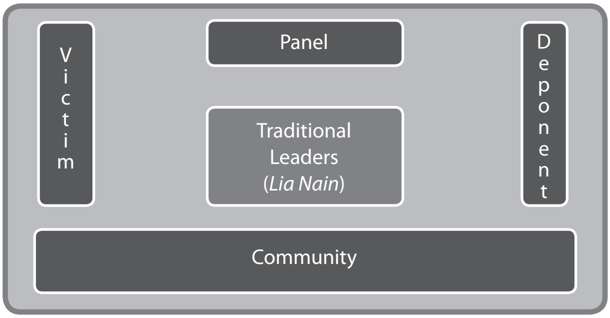
Principles for CRP hearings

- The primary aim of the CRP is to assist reconciliation between perpetrators, victims and their community.
- The CRP procedure relies on the voluntary participation of all parties.
- The methodology is facilitation of an agreement with the perpetrator, with the participation of the victims and their families, community leaders and the wider community.
- The victim and other interested parties must have an opportunity to be heard.
- The hearing should provide an opportunity for all parties to witness the perpetrator's confession.
- Hearings must be non-violent, and, in preparing for the hearing, steps must be taken to avoid the possibility of physical conflict.
- Hearings should be alcohol-free, so as to prevent emotions running out of control.
- The process should recognise the healing potential of understanding the political context that predisposed people to commit crimes.

Hearing layout

66. District teams were encouraged to conform to local community practice in setting up the CRP hearing, but typically the seating arrangement would follow the pattern shown below:

Typical seating arrangement in a CRP hearing



67. The seating arrangement for CRP was similar to the one commonly used in traditional community dispute-resolution ceremonies, where the *lisan* leaders were present throughout the hearing and were seated in a special place between the parties to the dispute. Often they would be seated on the ground on the mat that symbolised the *lisan* process. Commissioners and panel members took their places at the front, facing the community. Victims took their place to the right of the panel, perpetrators to the left. Persons, such as family members or Commission Victim Support staff, could sit with victims to offer support.

Procedure

Formal opening of the hearing

68. Often CRP hearings began with *lisan* rituals, which varied according to local custom. These were followed by a short speech from the Regional Commissioner or another representative of the Commission welcoming guests and participants.

Speeches

69. An opportunity was given to local leaders, such as the village head, the district administrator, sub-district co-ordinator or other government representatives, priests, nuns or other religious figures, and any National Commissioners who were present, to say a few words. These speeches generally focused on the meaning of reconciliation and its importance to the community.

Collective prayer

70. Religion plays an important role in most communities in Timor-Leste. Consequently, the recitation of a collective prayer was customary and helped to create a spirit of concord at the beginning of the hearing.

Opening of the hearing/introduction from the Chair of the panel

71. The panel chairperson formally opened the hearing and introduced the other panel members. The panel then welcomed all guests present, and thanked them for their support and co-operation. It also extended its gratitude to the deponents, victims, victims' families and other members of the community present at the hearing.

72. The chair explained:

- The Commission's background – its origins, establishment, mandate and objectives
- The functions and objectives of the Community Reconciliation Process
- The legal context of the hearing, including a reading of the decision by General Prosecutor of Timor-Leste permitting the hearing to proceed
- The CRP statement-taking process.

73. The deponents' case summaries were then read out publicly.

Deponents' testimonies

74. Each deponent then gave an oral account of the acts for which he or she was seeking reconciliation. Deponents were asked to give as full an account as possible, and many used the opportunity to explain and put into context what had happened. Other participants were not allowed to interrupt deponents who were giving their testimony.

Questions of clarification from the panel

75. Questions from the panel normally followed each deponent's testimony, although sometimes the panel waited until all deponents had finished testifying. The type of questions varied, from clarifying any inconsistency between the oral and written testimonies, to seeking insight into the deponent's motivation for committing the act, or identifying others involved in the acts, including the chain of command.

Questions of clarification from named victims

76. Victims were given an opportunity to make a statement about the incident and to question the deponent about what had happened. For many, this was the first time that they had had an opportunity to tell their story before the community, or confront the perpetrator about the harm they had suffered.

Questions of clarification from community members

77. The members present then had time to ask the deponents about their actions, as well as to tell the Commission about other harmful acts the deponents had committed but not disclosed in their testimonies. This was also an opportunity for other community members who had been directly victimised by a deponent, but whom that deponent had not named as victims, to make themselves known to the panel. Commission staff recorded the personal details of these community members as part of the hearing record.

78. Both victims and community members were asked to limit their questions to the acts described in the deponents' testimonies or other acts of the deponent which had not been disclosed. If a person accused a deponent of involvement in a serious crime, they would be asked to provide further information in support of the allegation. If the panel judged that the evidence indicating that the deponent might have committed a serious crime was credible, the hearing was suspended, as required by the Regulation.

Panel-moderated discussion of the acts of reconciliation

79. Following the questions, the panel called together the deponents and victims to explain the principles of a Community Reconciliation Agreement (CRA), and the requirement that it should include the "acts of reconciliation" that the deponent had to carry out. In some cases these discussions also involved *lisan* leaders. Sometimes the panel conducted these discussions in the presence of all the interested parties together. Sometimes they spoke with each group of participants separately.

80. The panel explained that the "acts of reconciliation" were intended to demonstrate to all present the sincerity of the deponent's commitment to reconciliation with his or her victims and the community at large. They were not intended to burden deponents with obligations that were beyond their means. The hearing guidelines recommended that "acts of reconciliation" take the form of an apology, a symbolic fine, an act of community service or a combination of these acts. It is evident from the hearing monitoring reports that panels followed these recommendations.

Declaration of the acts of reconciliation

81. If the deponent agreed to undertake the recommended "acts of reconciliation", the chair of the Panel announced publicly the obligations which that deponent had agreed to fulfil.

Apologies/oaths from the deponents

82. Each deponent was then obliged to apologise publicly for his or her acts, and would promise on oath not to repeat such actions. At many hearings *lisan* rituals accompanied the oaths to bind the deponents to their commitments.

Signing of the Community Reconciliation Agreement

83. The panel chairperson explained to those gathered that each deponent must sign a CRA. This document included:

- A description of the acts perpetrated by the deponent
- Any new information about violations that the deponent had neglected to include in their original statement
- A description of the acts of reconciliation determined in the hearing
- A statement that the deponent acknowledged responsibility for the acts described in the CRA, and renounced all forms of violence in pursuit of political ends.

84. Typically, the CRA was read out to those assembled. The deponent and all panel members then signed the CRA. The chairperson explained that the CRA documentation, including the deponent's original statement, would be submitted to the relevant District Court, where it would be reviewed. After all the acts of reconciliation had been completed, the CRA would be registered as an Order of the Court. This, it was explained, would bring legal finality to the matter.

Closing of the CRP hearing

85. Usually, CRP hearings concluded with closing words from either a local leader or a CAVR Regional Commissioner or staff member. The day's events were then summarised and a moral teaching presented on the theme of togetherness, the objective of the day.

Caicasa Community Reconciliation Process hearing

This CRP hearing was convened on 30 January 2004 in the Village of Caicasa, Maubara Sub-District, Liquiçá District. The hearing involved 20 deponents, all men, who were former members of the Red and White Iron (Besi Merah Putih, BMP) militia group. Caicasa, a sprawling community in the hills to the south west of Liquiçá town, was the birthplace of the BMP, one of Timor's most notorious militia groups.

Because of the large number of deponents and the nature of the acts committed, four hearings had been planned for Caicasa. The first had been successfully completed the previous week. This was the second hearing.

Once the deponents, panel members and victims were all present, the formalities began. The Commission's district co-ordinator for Liquiçá explained how the day's proceedings would unfold. The village chief then made a statement in which he asked those assembled to remain calm and listen quietly to what people had to say. He pointed out that there would be an opportunity later to ask questions and seek clarification.

The Regional Commissioner chairing the CRP panel then set out the procedures in more detail, providing a thorough explanation of the importance of the process in both local and national contexts. The Commissioner encouraged the community to speak out if they felt that the deponents had not made full disclosures, but stressed that they must allow the deponents to explain themselves first. The Commissioner said that deponents and other participants should

speak in the language with which they were most comfortable. For the majority, this was the local vernacular, Tokodede, although many also understood Tetum and Indonesian.

The Regional Commissioner then read out the official letters from the Office of the General Prosecutor, written in Indonesian, which provided authorisation for each deponent's case to proceed by way of CRP.

Summaries of the 20 deponent statements were then read out by CRP staff members. The deponents in this hearing had been grouped together because a common theme in their statements was the claim that they had been forced to participate in the militia group, had not held positions of responsibility in the group and had admitted to only minor offences. (Statements dealing with more serious acts had been allocated to the other three hearings scheduled for the village.)

The deponents were then given the opportunity to make an oral presentation to the victims and the assembled community. Many were plainly nervous, having trouble with the microphone and having to be gently coaxed to face the victims and their community. The length and quality of the oral testimony varied from several minutes of animated story-telling to a few seconds of mumbled apology. In several cases deponents listed the violations for which they were not responsible: "I did not kill. I did not intimidate anyone. I did not burn houses or steal."

Many were low-level militia members who had been drafted into the BMP and had performed menial tasks. Some deponents had information to share about well-known incidents, such as the Liquiçá church massacre of 6 April 1999; others had been present at the militia rally in Dili on 17 April 1999, which had been followed by the killings at the house of Manuel Carrascalão. One deponent had been present at a militia meeting attended by General Wiranto, but claimed he could not understand what was being said as it was conducted in Indonesian. Some of the deponents clearly found giving their presentations difficult and distressing.

After the oral testimony, panel members, victims and community members were given an opportunity to comment and put questions to the deponents. Questions ranged from requests for specific details, such as the dates when deponents joined the BMP and the names of others involved in specific attacks, to more general inquiries about, for example, how people who were involved in the clandestine movement could be forced to work with the militia.

One victim put several questions to his nephew, who was one of the deponents, requesting more detail about an attack on his home that had resulted in the killing of his livestock. He felt that the version that had been presented at the hearing was not consistent with what he had heard privately about the attack from some of those involved. Some questions were not directed at any particular deponent, but were comments on or an account of other acts that the speaker felt should be taken into consideration.

When deponents denied allegations against them, sections of the assembled community sometimes voiced their disapproval. Some deponents were clearly unable to remember the details of events, while others were plainly being evasive. The chair of the panel intervened to remind the deponents that presenting the truth of what had happened was a precondition for reconciliation. It was not the Commission's role to punish them, but it was a criminal offence to give false information in a CRP hearing.

Several questions were directed at a particular deponent, D, about the disappearance and murder of a villager called B. D was known to have been with a man called F, who had tied B up before he was taken away. Community members assumed that B had been killed. F had also applied to participate in a CRP, but his request had been rejected by the OGP, presumably because the evidence indicated that he might have been involved in a "serious crime".

F was still living in the community. He had not been arrested and indicted, and his file remained with the Serious Crimes Unit. Members of the community felt that F also needed to explain what had happened to B, but he was not at the hearing. In his absence they questioned D about the case. Having denied complicity in B's presumed murder, D was persuaded by the panel to explain in more detail exactly what he believed had happened.

Another deponent was asked about the murder of an old man. The deponent was clearly familiar with the matter and responded angrily that he was tired of being accused of responsibility for the murder. He acknowledged that he had been present when the killing had taken place. He said that he had already given what information he had about the case to the authorities, and that he now wanted an end to the allegations against him. As more questions were directed at him, he countered by accusing one of those who questioned him of himself being an informer for the Indonesian security forces. As tempers flared, CRP staff intervened to calm the situation.

In this situation, as in many others, it was clear that the CRP provided an opportunity for deponents not only to admit what they had done, but also to state what they had *not* done, by responding to and clearing up allegations based on rumour and unreliable information.

Although the deponents provided much information to the families of victims and the wider community, their answers sometimes appeared to be calculated more to avoid acceptance of responsibility or blame than to provide the truth. Many of the answers given by deponents appeared to be accepted by those attending the hearing, but some clearly were not. They were greeted with loud protests and other vocal responses from the community.

The Commission's representatives were also asked questions, chiefly about "unfinished business". People wanted to know what would happen to other perpetrators who wanted to come forward after the Commission had finished its work. There were also questions about whether there were plans for a process of reconciliation with the refugees in Atambua in West Timor.

Eventually there were no more questions, and each deponent was given an opportunity to make a formal apology, ask for forgiveness and commit himself not to repeat his mistakes. Most of the deponents were applauded by those gathered, although a few were not.

The panel chairperson asked for ideas and input on what would be appropriate "acts of reconciliation". After consultation with the victims and the traditional leaders, the panel decided that the deponents had demonstrated that they should be re-accepted into the community, and that they should be required only to make a public apology to the victims and their community.

The *lisan* leaders then asked the deponents to participate in a traditional ceremony, at which several chickens were slaughtered, and their entrails examined for blemishes. Of the four chickens examined, one had blemished entrails, leading the traditional leaders to conclude that some of the deponents had not told the whole truth, and to proclaim that they would have to live with the consequences of this. Their finding accorded with the impression of observers at the hearing that members of the community were content with most of what they had heard, but had found some of the deponents' statements unsatisfactory. Particular individuals were not picked out for criticism, but there appeared to be a common understanding among those gathered which deponents had not told the whole truth.

Despite the fact that it did not completely satisfy community members, the hearing was clearly an important local event. Over 200 community members, men and women from all age groups, attended the hearing. Many displayed their sense of the importance of the occasion by wearing traditional attire. Those who attended included the families and friends of deponents and victims. The most common observation of participants at the end of the hearing was one of appreciation, qualified by reservations about the way a few of the deponents had conducted themselves. Participants stated that they were happy that a significant number of former militia members who had joined in the campaign of violence against the community had been publicly shamed for their actions and had apologised. They also said that the hearing had helped the entire community understand what took place during the conflict.

The role of *lisan* in the hearings

86. The Regulation set out the basic steps for CRP hearings. In addition, the Commission drew up procedural guidelines to ensure a minimum degree of uniformity across all districts. These guidelines, however, provided much flexibility for inclusion of other steps or practices, and the Commission encouraged communities to employ local cultural practices in order to promote a feeling of ownership.

87. The extent to which *lisan* rituals were actually used and the form they took varied greatly between communities. Despite this, some practices were common to most CRP hearings. In particular, the ceremony of *nahe biti boot* was part of most CRP hearings.

Marking the formality of the occasion

88. Lisan rituals were often performed in preparation for the CRP hearing and then again to mark its opening. Spiritual leaders, dressed in traditional clothes and carrying *lulik* (sacred) objects, danced, while chanting and reciting monologues, often to the accompaniment of drums. In Timor-Leste drums are usually played by older women who, at the same time, dance in short lines revolving around a common centre like the spokes of a wheel. The women hold their slender drums under one arm while beating swift, complex rhythms with both hands.

89. The opening fostered the feeling that the CRP was not just being held for the benefit of the individual perpetrators seeking readmission to community life, but as a community event of significance for the entire village. The chants and recitations of the *lisan* leaders were intended to be heard not just by the living audience but also by the custodians of the community, the ancestors, who, it was believed, would also be witnesses to the hearing that was about to begin. The colourful clothes and the *lulik* (sacred) objects and other ceremonial paraphernalia, the chanting, the drumming and

dancing heightened the excitement of the event and the interest of the audience and participants. The CRP therefore had a dual aspect: it brought to the surface painful memories of past wrongs as part of a difficult search for truth and accountability, but it was also an event that the community found absorbing and at times entertaining. This combination enabled it to become a reaffirming experience that could dispel past antagonisms and bring the community together.

90. Following the opening the mat was often solemnly unfurled on the ground in front of the table at which the panel would sit. *Mama fatin* were placed on the mat, together with betel nut, tobacco and other objects that would be used in the ceremony. The *lia nain,* perpetrators and victims would chew betel nut together after settlement of their dispute.

91. Early in the proceedings it was made clear that the CRP would draw on both customary procedures and ones associated with modern government, such as speeches made by people connected to the government, and reading the letters from the General Prosecutor authorising the hearing. It was the experience of the Commission that the formal aspects of the procedure, whether based on *lisan* or on modern legal principles, added significant weight to the respect that the communities gave to the CRP.

Lisan and the Regulation

92. It was often not possible to separate the *lisan* elements of the CRP from those elements sourced in the Regulation. The drafters of the Regulation consciously drew on *lisan* principles. For example, the Regulation's requirement that deponents admit their actions publicly is a *lisan* principle. However, the Regulation did not require deponents to apologise publicly to victims, although this is a practice sanctified by *lisan*. Both *lisan* and the Regulation also enable victims and the community to offer their points of view on the matters at stake.

93. A major difference between the two systems was that in *lisan* proceedings, it is the *lia nain* who decide what sanction should be imposed on the perpetrator. In the CRP it was the panel that was authorised to propose suitable "acts of reconciliation" to the deponent, after hearing the views of all interested parties, including victims, the community and the *lia nain* themselves. In the CRP the deponent participated voluntarily and could refuse to agree to undertake the proposed "acts of reconciliation". (In such cases the matter would be referred back to the OGP.) Under pure *lisan,* the perpetrator is compelled to accept the sanction that the *lia nain* decide.

94. Another difference between *lisan* and the CRP was that in traditional *lisan* hearings the victim must agree with the proposed solution for it to be acceptable to the *lia nain.* In the CRP the Panel was required only to consider the views of the victims in making its determination of what "acts of reconciliation" would be suitable. This aspect of the procedure ensured that cases could be completed where a perpetrator's actions had affected many victims in several communities. In such cases gaining the agreement of all the victims would have created insuperable logistical problems. It would also often have been difficult to identify the victim whose consent would have been required. For example, if a perpetrator burned three houses, each home to 15 persons, the formal

consent of each of those individuals would be required, possibly as well as that of, for instance, any other person whose possessions may have been inside the house at the time.

95. Despite the fact that the CRP did not formally require the consent of victims, in practice the agreement of the principal victims was required for the hearing to proceed to completion. Local communities often regarded this fundamental principle of *lisan* procedure as binding and thus believed that no deponent should be re-accepted into his community without the consent of the victims. In a small number of cases victims did not consent to accepting back deponents and the panel decided to refer the case back to the OGP. In a number of these cases the victims stated that the deponent had not come to them "with an open heart" as evidenced by his reluctance to tell the entire truth about what had occurred. In these circumstances the victims could not accept that the apology was genuine.

Similarities and differences in **lisan** *practices*

96. Some *lisan* procedures were specific to individual communities, while others were common to a large number of hearings. Even where particular *lisan* practices were common in different parts of the country, the interpretation and significance attached to these practices could vary. Thus, coconut water sprinkled on deponents and observers in a ceremony in a village in Maliana might signify the "cooling" of the "hot" emotions associated with past acts, whereas in Liquiçá the same act might signify the purification and cleansing of the participants.

97. In many cases the perpetrators made their apologies or oral commitments in front of *lulik* objects, the sacred objects revered by members of the community as links to their ancestors. Doing so was a sign of the depth of the deponents' commitment to their declarations, since they had been witnessed by the community and ancestors. In other hearings different rituals, such as the drinking of palm wine mixed with the blood of an animal, were performed to convey the deponents' sincerity.

98. The custom of taking "blood oaths" to affirm that a commitment was binding had been manipulated and thus significantly weakened during the Indonesian occupation. Realising the power of this ritual for the East Timorese people, members of the Indonesian security forces had coerced and encouraged individuals to "drink blood" to show their deep commitment to integration with Indonesia. A number of participants in the CRP programme commented that during the occupation the power of *lisan* rituals had diminished because of such manipulation. They also said that the prominence given to *lisan* within the CRP, including the element of official recognition had helped to restore its place as a unifying force within communities.

Where *lisan* was not involved

99. Lisan played a significant part in about three-quarters of CRP hearings. One of the reasons for the absence of *lisan* in the remaining cases was that the CRP sometimes involved parties belonging to different *lisan* groups. Finding a way of involving all the *lisan* leaders with a stake in the case would have been an impossibly demanding task

for district staff who were under pressure to complete one set of sub-district hearings before moving on to the next. In such cases the CRP procedure, which applied equally to all individuals regardless of their customary allegiances, was applied without the assistance of *lisan.*

The case of V

V was a deponent from Fatululik in the district of Covalima. He had declared in his statement that, as a member of the Laksaur militia, he had threatened fellow villagers with a gun. At the time Laksaur was trying to drive people across the border to West Timor. In his statement, V also gave an account of the killing of a cow belonging to a resident of a neighbouring village, Fatuloro. He identified as victims of his actions both his home community and the individual from Fatuloro.

Lisan would have allowed the elders of his community to facilitate a hearing between him and his community, but because his actions harmed members of two separate communities, the negotiations would have had to involve both sets of *lisan* leaders or risk being perceived as biased in favour of either the deponent or his victims. The Commission made a judgement that involving both groups would lead to confusion and potential conflict. Consequently it decided to proceed without the participation of either group of elders. A resolution was reached in a hearing in Fatululik on the 14 February 2003. At the hearing V made a full confession and a public apology which was, after questioning, accepted by the victim. He also donated a cow that was slaughtered and eaten at a communal meal after the hearing.

Special cases

100. A number of deponents had committed acts that affected many victims or several communities, and yet practical constraints dictated that there could be a CRP hearing in only one of these. Commission teams developed two different approaches to this issue. The first was that reflected in the above example where a hearing was run in which no *lisan l*eaders were involved. The second approach was for the Commission teams to conduct the hearing and involve the *lisan* leaders who represented the community with which the deponent said he wished to reconcile. In these cases a judgement was made that it was too difficult to combine several sets of *lisan* procedures and personnel, but it was better to include at least one of these groups than none at all. Victims and community representatives from all the affected communities were welcome to participate.

The case of M

M gave testimony in a hearing in his home community of Ediri Village in Liquiçá District on the 11 March 2004. In his testimony, as in his earlier statement, he told of his forced conscription to the BMP militia and his rise to the position of local commander. He admitted that he had taken part in, and ordered, the confiscation of livestock. He also said that he had witnessed the capture of a local youth who was later killed by two of M's subordinates, though not, he claimed, on his orders. As a commander, he had taken part in operations in a number of neighbouring villages, but he had identified the victims of his actions as coming only from his home community.

The Liquiçá team organised the hearing, which ran for a whole day, and featured a series of *lisan* ceremonies and rituals. The ceremonies included calling in ancestors to witness the proceedings, and confirm through the reading of pigs' entrails that the truth had been spoken. The deponents' negative acts were bound into a coconut, which was subsequently removed and disposed of by the deponent in the forest. He returned to the site of the hearing bearing a second coconut representing his positive acts, which he presented to those assembled.

101. On occasions when the deponent had identified a community outside his own that he wished to reconcile with, the CRP made arrangements with the leaders and *lia nain* of that community to enable a hearing to take place according to that community's customs. Reports indicate that it was not uncommon in such circumstances for *lisan* representatives of the deponents' own community to attend as observers, rather than as customary authorities, as the case was effectively outside their "jurisdiction".

CRP hearing in Lela Ufe, Oecussi, 22 November 2002

The people of Lela Ufe, a village in the enclave of Oecussi, first came into contact with the Community Reconciliation Process through the work of a Commission team that visited them in September 2002. The team found a community eager to embrace the process and quickly secured applications from many members of the community

wanting to apply to take part in a hearing. The proceedings that followed provide a good example of how the richness of the local *lisan* traditions was incorporated into the CRP Programme.

From the *aldeia* of Bebu alone, 31 people applied to participate in the CRP. Those applying generally did so because of acts committed as members of the Oecussi-based Sakunar (Scorpion) militia. Most of these acts had been committed in 1999, and included intimidating fellow community members, burning houses, destroying livestock and participating in operations under the instruction of the Indonesian military.

All of the community members who had applied were given approval to participate by the Office of the General Prosecutor, and the hearing date was set for 22 November 2002. To prepare them for the hearing, Commission staff briefed the deponents, victims and panel members. They also consulted with community leaders about which customary ceremonies should be performed and which local leaders should be invited to participate.

On the night before the hearing, many of the participants gathered together to perform an invocation ceremony. The ritual of *hadeer ai-riin* (Tetum: "waking the post") takes its name from the belief that a wooden post used in the ritual is a contact point between the worlds of the living and of the ancestors. The post is "woken", and contact established through the ritualised sacrifice of an animal. Calling on the ancestors in this way and making offerings to them in advance of an important ceremony is thought to ensure that the ceremony goes smoothly.

The following morning, proceedings got underway. As people gathered together at the place that had been designated for the hearing, Commission staff ensured that all deponents and victims were present and welcomed those who had come to witness the proceedings. Before formally beginning the hearing, the *lia nain* performed the opening ceremony in an area close by.

The elders had prepared the *ai-riin,* in this case a post made from a wood known locally for its power to recall those who have become lost. The post stood at the centre of a circle of stones. The stones represented the spirit of unity. Within the circle lay other objects – coconut water, a large fan-like leaf, a machete and betel nut – each of which represented principles to be upheld in the hearing: the coconut water and the leaf were there to cool the tempers of people who still felt the "heat" of anger; the machete symbolised the power and strength of the ceremony, while its presence on the ground in

the circle was a reminder that weapons were to be laid to rest by the process; and the betel nut, which would later be shared by the participants, symbolised the community's reunification.

At the close of the *lia nains'* introductory ceremony, two *tais* were laid out. The first was a *tais mane* or man's *tais*, representing qualities of transparency, of allowing things to be seen as they truly are, in order that good can be distinguished from bad. The second was a *tais feto,* or woman's *tais*, which is believed to hold powers of balance and measurement, that allow events to be weighed against one another. The two *tais* were laid on the ground, together with mats woven from palm leaves, in the area where the panel were to sit. Once again, this was an act that was rich with symbolism. The spreading of the mats (*nahe biti boot*) represented the opening of the issues which had divided those who were to speak. The mats would not be rolled up again until these issues had been resolved. As the opening ceremonies drew to a close, the *lia nain* sounded a gong calling all present to come and bear witness to the process, and the panel took their seats.

Around 700 people attended the hearing. Chiefs of 18 of the surrounding villages had come to observe, along with representatives of the church and local and international NGOs. Many of the ordinary villagers who came to the hearing had walked long distances to be there.

The process lasted for the entire day, and the dedication and the proceedings ran smoothly and to the apparent satisfaction of the community members watching. One deponent's case was adjourned after accusations that he had been involved in a "serious crime" were deemed to amount to "credible evidence". The cases of the remaining 30 deponents proceeded to their appointed conclusion with the communities saying that they were ready to accept them back. Acts of reconciliation were decided after consultation with the victims, the community leaders and the deponents themselves. They ranged from a simple apology to the donation of *tais* and other ceremonial objects to victims.

The *lia nain* had requested that before the acts of reconciliation were made public and the proceedings formalised by the signing of the Community Reconciliation Agreement, they be given time to perform further rituals to close the proceedings.

A cow, bought for the occasion by the deponents, had been slaughtered. The *lia nain* read the entrails to verify that the ancestors were happy with the outcome and that all had spoken the truth

during their testimonies. The message of the entrails was favourable. Some of the animal's blood was taken and mixed with coconut water before being sprinkled over the deponents as together they held on to the ceremonial post and received the blessing which marked their re-entry into the community and the purification of their past acts.

After the customary ceremonies were over, each deponent in turn apologised publicly for their past acts and swore never to harm their communities again. They then signed the Community Reconciliation Agreements. At the close of the hearing relief showed on the faces of the participants, particularly the deponents'. All signs of the tension and anger that had sometimes been evident during the hearing were gone, and the atmosphere became festive. Those who had attended celebrated with a feast in which, as a token of good will, the cow brought by the deponents was eaten. Community members continued to sing and dance into the early hours of the morning.

Over a year later, when the Regional Commissioner for Oecussi revisited the area to return the court-registered agreements, he observed how the previously divided community now enjoyed extremely good relations. Deponents and victims from the hearing had formed a co-operative to grow cassava and maize.

Results of the CRP programme

Overall

102. In summary, during the operational period of the CRP programme:

- The Commission received a total of 1,541 statements from deponents requesting to participate in CRP, all of which were forwarded to the OGP
- Cases involving 1,371 deponents were successfully completed through CRP hearings
- The OGP did not grant approval for 85 cases to be proceeded with by way of CRP. These cases were retained by the OGP
- 32 cases were adjourned during the hearing because credible information came to light, which indicated that the deponent might have been involved in a "serious criminal offence", or because communities refused to accept the deponent
- These figures show that nearly 90% of all cases received proceeded to completion. The remaining 10% were cases where the deponent did not attend the scheduled hearing, the hearing was adjourned, or the OGP did not consent to them proceeding by CRP.

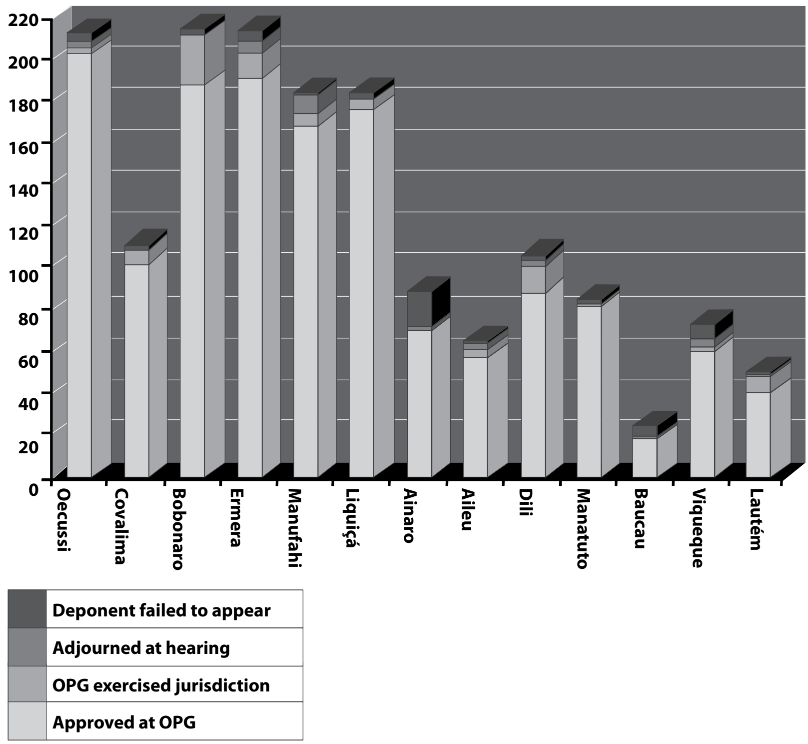
The statistics below provide an overview of the work carried out through the CRP programme.

Table 2: Results of CRP programme by district

District	Total Statements	Result of OPG		Approved for CRP		Deponent failed to appear	Total no of CRP hearings
		Approved	OPG Exercised Jurisdiction	CRP complete	Adjourned at hearing		
Oecussi	207	204	3	197	3	4	18
Covalima	110	103	7	101	0	2	12
Bobonaro	213	189	24	18	0	3	26
Ermera	204	192	12	181	6	5	24
Manufahi	175	169	6	159	9	1	20
Liquiçá	182	177	5	174	0	3	27
Ainaro	71	71	0	52	2	17	10
Aileu	62	58	4	54	3	1	19
Dili	102	89	13	84	0	2	17
Manatuto	84	83	1	81	0	2	14
Baucau	19	19	0	13	1	5	9
Lautém	49	41	8	39	1	1	12
Viqueque	63	61	2	50	4	7	9
Total	**1541**	**1456**	**85**	**1371**	**32**	**53**	**217**

Total statements taken	**1541**	
Total who failed to complete CRP	**170**	**11.03%**
Total who completed CRP hearings	**1371**	**88.97%**

Diagram: Results of applications for CRP



Variations in results between districts

Statements received

104. The Regulation specifically provided that the CRP should prioritise acts committed in 1999 as one of the CRP's goals was to reduce the anger in communities fuelled by the recent events. The violence during 1999 had been most intense in the districts closest to the borders with Indonesia – Oecussi, Bobonaro, Ermera, Covalima and Liquiçá. Not surprisingly these were the five districts from which the largest number of deponents applied for a CRP. The average number of deponent statements taken in all 13 districts was 119, but the number from this western region averaged over 180 per district. By contrast the average number of statements received from the four most easterly districts (Lautém, Viqueque, Baucau and Manatuto) was only 54 per district.

105. The figures for Covalima District were anomalous. Although the number of statements taken there was only just below the average, that was lower than would have

been expected considering that Covalima is a border district and was severely affected by the violence in 1999. The district team responsible for Covalima considered that the relatively low rate of participation was due to the fact that less perpetrators of harmful acts had returned to Covalima from West Timor compared to other districts. National staff monitoring reports on the district also found a lack of cohesion among the district team members, which affected the implementation of the CRP public information programme.

106. The district that provided by far the lowest number of statements was Baucau. A number of factors may have contributed to this result. Baucau had not been subjected to the same level of destruction following the ballot as other areas, and that in part was a reflection of the fact that the militia group there was neither as well-organised nor as militant as in the districts that suffered worse in 1999. It seems likely then that animosities generated by the events of 1999 in Baucau were less intense than in most other districts. At the same time the performance of the district team, which was hampered by a lack of cohesion and personality clashes, probably also contributed to Baucau's relatively weak showing.

Exercise of jurisdiction by the OGP

107. Dili and Bobonaro Districts each had well over twice the national average percentage of cases in which the OGP exercised jurisdiction (the national average was approximately 5%). An examination of these cases found that the OGP exercised its jurisdiction in these districts not only more frequently but also more consistently over the course of the programme than it did in other districts. The Commission also found that the higher rate is not explained by a higher prevalence of serious acts in those two districts. The acts declared in the rejected statements were generally of the same nature as acts admitted by deponents from other districts, whose applications to proceed through a CRP were approved.

108. One possible explanation for this is that individual prosecutors within the Serious Crimes Unit of the OGP, each assigned to work on particular districts, took different approaches to dealing with CRP cases. The absence of clear guidelines for making decisions introduced a large element of discretion into the process and some prosecutors may have decided that borderline cases, in which the statement of the deponent alone did not clearly establish that the crime was serious enough to prosecute, should be dealt with through a CRP. On the other hand, other prosecutors may have decided not to approve cases in which they felt further investigation was needed to ensure that a CRP was appropriate.

Deponents failed to attend

109. The districts of Viqueque and Ainaro recorded the largest numbers of deponents who failed to attend their hearings, despite having submitted statements and received official permission to proceed. The high figure for Ainaro District is explained by the non-appearance of a single group of deponents. They did not attend after community leaders objected to the hearing because it would deal only with those involved in

relatively minor crimes and harmful acts. A significant number of perpetrators from this community remained in West Timor, and the community leaders decided that a hearing that focused on past violence should not be held until they returned. The reason for the high non-attendance rate in Viqueque is unclear.

Number of deponents in a CRP

110. The number of deponents who participated in a one-day hearing ranged between one and 31. Hearings were generally conducted in a single day for logistical reasons, as well as to allow community members to attend without seriously disrupting their everyday lives. Some people had to walk for an entire day to attend a hearing and they were not provided with accommodation or food, so extending a hearing over a number of days would have made their attendance difficult. In the one hearing that took place over several days, a three-day hearing held in Passabe, Oecussi District, 55 deponents testified.

Actions dealt with by CRP

111. The vast majority of deponents in the CRP were males aged between 25 and 35 years at the time they committed the acts deposed. Affiliation and participation in militia groups, arson, assault, illegal incarceration and the destruction of property were the acts most often included in deponents' statements. A smaller proportion of cases concerned deponents giving support or supplying information to the Indonesian occupying forces, and unresolved issues arising out of the political conflict of 1974-76. The CRP did not deal with any cases in which the deponent directly participated in murder, rape or torture. However, a small number of cases were proceeded with in which deponents admitted to being present at the time in which "serious crimes" were committed.

Acts of reconciliation

> *It's important to involve a payment, not necessarily to punish the deponent, but so that everyone can see the deponent giving and admitting responsibility, and then see the victim accepting the object and so accepting that person.*[29]

112. In general, the "acts of reconciliation" that deponents agreed to fulfil were relatively lenient. Communities consistently stressed the importance of deponents telling the complete truth to the gathering and demonstrating a real sense of remorse. The hearing itself was often a difficult and painful experience for deponents. If it was felt that the deponent's admission and apology were complete, open and sincere, often the community was satisfied with only symbolic acts of reparation or community service. Community service, for example, usually consisted of a task performed once a week over a set period that was usually no longer than three months. Examples of required

tasks included: the repair of public buildings, tree planting, the erection of a village flagpole, and cleaning of church grounds or other facilities.

113. Sometimes the victims and the wider community joined the deponent in carrying out the agreed task. In such cases, the perpetrator did the work as a compulsory part of his or her agreement, while the victims and community members participated voluntarily as a demonstration of their good faith and belief in the process. The joint participation of perpetrators and victims in a common community service project was a graphic demonstration of the power of the CRP to bring previously polarised parties together.

114. Community Reconciliation Agreements sometimes included a requirement that the deponent make reparations to victims. Reparations varied from payments in cash or in kind, which sought to reimburse the victim for goods lost, stolen or destroyed, such as livestock, to more symbolic payments with a ritual value. Thus, in a number of hearings, particularly ones held in rural areas and the enclave of Oecussi, deponents gave victims ceremonial objects such as *tais* (hand-woven textiles), *belak* (chest ornaments) and *morten* (coral necklaces).

The power of apology

The number of cases in which the deponent was required only to make a public apology was far higher than had been expected. On the whole public apologies were given and received in a spirit of solemnity, especially when made in the context of a *lisan* ceremony.

Some may find it surprising that many villages required only a full and open apology as a prerequisite for reconciliation, and did not demand reparations, community service or other acts that might be considered punitive. One factor which helps to explain this phenomenon is the close-knit nature of East Timorese communities. It can be highly emotionally demanding to freely and openly admit past faults, apologise and ask for forgiveness when the audience includes family members, the local religious and political leaders who will influence your future life, and the entire community whom you will face and interact with the following day, and every day thereafter. By comparison, the public admission of guilt and apologies in front of strangers whom you will not encounter again would carry rather less weight.

Although many apologies were delivered and received with suitable solemnity, some were delivered in a cursory manner that failed to satisfy victims and community members. Possibly, some deponents lacked sincerity because they were not convinced that they were

responsible for any harm done. This was more common where the young men were forced into joining the militias and saw themselves to be victims. In other cases individuals may have felt pressured by local hierarchies to participate in the CRP, even though they had not reached the point where they felt genuine regret for their actions.

The effectiveness of the CRP programme

115. To assess the effectiveness of the CRP programme, the Commission conducted two internal monitoring and evaluation surveys during the implementation phase. The assessments sought to evaluate the level of satisfaction of participants in the process, and identify issues of concern that could be addressed in future hearings. The assessments were based on responses to a standard set of questions by people who had participated as deponents, victims, or members of the panel or local community.

116. The first evaluation, conducted in March-April 2003, was based on interviews with 40 participants – ten deponents, ten victims, ten panel members and ten community members – who came from five districts. Each of the interviewees had attended a CRP hearing in the preceding three months.

117. The second evaluation was undertaken in August 2003 by district teams in each of the 13 districts. A total of 116 persons who had participated in CRP were interviewed in this assessment.

Reintegrating perpetrators into their communities

I feel very happy with the process because now we can live in peace. Before I couldn't really talk to the [deponents]. I wanted them to declare what they did. I felt I said what I needed to say. Now I feel more free. I feel close to the deponents.

Victim - Aileu[30]

Before the [CRP] I felt ashamed to walk around the village. Now when I walk around, I feel more free. People didn't talk to me sometimes before. Now I feel that people are more open. Before I felt a weight on me when I went to work in the fields.

Deponent – Aileu[31]

Before I took part [in the hearing], when we met each other in the street we still felt hatred towards each other. We had not genuinely given our selves to each other. We Timorese can hold our anger for a long time.

Deponent – Los Palos[32]

Now I've got my job back as a high school teacher. They called me back to work because they saw that I declared everything in the hearing. Everybody is now moving on with their lives. I can move about freely again.

Deponent – Dili[33]

We attended two biti boot meetings – one at the Aldeia and one at the village level. They were good because through reconciliation we could confess everything that we had done – fighting, burning houses – including the one belonging to the head of the village. Through the process we could apologise and they forgave us. We fixed the roof – it wasn't a punishment but a sign of reconciliation. After reconciliation we felt better, because in the reconciliation process we agreed that nobody could say that we are refugees – the case is closed.

Deponent - Aileu[34]

118. The research conducted by the Commission showed that deponents, victims and community members all felt that the CRP process had made a major contribution to reconciliation. Almost all deponents interviewed stated that their relationship with their community had improved significantly as a direct result of participating in a CRP hearing. Ninety-six % of all persons interviewed said that the CRP had achieved its primary goal of promoting reconciliation in their community.

119. One reason given for the positive response is that the CRP provided a forum for an open exchange of information. This allowed both perpetrators and victims to release emotions that had been bottled up. Although the exchanges could arouse raw emotions, anger and tears, if it was felt that deponents had made a real effort to provide the truth and were genuinely remorseful, victims and community members could accept them in a way that had not been possible before the CRP.

Concerns over the fragility of reconciliation

Who is going to look after our problems in the future? What is going to happen if someone hits me in the future? Who is going to monitor this? We have not yet received the letter back from the court. We need the letter and we also need others to monitor the situation in the future. If new problems arise, how are we going to resolve them?

Deponent - Ainaro[35]

120. Although there was a feeling that the CRP had assisted in promoting reconciliation and cooling community anger, many villagers continued to express concern that the new-found peace in their communities was fragile. Some deponents worried that the community acceptance that the CRP had granted them might not always protect them against revenge attacks or social isolation. However, the fact that the CRP programme was anchored in legislation and had a connection to the formal justice process was seen to be important.

Restoring the dignity of victims

121. Whatever their reservations, most victims were ready to forgive deponents. Victims usually said that because deponents were willing to participate in the CRP, they in turn were willing to forgive. All 21 victims interviewed by the Commission in its internal evaluation reported the maximum rating of forgiveness. However, a number of victims expressed frustration that those who had killed or raped their family members remained free in West Timor, and could not be brought back to face their communities or the courts. In many cases, victims of less serious offences were also victims of serious crimes. Although they expressed satisfaction with the results of the CRP, they were dissatisfied with the progress that had been made towards achieving comprehensive justice.

Establishing the truth about human rights violations

> *I'm not like these others [two other deponents in the scheduled hearing, both militia members]. I did nothing wrong, I didn't commit any crimes. I can live with the community and if people want to avoid me, that's their business. I want to take part in the CRP because I don't want my children and my grandchildren to have problems one day. It's important to me that this stops here.*
>
> Deponent - Dili[36]

> *I was not obliged to go through the CRP but as a citizen I wanted to go ahead. I felt I needed to give my statement about 1999…I was a liurai (traditional king) during the occupation and my work was very public. I made contact with Falintil and I assisted them with money… A new organisation was formed soon after called the FPDK [Forum Persatuan Demokrasi dan Keadilan, United Front for Democracy and Justice]. My name was put there by the Camat (Sub-district Administrator). I didn't go along to any activities. As a liurai, I was asked to give them the names of people who should join the Darah Merah (militia group) by the Camat. I had to put forward 20 names from this village. If I didn't give any names to the Camat there would have been much suspicion of me. We all had to live with "ulun rua" (two faces) in those days in order to survive. In*

1999, after the referendum, the FPDK was disbanded. It didn't really do anything bad.

Deponent - Ermera[37]

122. The CRP provided deponents not only with an opportunity to admit to victims and their peers the details of what they had done, it also allowed them to clarify what they had not done. The conflict had often been chaotic, and information had been distorted, exaggerated and invented. Because there was no way of determining the truth, rumour became a substitute for the truth. It was common for deponents in CRP hearings to admit responsibility for certain acts, and then be accused by the community of committing other acts as well. In many cases, deponents were able to provide detailed rebuttals of these allegations. In this way deponents were able to limit the accusations against them to those based on fact, and challenge convincingly those based on false rumour.

123. Many deponents stated that they had been forced to participate in militia activities during 1999. Communities accepted that this type of duress was common during the conflict and that many young men had been forced to guard militia posts and take part in other militia activities. The CRP gave the opportunity to victims and others to question whether the acts committed by the perpetrators had in fact been coerced, or if this was just being offered as an excuse.

124. In other cases, deponents accused of collaboration with the security forces or of other harmful acts provided explanations that they had in fact been working under the direction of clandestine leaders, and that their collaboration was only a cover for their real role.

CRP hearing in Fahelebo, Liquiçá, 29 October 2002

Preparations for a CRP hearing in the village of Fahelebo were undertaken on the assumption that the procedure would be relatively short, simple and straightforward. The only deponent to testify had already admitted that he had taken part in the beating and humiliation of another member of the community and his statement had been corroborated by the victim.

However, as the hearing progressed, a story emerged that illustrates how "perpetrator" and "victim" are often inadequate terms to describe the complex roles which individuals played during the political conflicts. One of the positive attributes of the CRP was its capacity to expose and clarify these complexities, so that the participating community was able to gain a fuller understanding of what had taken place.

The deponent, P, began his testimony by recalling events that had occurred in May 1999. At the time he had been the police officer responsible for the village and had been contacted by J, the local Babinsa (TNI non-commissioned officer assigned to a village). J informed P that a pair of boots belonging to an Indonesian soldier had been stolen and that he suspected a local man, D, had carried out the theft in order to send the boots to Falintil fighters in the forest.

The person suspected of stealing the boots, D, was summoned. When he was brought before the group D was first punched and kicked by the Babinsa before P intervened to separate the men. At this point P slapped and kicked the victim and pushed him to the ground, demanding he perform ten push-ups in front of the group, and then crawl on the ground. Following his ordeal D was left lying on the ground.

Initially, on hearing the description of events outlined in P's testimony, the panel considered sentencing him to three days labour, repairing the local school's doors and windows. However, P then proceeded to explain his motivation for participating in the beating and humiliation of D.

P explained that at the time of the incident militia activity was intense and uncontrolled. On hearing that D was suspected of stealing the boots to supply to Falintil, P was afraid that D might be killed or his village attacked in retaliation. P further stated that he was related to D and wanted to protect him. He had intervened in the hope that by humiliating him in front of the others they would be satisfied and he would thereby save D's life.

The local community recognised that at that time there was a real risk that D might be killed for stealing the boots. D accepted P's explanation of what had happened and that he had acted not to persecute him but to save him. In consultation with the panel he, as the victim, offered to participate in the community service sanction to demonstrate that what had transpired between them in the past was now laid to rest and their relations restored.

A ritual slaughter of a chicken and a pig and a communal feast followed the hearing. At the close of the hearing a representative community elder stated that in many circumstances individuals and communities had been divided and separated by the political conflict, which had forced them to act in ways they would never have chosen. The causes for these divisions had now been removed.

Promoting reconciliation

125. According to those who took part in it, the CRP programme made a major contribution to building reconciliation at the individual, sub-village and village levels. It provided a forum in which individuals were able to give expression to beliefs and emotions that had previously been suppressed, to share anger and regret, and resolve to leave the violent past behind. The political conflict created a legacy of mistrust and resentment that was felt through every level of East Timorese society. By giving communities an opportunity to explore historical events, CRP helped to disentangle the web of suspicion that had been seriously impeding reconciliation.

126. The CRP programme, however, was one of a variety of reconciliation initiatives undertaken by the Commission. Whereas CRP targeted grass-roots level tensions, the Commission also sought to defuse long-standing tensions at the national level. In the public hearing on the Internal Political Conflict of 1974-1976[38], for example, "agents of the process", including political leaders who had led the political parties at the time of the internal conflict, as well as the present-day representatives of those parties, spoke to the nation. They publicly accepted responsibility for their actions, expressed regret for the harmful acts they or the institutions they represented had done, and at the end of the four-day hearing affirmed their solidarity in a moving closing ceremony. At this extraordinary event, held before a packed audience and broadcast across the nation, Timor-Leste's political elite gave a public demonstration of how past differences can be put aside in order to strengthen the new nation.

127. Other public hearings aired the experiences of victims from all sides to the conflict and so contributed to a more balanced and accurate public perception of shared history. Victims' Hearings and Healing Workshops helped restore the dignity denied to individual victims, and dispelled some of the residual anger that fuels continuing division. Community mapping exercises promoted a village-level exploration of the past and helped to develop a collective version of events. The weekly radio programme produced by the Commission encouraged reflection and debate on reconciliation. Through the information campaign in West Timor, refugees became aware of the work of the Commission, including the CRP programme for those that returned to Timor-Leste, and that they could give statements that could contribute to a balanced Final Report. It is hoped that this Report will also foster reconciliation by producing a version of events that is based on careful and objective research rather than limited information and rumour.

128. The Commission recognises, however, that the goal of reconciliation is far from being fully realised and that it must remain a major component of national policy for many years to come. Only through the continuation of practical, grass-roots programmes, further historical clarification and education, and constant recognition that the challenge has still to be fully met can the people of Timor-Leste hope to free themselves of the divisions created by the past. The Commission recognises that some of these divisions were the product of manipulation by foreign actors, particularly Indonesia. However, the people of Timor-Leste themselves accept a degree of responsibility. The past must be faced, faults on both sides admitted, and politically-related hatred and

violence recognised as bringing only misery. Continuing to pursue reconciliation is of fundamental importance, not only for those now living within the borders of Timor-Leste, but also as part of the quest of rebuilding trust and a common understanding with those who share our East Timorese heritage but remain in West Timor.

Lessons learned

129. As the CRP programme was unique, the Commission could be guided by the experiences of institutions engaged in similar work in other countries, but could not simply replicate them. In undertaking this new and untested programme, the Commission achieved more than it set out to do, but there was often a gap between reality and what had been conceived on paper. Some valuable lessons can be learned from the experience of the planning, preparation and implementation of CRP, both for any future community reconciliation programme in Timor-Leste, and for others considering similar programmes.

Implementing the programme

130. Firstly, preparing the ground for the CRP programme to begin was a much larger, more complex and more time-consuming task than had been expected. Before the first hearing could be held, procedures had to be agreed and set down, the roles of the participants decided, training manuals written, staff trained, a public information programme organised, an outreach programme to influential figures in the districts implemented, support and transportation provided for staff working in the sub-districts, hearing sites made ready, perpetrators' statements taken, procedures for working with the OGP settled and many other tasks completed. The strategic plan did not anticipate all the challenges that would occur at this preparatory stage, and this meant that the hearings began later than expected.

131. The national CRP office also underestimated the time and effort needed for communities to become familiar with what was an entirely new concept. As familiarity increased during the life of the field programme, so did the level of community participation.

The role of victims

132. Further, although all categories of participants in the CRP programme, including victims, indicated that they had benefited from participation, more consideration could have been given to the role and contribution of victims. The Commission recognises that no process can hope to heal victims' wounds or compensate them for what they have lost. The CRP gave victims a voice and some degree of accountability for harmful acts that otherwise would not have been dealt with. However, the "acts of reconciliation" required of perpetrators in general delivered only token reparations. Some victims also reportedly felt indirect community pressure to reconcile with the perpetrator.

133. The role of victims in any justice process is a complex issue. As far as the CRP is concerned, it must be put in the context of the Commission's guiding principles when it

designed the programme. The Commission wished to finalise a large number of cases, while respecting community social structures by giving a powerful role to local leaders, recognising that communities wished to heal local divisions and symbolically close the period of conflict, and that in Timor-Leste the concept of individual identity is closely entwined with the individual's sense of belonging to a community. Amid this complicated mix of objectives and constraints, the suffering of victims and their right to a remedy must be honoured and remembered at all times. Guidelines establishing a right of victims to a say in the decision on what "acts of reconciliation" the perpetrator should perform, and a stronger place for victims in the formal decision-making structure of the CRP would have helped to ensure that their interests were not overlooked.

Acts of reconciliation

134. One surprising outcome of the CRP was that the "acts of reconciliation" that perpetrators were asked to undertake were, in general, significantly less onerous than the Commission had expected. In many hearings involving low-level offences, the perpetrator was not asked to undertake any further action; a complete acknowledgement of the truth and a public apology were held to be sufficient. The type of "act of reconciliation" also differed between districts.

135. For example, deponents in Oecussi were more likely to be asked to pay financial compensation, and deponents in Bobonaro were more often required to undertake community service. This aspect of the programme was influenced by local custom and, in some cases, the views of the local leaders who sat on panels. On the one hand, this was a positive result in that the hearing format was flexible enough to accommodate local views. On the other, it meant that there was a lack of uniformity in dealing with similar offences. A set of guidelines suggesting what "acts of reconciliation" would be commensurate with what offence would have assisted in achieving uniformity.

The relationship between the Office of the General Prosecutor and the Commission

136. Over the course of the CRP programme community interest, and with it requests for hearings, increased dramatically, resulting in a caseload that was 50% higher than the Commission had initially planned for. This unexpected level of demand put great pressure on both the Commission and the OGP.

137. Under the tight schedule of three months per sub-district, the Commission needed the OGP to process cases quickly if they were to be heard before the district teams moved on. In the early stages of the programme, the OGP was frequently unable to meet the 14-day deadline for the turnaround of cases and sought the 14-day extension in almost every case. A major cause of delay was the need for translation. The Serious Crimes Unit was staffed largely by United Nations international personnel whose working language was English, whereas all CRP statements were in either Tetum or Indonesian. Some individual prosecutors also took a very cautious approach to their responsibilities.

138. These initial problems were resolved through closer co-operation between the two institutions, achieved through regular communication and information sharing. As the demand for CRP hearings grew, particularly towards the end of the operational period, the workload of both institutions increased dramatically. Due to hard work and a more pragmatic attitude on both sides, the programme was ultimately completed within the timeframe.

The relationship between the CRP and the courts

139. Each of the 1,371 Community Reconciliation Agreements had to be considered by the District Courts and, if approved, issued as an Order of the Court. As the end of the operational period approached, completing the certification process proved to be a serious challenge. The courts were already overburdened with a large backlog of cases. To clear the backlog the Commission assigned a CAVR staff member to work in the registry of each District Court. Once measures to expedite the review of CRAs were in place, cases passed through the courts relatively quickly. A decision to give Commission staff members the responsibility for notifying deponents of the courts' decisions removed another bottleneck.

140. Although viewed from one angle the CRP cases added to the workload of an already strained legal system, the programme may also have lightened its load. Some, if not all, of the cases handled by the Commission through the CRP programme may have been taken to the police by victims and perhaps even prosecuted. The programme effectively averted the need for police investigation, the preparation of indictments by prosecutors, judicial hearings, and an expanded court administration and prison system to deal with those cases.

Broader impacts of the CRP programme

CRP as a symbol of the end of the conflict

> *Today is the end of 24 years of suffering, violence and division for our community. In 1999 we saw the Indonesian soldiers and militia leave. On 20 May 2002 we celebrated our independence as a nation. But it is only today that we as a community can be released from our suffering from this terrible past. Let us roll up the mat, and this will symbolise the end of all of these issues for us. From today we will look only forward. Let us now eat and dance together, and celebrate the future.*
>
> Community leader-Maliana[39]

141. Besides giving communities the opportunity to explore and find solutions to problems between individuals in dispute, for many communities the CRP provided

a symbolic closure to the long period of conflict. Although the formal objective of hearings was to allow deponents to gain re-admission to the communities by telling the truth and performing "acts of reconciliation", in fact the give-and-take between deponents and other participants often produced a more rounded and more accurate version of events that was of wider benefit to the community.

142. It is likely that the CRP performed this important function because it gave communities their first chance to focus on their own particular experience. Moreover, it gave them this opportunity in a contained and safe forum within which they could open up old wounds before declaring, on the basis of a broadly acceptable resolution, that the wounds should now be closed.

Contribution to the fight against impunity

143. After the end of the conflict in October 1999 national leaders and representatives of the international community repeatedly told the population of Timor-Leste that they should not seek to avenge past wrongs and must rely on formal justice mechanisms for solutions. This faith in the rule of law was unfamiliar to most East Timorese, as during the occupation the law had come to be seen as an instrument of oppression or simply irrelevant. However, for various reasons there was little progress in achieving justice for past offences in the three years after the end of the conflict. Considered in this context, the success of the CRP was an example for the new nation of the value of the rule of law. This was particularly so because the programme reached into remote parts of the country, and many participants reported to the Commission that the CRP was their only experience of any official legal mechanism since the departure of the Indonesian military.

144. In addition to buttressing the rule of law, the CRP held many perpetrators of "harmful acts" accountable, who would otherwise probably have enjoyed complete immunity. Although these persons were not forced to undergo trials nor imprisonment, their experience in the CRP and their subsequent "acts of reconciliation" were often painful and humiliating. Follow-up interviews indicated that the admissions and apologies that deponents made frequently had a lasting effect on their lives.

145. In this manner the CRP, together with the increasing number of successful prosecutions for "serious crimes" in the Special Panels, demonstrated that there was not complete impunity for past offences. It also served to weaken the case for an amnesty for past offences. Community members who had experienced the CRP found it difficult to accept the argument that amnesty was the only option for dealing with the massive number of unresolved "less serious crimes". Moreover, the proposal simply to drop the cases against perpetrators of such crimes seemed unfair after other perpetrators had been required to go through the painful process of a CRP.

The failure to bring those most responsible to account

> *We were just ordinary people. We were forced to join the militia. Why should we go through this process while the big people continue to be free?* *
>
> *Two of our family members were killed during the violence. Those who killed them have not yet come back from Atambua. While my wife was still pregnant with our first child, I was jailed in West Timor from 1997 to 1999 because I was involved in the clandestine movement. I was beaten many times and thrown into the sea. Until now my eyes are dizzy and I cannot see very well. During 1999 our house was also burned and our things destroyed.*[40]
>
> Victim, Suai

146. The Regulation clearly prohibited the CRP from dealing with offenders who were most responsible for serious violations. There was a perception that this category of offender had evaded justice of any kind and that they remained free and unrepentant. This sense of injustice was expressed in different ways at almost all CRP hearings. The Jakarta Ad Hoc Tribunal had not yielded any tangible results and the Serious Crimes Process was unable to reach the majority of perpetrators of gross violations, who remained in West Timor or other parts of Indonesia. Further, because of resource constraints, the Serious Crimes Unit had still to investigate a number of persons suspected by their communities of being responsible for serious crimes, even though they had returned to Timor-Leste. In a number of cases these individuals had not returned to their original villages but remained in Dili. Community members commonly expressed frustration and anger that they had not been held to account for their actions in any way.

147. Even within the category of offender eligible for CRP, many individuals who were suspected of committing "less serious crimes" or other acts did not choose to participate in CRP hearings in their villages. The voluntary nature of the process meant that if these persons did not choose to give a statement, they could not be forced to. Although in theory they remained liable to arrest and trial, the likelihood that this would happen diminished as the legal system became increasingly overburdened with new cases.

148. The result of this uneven treatment of offenders was that often communities expressed appreciation of the actions of those perpetrators who stood before them and accounted for their actions, but they were clearly dissatisfied at the apparent impunity enjoyed by more serious offenders who, for whatever reason, remained beyond the reach of the formal justice system.

* Justice System Monitoring Programme, *Unfulfilled Expectations: Community Views on CAVR's Community Reconciliation Process,* Lia Kent, Dili, August 2004, p. 15. (available at www.jsmp.minihub.org.) This is not a quote from a deponent, but JSMP reported that it was a "common refrain" heard from deponents in the CRP. The JSMP report added that "[t]he perception is that those most responsible live comfortably, and with impunity, whether in West Timor or in Timor-Leste".

CRP's contribution to capacity building

149. One indirect benefit of the CRP was the skills and experience in dispute resolution and reconciliation mechanisms that members of staff, panels and communities acquired during the programme.

150. All CRP staff received training before beginning their work in communities, which was supplemented by further courses during the implementation of the programme. Training focused on developing the range of skills needed to conduct CRP hearings. These included skills in:

1. Mediation
2. Achieving solutions acceptable to parties in disagreement
3. Dealing with aggrieved victims
4. Special issues relating to victims of sexual assault
5. Conflict resolution and the dissipation of anger or violent reactions
6. Role-plays and problem-solving exercises based on the kinds of situations staff members were likely to face in the CRP hearings
7. Chairing meetings or panels
8. Basic legal principles relating to natural justice and procedural fairness
9. The legal requirements of CRP, as set out in Regulation 10/2001.

151. In addition to this training, staff and Regional Commissioners participated in many hearings throughout the life of the programme, allowing them to develop these skills. In total more than 50 East Timorese completed this training and were thereby equipped with skills that could have wider application.

152. Panel members also received training before they presided over hearings. Their training was primarily aimed at preparing them for the forthcoming hearing, and included imparting a general knowledge of methods of mediation and dispute resolution. A total of over 1,000 East Timorese Panel Members received this instruction and participated actively in at least one hearing in which they were required to utilise the skills they had learned. As panel members were community leaders drawn from each of the 65 sub-districts of Timor-Leste, this training should enhance local capacity to resolve disputes throughout Timor-Leste.

153. The methodology of the CRP, which included conducting proceedings in a calm, respectful manner and giving space for the views of all affected parties, also provided a valuable model for communities to draw on in resolving other disputes. It is estimated that over 40,000 East Timorese (almost 5% of the population) attended and participated in CRP hearings. This widespread experience of confronting difficult problems and seeking to resolve them in ways that were agreeable to all parties made a valuable contribution to maintaining peace during the volatile and emotionally fragile period following the end of the conflict.

154. The Commission closely followed the Regulation requirement that a minimum 30% of all Regional Commissioners be women,[41] and that panels have "appropriate gender representation".[42] As Regional Commissioners and panel members, women

played an active role in the hearings, which can only have had a beneficial role on gender equality in Timor-Leste.

CRP: a unique approach to justice

155. The different systems of formal prosecution through the state legal system and the CRP programme were developed for different reasons, and made different contributions to justice. The formal criminal justice system has developed over centuries to deal with the ordinary type and level of crime that occurs in a relatively stable society. It deals with cases on an individual basis in an objective manner, with a view to the decision being generally applicable to other perpetrators of the same offence. The formal justice system represents the power of the State in condemning anti-social behaviour.

156. The CRP, by contrast, was designed to address a particular caseload, arising from a specific situation, where violence and human rights violations had occurred on a massive scale, and where whole communities had been torn apart by what had occurred. It was in this extraordinary post-conflict context that the CRP was designed to address both justice and reconciliation.

157. Certainly, the CRP was not able to offer the same depth of investigation, legal certainty, uniformity of application and guarantees of due process and fairness that the courts can provide. However, the diverse legal and other traditions brought together to constitute the CRP gave it dimensions that fall outside the purview of the formal justice sector.

158. The CRP was able to finalise a far greater number of cases than would have been possible if the same amount of resources and time had been devoted to the formal justice sector alone. It was also able to focus on repairing community and individual relationships, and tailor sanctions to suit each case.

159. Participants often expressed their appreciation that the CRP hearings were held in their home communities. Victims and community members had an opportunity to participate in a full sense. By contrast, court hearings are usually held in major centres and villagers who attend court hearings face formidable economic, logistical and psychological obstacles. The participation of the general community and the role of traditional leaders, church leaders and other respected persons, also added a strong sense of ownership to the CRP. Agreements reached had the force of all of these respected local institutions behind them as well as that of the law.

160. In a court hearing, victims may or may not give testimony, and if they do, they have to limit themselves to what they experienced. They are unable to express opinions or to address the perpetrators directly and tell them how they have suffered as a result of their actions, ask them to clarify questions, or explain why they committed the crimes. Feelings of remorse have no bearing on the guilt or innocence of the accused, only on the severity of sentence. Whether a victim is satisfied with a perpetrator's explanation, or if they accept or forgive the perpetrator is irrelevant. Only lawyers are allowed to ask questions of witnesses and community members, who may know the context well, are

prohibited from speaking. In CRP, however, all of these factors were a normal part of the procedure.

161. Participation in formal justice mechanisms is often a humiliating procedure for victims. They must give evidence alone, may be closely questioned or cross-examined on details of their experience and are forced to relive painful memories. In contrast victims in the CRP hearings were afforded a place of honour. They were accompanied by family or friends as well as trained Commission support staff. The victims were able to express their feelings and had a direct role in deciding the fate of perpetrators. Victims interviewed by the Commission reported feeling that their community held them in higher esteem as a result of the CRP.

CRP hearing in Holsa, Maliana, Bobonaro, 30 June 2003

Of the 1,371 deponents who completed CRP hearings over the 18 months of the programme, no two had the same story to tell. The reasons for participating varied greatly, reflecting the many faces of the community tensions that grew out of the political conflicts. While most of those who appeared before their communities spoke of their collaboration with the Indonesian regime and the militias associated with it, the nature of that collaboration was diverse.

The testimonies of the three deponents who participated in a CRP hearing in the village of Holsa, on the edge of the town of Maliana, highlighted clearly the different ways in which people had been drawn into the conflict and the often complex nature of their acceptance back into their communities.

At the beginning of the hearing, which took place at the end of June 2003, certain differences were immediately obvious from the appearance of the deponents. JR, a member of the national police force of Timor-Leste, had arrived wearing his uniform, but after a request from the Regional Commissioner, he changed into his civilian clothes and sat erect at one end of the row of seats reserved for the perpetrators. Next to him sat JM, wearing the *lipa* (sarong) and long beard, signs that he was an elder. At the far end of the row sat the youngest of the three, G, casually dressed in shirt and jeans.

JR spoke first and in his testimony outlined his reasons for testifying to the CRP. Before the Popular Consultation of 1999 he had served in the Indonesian police (Polri) for many years, and it was his long experience in Polri that had led to his selection for the East Timorese

force. He was finding, however, that because of his past people found it hard to accept him. He was regularly taunted by the local youth as *polisi milisi* (a militia policeman) the implication being that as a member of the Indonesian police force, he had been complicit in militia attacks and other violence against the population.

JR described how he had tried during his years of service in the Indonesian police to protect the communities he had worked in. He had warned them of impending military or police operations and deliberately failed to pass on information to his superiors about the location of Falintil fighters and their clandestine supporters. Through his participation in the CRP hearing, JR was hoping to clear his name as a collaborator and become a respected police officer.

The next to testify was JM. He said that he was a member of the *lisan* community and that was the reason that he had been targeted by a local militia group, Dadurus Merah Putih (DMP). He described how one evening in May 1999 two armed men had taken him from his house to the house of the local DMP commander. He was told that he must perform *lisan* rituals for the militia the next morning at seven o'clock.

JM's protests were ignored, and the next day he went to attend the ceremony, together with a local nun who had also been forced into coming. He performed the rituals that the militia told them to. These included administering a "blood oath" to bind the militia members to their leaders. JM described the loss of status he suffered as a *lisan* elder as a result of performing sacred rituals for the militia, but protested that he had had no choice but to comply with their demands. He hoped that by explaining his actions to the CRP, he would be accepted back by the local *lisan* community.

The final testimony of the day came from G. He described how, in April 1999, he and his friends had been summoned by the local battalion commander to attend a roll-call at the military post. During the roll-call, they were told that they were going to take part in a military operation. They left after the roll-call was finished, and proceeded to the nearby village of Raimaten where they were instructed to burn two houses. Another man, who was still living in West Timor at the time of the hearing, carried out the burnings. After house-burnings some members of the group, including the deputy commander of the local TNI battalion, stole property belonging to other villagers. G described how the commanders of the operation did not consider him and his friends "fierce" enough to join in the burning and looting. He was able to identify all of those who had

ordered and co-ordinated the action. Community members were aware that the alleged perpetrators had all gone to West Timor after the referendum and not returned. G wanted to resolve suspicions in the community that he had been actively involved in the theft of property and the destruction of the two houses. He answered all questions from victims and others and satisfied them of the truth of his explanation.

The three deponents, although from different backgrounds and with different reasons for participating in the CRP, all expressed satisfaction with the outcome of the hearing. The owner of the burnt houses accepted G's version of events. JM's account of the circumstances in which he had been forced to carry out *lisan* ceremonies for the militia allowed the other *lisan* leaders present to understand why he had acted as he had, and to forgive him.

On the day of the hearing it was unclear whether the community had found JR's account of his true role as a member of the Indonesian police persuasive. However, in an interview with Commission staff several months later, he said that he felt that community attitudes towards him had changed for the better since the CRP hearing.

Reflections

Conclusion

162. The CRP programme was devised to address the need to reunite communities that the political conflicts had divided. As there was no precedent for this kind of programme, the prospects for its success were uncertain at the time the Regulation was passed.

163. Implementing the programme posed logistical, administrative, educational, political and legal challenges. These challenges ranged from reaching some of the remotest villages in the country, to establishing working relationships with the OGP and the courts, to attracting the support of local leaders and community members, to handling emotionally charged disputes between perpetrators and victims. All of these challenges were met, through a great deal of hard work and dedication on the part of the staff, advisors and Commissioners of the CAVR.

164. In addition to the large number of individuals who were successfully reintegrated into their communities, the CRP produced a number of other benefits. It created a mechanism for communities to explore their own part in the history of the conflict and to clarify the role of individual perpetrators and victims in these events.

- It gave communities an opportunity to celebrate an end to hostility and division, and symbolically close the conflict.
- It trained a number of East Timorese, from every district, in the principles and practice of mediation and arbitration, and offered a model of peaceful dispute resolution to tens of thousands of participants.
- It reinforced the value of the rule of law, and contributed to the fight against impunity by resolving a significant number of cases that could not realistically have been dealt with through the formal justice system.
- It helped the formal justice system to find its feet in the vulnerable period of its infancy by relieving it of the burden of having to deal with a significant number of outstanding cases.
- Together with other, complementary programmes, it encouraged a general attitude of support for forgiveness and reconciliation among community members.
- It sent a clear message to East Timorese refugees in West Timor that if they returned to Timor-Leste, a specific mechanism was in place which would assist them to reintegrate, and that communities strongly supported this non-violent approach to settling past differences.

Unfinished business

165. The Commission recognises that transitional justice mechanisms established following massive violence and upheaval can never hope to provide closure for all the crimes and human rights violations committed. Timor-Leste, through the work of the SCU and CAVR, has been more successful in finding effective responses than many other countries facing similar situations. However, the substantial body of cases that have not been processed in any way at all remains an obstacle to reconciliation in Timor-Leste.

166. From the initial planning phase of the CRP the Steering Committee recognised that the Commission could not deal with all cases of "less serious crimes" committed between April 1974 and October 1999. It set itself the more modest objectives of finalising a significant proportion of these cases and thereby making a contribution to reconciliation, dispelling some of the anger that permeated life in many communities and averting revenge attacks.

167. The programme achieved these goals but, having done so, created the new expectation that everyone who wanted to take part in a CRP would have an opportunity to apply. This clearly was not possible within the time the Commission had to complete its work. Despite a target of approximately 1,000 individual cases, and the actual completion of almost 1,400, the CRP Division estimated that at least 3,000 additional perpetrators could have participated in a CRP had the programme been able to continue. Communities were disappointed that so many cases that could have been dealt with through the CRP had not been, and were overwhelmingly in favour of extending the programme or replacing it with something similar.

168. Another area of unfinished business was the more than 100 cases that the OGP had retained. The OGP had decided to hold these cases for further investigation because evidence indicating involvement in a serious crime had arisen either in the OGP's own files, in a deponent's statement or during a hearing.*

169. The Serious Crimes Unit has continued to struggle with a larger caseload than it can manage and, as of the date of publication of this Report, the OGP had not proceeded with any of the CRP deponent statements that it had decided to retain. If the OGP eventually finds no grounds for proceeding with these cases, their diversion will have deprived perpetrators who had been willing to participate in a CRP of an opportunity to settle issues from their past with their communities, or to provide additional information clarifying their involvement.

170. The under-resourcing of the SCU has had broader repercussions on the work of the CRP. The SCU has limited its investigations and prosecutions to crimes committed in 1999. At the time of writing it has completed less than half of the cases of serious crimes reported and is expected to cease its operations in May 2005.† This has resulted in a situation in which the vast majority of human rights violations committed during the whole period of the political conflicts have yet to be dealt with in any fashion. The fact that many perpetrators have voluntarily participated in the painful and often humiliating experience of a CRP hearing, while those guilty of more serious crimes seem unlikely ever to be held to account, has produced a situation of unequal accountability and a perceived justice deficit. This imbalance and the institutional factors that underlie it must be addressed when considering future strategies and needs in the area of reconciliation and justice.

The future of the CRP

171. The success of the CRP programme has generated much debate about whether the programme should continue, either in its existing or in some other format. At the time that CRP was designed, it was unclear whether communities would find it acceptable. The results clearly show that communities throughout Timor-Leste found the CRP to be extremely valuable and, as mentioned, at the end of the operational period there was a high level of unsatisfied demand for the process.

172. On 7 July 2004, the Commission hosted a one-day workshop entitled "Resolving the Past to Embrace the Future". The workshop identified what needs to be done to foster reconciliation in the future. Participants in the workshop included members of the National Parliament, judges, lawyers, representatives of local and international NGOs and civil society groups, as well as the CAVR's National Commissioners.

* If such evidence was presented during a hearing, the Regulation required that the hearing be adjourned, and the case be referred back to the OGP (Regulation, s 27.5).

† As preparations were being made for the delivery of this Final Report to the President of Timor Leste in July 2005, the United Nations placed a moratorium on the closure of the Serious Crimes Unit, pending consideration of the report of the Commission of Experts. (Note: the Report was delivered in October 2005 after the Parliament extended the deadline. Ed)

173. The main conclusions and recommendations of the workshop were:

- The process of community-based reconciliation should continue. Any successor to the CRP should also focus on the resolution of lesser crimes and have among its fundamental objectives the restoration and repair of community relations.
- The CRP has served as a model for reintegration of community members who committed "harmful acts" in 1999. Demand for the service that the CRP provided for this group will continue to be strong, coming from perpetrators who have already returned to Timor-Leste as well as those who have yet to return. The workshop recommended that cases arising from events that occurred in 1999 should be dealt with separately from those that occurred between 1974 and 1998.
- The government should create an independent institution to facilitate the community reconciliation processes post-CAVR. The institution that undertakes this work should do so within a framework of clearly defined objectives and responsibilities. It was generally agreed that the systems and modus operandi of the CRP provided a model for how its successor could be implemented.
- Any subsequent community reconciliation initiatives should retain the relationship between the customary and the formal justice systems.[43]

174. It is clear that grassroots demand for the continuation of the CRP is strong and that there is a determination in many sectors of East Timorese society that that demand should be met. The main obstacles to doing so are largely institutional. They include finding an appropriate institutional home where the work of the CRP can be carried on, and reformulating the relationship between this successor institution and the formal justice system at a time when the future of "serious crimes" prosecutions is uncertain. The Commission's own recommendations in this area are contained in Vol. IV, Part 11: Recommendations.

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Part 10.

Acolhimento and Victim Support

Part 10. Acolhimento and Victim Support

Tables:

Diagrams:

10 Acolhimento and Victim Support

Introduction

1. This part reports on the programmes of the Commission's Acolhimento and Victim Support Division. As its name suggests, this division worked to fulfil two central, but quite different, functions of the Commission. Both functions cut across all aspects of the Commission's mandate in that both *acolhimento* and the support of the victims of human rights violations were core principles of all the Commission's programmes.

2. The importance of *acolhimento* to the Commission's work is reflected by its inclusion as the first of the three guiding principles mentioned in the name of the Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste. Unlike truth and reconciliation, *acolhimento* is not directly mentioned in Regulation 10/2001. Unlike reconciliation, victim support and truth-seeking, it was not an explicit function of the Commission, but something both less tangible and more far-reaching. *Acolhimento* was the spirit that informed all aspects of the Commission's work. It became the centrepiece of the Commission's work out of recognition of the importance of Timorese people accepting each other after so many years of division and conflict. Most immediately it was a response to the situation of East Timorese who had gone to West Timor in 1999, those who had returned to Timor-Leste as well as those who remained in camps and settlements in West Timor. Two specific programmes were developed in response to their needs:

- A monitoring and information programme for recent returnees
- An outreach programme, implemented with NGOs in West Timor, to those East Timorese still living across the border.

3. Victim support, by contrast, was an objective of the Commission that was specifically spelt out in Regulation 10/2001. Section 3 of the regulation provided that the Commission was to "help restore the dignity of victims of human rights violations". The regulation did not, however, prescribe how the Commission should go about achieving this objective.

4. Like *acolhimento*, the principle of supporting victims of human rights violations was integral to the way the Commission worked in carrying out its other functions of truth-seeking, reconciliation and producing its Final Report. Helping individuals and communities who had suffered to recover, and restoring their sense of dignity, was inseparable from the task of repairing relationships damaged by conflict and of building lasting reconciliation. The Commission was to be the voice of the victims, who had for so long been unable to express the suffering that they had experienced, and to make a practical contribution to their healing.

5. The Acolhimento and Victim Support Division also carried out specific programmes. These included:

- Public Hearings at both the national and sub-district level
- A series of Healing Workshops at the Commission's national headquarters
- An Urgent Reparations scheme for victims with urgent needs
- Village-level participatory workshops, called Community Profile workshops, to discuss and record the impact of the conflict on communities.

Structure of the Unit

6. The Acolhimento and Victim Support Division was based in Dili. The national office of the Commission coordinated all the Acolhimento programmes. Although Regional Commissioners sometimes made visits to villages where recent returnees lived, or to camps in West Timor, most of the work was managed from the national office.

7. Victim support work, however, relied on staff in the districts to implement the programme at the district level. It was fundamental to the work of supporting victims to reach out to all communities in Timor-Leste. This was particularly important in the rural areas, where many communities are isolated and where those who suffered violations during the conflicts may now feel forgotten by those at the national level. District teams were made up of people from the local area. Two members of each team, one man and one woman, were responsible for outreach and district support.

8. The structure and responsibilities of the Acolhimento and Victim Support Unit are described in detail in Volume 1, Part 1: Introduction.

Interpretation

Acolhimento

9. National Commissioners did not try to reduce *acolhimento* to a single concept. It was both part of the spirit of the Commission's approach to its work and the spirit it hoped to foster in the community. *Acolhimento* involved people embracing each other as Timorese, of coming back to our selves, living under one roof, after many years of division and violence.

10. The concept therefore had meaning for our Timorese brothers and sisters who remained in Indonesia after the exodus of 1999, and to those who fled in 1975 or

later and lived in exile in countries around the world. But it had a wider resonance for all of us, whether we left Timor-Leste or stayed. Twenty-four years of conflict dispersed Timorese people across the world, divided families and communities, and created divisions even within individuals. *Acolhimento* represented something of the spirit of respectful acceptance of each other and ourselves as human beings, as people responsible to ourselves and to each other. *Acolhimento* is a precondition for both having the courage to speak, and for hearing the truth and seeking reconciliation.

11. *Acolhimento* grows from an appreciation and celebration of our rich cultural heritage. This heritage includes our traditional culture that was suppressed for so many years, as well as our experiences of colonialism, war and occupation. It is a way to help us accept the many dimensions of being Timorese, living with what we have been through, and creating a society that includes all of us, even those who have done wrong in the past. In this sense, the behaviour of the father in the Biblical parable of the prodigal son is a demonstration of the spirit of *acolhimento*.

12. While in English the Commission was called the Commission for Reception, Truth and Reconciliation, it is the view of the Commission that the word "reception" does not adequately reflect all that we mean by "acolhimento". For that reason, "acolhimento" rather than "reception" will be used throughout this part.

The victim*

13. Regulation 10/2001 defines "victim" as:

> a person who, individually or as part of a collective, has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of his or her rights as a result of acts or omissions over which the Commission has jurisdiction to consider and includes the relatives or dependents of persons who have individually suffered harm. [Section 1]

14. Victims of human rights violations committed by all sides to the conflict were recognised by the Commission. They included Timorese civilians who suffered at the hands of different Timorese political parties in the civil conflict of 1975, Timorese who suffered from violations by the Indonesian military and its various auxiliaries, and those who suffered violations committed by members of Fretilin or Falintil after the Indonesian invasion.

15. The Commission also sought to honour those who had died as a result of the conflicts, and to offer support to their families and communities. A huge number of

* The Commission acknowledges the debate around the use of the term "victim" which can denote passive victimisation, as opposed to the more empowering term "survivor". The Commission has chosen to use the term victim, partly for linguistic consistency between the three languages of the Final Report, and partly because it is of the view that many Timorese were victims in their experience of the political conflicts in Timor-Leste. Many Timorese did not survive. As this Part describes programmes for empowering those who have survived, the term "survivor" has also been used interchangeably here.

people died in Timor-Leste over the 25 years of the Commission's mandate, both as a result of the war-related population displacements, bombardments and starvation, and as a result of more targeted violence. In such a context, the risk that the individuals who died will be submerged in global statistics is real. Recognising the dead by identifying and honouring them was an important part of the Commission's work. The limited time and resources available to the Commission has meant that it is an undertaking on which much more remains to be done.

Acolhimento

Acolhimento is an unusual element to include in a truth and reconciliation commission. It is the process of wholehearted welcoming, accepting and showing unreserved hospitality in Timorese culture. This formal courtesy is given to all human beings, even to those who have caused harm. It is noble behaviour in the face of being hurt or feeling anger. It creates space for both parties to change. It is the basis for understanding, for saying sorry and seeking forgiveness.

The Timorese sense of *acolhimento* comes partly from Luke 15: 11-32, the story of a wealthy father and his two sons. The younger son leaves home, taking his share of his father's wealth, which he squanders. Impoverished and feeling remorse, he decides to return home. He is prepared to beg for mercy. As an unworthy son, he thinks he deserves treatment as a servant in his father's house. Seeing his son at a distance, the father has true compassion. He runs to embrace him and welcomes him home with extravagance, without blame or judgement. The older son witnessing this is hurt by his father's manner. Feeling resentment, he challenges his father. The father replies, "Son, you are always with me. All I have is yours. We should make merry and be glad as your brother was dead but is alive, was lost and is found." The parable teaches that reconciliation can be more difficult if one feels wronged than if one is in the wrong, seeking forgiveness.

Toward reconciliation and stopping the cycle of hate

Communities can be strengthened in the spirit of *acolhimento* by making connections and providing a space for justice and reconciliation. This is a long and complicated process. It needs truthfulness, admissions of wrongdoing and efforts to put things right by mutual agreement. Only then, can there be the possibility of forgiveness and the restoration of balance in community relationships.

The perpetrators of human rights abuses in Timor-Leste since 1974 who are prepared to admit their crimes and who wish to seek mercy from their communities can find reconciliation through an established process. Some do want to return to their families, to their land, and to their communities to help rebuild Timor-Leste. Violence diminishes the perpetrator. In a quest to return to live together again, truth-saying is part of the path to personal recovery and to community justice.

People in communities who experienced deprivation and who faced a long struggle to survive need healing. Violence wounds the body and also harms the spirit. It is possible with time to recover. People need to express their true losses and to be heard. But forgiveness is not forgetting or giving amnesty. People become free as the truth is told, and from a mutual resolve that things can be better. This takes time and effort on both sides.

East Timorese in West Timor

A truth commission was proposed in late 1999. One third of the population of Timor-Leste had been driven into West Timor, Indonesia. There were serious concerns for the safety and early return of these people. In the three months after October 1999, about 100,000 people returned spontaneously, and since then a further 120,000 have come. About 30,000 East Timorese remain in West Timor. If they were free of intimidation, negative propaganda and the effects of five years' privation as refugees maybe they would return to Timor-Leste. Many are ordinary people, missing their family and friends, and missed by their communities.

The process and practice of forgiveness

The return and reintegration of militia, ex-TNI and pro-autonomy supporters is a serious challenge. Perhaps less of a challenge is the case of the civil servants from the 1974-1999 period. Some may want to remain in Indonesia; others may want to return. The East Timorese government has said that the welcome of *acolhimento* can be extended to those who decide to return while the process of truth and reconciliation occurs. Many groups and communities have worked hard for the peaceful reintegration of returnees from West Timor. This is a tribute to their strength and patience.

The Commission has sought to mediate the return of perpetrators of minor crimes to their communities through the formal community reconciliation process, which allows the parties to interact, discuss and seek to resolve outstanding issues and concerns. The spirit of

acolhimento has informed the design of this mediation process, combining it with the East Timorese tradition of *lisan*[*], restorative compensation as a part of social responsibility. Over 1,400 returnees have submitted to this healing process, which was monitored by the Commission's District Teams and by local authorities to forestall problems experienced by recent returnees. With time, too, survivors can have understanding and regain confidence on their path to forgiveness.

However, those guilty of serious crimes have to accept the requirements of legal justice in the East Timorese Courts as mandated by the Constitution. Survivors must wait for justice in these cases.

The challenge for individuals, families and communities, indeed for the nation of Timor-Leste, is to accept the process of re-establishing trust in relationships, to live well together, and to work to create a just society.

Reception and outreach

Background

16. In addition to its programmes for community reconciliation, truth-seeking and victim support, the Commission also established a programme called Acolhimento. The Acolhimento programme was created to respond to the situation of East Timorese who had moved or been moved to West Timor in 1999, both those who had returned to Timor-Leste and those still living over the border. East Timorese began crossing into West Timor as early as April 1999, settling in camps and settlements in Belu District, which borders Timor-Leste. However, by far the largest influx of refugees into West Timor occurred in the early weeks of September 1999 after the announcement of the result of the Popular Consultation. Most of these refugees were forcibly evacuated by armed militia and Indonesian troops. The approximately 250,000 refugees who fled or were forcibly evacuated to West Timor were accommodated in several large refugee camps, such as Noelbaki, Tuapukan and Naibonat in Kupang, two camps in Kefamenanu as well as about 200 other smaller camps or shelters.[1] They represented about one third of Timor-Leste's population at the time. Indonesian soldiers and East Timorese militia tightly controlled the refugees' movement in and out of these camps, as well as their access to humanitarian aid.

* *Lisan* is a combination of beliefs, customs and traditions of East Timorese people. *Lisan* varies from community to community and is generally an important aspect of community life, especially in rural areas. It is often referred to as "adat" in the Indonesian language.

17. Refugees returned from West Timor in two main phases. In the first, a three-month period after October 1999, over 100,000 people poured back into Timor-Leste. Then, over the next three years, another 120,000 refugees returned in smaller groups.[2] Returnees came back to an uncertain reception in their communities. Many had been supporters of integration before the Popular Consultation and some had been active members of the militia in their communities. Some found that their land and property had been taken over for use by other families. How to minimise conflict between returnees and their communities featured prominently in the Steering Committee's discussions as it went about its task of designing the Commission's mandate (see Volume I, Part 1.2: Background to the Creation of the Commission, for more detail).

18. Despite the large numbers of refugees who returned home, many remained in Indonesia. In February 2002 when the Commission was established, there were more than 60,000 refugees still in West Timor. On 31 December 2002, all remaining refugees were formally declared residents of West Timor and lost their status as refugees. There were still between 25,000 and 30,000 East Timorese in over 150 locations throughout West Timor at that time. UNHCR estimates put the number remaining in West Timor, as of 30 November 2004, at about 25,000.

19. Life is not easy for most of these people. Many live in sub-standard conditions. Most survive through subsistence farming or by running small stalls selling agricultural produce and essential goods, such as cooking oil, soap, salt and sugar.

20. Further, local communities in West Timor often resent their presence. East Timorese sometimes farm with the permission of local residents, sometimes without. In some areas, East Timorese have encroached on forested land, which has placed a strain on both the dry West Timor environment and on relations between the newcomers and local communities. Where East Timorese in West Timor have prospered economically, there have also been instances of local jealousy. Finally, the refugees themselves include former militia indicted for serious violent crimes.

21. However hard the refugees' lives and however unwelcome they may be in West Timor there are many reasons for them not to come home. Those with a pro-autonomy background fear political and economic discrimination, not being accepted back into their village communities, and prosecution. Those with government positions enjoy relative economic security in Indonesia. Many lack confidence in the economic future of Timor-Leste. Moreover, for those in the camps and settlements, the decision to stay is sometimes not theirs to take. Rather a group or camp leader, who has his own reasons for deciding to remain, makes it for them. Importantly from the Commission's point of view, many refugees do not have access to clear or accurate information about the true situation in Timor-Leste.

22. The fact that so many East Timorese are still in West Timor is one indication that the divisions surrounding the political conflicts endure. The Commission, as an institution for *acolhimento,* was concerned with reaching across this divide to help create the conditions for East Timorese people from all political sides to accept each other. Therefore the West Timor programme focused on information, dialogue and creating better understanding.

Monitoring recent returnees

23. Under its monitoring programme, Commission staff met recent returnees to monitor their situation, provide information about the community reconciliation process, and bring matters raised by returnees to the attention of local authorities, Regional Commissioners and Commission staff in the districts, as well as UN agencies, such us UNHCR and IOM (International Organisation for Migration).

24. During 2003, staff made 20 visits to returnee transit centres run by UNHCR and IOM: 19 to the centre at Batugade in Bobonaro, and one to the Ambeno centre in Oecussi. Commission staff also visited 33 villages in seven districts where returnees had recently arrived from West Timor.

Table 1: Villages visited by Commission staff to meet returnees

Villages	Date
Leolima (Hato Udo, Ainaro)	1 April 2003
Palaka , Memo, Balibó, Raifun (Bobonaro)	9 February 2003
Maumeta (Liquiçá)	10 March 2003
Atabae (Bobonaro)	10 March 2003
Balibó (Bobonaro)	11 March 2003
Maliana (Bobonaro)	11 March 2003
Lauala (Ermera)	24 March 2003
Casa (Ainaro)	2 April 2003
Ainaro Vila (Ainaro)	2 April 2003
Manutasi (Ainaro)	2 April 2003
Maubessi (Ainaro)	3 April 2003
Suai Vila, Fohorem, Fatumean, Maucatar (Covalima)	7 April 2003
Saburai (Maliana, Bobonaro)	4 June 2003
Marobo, Aidaba Leten, Maliana (Bobonaro)	23 June 2003
Cailaco (Bobonaro)	27 June 2003
Vatuboro, (Maubara, Liquiçá)	1 August 2003
Riheu (Ermera, Ermera)	2 August 2003
Marobo Bobonaro	3 August 2003

Villages	Date
Leber (Bobonaro, Bobonaro)	8 August 2003
Beco, Holabolo (Suai, Covalima)	9 August 2003
Guguleur (Maubara, Liquiçá)	10 August 2003
Hudilaran (Dom Aleixio, Dili)	12 August 2003
Gleno (Ermera, Ermera)	16 August 2003
Lospalos Lore I (Lospalos, Lautém)	1 December 2003
Lospalos (Lautém)	1 December 2003

25. Monitoring was not a high-profile programme. Rather it took the form of low-key visits to returnees and their families to see how they had been received and whether they felt that they had reintegrated into their communities. Commission staff also visited village heads and other community leaders to check, informally, whether the return of refugees had created any problems in their communities.

26. Liaison work with UNHCR and IOM was mainly to coordinate visits to returnees and to share information about returnees' needs. UNHCR and IOM advised the Commission if they were giving support to cross-border initiatives that the Commission could participate in, including presidential and other official visits.

What the Commission found

27. Many returnees came back with mixed feelings of alienation, disempowerment and trauma, as well as uncertainty about their economic survival and social status. When they arrived, they found a Timor-Leste that was strange to them in many respects, whose legal, government and economic systems, for example, were unfamiliar.

28. The Commission noted that most returnees were well-received by their communities. In some villages the population helped the returnees to build temporary shelters, or provided accommodation to those in need. Returnees enjoyed access to communal resources such as water, health clinics and schools. Returnees could also compete for jobs in the districts, as teachers, nurses, police and military.

29. In some cases returning ex-militia leaders were received with harsh words from the young people in their communities. However, in most cases, local police were quick to take control of the situation and regularly patrolled areas where there were recent returnees to prevent violence. Often conflict between returnees and the local population arose, not because of recent political differences but due to long-standing family or clan disputes over land or other supposed breaches of traditional law.

30. The greatest challenge facing the returnees was that of making a living. Many had lost assets during the violence in 1999 and were not able to recoup their losses during

the years they spent in the refugee camps. Disputes over land and property were often a major issue. Some returnees had been civil servants during the Indonesian occupation and had received a monthly wage. On their return to Timor-Leste they found that others had already taken up most of the limited employment opportunities in the districts. They and their families frequently had to relearn the skills of subsistence agriculture. Consequently, many returnees chose to rebuild their lives away from their home village, moving to Dili or other urban centres in search of other ways to meet their daily needs.

31. For single women and their children, daily survival was more difficult. In some cases, women and children returned to Timor-Leste in poor health caused by long-term malnourishment in the camps. On their return, they had to plant and wait for the next harvest in order to feed themselves. Although local authorities, UN agencies and NGOs gave special attention to these families, there were some who slipped through the net of support.

32. The Commission is aware of a small number of returnees who eventually chose to go back to West Timor. This occurred, for example, in the villages of Lauala (Ermera, Ermera), Leimea (Hatolia, Ermera), Maubara (Maubara, Liquiçá) and Balibó town (Balibó, Bobonaro). The Commission visited these villages and found that returnees had decided to go back to West Timor for different reasons. In some cases, the returnee still had immediate family members living in West Timor. In other cases, the returnees were ex-militia leaders who had not yet had an opportunity to be part of a community reconciliation process and had experienced intimidation or minor assault by the local population.

Accompanying returnees home

Commission staff, in conjunction with UNHCR and IOM, accompanied a number of returnees on their journey home. Usually these were returnees who were seen as vulnerable in some way and were accompanied to decrease their anxiety. The following are just three examples from the months of May-June 2003:

On 29 May 2003 Commission staff accompanied a woman and her children to Laga, Baucau. Her husband, who was a Milsas (a member of Hansip trained to become a soldier) attached to the sub-district military command in Kupang (West Timor), came on this visit on his Indonesian passport. He wanted to bring his family home and then return to West Timor. When they arrived in Laga, the family was greeted warmly and the local population helped unload their belongings.

On 10 June 2003 a 19-year-old man returned home to Leopa (Dato, Liquiçá), by himself. Commission staff accompanied him to his house, where his parents received him warmly.

On 12 June 2003 Commission staff accompanied a 34-year-old man and his five-year-old son to his village in Aidabaleten (Atabae, Bobonaro). He had been a member of the militia group, Harmoni, but although he had taken part in patrols he had not committed any crimes. He had visited his family six times before deciding to return permanently. His family and the local population received him well and helped him unload the IOM truck carrying his belongings.

Reflection on monitoring programme

33. Timorese communities have shown acceptance and a willingness to receive returnees. However, this should not be taken for granted. A significant number of East Timorese still in West Timor may choose to return in the coming years. In addition, it is likely that for some of those who have already returned they will encounter difficulties in fully reintegrating into their communities. The strong demand that community reconciliation hearings should continue indicates that there remain many unresolved issues at the local level, including ones concerning those who have returned since 1999.

34. It is important to continue monitoring the situation of new returnees and to work with communities to provide support as required. This may involve civil society, NGOs and various government agencies. The need to monitor the reintegration of returnees and to be alert to potential conflicts arising from their return is addressed in Vol 4, Part 11: Recommendations.

Outreach to West Timor

35. The Commission was not designed to help repatriate the East Timorese in West Timor. Nevertheless, the tasks of promoting *acolhimento* and reconciliation provided it with a strong justification for reaching out to refugees and informing them about the Commission and the situation in Timor-Leste. As an independent national institution, the Commission wanted to demonstrate to the remaining refugees that the new nation of Timor-Leste was serious in its commitment to build an inclusive society based on rule of law and the universal principles of human rights. It was also considered important to give the East Timorese in West Timor an opportunity to participate in the truth-seeking programme by giving their statements to the Commission.

36. In late 2002 the Commission conceived and designed its West Timor programme. It began to implement it in early 2003. For reasons of efficiency and security and because its mandate was only in Timor-Leste, the Commission decided to work through Indonesian NGOs that were already engaged with the refugee communities in West Timor.

The West Timor outreach programme

37. The Commission's West Timor programme had four main objectives:

1. To increase awareness and understanding of the Commission's mandate among refugees and community leaders.
2. To facilitate the dissemination of information on the Commission's activities in its two main tasks of truth-seeking and community reconciliation.
3. To ensure that the Commission listened to East Timorese from all sides of the political conflict in the preparation of its Final Report.
4. To share with East Timorese refugees in West Timor the message that Timor-Leste is serious about healing past divisions, and normalising personal and community life based on the principles of inclusiveness and respect for human rights.

38. The Commission's West Timor programme mainly involved disseminating information to refugees about the community reconciliation process and engaging them in truth-seeking. In respect to the reconciliation work, the aim was not to conduct reconciliation procedures in West Timor. Rather it was to ensure that communities, including perpetrators of less serious offences, understood how the Commission could help reintegrate people into their home communities if they chose to return to Timor-Leste.

39. The objective of offering people the opportunity to give their statements was to gather information that was both accurate and important for the Commission's truth-seeking work. The Commission wanted to be sure that it had listened to the stories of people from all sides of the political conflict. By acknowledging that East Timorese in West Timor were also heard, it hoped to contribute to their personal healing process.

40. The programme targeted specific groups within the communities in West Timor. These included pro-autonomy political and former militia leaders, individuals and groups who had not yet made their decision on whether to return, women as the group most likely to be unable to make a free choice about repatriation, and those who had chosen to stay in West Timor but who had experience or knowledge of human rights violations to share with the Commission.

Programme implementation

41. In January 2003, the Commission invited five West Timor NGOs to its Dili headquarters to plan a programme based on the four objectives outlined above. Each of the NGOs had experience working with East Timorese refugees in West Timor. They were:

- CIS (Center for Internally Displaced Persons Service)
- Truk-F (Tim Relawan Untuk Kemanusiaan Flores), Flores Volunteer Team for Humanity
- Lakmas (Lembaga Advokasi anti-Kekerasan terhadap Masyarakat Sipil), Institute for Advocacy to eliminate Violence against Civilians.

- Yabiku (Yayasan Amnaut Bife 'Kuan'), Village Women's Care Foundation
- YPI (Yayasan Peduli Indonesia) Indonesian Care Foundation.

42. With support from PIKUL (Foundation for Strengthening Local Institutions and Capacities) and CRS (Catholic Relief Services), these five NGOs formed a coalition to carry out its work with the Commission.

43. The Coalition divided into four teams, each of which was to work in one district of West Timor. Three of the four teams worked in the districts where they had long-standing relationships with refugees. CIS worked in Kupang, Lakmas and Yabiku in Kefamenanu (North Central Timor District), and YPI in Atambua (Belu District). These organisations had already gained the trust and respect of people in their districts, which proved useful in building support for the Commission's West Timor programme. The fourth team relocated from Kupang to Soe (South Central Timor District), and was quickly able to establish relations with key figures in the refugee community.

44. Representatives of the NGO Coalition came to Timor-Leste in February 2003 for a two-week orientation programme. The programme included briefing and planning sessions with National Commissioners and Commission staff, and developing an understanding of background, mandate and organisation of the Commission. Training was also provided in areas such as human rights and transitional justice, and in specific skills such as statement taking. The group made field trips to districts in Timor-Leste to observe Commission district teams working in communities. It also attended the Commission's first national thematic hearing, on political imprisonment.

45. A five-month work plan was then developed with the Commission that ensured that all refugee communities in West Timor would have an opportunity to learn about the Commission and participate in the statement-taking process.

46. Once the programme started, National and Regional Commissioners made monthly visits to West Timor to monitor the Coalition's progress, to help with any problems and to contribute to the public information process. The Coalition noted in its final report to the Commission that "the Commissioners' visits were like a locomotive that drew refugees to attend focus-group discussions". The first monitoring visit, at the end of March 2003, was also used to launch the programme and publicise its objectives. Commissioners met leaders of the provincial government and the church, NGOs and the media in order to build support for the programme's activities. A written recommendation from the governor of the province of Nusa Tenggara Timur was particularly helpful to the Coalition in gaining access to camps and obtaining the cooperation of police and military in providing security.

Informing the refugee community about the Commission

47. The first aim of the programme was to share information with refugee communities about what the Commission was, and how it might be relevant to them.

48. The two primary methods used to inform refugees about the Commission's work were direct discussions with refugees and their leaders (see Table 2 below, following

par. 49) and dissemination of information through the press, radio and videos. To build relationships and trust, the Coalition teams made private visits to refugee leaders and camp coordinators, before holding community meetings. National and Regional Commissioners and CAVR staff also visited camps and met former militia commanders and pro-autonomy political leaders.

49. Fifteen episodes of the Commission's radio programme, *Dalan ba Dame* (The Road to Peace), were broadcast by a Kupang radio station. West Timor radio also broadcast dialogues featuring Commissioners and various figures known to the refugees, such as members of the Coalition, a West Timorese priest and refugee leaders. Films made by the Commission, including an introduction to the Commission entitled *Dalan Ba Dame* (The Road to Peace)' video recordings of community-based reconciliation meetings and several of the Commission's National Public Hearings, provided an appealing way for refugees to learn about the Commission's work. For example, the films of local village reconciliation hearings gave the refugees the chance to see scenes of their home districts or even their villages. The videos showed how communities were working to achieve reconciliation. Film and radio were especially important in reaching the refugee audience, given the generally limited level of literacy.

Table 2: Breakdown by district of focus group discussions/community meetings

West Timor District	Total	Participants	
		L	P
Belu	33	2.681	373
North Central Timor	31	365	163
South Central Timor	17	1.084	318
Kupang	18	860	146
Total	**99**	**4.990 (83%)**	**1.000 (17%)**

Source: NGO Coalition Activity Report, 13 February 2003 – 23 July 2003

50. Printed material distributed in the four targeted regions included Commission bulletins, posters, magazines, pamphlets about the community reconciliation process, Commission t-shirts and a special pamphlet produced jointly by the Commission and the West Timor NGO Coalition.

Taking statements

51. Taking statements on human rights violations proved difficult for all the West Timor teams. In the first months of their work, no teams took statements, but instead

focused on developing relationships in the refugee communities, explaining the mandate of the Commission and the ways that people could participate in its work. In this way people could decide if they wanted to give a statement.

52. The team set a modest target of taking 272 statements, more or less consistent with the target in Timor-Leste where statements were also to be taken from about 1% of the community. In the end only 90 statements were taken. There were a number of reasons for this outcome but, above all, it reflected the caution displayed by people in refugee communities in dealing with the NGO Coalition and the Commission. This is discussed further in the next section, Refugee responses (par. 55-73).

53. Table 3 shows that the team in Soe, in South Central Timor District, took the most statements. Interestingly, 12 of these statements were taken in the Soe district military headquarters, from East Timorese refugees working with the military. The team in Atambua (Belu), which is close to the border with Timor-Leste and has the highest concentration of refugees, took the next highest number of statements.

54. While the number of statements taken was low, it was important that the Commission gave the refugees an opportunity to give statements. Moreover, the content of the statements was an important contribution to the Commission's truth-seeking work.

Table 3: Breakdown by district of statements taken

West Timor District	Total	Participants	
		L	P
Belu	28	23	5
North Central Timor	9	8	1
South Central Timor	50	43	7
Kupang	3	3	-
Total	**90**	**77 (86%)**	**13 (14%)**

Source: NGO Coalition Activity Report, 13 February 2003 – 23 July 2003

Refugee responses

55. Many of the refugees were eager to know about recent developments in Timor-Leste, particularly the Commission's community-based reconciliation work. However, the overwhelming response to the West Timor programme was one of caution. In a few cases, Coalition members were refused access to camps. In other cases refugees did not participate in discussion groups when given the opportunity.

56. The NGO Coalition found that in their responses to the Commission's work in West Timor the refugees fell into three broad groups: the majority who remained silent; those who gave enthusiastic or guarded support to the Commission; and those who rejected the NGO Coalition and the Commission. This section includes quotations from responses from East Timorese people in West Timor, as documented in the NGO Coalition Activity Report, 13 February to 23 July 2003.[3]

57. Most refugees were silent. Some had definite views about reconciliation, but because the issue had become politicised, they chose to remain silent. Others, "the floating mass", did not have a position of their own but took their lead from the small elite in control of the power structures within the camps. To protect the personal safety of refugees, the NGO Coalition was careful not to pressure people to ask questions or give their opinions. The primary objective of the outreach programme was to inform.

58. Some refugees were proud that Timor Leste had achieved independence. A man from Maubisse (Ainaro) commented:

> *We greatly value what our brothers have shared and greatly respect the Commission. This can honestly be said to be seeking the truth. We also struggled for the people of Timor-Leste although our opinions are different. Now that Timor-Leste is independent, we hope that over there they feel they themselves have won, that they themselves possess Timor-Leste. Even we pro-autonomy people actually wanted independence, perhaps in 15 years, but our brothers there weren't patient – they wanted independence immediately…We also respect Fretilin. The gift that Fretilin's struggle has given us is that Timor-Leste has become known and has become independent. We must all be proud of their struggle.*

59. Among those in the "rejectionist" group were refugees who may once have believed that reconciliation was possible. As a leader in the Naibonat Camp outside Kupang said:

> *I am bored hearing about reconciliation. I myself attended such a process in Bali, but what were the results? There were none. We don't know what the final outcome of Commission's reconciliation process will be…but if reconciliation remains only on one's lips, revenge will continue.*

60. Others were more hostile. One refugee described the Commission as nothing more than a project to use up money from donors with a hidden agenda, namely to make Timor-Leste their puppet state. He asked how the Commission, with a mandate of only two years, could possibly fully investigate cases of human rights abuses that had occurred over a span of more than 20 years. Others said that they felt that supporting the Commission's programme was tantamount to a betrayal of Indonesia. The Coalition teams noted that some camp coordinators and leaders, although seemingly supportive of the Commission during group discussions, would later say that all the Coalition said was a lie.

61. While Commissioners heard many negative or sceptical comments about the Commission on their visits to West Timor, they also heard some positive ones.

62. Discussions with refugee communities suggested that their preoccupation before independence with the political status of Timor-Leste had been replaced by economic concerns. There was deep scepticism about the country's ability to develop due to limited human resources, inadequate technology, poor infrastructure and heavy dependency on foreign aid. Concern was expressed about the obstacles to repatriation.

63. During their visits to West Timor the Commissioners and Commission staff observed that refugee communities had what amounted to a consistent set of reservations about returning to their homeland. They included:

Fear

64. Many refugees said that they were afraid to return to Timor-Leste because they had heard of visiting or returning refugees being the victims of terror and intimidation, even murder. Some said they would return to Timor-Leste only if their security was guaranteed. Others were afraid to return for fear of prosecution. Those who did not want to give statements also expressed this fear. These people often called for reconciliation based on forgetting the past, a sort of historical amnesia or *kore metan massal*[*].

Social ostracism

65. Some refugees doubted the sincerity of Timor-Leste's professed commitment to embracing former supporters of Indonesian rule. They had heard that pro-autonomy supporters in Timor-Leste were treated as second- and third-class citizens, suffering discrimination in employment and access to social services. Others felt that the new social hierarchy would greatly disadvantage them. They placed foreigners at the top of this hierarchy, followed by Timorese who had lived in Portugal, and then by the pro-independence elite and other pro-independence supporters, with pro-autonomy supporters at the bottom.

Economic considerations

66. A recurring complaint made during group discussions was the high cost of fees required to enter Timor-Leste, something perhaps more pertinent to refugees contemplating visits rather than repatriation. Those still working as Indonesian civil servants said that as long as they remained in West Timor they would earn enough to educate their children. One man asked: "Why return to Timor-Leste where I have no guarantees of work?" Another concern was the status of former assets. Many said that they were hesitant to return if they could not have their former land and property back. Others voiced concerns about Timor-Leste's dependence on donor countries.

* *Kore metan massal* is a phrase mixing Tetum and Indonesian languages which was used by some East Timorese in West Timor camps. *Kore metan* (Tetum) is the ceremony to denote the end of a 12-month mourning period (lifting of the black). *Massal* (Indonesian) refers to mistakes or wrong-doings. This was a phrase used by some East Timorese people when they talked with the Commission in West Timor.

One refugee from Lospalos (Lautém) in the Tuapukan camp close to Kupang told Commissioners and staff:

> *Brothers, you should be giving information about the actual situation in Timor-Leste. Over there life is full of suffering, continual suffering…There, you brothers suffer far more than we do.*

67. He continued by addressing the refugees present:

> *Probably the white people feel sorry for them and give them money to carry out this [reconciliation] task…Do these brothers want to progress or fall back? For us, life together with the Republic of Indonesia is progress, [not with] these brothers who only come with false promises.*

Race

68. Some refugees expressed total rejection of white foreigners, who were seen as the ones really in charge of Timor-Leste. Some said they would not return to Timor-Leste as long as there were whites still residing there.

Political issues

69. Although the sovereignty of Timor-Leste did not dominate group discussions, refugees did express political concerns. Some refugees felt that the use of Portuguese as the language of instruction in schools would put their children at a disadvantage if they returned. Others took the view that unless the three major parties of 1974-1975 – UDT, Fretilin and Apodeti – took responsibility for their actions during that period, reconciliation could not take place. Others insisted that reconciliation had to begin among political leaders before ordinary people could be expected to be reconciled. By focusing on leaders, some refugees sought to absolve themselves of their own responsibility for criminal acts, arguing that they were just "little people" who either knew nothing or had simply carried out orders. A refugee from Baucau in the Tuapukan camp summed it up when he said:

> *If the pro-autonomy and pro-independence leaders are united we will definitely return because the things we did in the past were ordered and we little people just carried them out, and it is precisely us who have suffered the most as a result.*

70. There was a tendency to see the Commission's truth-seeking mandate as limited to abuses committed in 1999. This was accompanied by demands that history could only be "made straight" if abuses committed in 1974-1975 were also thoroughly investigated.

Women refugees and reconciliation

71. Women were especially constrained in their freedom to engage with the NGO Coalition by the power structures that existed within the camps. The positions women took on reconciliation and repatriation were almost entirely determined by their husbands, fathers and uncles who had brought them to West Timor. They were economically and physically dependent on these male figures, who often both intimidated them and acted as their ultimate protection from other men.

72. Tables 2 and 3 above both indicate that outreach to women was less effective than to men. NGO Coalition teams noted that, even when women attended focus group discussions they seldom spoke or simply agreed with what was said by their husbands or leaders. The NGO Coalition thought that there were several factors explaining women's limited participation. One was Timorese patriarchal culture, in which the woman's role does not extend beyond the family. Reconciliation was seen as a political issue to be dealt with by men. Women also generally had lower levels of education and poorer health than men, as well as often being the victims of physical and psychological abuse.

73. Much work remains to be done in giving women access to information and the capacity to play an active role in the decision on whether to return to Timor-Leste.

Reflection on the programme

74. The six-month West Timor programme in partnership with Indonesian NGOs was an important part of the Commission's work. Within its limited mandate, time and resources the Commission sought to reach out in a practical and meaningful way to East Timorese living in West Timor. The partnerships formed with the West Timorese government and institutions and the goodwill they often demonstrated provide the basis for future work, which should remain a priority for the governments of Timor-Leste and Indonesia, civil society and communities in both countries.

75. The Commission recognises the complexities and sensitivities surrounding the implementation of an outreach programme in West Timor. The caution with which most refugees regarded the Commission's work meant that it was not able to reach its target number of statements. Nevertheless, in the circumstances it was an achievement that many refugees were given an opportunity to tell their story, and learn about the Commission's reconciliation programmes and life in the newly independent Timor-Leste.

76. The Commission's experience in this area shows that achieving reconciliation with refugees in West Timor will require commitment and creative thinking. The complexities of the issues mean that the commitment will have to be over the long term, involving the government of Timor-Leste and non-governmental institutions and organisations, as well as the support of the international community. The Lessons Learned section at the end of this part proposes some principles that should guide this work, and the Commission's recommendations will address these issues in more detail (see Vol. IV, Part 11: Recommendations).

Restoring the dignity of victims

Introduction

77. Violence has damaged individuals, families and communities profoundly. The Commission could not hope to heal the deep wounds wrought over 25 years either quickly or completely, or through any single programme. It therefore developed a multi-faceted programme as a modest, initial contribution to restoring the dignity of victims of human rights violations.

78. Several parts of the Commission's entire programme sought to address the national need for healing. On some levels, all Timorese people and the society as a whole were victims of the political conflicts of 1974-99. Therefore, the initial focus of the Commission's victim support work was to prepare district teams to take a victim-centred approach in their truth-seeking and community-reconciliation work. It was often said that statement-taking was the first step in the healing process the Commission was promoting. District statement-takers were trained to be sensitive to the needs of those giving statements, by, for example, being alert to their need for further support. They also referred vulnerable people to Victim Support team members, who in turn sought to link them to specialist assistance. District reconciliation teams worked closely with their Victim Support team members in preparing and supporting victims who participated in hearings.

79. The Commission also recognised that, without measuring individual suffering, some people's needs were greater than others due to the nature of the violations committed against them. The Commission felt compelled by its mandate and principles to develop specific programmes aimed at those in most urgent need of help.

Public hearings

80. Public hearings offered recognition and healing in a symbolic way. This work began with the taking of a statement from a survivor by a member of a district team. Listening with care and recording their story were the first steps towards help in healing. Some survivors went further by telling their stories at a public hearing. At the national, sub-district and village level, hearings placed victims at the centre of their communities. The community listened to and honoured their stories, acknowledged their suffering, and helped them to feel that they were cared for and that their burden was shared.

Healing workshops

81. Healing workshops engaged with survivors in a deeper way and offered emotional and psychological support. They provided a safe forum for survivors to meet others who had suffered terribly, to share experiences and to lessen the feeling of isolation experienced by so many victims. These workshops were also a way for the Commission to get to know survivors better, and to learn from them about the challenges of their daily lives and the areas in which they need support.

Urgent reparations

82. Urgent Reparations was a scheme developed to address at least some of the urgent needs of victims. The Commission recognised that many survivors continue to suffer today as a result of the disabling impact of the violations committed against them. It is a fundamental human right of victims of violations to receive reparations. As an organisation founded on human rights principles, making some small contribution to realising this right for victims was considered an important part of the Commission's work. Sometimes the disability that needed urgent attention was physical. Sometimes it was psychological and sometimes it was economic. Through the Urgent Reparations Scheme the Commission learned lessons which have informed the wider discussion on the kind of reparations programme that would be appropriate to the East Timorese context. Such a programme can be devised only by taking into account the real needs and expectations of those who are to benefit from it, as well as the capacities of those whose job it will be to deliver it. The outlines of such a programme are set out in Vol 4, Part 11: Recommendations.

Community profiles

83. Community Profiles were a record of the collective experience of a village or sub-village over the 25-year period of the political conflicts. District teams facilitated the workshops and helped create a permanent record of them by collaborating with the communities in writing up their accounts and drawing sketch maps showing the location of key events This process recognised both the depth of community experience of violence and the rich Timorese oral tradition. They were initially created as a research tool in the Commission's truth-seeking work, but were soon acknowledged as valuable occasions for developing community understanding and healing.

84. This variety of approaches ensured that the Commission conducted support programmes to support victims across the country and down to the local level, that it conducted high-profile national events and more intensive activities with smaller numbers of victims. This section will briefly explain each of these aspects of the Commission's programme.

Public Hearings

85. Public hearings, at the national, sub-district and village level, were an important part of the Commission's work. Different types of hearings had different purposes, but a fundamental objective of all hearings was to create a process which respected and helped restore the dignity of victims of human rights violations.

86. The Commission held eight national public hearings receiving direct testimony from survivors. The first was specifically called a Victims' Hearing, the next seven were thematic hearings focusing on specific forms of human rights violations.

87. District teams conducted a public hearing in each sub-district at the end of their three-month programme. Known as Victims' Hearings, they focused on giving selected

community members who had given statements to the Commission the opportunity to tell their stories to Regional Commissioners, community leaders and the community.

88. Community Reconciliation Process (CRP) hearings sought to help heal relationships in a community, partly through restoring the dignity of victims. These hearings were not initiated by victims, but by those who had harmed their communities. They were not technically dependent on the consent or participation of a victim. Nevertheless, the Commission aimed to make these hearings a process that would heal victims as well as repairing relationships within the wider community.

89. In some CRP it was the community as a whole rather than individuals that the perpetrator identified as the victim. When there were individual victims, the Commission involved them in the process. They usually sat in front of the community, to the side of the panel presiding over the hearing. They had the right of reply and were entitled to put questions to the perpetrator, and the panel sometimes consulted victims in determining what an appropriate "act of reconciliation" for a deponent would be. In this way the hearing gave social recognition of the victim's loss, and also conveyed that the victim had displayed his or her generosity by helping to reintegrate a former perpetrator back into the village.

90. Part 9 on Community Reconciliation of this Report addresses the role of the victim in community reconciliation hearings in more detail. This section focuses on national and sub-district hearings.

Objectives of public hearings

91. National and sub-district public hearings were a major part of the Commission's work. They were aimed at fostering national understanding of the truth of past human rights violations and the deep impact that they had had on the lives of individuals, families, communities and the nation. Through their focus on personal testimony from survivors, the hearings educated the public about human rights and the power of their stories to reach out to all in Timor-Leste. From the small number of survivors who testified, people across the country could recognise their own and their families' experiences.

92. The use of the mass media was important to the success of national hearings. National television and radio broadcast hearings live almost in their entirety across the country, and then replayed them regularly. This ensured that national decision makers also heard the stories and perspective of victims of human rights violations. By honouring and recognising victims in this way, the Commission intended to contribute to healing and reconciliation.

93. Public hearings were not formal investigative or judicial processes and did not follow legal rules of procedure and evidence. They did not hear testimony from perpetrators, or bring perpetrators and victims face to face. They aimed to demonstrate the full human dimension of the human rights violations committed in Timor-Leste, to stimulate reflection about the factors and patterns underlying these violations, and to build a national commitment to the refrain "never again." Truth-telling was used to promote a personal and community commitment to reconciliation.

Victims selected to testify

94. Commission staff selected people to testify at hearings from among victims who had provided statements to district truth-seeking teams. The criteria included whether a victim would feel comfortable testifying in public, whether they would benefit from such an experience, whether their statement was credible, whether the telling of their story could contribute to reconciliation through acknowledgment of the truth, and whether they would represent others who had similar stories but would not have the opportunity to testify.

95. Commission district truth-seeking teams took 7,824 statements and about 90% of statement-givers said they would be prepared to testify at a public hearing. Most people considered it important to tell their story before the community and before the Commission. This was one reason why the national public hearing format was extended to the sub-district level.

96. The story of Iria Moniz demonstrates how important many felt it was to give their statement and tell their story at a Commission hearing.

From a remote village to a public hearing

For Iria Moniz the opportunity to share her experiences at a public hearing was a prize won by commitment and perseverance. She recounts:

At first I didn't hear about the Commission coming to our…village because the village chief didn't let us know. I live in a remote village that it is hard for cars and motorbikes to reach because there is no road. This is why the information didn't reach us.

So after the Commission left…I went looking for them myself at the Commission's Maliana office in order to give my statement…I felt that their programme was important because I had suffered a lot during the time of the war…

When I went to the Commission's Maliana office they made me feel welcome and did an interview with me. I was not afraid to give my statement to the Commission. The Commission also provided me the opportunity to talk about my pain and suffering in public. They did not pressure me to participate in the Bobonaro public hearing. I wanted to myself in order to share the burden that I had been carrying all these years. After I did that, I felt lighter inside.[5]

97. In both national and sub-district public hearings the Commission also selected survivors with a view to having geographical balance, and covering events that occurred in different time periods and in which the full range of perpetrator groups were involved. It also sought to have a balance of women and men victims. Meeting these criteria was important if the community was to understand that the Commission was a politically neutral body with a mandate to investigate human rights violations in the context of the political conflict regardless of who committed them.

98. Although hearings did not try to bring victims and perpetrators together, there was always the possibility that they might fuel local tension, especially at the community-based sub-district hearings. The Commission did not have the capacity to provide witness protection and relied on sub-district police to provide security. If a victim felt that his or her testimony might raise issues of personal security, the Commission discouraged him or her from testifying at a public hearing.

National public hearings

99. The first national public hearing of the Commission was held on 11-12 November 2002, at the auditorium in the compound in Balide, Dili where UNAMET and later the CNRT had had their headquarters. Three years earlier, thousands of people had sought refuge in this compound in the days of violence after the 1999 ballot. The date was chosen to coincide with the 11th anniversary of the Santa Cruz Massacre of 12 November 1991. Both the location and date signalled that the hearings were to honour the suffering of victims of human rights violations.

100. This hearing was called a Victims' Hearing, and was given the title "Hear Our Voices" (Rona Ami-nia Lian, in Tetum). Six women and eight men from all 13 districts of Timor-Leste gave testimony. They ranged in age from the early 20s to late 60s, and told of violations that occurred throughout the 25-year period of the Commission's mandate. They told of violence during the internal conflict of 1975 by Timorese political parties and of the years of violations at the hands the Indonesian military and its agents.

101. Radio Timor-Leste and Radio Rakambia broadcast the hearing live, and it was covered by a range of international media.

102. The hearing included traditional Timorese ceremonies, choral singing, poetry and speeches. It closed with a mass and a procession to the Santa Cruz cemetery where wreaths were laid in commemoration of the victims of the 1991 massacre. This cultural element of the hearing helped to create a supportive atmosphere for those testifying and to differentiate the hearing clearly from formal court proceedings. The inclusion of traditional and contemporary Timorese culture became an important feature of all Commission hearings.

103. After being sworn in by National Commissioners, survivors were given the opportunity to tell their stories uninterrupted. At the end of each testimony Commissioners could put a few short questions if they felt the victim's story needed clarification. This format created a dynamic where those testifying spoke not only to

Commissioners but also directly to those attending the hearing and the wider audience following it through radio and television. This opportunity to speak directly to the Commission and to the wider public was an important part of respecting the dignity of survivors.

Hear Our Voices – Rona Ami-nia Lian

The first national public hearing of the Commission heard from six women and eight men, victims of serious human rights violations from all districts of Timor-Leste. It was held on 11-12 November 2002, to help commemorate the Santa Cruz massacre of 1991 and honour the victims of this atrocity.

Teresinha da Silva of Aileu, a small elderly lady, spoke of the forced concentration of the civilian population in camps by Fretilin in 1975, before the Indonesian invasion, and the subsequent death by starvation of more than 20 members of her family.

VN told how she had been held captive in a situation of sexual slavery at an Indonesian military base in Ermera from 1977 to 1978. She spoke of how she bore two children, one of whom died. She also told how she and her son continue to be ostracised in her community.

Atanasio da Costa spoke of a militia assault outside his house in Oecussi in April 1999. Slashed repeatedly with machetes, he collapsed to the ground, where he was stabbed in the rectum with the barrel of a rifle. He re-enacted parts of the incident to show how he was assaulted as he lay helpless on the ground, and removed his shirt to show the scars from this attack. He told Commissioners of medical treatment he had received to repair the damage, including ten operations, and the debilitating effects that the attack still has on his daily life.

A young woman from Suai (Covalima) brought the auditorium to tears in the final testimony of the hearing. A person of quiet dignity, she recounted her experiences after the massacre of civilians at the Suai church after the 1999 Popular Consultation. Taken to a nearby school with other women, she was repeatedly raped for a week in front of others. She was then taken to West Timor where the sexual violence continued. As a result of these attacks she bore a child. She asked the gathering if she could present her one-year-old baby. The audience cried out, "Yes, please!" and the one-year-old baby was brought on stage by her grandmother. The baby is named after a former UN High Commissioner for Human Rights who visited the baby's mother and other Suai women survivors in 2000. The baby is truly a symbol of healing and human rights in Timor-Leste.

Around the auditorium groups of people cried and leaned on each other. Listening to these stories brought back other traumatic experiences. One young woman, surrounded by a group of crying friends, recalled the murder of her husband only one day after her marriage in August 1999. A week after the Hearing, a Commission team visiting the hill-village of Nitibe in the enclave of Oecussi, one of the most remote parts of Timor-Leste, was told by people there how they had listened to the live radio coverage of the hearings and wept at the testimony.

Aniceto Guterres Lopes, the Commission's Chairperson, summed up the response of all who were present,

You have told us of your suffering during these two days of hearings, but I want to tell you that you are not alone. Through your stories you have shared your pain with us, and now we all feel this with you. You can see here today how the stories of your suffering have affected us all. We open our hearts to you.

National thematic hearings

104. The other seven national hearings had a slightly different character. Each had a thematic focus, based on areas of the Commission's truth-seeking work. These themes were:

- Political Imprisonment (February 2003)
- Women and Conflict (April 2003)
- Forced Displacement and Famine (July 2003)
- Massacres (November 2003)
- The Internal Political Conflict of 1974-1976 (December 2003)
- Self-Determination and the International Community (March 2004)
- Children and Conflict (March 2004).

105. Most hearings took place over two days, though the hearings on Massacres and Self-Determination and the International Community each took place over three days, and The Internal Political Conflict of 1974-1976 was a four-day hearing.

106. The format for national thematic hearings was primarily the presentation of direct testimony by people who had survived violations related to the theme of the hearing. Around ten survivors gave testimony at each hearing. The Commission also heard expert testimony and submissions from organisations and individuals with special knowledge of the theme gained either through their work in Timor-Leste or through their study of the topic. Expert testimonies helped the Commission and audience to put the victim testimonies into context and to understand better some of the causes and patterns of violations.

107. Two hearings had a somewhat different format. The hearing on The Internal Political Conflict of 1974-1976 received the testimonies of four victims of violations during that period, but it also heard from people who themselves or whose parties had

played an important historical role in the events of 1974–1976. Among the speakers who had played a direct role in the events, referred to as “historical actors” (*agentes do processo*), were the President of Timor-Leste, Xanana Gusmão, the Prime Minister Mari Alkatiri, the Nobel Peace Laureate and Foreign Minister, José Ramos-Horta, and Francisco Xavier do Amaral, the former Fretilin President.

108. Victims did not testify in the hearing on Self-Determination and the International Community, which was held in March 2004. Instead the Commission heard submissions about the policies of foreign governments on Timor-Leste in the years 1974-1999, and about the activity of international civil society on behalf of Timor-Leste during this period. It also heard testimony about the role of Timorese in exile.

109. In the eyes of the public the national Victims' Hearing and the national thematic hearings were perhaps the high point of the Commission's work. They received full national media coverage, and were followed across the country and reported in the international media. Their high public profile made them an exceptionally effective vehicle for creating wider understanding and support of victims and of the Commission's work. The principal voice that the public heard in this national dialogue about past human rights violations was that of the victims.

Highlights of the national hearings

110. Highlights of the hearings included the inauguration of the Commission's national headquarters in the Comarca, the former prison in Balide. The headquarters were opened with a hearing on Political Imprisonment that featured testimony from ex-detainees, including several who had been held in the Comarca. The hearing on Women and Conflict provided an insight into the lives and the suffering of women during the years of conflict. In the hearing on Massacres, survivors testified about some of the most brutal acts of the mandate period. Eye witnesses described not just such notorious events such as Kraras Massacre of 1983, the Santa Cruz Massacre of 1991 and the Liquiçá Church Massacre of 1999, but also less well-known incidents that had occurred during the time of the internal political party conflict, after the Indonesian invasion of Dili, and during the late 1970s and the early 1980s.

111. The hearing on Forced Displacement and Famine focused on the experience of those who had survived the horrific events that caused the largest number of deaths during the 24-year mandate period. Victims' accounts of the relentless bombardment suffered by the population who had fled to the mountains after the invasion, the camps which held those who surrendered or were captured, and the prison island of Ataúro, had never before been given a public hearing.

112. For many the December 2003 hearing on The Internal Political Conflict of 1974-1976 will remain the indelible moment of the Commission's work. For the first time Timor-Leste's leaders came forward to speak publicly and in an official forum of the violence between Timorese in 1974-1976. Uncertainty as to how political leaders would react to this opportunity surrounded the hearing. In the end the former political foes expressed humility and sorrow at what had occurred, accepted responsibility and gave a public demonstration of the spirit of reconciliation, making the hearing a momentous event in the nation's history.

113. The hearing on Self-Determination and the International Community provided a rare opportunity for East Timorese to consider the wider international context and its influence on their long struggle for self-determination. The testimonies of old friends of Timor-Leste such as Pat Walsh, David Scott and James Dunn from Australia; Arnold Kohen from the USA; Monica Nakamura from Japan; Luisa Teotonia Pereira from Portugal, and the UN official Francesc Vendrell, reminded us that even in the darkest days of the occupation there were people around the world who defended Timor-Leste's right to self-determination. The testimony of Ian Martin, the Special Representative of the Secretary-General during UNAMET, reminded East Timorese that their pain did not end once the international community had recognised its responsibility to allow them to exercise their collective right to self-determination.

114. The testimonies of Indonesian human rights defenders, such as the great friends of Timorese political prisoners Ade Rostina Sitompul and Luhut Pangaribuan, the members and staff of the National Commission on Violence Against Women, the West Timor Humanitarian NGO Team, and the human rights activists Yeni Rosa Damayanti and Nugroho Katjasungkana, were compelling both in themselves and as powerful symbols of the hope of a new relationship with Indonesia based on the principles of human rights. They also reminded us that there were Indonesian citizens who took great risks to defend human rights in Timor-Leste.

115. Fittingly the theme of the final hearing was Children and Conflict, since it not only highlighted the tragic plight of child victims, but also conveyed the resilience and energy of the country's younger generation.

116. The impact that these public hearings had across Timor-Leste made them a keystone of the work of the Commission. The Commission has published booklets on each of the hearings. By making a permanent record available to the people of Timor-Leste and the international community, the Commission hopes that the lessons they offer will continue to resonate.

Bishop Basilio do Nascimento's opening address to the National Public Hearing on the Internal Political Conflict of 1974–1976

Why are we here today? Because of a historical time, because of the wounds of the past, all Timorese people have waited, so that we can make reconciliation. Reconciliation for the past suffering, for our land. All Timorese have suffered. We Timorese people need to be reconciled within ourselves, with our land and with our history. We know this is a good idea, but it is very difficult to do. We hear words of justification and rationalisation: "Because of war I did this"…We need to examine this.

About morality – reconciliation within ourselves can only happen when we are able to let go of our remorse. Otherwise a voice will always be talking at us, always calling in our heads, in our minds. That is why I say that reconciliation can only be achieved when we are able to let go of our remorse. We can make up all sorts of intellectual reasons and arguments, but when we haven't got reconciliation within ourselves we are divided. Not just as a nation or as groups, but also within ourselves like a double personality: our mouths say one thing, our actions do another.

We know our dead will never return, but we need to know the circumstances of their deaths. What we Timorese mean by justice is particular. I observe that Timorese do not wait for those who have done wrong to be punished. This is up to the state when Aunt Maria's son is killed in the mountains justice for ordinary Timorese people includes clearing their names, and making sure that people have not forgotten (the victims).

[Excerpts from speech on 15 December 2003]

Sub-district victims' hearings

117. District teams worked in each sub-district within their district for about three months. During this time they took truth-seeking statements, facilitated community reconciliation hearings, conducted Community Profile workshops and provided support to victims of human rights violations.

118. At the end of the three-month period the team organised a public hearing in each sub-district. These were called Sub-district Victims' Hearings. Local civil administration officials, and traditional and community leaders from the sub-district and district were invited to attend the hearings, together with Commissioners and staff from the national office. At the hearings, the district team reported back to the community about its activities in the previous three months. The community then heard testimonies from selected community members who had given statements to the district team. Usually between four and six victims gave testimonies.

119. Sub-district Victims' Hearings were inspired by the powerful impact of the national hearings and the expressed wish of so many victims to testify. The hearings were a commemoration of people who did not survive, and a celebration of the survival of communities and their commitment to healing past divisions in a spirit of reconciliation. They were also an opportunity to share the results of the previous three months' work, to re-emphasise that the Commission's role included helping to restore the dignity of victims within their community, and to close the Commission's activities within the sub-district on a ceremonial note.

120. A total of 52 Sub-district Victims' Hearings were conducted. Sixty five women, and 149 men gave testimony, and an estimated 6,500 community members attended the hearings.

A Sub-district Hearing: Natarbora

Natarbora is a sub-district in the remote interior of the south-eastern Manatuto District. The Commission district team for Manatuto worked in this sub-district from February to May 2003. The Sub-district Hearing to mark the close of the community's participation in Commission activities was held on 12 May 2003, and was attended by a large number of community members.

At this hearing three victims of human rights violations testified before the Commission and their community. Their testimonies were about events that took place at key stages of the conflict, between 1975 and 1999.

Senhora Filomena (surname withheld) spoke of her experience as a member of the women's organisation, OPMT, between 1975 and 1979, supporting Falintil soldiers. She told of how she was captured in 1980 after a member of her family told the military of her activities. She said he now lived in Indonesia. Sra Filomena told how she was tortured during interrogation by Indonesian soldiers. She went on to say that in 1999 her kiosk was burned to the ground by the Indonesian military helped by East Timorese, including the Sub-district Administrator. She said that if they were to return to her community, she would be able to accept them back.

WN spoke of the tragic events that had befallen his family in 1977-78. He told of how after his father had surrendered to the Indonesian military, members of Falintil came and raped his aunt, who was a young, single woman at the time. He said that they threatened to kill him if he tried to prevent them raping his aunt. He said that soon after this violation, his mother and five younger siblings, together with his aunt, were all killed by the Indonesian military near the sea.

João Graciano told of his experience of imprisonment after surrendering to the military in 1982 in Soibada. He, his father, younger brother and seven other civilians were imprisoned for six weeks where, he said, they received barely any food. After they were released, he and his younger brother were taken to be TBOs (Tenaga Bantuan Operasi, Operations Assistants) by the Indonesian

military. He said that they were forced to work as TBOs in the forest near Barique for four months. The military then ordered Timorese Hansip members to arrest them in Soibada. While detained, the two of them were beaten so badly by more than ten soldiers and Hansip members that his brother still suffers from the physical effects.

The hearing provided a process of honouring the experience of individuals who suffered during the mandate of the Commission, and also of telling and honouring the wider community of the Natarbora area during these years, and of remembering those who died. The hearing was recorded and broadcast by the Commission weekly radio programme, and through this medium the experiences of community members of this remote region were shared with communities across Timor-Leste.

Impact of participation on victims

121. The Commission conducted a survey of participants in Sub-district Victim's Hearings between January and March 2004. This section includes responses given by East Timorese people, as documented in this survey[4]. Given that their participation in a hearing was voluntary, it is not surprising that the victims found the hearings a positive experience.

122. Seventy-year old Carlos Vitorino expressed a sentiment shared by many participants:

> *I feel happy because the people in Viqueque and the important people in Dili came to hear our words for themselves…I feel satisfied.*

123. Domingas Piedade, who participated in the Quelicai Sub-district Victim Hearing, stressed how important the recognition of his and others' suffering was for their healing:

> *I feel happy because I had the opportunity to speak out…Everything about the hearing was good because it healed our worries.*

124. Teófilo da Costa Barros of Lolotoe (Bobonaro) talked of his burden being lifted by the hearing:

> *After I testified at the public hearing, I felt light because I had rid myself of an emotional burden. This burden has been cast off and now I have stopped worrying. I have also rid myself of the hatred that I had for the people who hurt me in the past. Now I will always welcome them with open arms.*

125. Tito Soares de Araújo from Cailaco Sub-district (Bobonaro) commented on how much he enjoyed the hearing:

> *I feel that the hearing was fantastic, really good…now I feel light and happy because the burden that was in my heart has been lifted.*

126. Lourença da Cunha Moniz of Maliana Sub-district (Bobonaro) expressed satisfaction that she had been able to put on record for posterity what had happened to her:

> *I am not keeping the bad things that were done to me hidden in my heart. I will tell them so that they can be recorded in history for our children and grandchildren.*

127. Many victims talked of the hearings' significance for their family and community relationships. Usually, families and friends gave victims the support they needed before, during and after the hearing. Florentina Gama, who testified in the Balibó hearing (Bobonaro), said many members of her family and community rallied round her. She said:

> *When I participated in the hearing, a lot of my family supported me in my desire to speak in public. They didn't object. They were grateful that I could tell the story of the suffering that I experienced throughout my life and that the leaders could hear it and take care of us…After I testified in the public hearing, my neighbours and my family were not upset. They were happy because I represented the victims from my town and told of the suffering that every single household experienced.*

128. The response of Lourença da Cunha Moniz's family was initially one of surprise, as they had not previously heard her story. At the hearing the family wept with Lourença:

> *When I testified at the hearing, my family was surprised because until then I had kept my story a secret from them. Only when the Commission came, did I share my pain and suffering in public and in front of the local authorities…When I testified at the public hearing my family members and friends were also sad and wept because of the suffering I experienced*

129. But others received more mixed reactions from family and community. The decision of Teofilo da Costa Barros of Lolotoe (Bobonaro) to take part in a hearing was met with silence and indifference, though not outright hostility, by his family and neighbours:

> *When I was going to participate in the hearing no one from my family gave support. They said nothing. After I testified in public at the hearing, I came home and my family and neighbours didn't threaten me or express anger.*

130. In Bobonaro Sub-district (Bobonaro), Iria Moniz, a former clandestine leader in her village, said that initially her family accused her of betraying Xanana Gusmão by testifying at the hearing. After the hearing, however:

> *Many people felt sad and some came and hugged me and cried because my story had made their hearts ache.*

131. Iria Moniz's experience highlights the fact that discussing violence committed by Timorese against Timorese in their communities remains a sensitive subject, even when the incidents discussed took place many years ago. Pressure to remain silent can be strong and can further isolate victims in their suffering. This reality needs to be borne in mind when considering future programmes to foster reconciliation at the community level.

The impact of public hearings

132. Victims' Hearings were a shared national experience of listening to the voices of victims and confronting the truth and impact of past human rights violations. They have built a basis for further national and community-level dialogue on dealing with past violence in a spirit of reconciliation. Sub-district Hearings were particularly important in taking this process out of Dili and into local communities.

133. National public hearings were a new experience for victims and the nation. Most victims came from rural communities and had never spoken at any kind of national public event. Shown on television in Dili and broadcast across the country by radio, victims' words reached into communities and homes throughout Timor-Leste. The hearings gave victims a unique opportunity to speak directly to national leaders when National Commissioners asked them if they would like to give a message to the nation. The hearings therefore placed ordinary people at the centre of the national debate on healing, reconciliation and justice.

134. The Commission raised sensitive issues at public hearings, especially national hearings. For the first time the community heard direct testimony about terrible violations committed by Timorese political parties in 1974-1976. Victims told of violence committed by Timorese in the Indonesian military and its auxiliaries. The family and community dimensions of this sort of violence are profound. Women spoke openly of the sexual violence committed against them, challenging the widely-held view that Timorese culture forbade discussion of this subject. Hearings brought home the personal dimension of the massive and prolonged violence of the Indonesian military over the period of the Commission's mandate. The way that this process of public truth-telling gained the respect of the wider population augurs well for future peace-building initiatives.

135. The Commission offers its profound gratitude to those victims who courageously contributed to this process of community dialogue and education. We hope that the people who participated in this process feel that it has helped them on their journey of healing.

Healing workshops

Background

136. Healing Workshops grew out of the Commission's experience in working with victims from the first three national public hearings. District teams working in villages came to understand how past violence continued to affect victims' lives. They saw that some victims needed more sustained support than that offered through statement-taking and brief follow-up visits. Before each national public hearing the Commission held a workshop with participants to help them prepare emotionally for the experience of telling their story in public. The NGO Fokupers supported these workshops.

137. Taking those experiences as its starting point, in May 2003 the Commission conducted an evaluation of its work with victims. It looked at the way it had been offering assistance to victims of human rights violations and decided to try to offer more intensive support to people trying to rebuild their lives. To meet this need the Victim Support Team developed the Healing Workshop programme.

138. Because the workshops were to involve intensive work with victims, it was clear that they would reach only a small number of people. Criteria for participation were therefore drawn up, which focused mostly on the vulnerability of the victim and the judgment of district Commission staff that he or she would benefit from such a process.

139. As the Commission did not have professionally qualified mental health workers on its staff, it formed its partnership with Fokupers. A number of other organisations and individuals also contributed to the workshops, including the Dili-based art group Arte Moris, the Canossian Sisters of Balide, who provided accommodation, Timorese musicians and the International Organisation for Migration (IOM), which assisted with transport. District and national Victim Support staff played a key role in facilitating the workshops and providing support to participants.

Objectives

140. The Healing Workshops had four main objectives, all related to developing a deeper relationship between the Commission and victims of human rights violations. They were to:

- provide more support to victims within the Commission's capabilities
- refer survivors to other services and organisations for further assistance
- help survivors plan the use of their Urgent Reparations grants, and
- listen to survivors' perspectives on what the Commission should recommend for further action in its Final Report.

141. Within these objectives, the Healing Workshops specifically aimed to:

- Create a safe place for survivors of serious human rights violations to come together and reflect on their past experiences and their current situations.
- Allow survivors to share their stories and hear the stories of others.
- Provide an opportunity for survivors to participate in group work and other creative activities to aid in healing.

- Create a process that allowed survivors to explore a range of emotional dimensions as diverse as fun and laughter and the celebration of the strengths of survivors as individuals and as community members.
- Assist survivors in planning the expenditure of funds provided through the Urgent Reparations Programme.
- Identify the needs of survivors and make referrals to other organisations capable of helping them.
- Elicit recommendations from survivors to assist the Commission in compiling a Final Report that reflects their experiences, preoccupations and needs.

Healing workshops: a deeper level of support

The objectives of the Healing Workshops were modest, and intended to be realistic. We tried to address the needs of the participants on a variety of levels. A three-day workshop could never pretend to offer a panacea, especially as each participant who came to a workshop was at a different stage of the healing process. Within a group process, encompassing a variety of activities, we tried to create a range of ways of reflecting and interacting that allowed different people to find the way that suited them.

It was important to create a space where survivors could feel cared for and respected, and where they could simultaneously offer that care and respect to their peers. Connecting with others who had suffered was an important part of the programme. It enabled survivors to feel less isolated and to understand they were not alone in carrying their heavy burden. It also helped show that healing is not just about specialist care, but also about reaching into ourselves and supporting each other.

It was, however, also important to address material obstacles to the well-being of survivors, and so the Commission endeavoured to link up victims with institutions offering appropriate medical and other care. For some who attended the workshops this entailed nothing more than a visit to the doctor. For some it meant more complex drastic medical interventions such as being fitted with a prosthetic limb in Indonesia.

Assistance with physical health problems and the provision of a safe environment that promoted trust and sharing formed the foundation for achieving the primary objective of the Healing Workshops, that of helping survivors to recognise that inner healing is a process that requires attention and energy, assess what stage they had reached in the process of healing, and take some further steps forward in that process.

[Kieran Dwyer, Adviser, CAVR]

Participants

142. Six workshops were held at the Commission's national headquarters in Dili. Five brought together mixed groups of men and women, and one was for women only. Participants came from all districts of Timor-Leste, and efforts were made to involve survivors from some of the most remote parts of the country.

143. All participants had initially given statements to District Truth-Seeking Teams. District Victim Support Teams had then identified them as meeting the criteria for the Urgent Reparations Scheme. While only a small number of Urgent Reparations Scheme recipients participated in Healing Workshops, the workshops were a part of this Scheme.

144. In total 156 people participated in the six workshops, 82 women (52%) and 74 men (47%).

The workshop programme

145. The first step in a workshop for most participants was getting to Dili. Many participants from remote rural communities had never been to the national capital, and simply to travel to Dili, away from family and community, was a big step. Providing participants with the support they needed from the time they left home until their return at the end of the workshop was therefore crucial to the success of the programme. Commission district teams were responsible for travel arrangements and for supporting participants during this process.

146. Participants in the first workshops from outside Dili stayed in the teacher training college in Balide, which had previously been the site of the UNAMET and CNRT headquarters. Participants in later workshops stayed in the residence of the Canossian Sisters, also in Balide, near the Commission's national office. The pastoral care given by the Sisters was an especially valuable contribution. Participants usually arrived in Dili the day before the workshop began. These practical arrangements were important in establishing a feeling among participants that they were cared for and valued.

147. Bringing participants to Dili was a deliberate decision. It allowed them to step out of their daily lives and dedicate some time just to themselves. For many, especially women participants, this was a rare opportunity to be free from the daily routine of hard domestic work. In addition, by bringing participants away from their villages, it was hoped that they would feel able to speak more freely of their experiences and feelings. It also allowed people from all over the country to meet each other, thereby breaking down the sense of isolation felt by many survivors.

148. The workshop took place over three days. The programme provided a combination of formal and unstructured activity. Each group of participants was different, and within each group individuals responded differently to the experience, so it was important for the workshops to be flexible in this way. The mixture of structured activities and informality allowed participants to mix with each other in different ways, to talk to each other informally and give each other support.

149. Most workshop activities took place at the Commission national office. This brought survivors into the centre of the Commission's daily work, creating a sense of involvement with and ownership of the Commission. Each time workshops were held, the former-prison-turned-national-office was transformed by the presence of survivors. They personalised the issue of human rights violations and inspired with their resilience and support for each other.

Day one

150. The workshop began with a welcome by a National Commissioner, usually Commissioner Isabel Guterres, who had special responsibility for victim support work. The first session focused on introductions, on gently creating a sense of ease amongst the group, and outlining the three-day programme.

151. Commission staff then explained what was called the journey of healing. This helped participants understand that healing is a process that they themselves could begin and move through. It gave participants a framework for the activities to come and a reference point for discussions over the following three days.

152. The main activity of the first day, called "group counselling", was the sharing of personal stories. Women counsellors from Fokupers facilitated these sessions with support from Commission staff. Fokupers has much experience of working with survivors of violence in this way, and their contribution was critical to the effectiveness of the workshop. Counsellors then worked with small groups, using creative techniques to help survivors find ways of talking about their experiences. There was no obligation to speak, and if participants chose to speak, they could say as much or as little as they wanted. Listening was an important part of these sessions, creating a sense of respect and care.

153. These sessions were emotionally taxing for both participants and workers. The impact on each participant was monitored and extra support provided when necessary.

The journey of healing

On the day before the first healing workshop, the Commission had the good fortune to be visited by the New Zealand Anglican priest, Father Michael Lapsley. Father Lapsley is a human rights activist, who has lived in South Africa for many years. In the dying days of the apartheid regime he survived a letter bomb posted to him, but lost both hands and an eye, and had to undergo extensive surgery and rehabilitation. He learned of the suffering of the Timorese people at first hand in 1999 when he visited Timor-Leste in 1999 as an observer of the Popular Consultation, after meeting Xanana Gusmão in Cipinang prison in Jakarta

From close observation of the work of the South African Truth and Reconciliation Commission (TRC) Father Lapsley concluded that survivors of human rights violations needed more than the short period of support that the TRC offered. He established the Institute for the Healing of Memory to continue the work of healing in South Africa. Father Lapsley told National Commissioners and Commission staff about his own experience as a victim, and how it had influenced his work with fellow victims. His message inspired the Commission's own approach to survivors.

Fr Lapsley's idea of a journey of healing was taken up by the Commission, and helped give shape to the Workshops. Fr Lapsley spoke of four stages in the survivor's experience:

- First was the time in a person's life before the violation, involving supportive family and other relationships.
- Then was the violation, often involving many acts over a long period, which caused a fundamental break in people's lives. Many people do not survive and these are truly victims.
- Those who live are survivors, but they often become stuck in their lives, constantly recalling the pain and suffering of the violation. Many survivors are unable to move beyond this pain for the rest of their lives.
- Finally, survivors embark on what can be the work of a lifetime, moving from being a victim to becoming a victor over the pain and violence.

These four stages were used in a practical way to develop a framework for activities and discussions in the Healing Workshops.

Many victims' artwork reflected the underlying theme of a journey. Marcelina Poto drew two pictures in her workshop. Of the first picture she said: "I painted this house because it is the house they killed my husband in front of." Of the second she said: "This flower represents my desire to move out of this suffering."

Regina Freitas, explained her three pictures:

The house represents the time when my family was complete. The tree represents my life. The tree with no leaves represents the time when they killed my husband, and the gun represents the weapons the Indonesian men used to kill him.

Marta Ximenes presented two of her pictures:

The house with the garden represents the time when they killed my husband in this house and shot me in the leg. The flower represents the happiness I feel because I have shared my suffering with the authorities.

A chance to develop understanding

Sharing stories of past violations was a difficult experience for participants. The respectful listening and support of fellow participants was an important part of the process. At times victims' stories concerned sensitive matters that made their fellow-participants deeply uneasy. In such circumstances other members of the group could provide the support needed to break the tension. In this way the workshop provided a supportive forum to discuss difficult issues.

At a workshop in March 2004 a small group were sharing their stories. A young woman from Suai (Covalima) was telling the painful story of being raped by members of the Indonesian military in 1999. The group listened attentively as the young woman told her story through tears. One young man interrupted, politely, to say that he felt that in Timorese culture it was not appropriate for women to talk about these sorts of experiences. He was himself the survivor of severe torture on a number of occasions throughout the 1990s.

The facilitator asked the young woman and rest of the group what they thought. An older lady sitting between the young man and the young woman put her hand on the young woman's shoulder, and said that women had been abused in the past and that if now they felt they wanted to talk about it, then there was nothing in Timorese culture to say that they should not do so. She said that now was the right time for women to talk. She said this gently, while also patting the young man on the shoulder in a comforting way. She herself was the survivor of rape. The group and the young man nodded assent, and the young woman continued her story.

Day two

154. The activities on the second and third days were designed to provide a balance to the narratives recounted on the first day by allowing participants both to express their stories and feelings in other ways and also to experience other emotions such as joy and celebration.

155. On the second day participants were encouraged to find creative ways of expressing feelings in a relaxed atmosphere. Singing, theatre games, and drawing and painting were the main activities. The focus shifted a little from past experience to how survivors experienced their lives today, and what they hoped for the future. The youth art group Arte Moris attended some workshops, as did the Timorese musicians Gil and Jimmy Madeira. Music is an especially rich part of Timorese culture, and even participants who came from different districts of Timor-Leste with their own distinct languages tended

to know the same songs in Tetum. The songs were linked to personal experiences and emotions, and became the catalyst for discussions about how survivors felt the past in their present lives, about the good and difficult things in their lives, and about the support they did or did not receive from their families and communities.

156. Singing and theatre games also allowed participants to give gentle physical expression to their feelings. This was especially important because many survivors continue to suffer physical disability or feel constricted in their bodies after terrible physical and emotional suffering. These activities aimed to help participants to identify and celebrate their capacity to survive and their courage in rebuilding their lives. Recognition of participants' strengths and beauty, and learning from this as a group, was at the centre of this second day.

157. At the end of the second day, participants were taken on a tour of Dili. This excursion was the first opportunity many participants had had to see such national landmarks as the statue of Christ on the outskirts of Dili, the Santa Cruz cemetery, the national parliament, the national university and the Dili waterfront. This time was also used to refer people to medical and other services at the national hospital.

Day three

158. The third day began with participants sharing their artwork with the group, and talking about what their pictures meant to them. Discussion about what this meant for people's journey of healing followed, again with a focus on celebrating the achievements, small or great, of each participant. Participants were then informed about the financial aspect of the Urgent Reparations Scheme. It was decided not to inform participants about this earlier, to prevent the workshop becoming too heavily-focused on financial issues. Commission team members facilitated small group discussions with participants to share ideas about how they could use the grant to improve their lives in a sustainable way. Following this, participants joined a group discussion in which they identified recommendations that they thought the Commission should put forward in its Final Report.

159. The workshop concluded with a ceremony of reflection, sometimes a Mass, at which participants were awarded certificates for their participation and contribution.

Dance of the wounded

A Commission team member recalled a moving moment on the second day of the first healing workshop in June 2003:

This was the first time we had tried the singing activity, with Gil Madeira on the guitar. We were sitting in a circle, about 15 of us, and as we talked about different times in our lives, times of happiness and times of suffering, Gil would ask the members of the group if they knew

any songs that they associated with feelings from this time. Slowly, we would sing together as people gave suggestions or just started to sing.

One older lady from Aileu had asked during the coffee break if we could find a time to dance together, to share the different tebe-tebe *from different parts of Timor-Leste. While we were singing she stood up and gently started to dance her* tebe. *Participants were a little shy, and no one got up to join her. So I joined her, but told her she would need to teach me. We held hands, and slowly moved in a circle. One by one participants joined in. It was a very slow dance. Some of the participants had very damaged bodies from the violations against them, even long ago. We didn't talk, just looked at each other and with our eyes we encouraged participants who hadn't joined in. Finally we were a full circle, rocking gently and moving to the rhythm of the Aileu* tebe *of our older sister.*

When we eventually finished we all sat down in happy silence. We knew we had shared something special.

160. Time off from organised activities was also valuable to participants' overall experience of the workshop. For many participants, a coffee or meal break was a time to reflect on what they had gained from a session. Commission staff members were ready to listen, and offer comfort or assistance during these times. These times also allowed participants to sit together and develop friendships. In the evenings, participants returned to their residence at the Canossian Sisters. Commission staff accompanied them and continued to offer care and support.

161. For some participants, the day's activities re-opened emotional and psychological scars, and they were monitored and supported as needed. National Victim Support staff played an important role in this work. Having travelled with participants from their home districts, District Victim Support staff members were able to give particularly valuable support throughout the workshop. They had already developed a relationship with participants that would continue upon return to the district.

Peer support

Creating an environment where survivors could meet other survivors, share stories and support each other was essential to the success of the healing workshops. Each group developed its own dynamic, but mutual care and support was always at the heart of the workshops.

The special role that some survivors played in creating this atmosphere suggests how peer support could be used in the future work in this area. Olga from the central mountain village of Mau Chiga (Hato Builico,

Ainaro) gave testimony at the Commission's National Public Hearing on Women and Conflict in April 2003. Her story of sexual violence and sexual slavery in 1982 was the first time the nation had heard of the suffering of the women of Mau Chiga after villagers joined an uprising against the Indonesian military. In January 2004 Olga and her young daughter accompanied an older lady from Mau Chiga to an all-women healing workshop. Throughout the workshop Olga supported the older lady and other participants, and also shared her experience. Her daughter joined in the singing and painting activities, and was a favourite of the other participants.

Olga's role as a support person helped her friend from Mau Chiga, and was a further step in her own healing. She showed others too how survivors could move, however slowly, along the journey. She also showed how networks of survivors could support each other.

Reflections on the healing workshops

162. Comments made throughout the workshops as well as an internal Commission evaluation on victim support work carried out with selected participants[*] indicate that the Healing Workshops had a significant and positive impact on the participants. While retelling their stories was often painful, participants nevertheless expressed gratitude for the opportunity to share their experiences. For example, Marcelina Poto from Oecussi spoke of watching the murder of her husband and the burning of her home by militia. She said:

> *As I speak here, I feel deep pain, but I also feel a little happiness because I have the chance to speak with friends whose suffering is the same as mine.*

163. A woman from Viqueque also found the experience difficult but valuable. She told of being raped daily over an extended period by a total of about 40 men. She said that from these rapes she conceived and bore four children. She said:

> *When I remember and tell this story I feel embarrassed and my heart aches, but I must speak out so that I can lessen my suffering.*

164. When asked more directly how they felt about the Healing Workshops, participants said they were satisfied with the programme and thanked the Commission for providing them with the opportunity to participate.

* This section and the section on the CAVR Urgent Reparations scheme below include quotations from East Timorese people who participated in the victim support evaluation conducted by the CAVR Acolhimento and Victim Support Division. CAVR Archive, March 2004.

Programme highlights from participants' perspectives

For many participants the most important part of the programme was group counselling – the opportunity to share their story with others. When asked what they hoped to gain from the three days, the vast majority of participants responded like Rosa Kolobere from Suai:

I have come to share my experience with friends. When we share with each other we can alleviate our suffering and our daily lives can become easier.

Or as Angelina da Costa from Ainaro said simply: "I want to tell my story."

Reflecting on the programme, Veronica Moniz of Bobonaro said she enjoyed it because of its wide variety of activities.

The Healing Workshop made me happy and stopped me worrying because they got us to do lots of things like drawing flowers, singing, and other things.

"I liked it all" remarked Bernadino Loeleto of Maliana, "but my favourite part was the funny skit about inviting people to come to a wedding. I got to play the role of the godfather."

Luis Afonso from Lolotoe (Bobonaro) commented on how much he learnt from the workshop in general. For him and others an important part of the experience was the visit to Dili.

Quotes from CAVR Acolhimento and Victim Support programme evaluation, January to March 2004.

165. The three-day residential Healing Workshops were the most intensive interactions the Commission had with victims. From these and other interactions with victims the Commission learned some important practical lessons that can be used in future work in this area.

166. The Commission's expectations of the Healing Workshops were modest. From its work with survivors, it was aware that their needs were usually far too great to be addressed in three days. The Commission aimed to make a contribution to each victim's recovery by helping them to recognise their potential to grow beyond the pain of their suffering. At times in this work, the Commission felt overwhelmed by the terrible experiences endured by participants, as the support it was able to offer was clearly inadequate to their needs.

167. Victims of human rights violations need support of many kinds. These include economic assistance, educational and health services, symbolic recognition, and justice.

There are also more personal needs such as the need for personal recognition, to raise self-esteem, and to offer care and love. Health, both physical and mental, is a critical issue for many victims, and is so basic as to affect all other aspects of their lives. Though small, the Commission's contribution should be seen as the foundation on which future institutions and programmes can build. The Reparations Programme recommended by the Commission seeks to address the many needs of survivors of the 25 years of conflict.

Urgent reparations

Background

168. As district teams began working in villages across the country, it quickly became clear to them that many victims of human rights violations had pressing needs directly related to the violations they had suffered. Victims looked to the Commission as perhaps the only national institution that could help them. It did not seem enough to tell survivors to wait until the recommendations of the Commission's Final Report had been acted on for help to come. Therefore, the Commission developed an interim means of addressing some of the urgent needs of victims, the Urgent Reparations Scheme.

Reasons for a reparations scheme

169. The foundation of the scheme was the principle of international human rights law that the victims of wrongful acts have the right to reparations. The body of international law suggests that the core elements of reparation are:

- Restitution
- Compensation
- Rehabilitation
- Satisfaction, and
- Guarantees of non-repetition.

170. As an independent national institution with a mandate based on international human rights law, the Commission sought to respect the right of victims to reparation by establishing the Urgent Reparations Scheme. The Commission emphasises that the scheme was developed only as a temporary measure to be carried out during the life of the Commission. It does not prejudice in any way any right of victims to full reparations as part of a long-term settlement. The small size of the monetary grant component of the scheme clearly does not meet the requirements of a full reparations scheme under the principles listed above.

171. As the new nation of Timor-Leste seeks to establish a democracy founded on the equality of its citizens, it has a moral duty to ensure that those citizens who currently suffer disadvantage due to past violations are able to take up their position as fully participating citizens of Timor-Leste. The state should take whatever action it can to assist the achievement of this goal. The social imperative for the state to make reparations also derives from both its peace-building and development objectives. Helping the victims of violence repair their lives is an essential step towards healing the rifts that

exist after years of conflict. Without such repair, disadvantage and isolation may create an underclass, whose disaffection could fuel social unrest. Equally, the national priorities of development and poverty reduction require that all citizens are able to play an active and constructive role in building the new nation. Victims of past violations are among those at greatest risk of being left behind in this process of development.

Funding

172. The Commission itself had no funds to develop a reparations scheme. It was assisted through a partnership with the Community Empowerment and Local Governance Project (CEP), a project managed by the Ministry of the Interior and funded through the Trust Fund for East Timor (TFET) administered by the World Bank. The CEP had a programme for helping "vulnerable groups" and its support of the Urgent Reparations Scheme was managed through that programme.

Programme objectives

173. The main objective of the Urgent Reparations Scheme was to provide reparations to survivors of human rights violations, whose needs were both urgent and could not be easily met by other means. Through the provision of health or other services or a small financial contribution, the scheme sought to meet the most pressing needs of some of these people. The reparation on offer was not regarded as full restitution. Nor was it considered to extinguish the duty of the state to provide reparations for victims of human rights violations.

174. The Commission was under no illusion that it was fixing the problem. It was offering short-term alleviation and helping victims move forward in the longer process of healing and restoration. In addition, the scheme developed a community-focused approach, working with national human rights NGOs and community organisations, in funding a number of pilot community development-oriented approaches to healing and restoration.

Who could receive assistance

175. District teams identified potential beneficiaries of the programme from among those whom the teams had come into contact with through their truth-seeking and reconciliation work. Primary beneficiaries were direct survivors of human rights violations such as rape, imprisonment and torture, as well as those who suffered indirectly through the abduction, disappearance or killing of family members. Potential beneficiaries had to meet the following eligibility criteria:

- The need had to be severe, immediate and related directly to a human rights violation that had occurred within the mandated period of 1974-1999. For example, a person still suffering from an injury sustained during torture or a widow with inadequate income due to the killing of her husband would meet this criterion.
- The person had to be clearly vulnerable – for example, a widow, orphan, person with a physical disability, or someone isolated within her or his community. Those

who were vulnerable were considered to be persons whose daily life continued to be stunted by the physical, psychological or economic consequences of the human rights violations committed against them.
- Other resources to meet the need either did not exist or were not easily accessible.
- The assistance would help the recipient in a sustainable way. For example, it would facilitate the restoration of the person's dignity, prevent further abuse or would contribute to empowerment or healing that would improve the long-term quality of the person's life.

Forms of reparation

176. The types of reparation that the Commission could offer included:
- An emergency grant of US$200
- Urgent medical and/or psycho-social care
- Equipment and/or training for the disabled
- Setting up of survivors' self-help groups that might engage in any of a range of activities ranging from theatre work to small business that would help restore their dignity
- Commemoration of an event, with the aim of providing recognition and the restoration of dignity to victims
- The provision of tombstones or monuments to promote community recognition of victims who had disappeared, thereby helping to provide a sense of emotional closure for victims' families
- Contracts with local organisations such as churches or counselling groups that could provide sustained help to survivors.

Implementation of the scheme

177. In May 2003, the Commission established a Working Group for Victim Support to devise and oversee policies around victim support, including reparations. It consisted of two National Commissioners, the Commission Victim Support Division Coordinator, the CAVR Programme Manager, a representative from each of the Timorese human rights NGOs Fokupers and Assosiasi HAK (Rights Association), and a Sister from the Carmelite nuns.

178. District staff identified prospective individual or community recipients of the cash grant, and referred them to the Reparations Committee. Once the Committee approved a referral, the Commission distributed the funds.

179. The Commission also contracted other organisations to provide support to victims. In ten districts, the Commission contracted NGOs or religious groups involved in providing health services to offer support to identified victims over a six-month period. The ten organizations were SATILOS (Fundaçao Saude Timor-Leste, Timor-Leste Health Foundation) in Dili; the Canossian Sisters in Ainaro, Manatuto and Lautém; the Catholic Commission for Justice and Peace in Maliana; the Centro Feto Enclave Oecussi (Oecussi Enclave Women's Centre); the Congregation of Sisters of the Infant Jesus in

Manufahi and Baucau; the Franciscan Sisters in Viqueque; and the PRR Sisters (Putri Renha Rosario, Daughters of the Queen of the Rosary) in Liquiçá.

180. As the Commission closed its district offices in March 2004, it decided to continue the Urgent Reparations Scheme but to limit it to specific communities or groups. It funded three Timorese NGOs to provide these support services: Assosiasi HAK, Fokupers and the women's NGO ET-Wave. A six-month programme was developed with each of the three organisations, using community development principles to offer support to victims. These programmes sought to work with victims and their communities, rather than singling out victims for individual support.

Results – the assistance provided

181. The cash grant component of the Urgent Reparations Scheme was distributed between September 2003 and March 2004. In this period, 516 men (73% of the recipients) and 196 women (27%) each received US$200 for a total of $142,400 to 712 survivors of human rights abuses.

182. All 156 participants in the healing workshops at the national headquarters of the Commission received the Urgent Reparations grant. Staff accompanied two of the recipients to Yogyakarta, Indonesia, where each was fitted with and trained in the use of a prosthetic limb.

183. In ten districts, 417 survivors – 322 men (77%) and 95 women (23%) – received the continuing support and assistance offered by local NGOs and church groups. This support included medicines, referral to district hospitals, and basic counselling and support, including home visits. The Commission hoped that once such links to local support mechanisms had been established, they would continue to provide assistance to the victim, although it recognised that the scarcity of resources at the local level might prevent that from happening.

184. The three NGOs, which the Commission contracted to provide support services after it left the districts, concentrated their efforts on particular groups or communities. Assosiasi HAK focused its work on the Kraras-Lalerik Mutin community of Viqueque. The Kraras community had suffered a series of massacres in 1983, and survivors were relocated to nearby Lalerik Mutin. Most of those who survived were women, and Lalerek Mutin is frequently called the "village of widows." In the six-month programme, Assosiasi HAK worked with the community to identify its particular needs, and established a community education centre.

185. Fokupers and ET-Wave offered follow-up support to the women who had given statements and participated in hearings or the Urgent Reparations Scheme. Fokupers worked in five districts: Dili, Liquiçá, Bobonaro, Ermera and Covalima. ET-Wave worked in Lautém. In addition to following-up with individual women, the organisations worked with communities to address the isolation that many victims, especially rural women, suffer.

David Rodriguez, recipient of a prosthetic limb

David Rodriguez was a young man at the time of the Indonesian invasion in 1975. He and his father were severely wounded during attacks from land and air by the Indonesian military. David's father's arm was injured so badly that he eventually died from infection. David had a leg wound that was treated with traditional remedies such as corn leaves and he survived. But, because he was trapped in the mountains without any access to medical services, infection set in and David's leg started to rot. For seven months his leg disintegrated, giving off such a powerful stench that he was forced to live in isolation. Each day his family brought him food and then left him. Eventually the rotten limb dropped away, and David treated the wounded stump with traditional medicine. He learned to walk again by using a stick. In 1979 he surrendered to the Indonesian military in Rotutu (Manufahi). The Indonesians treated other wounded Timorese; some were taken to Indonesia to be fitted with prosthetic limbs. However, because David was from the village of Mau Chiga (Hato Builico, Ainaro), which was known to be strongly pro-Fretilin, he did not receive any assistance.

After independence David gave his statement to the Commission. He participated in a Healing Workshop, where he was provided with a $200 Urgent Reparations grant. A Commission staff member accompanied him to Yogyakarta (Indonesia) where he spent two weeks being fitted with a prosthetic leg and trained in its use. On his return to Timor-Leste, he appeared at the Commission national office with a beaming smile. He proudly peeled off his shoe and sock to display his new leg to staff and friends. He commented to the Commission staff member who accompanied him to Yogyakarta:

Sometimes I think I'm dreaming. I am an illiterate, uneducated man, yet here I am riding airplanes, visiting other lands and getting this kind of assistance. I would like to thank Commission from the bottom of my heart for this.

Carminda dos Santos, a house of her own

When Indonesia invaded Timor-Leste in 1975 Carminda dos Santos, together with her husband and two young children, fled to the forest where her husband died.

On 14 July 1993 Carminda and her older brother were arrested by Indonesian soldiers and taken to the Koramil post in Bobonaro under suspicion of aiding their uncle, Martinho, who was a guerrilla in the forest. Carminda was also accused of involvement in the destruction of a statue of the Virgin Mary at the Malilait Grotto in Bobonaro Sub-district. Carminda and her brother were beaten severely. Their heads were smashed against a wall; they were kicked with army boots and their bodies trodden on. Since that time Carminda has suffered from convulsions.

After Carminda's home was looted and burned by militia in 1999, she and her daughter moved in with her older brother, but they were never completely comfortable because her brother constantly argued with her. Carminda felt that she and her child were neglected. They did not have their own house and neither the local government nor her own family helped her.

When the Commission district team began to take statements in Bobonaro, Carminda's daughter, Regina dos Santos, gave a statement that included the story of how in 1993 her mother and uncle had been tortured by soldiers at the Koramil in Bobonaro. She told about Carminda's nervous condition and loss of memory. Commission Victim Support staff visited Carminda to offer counselling. She was also given $200 as part of the Urgent Reparations Scheme. On a return visit several months later, Commission Victim Support staff observed improvements in Carminda's life. She had her own house, and her nerves and memory were returning to normal. Carminda was very happy and expressed profuse thanks to the Commission. Even if she and her daughter lived in only a small hut, it was their own.

How the grants were used

186. A grant US$200 was designed to be a large enough amount of money to allow the recipient to improve their quality of life in a practical way by undertaking some activity or buying goods or services that could help their recovery. Of course it was not sufficient to fund the costly, long-term interventions needed by many victims of serious human rights violations.

187. Grant recipients spent the money in a variety of ways. Commonly the money was used to pay for medical treatment, the education of children, and starting up income-generating pursuits, such as animal husbandry or gardening. Other uses included the purchase of food, clothing and shelter.

Use of the Urgent Reparations grant

While recipients of Urgent Reparations were free to spend the money however they wished, it was emphasised that the Commission hoped that the money would be used to make lasting improvements to their quality of life. For many, this was indeed the case.

"I used the money to buy medicine to treat my illness and now I feel a bit better. I feel well enough to do some light work. I used to cough severely and now I hardly cough," observed one survivor when visited several months after receiving her grant.

"When I received the money from Commission I used it to buy… traditional Timorese medicine and also medicine from the pharmacy to treat my illness. Ever since then I have been well," observed another survivor, adding that with the remaining money she also bought a pig for breeding and some groceries.

Manuel Laka Suri also used part of the money to improve his health. The rest he used "to pay people to tend my fields, buy groceries, and pay the children's school fees".

188. Most recipients were grateful to the Commission for the grant, although many also said that US$200 was not enough money to meet their needs. In the most serious cases of victims suffering from chronic health problems or deep poverty related to the abuse they had suffered, the grant could not make a real difference. Such victims need a sustainable reparations scheme. The Commission's recommendations on reparations address their plight (see Vol. IV, Part 11: Recommendations).

Responses from community members

Giving grants to selected individuals in Timor-Leste where poverty is the norm always carried risks. While many family and community members were sympathetic when they learned that a recipient had received a grant, some were jealous. Because of the possibility of an unfavourable community reaction, the Commission did not publicise the grants, and told recipients that as far as the Commission was concerned, they were confidential.

A man from Maliana (Bobonaro), concealed the receipt of the money from his community: "The money was a secret, so I didn't tell anyone and no one asked me about it."

A woman from Bobonaro also kept quiet about her grant:

I didn't tell anyone about the money because the Commission said it was confidential. I was afraid that if people heard, they would beat me up because there are many other victims who didn't receive money.

However, for some victims concealment was not possible. When community members heard that a neighbour had received money, their responses varied. Manuel Laka Suri's community, which fully appreciated his situation, praised the Commission for helping Manuel to treat his illness.

Members of Ponciano Maia's community were neither resentful nor actively supportive: "[The community] didn't create any problems for me because they know that I suffered greatly in the war, so they were silent."

Ponciano de Araújo had a very different experience. Some members of his community asked: "Why didn't we get any money? We are all victims."

Reflections on the scheme

189. The impact of Urgent Reparations assistance varied between recipients. It depended on, among other things, the person's physical and psychological state before receiving assistance, the type of need being addressed, and the person's family and social environment. Nevertheless, the commission believes that the scheme was successful in bringing about small, but meaningful, improvements in the quality of life of victims of human rights violations.

190. The scheme was also part of a broader strategy of giving official recognition to the suffering of victims and of seeking to develop a multi-faceted relationship with them. The first stage in this relationship began with victims giving a statement to the Commission. Some then went on to give testimony at public hearings; others participated in healing workshops, while others took part in community reconciliation hearings in their villages.

191. Many of the comments of people who participated in the Urgent Reparations Scheme emphasised the importance to them of this relationship with the Commission. A resident of the village of Ritabou-Tiimatan (Bobonaro) remarked: "I feel really happy because there are still some friends who take care of us." Expressing her feeling of vulnerability and lack of support as a victim, one resident of the village of Colegio (Bobonaro) commented:

I feel happy because the Commission is helping to keep an eye on the victims. Otherwise, we don't know who would. I feel happy because there

is still a good Commission and NGOs like the Commission and CEP to help victims.

192. Ponciano de Araújo summed up the response of many victims when he said:

I want to thank all the friends working at Commission for recognising our struggle in the war and our great suffering and anxiety.

193. The number of victims who were direct beneficiaries of the Urgent Reparations Scheme was small compared with the 7,824 statements taken in the Commission's truth-seeking work. Nevertheless, the assistance made a practical difference to the lives of some of the most vulnerable victims. It also offered a degree of moral, emotional and spiritual support. As an interim measure that lasted only as long as the working life of the Commission, it demonstrated the commitment to ensuring that victims receive this kind of assistance. The Commission's Reparations Scheme, contained in Vol. IV, Part 11: Recommendations, outlines the Commission's recommendations on what needs to be done to continue and develop this work.

Community profiles

Background

194. Community Profile workshops added a group dimension to the District team victim support and truth-seeking work. Small groups from village communities discussed the impact of human rights abuses at the community level. The workshops were facilitated and recorded by the Victim Support members of the District team. Communities were thus able to examine the history of conflict from their own local perspective. The communal focus of the workshops also acknowledged the fact that communities, just as much as individuals, were victims in the years of conflict and needed support.

195. In most areas District teams used Community Profile workshops to introduce their programme to a community. As well as discussing the Commission's mandate and programmes, they engaged the community in a practical exercise, which was community-based and therefore accessible. By choosing the workshops as the entry point into the broader programme, the Commission wanted to show its respect for and gain an understanding of the distinctiveness of each community. Teams also had the opportunity to ask questions about particular groups in the community who might need extra support and whether community reconciliation activities might be appropriate.

196. Community Profile workshops were an important and enriching part of the Commission's work for a number of reasons:

- In rural Timor-Leste activities focused on the community rather than the individual were often a more culturally appropriate and effective way to discuss important issues. They were also a way of tapping into the rich oral traditions of rural communities.

- They were an opportunity to seek community views about what victims could do to help their recovery from past human rights abuses. Even in communities where there was not much discussion of community healing needs, the reflection on past experience could itself be a healing process.
- From a truth-seeking perspective, Community Profile workshops complemented the taking of statements from individuals. They were particularly useful in identifying broad social, economic and political patterns and the profound impact of human rights violations on communities over the 25 years of the mandate period.
- The accounts that emerged from the Community Profile workshops revealed how different communities and regions suffered in different ways and at different times throughout the conflicts. The national perspective does not offer such fine discriminations between areas, while individual statements do not give the broader community perspective.
- These stories bring us closer to an understanding of the situations of local communities today and in planning how to prevent conflict in the future.

Selection process

197. The Commission trained two district Victim Support staff, one woman and one man in each district, in participatory methods for facilitating the Community Profile workshops. Teams aimed to hold five community discussions in each sub-district. Participants in at least one of the five discussions were to be recent returnees, with priority given to those who were being ostracised by the communities to which they had returned. Another discussion group was to consist exclusively of women. The purpose of having women-only groups was to overcome women's reticence about taking an active part in group discussions, especially when what is under discussion is the traditional male preserve of recounting history,

198. Victim Support district staff together with the District Coordinator and Regional Commissioners were responsible for selecting which villages and special groups should hold a workshop. Selection was often based on local team members' prior knowledge of the area, or on information that emerged from the sub-district level meeting held at the start of the three-month sub-district programme. At these meetings sub-district officials, village heads, and community elders often identified villages with a high concentration of recently-returned refugees. They also selected women to participate in the women's discussion group, with priority given to women who had experienced violations or had been active in the Resistance.

199. In practice the number of Community Profile workshops held in each sub-district varied. Some teams did not meet the target of five community discussions, and others managed to hold workshops in every village in their district. Sometimes district staff held joint workshops in which two or more villages took part. In several sub-districts, as, for example in Natarbora Sub-district (Manatuto) and Bobonaro Sub-district (Bobonaro), communities with a history of conflict were intentionally brought together. Through truth-telling and the sharing of perspectives, communities were

better able to understand the source of old enmities and so address them. In such cases, the workshops served as an instrument of reconciliation.

Community discussion eases historical tensions

Bobonaro is a large sub-district comprising 18 villages. The Commission District team decided it was important for all villages to take part in Community Profile workshops since all had suffered the impact of human rights violations between 1974 and1999 and all agreed to participate. Some villages held joint discussions.

The neighbouring villages of Oeleu, Tapo, and Leber were intentionally chosen for a joint discussion because they had a long history of conflict. For many decades the men of these villages had fought each other over community land and boundaries. During the civil conflict of 1974-1975 the tensions among the three villages exploded into violence. Although the Indonesian invasion and occupation put a stop to open conflict, communal and political differences were expressed through their different relations to the occupier. Feelings of distrust and the desire for revenge continued to fester below the surface, only to re-emerge following the Popular Consultation in August 1999.

In the Community Profile workshop, participants from the three villages openly made accusations against each other, revealing more clearly the nature of their historical conflict.

The people of Leber regarded the villages of Tapo and Oeleu as UDT strongholds, loyal to the Portuguese colonial administration. Villagers from Tapo had long been suspicious of Leber, first as an Apodeti village and then as a base for the Indonesian army Special Forces (Kopassus). The Tapo group accused Leber of killing civilians, while the people from Leber reminded those present that in the mid-1970s Fretilin supporters in Tapo and Oeleu had attacked Leber, burning hundreds of homes and causing the people of Leber to flee to the mountains. The participants from Oeleu, in turn, blamed Fretilin for the displacement in 1975 of hundreds of UDT supporters who sought refuge in the mountains of Covalima or fled to West Timor. Although later Tapo and Oeleu were both assumed to be bases of Fretilin support, before independence they were also known as fertile recruiting grounds for the pro-integration militia.

These initial suspicions and tensions began to fade, however, as each community related its own horrifying history of violations.

The participants from Oeleu noted that the Indonesian military killed hundreds of people from the village in 1975-1976. In 1978-1979 several hundred more died from illness and starvation. They recalled that about a hundred men from their village were captured and forcibly recruited by the Indonesian military. In 1986 the introduction of the Indonesian Family Planning Programme resulted in the death of four women in Oeleu. In the late 1990s around 80 people from the village joined clandestine organisations. Many of the youth of Oeleu came under suspicion, and were caught and tortured. The Indonesian military also responded to this development by forcing villagers to join Hansip (*Pertahanan Sipil,* Civil Defence). Those who refused were beaten and slashed with knives. In 1999 several youths were intimidated into joining the militia group, Dadurus Merah Putih. In the weeks leading up to the Popular Consultation they burned around 200 houses, looted others and killed six people. Many residents fled to the mountains before and after the ballot. About 200 families were evacuated to Atambua after the announcement of the result of the vote, where around 50 people died of disease and one was killed.

Participants from Tapo explained how their village was a UDT stronghold in 1974-75. It suddenly switched to join Fretilin in opposing Apodeti supporters from Leber, who, having sided with the Indonesian military, had murdered civilians and flown the Indonesian flag in a neighbouring village. In 1976-1977, the Indonesian military and Fretilin were continually engaged in armed conflict resulting in deaths on both sides, as well as the destruction of hundreds of houses around Tapo. Like the residents of Oeleu, Tapo villagers recalled how hundreds of their villagers suffered, first after evacuating to the forests and later when they were settled in camps in the neighbouring district of Ermera. Hundreds died due to hunger and illness. Tapo participants also knew of men who were forcibly recruited by the Indonesian military during the 1980s to take part in "Fence of Legs" operations.* They related how in 1999 youth from their village were captured and tortured at the Maliana military post, then forcibly recruited to become militia members. As in the case of Oeleu, Tapo's history of violation ended with villagers suffering from illness and hunger in refugee camps in West Timor.

Participants from Leber recalled how hundreds of their homes were looted and burned in August 1975 by a group of Fretilin fighters, including people from Tapo and Oeleu. Following the Indonesian invasion in December 1975, hundreds fled to the forests and

* This was a series of large military operations launched to flush the Resistance fighters out of the forests. For more information on these operations see Vol. 1, Part 3 on Operation Security (par. 354-376).

neighbouring villages. In 1977-1978, about 100 Leber civilians died of starvation in the mountains and hundreds more died in ABRI attacks. In May 1982 all civilian males aged 17 and above were forced to take part in a "Fence of Legs" operation that lasted for up to one month. During the operation they were given no food but had to fend for themselves as they looked for Fretilin fighters on Mount Ramelau and in Manufahi, Ainaro and Atsabe. The people of Leber complained that they were always blamed for violence perpetrated by the Indonesian military. In the 1990s several village youth joined clandestine networks and collected money from their fellow villagers to help Falintil. In 1998 Special Forces captured six youth from Leber, killing one and torturing the others. When the Indonesian military formed the Dadurus Merah Putih militia in May 1999, more Leber youth were captured and beaten and many houses looted.

These historical overviews helped the participants to realise that none of the villages had had allegiance to a single political party, and that all of them had suffered at the hands of the Indonesian military. All had suffered displacement resulting in illness and starvation; all had experienced forced recruitment as well as forced evacuation from their homes; all reported instances of beatings and torture by Indonesian forces; and all had watched youth in their villages join forces with the Indonesian military to destroy their own communities. These common patterns of human rights violations gave villagers a new understanding of their past and a way to move on with less communal animosity towards each other.

This account is compiled from the CAVR Community Profiles of Oeleu, Tapo and Leber, Bobonaro Sub-district, Bobonaro District, 24 November 2003.

Participation

200. Although the range of people who took part in Community Profile workshops varied, regular participants included the village chief, political party representatives, members of youth and women's organisations, community elders, and local church leaders, individuals previously active in the clandestine movement, as well as victims and perpetrators of human rights violations. The Commission sought to achieve a balance of perspectives, though at times this was difficult.

201. Of the 297 Community Profile workshops compiled, three did not include a list of attendees. In the remaining 294 an average of 16 people were recorded as having attended each meeting, meaning that more than 4,700 people participated in the workshops across the country.

202. On average the proportion of men attending the workshops (76%) was far higher than the proportion of women. In 11.5% (31 out of 270) of the workshops open to both men and women, women did not participate at all. At the 24 meetings designated women-only meetings, an average of 15 women participated. In two of these women's meetings, a few men also attended and spoke.

203. All district teams noted that there was a lack of gender balance, both in attendance and in active participation in the discussion. Reasons given for the imbalance included the fact that women traditionally do not participate in public gatherings and that women's workload, particularly their responsibility for childcare, would keep many at home. It was thought that even when women did attend, many may have felt unable to speak in public about the violence they had experienced or did not feel comfortable speaking in the presence of their husbands.

204. It was easier for women to speak directly about violations, such as rape, when men were not present. If sexual violence was raised at all in the presence of men it was usually done obliquely, as when women spoke of having been damaged or broken. District teams addressed this formally through women-only meetings and sometimes informally by having a woman facilitator meet separately with the women attending a mixed workshop.

205. The women-only workshops were a valuable forum for understanding community experiences during the conflict. Their success in presenting a perspective that was often less blinkered by political allegiance suggests that more workshops of this type would be useful.

Community profile methodology

206. Workshops varied in duration from several hours to a whole day. During the workshop, Victim Support staff used historical timelines, sketch maps and focused group discussion to help community members trace their experiences of human rights violations chronologically and geographically.

207. Most sessions began with a recollection of violations between 1975 and1999. One facilitator explained how he would often begin discussions by asking participants questions such as: "Where were you in 1974-1975?" "Who introduced the different political parties into your village?" "How did you and your neighbours decide to join one party or another?" Such questions would stimulate further discussion, which generated historical overviews that, in general, were recorded as narrative text rather than drawn as an historical timeline.

208. The community experience was also elicited through the creation of sketch maps. In some cases, the sketch outline was drawn by a few individuals before the community discussion. For example, in Bobonaro District, team members and the village chief would survey the village before the workshop began to produce a sketch map showing areas of forest, gardens and rice paddies, markets, churches, health clinics and schools. This rough topographical/sociological map was then displayed during the workshop to help community members to recall human rights violations. As participants gave

their accounts of violations in their community, more or less in chronological order, they were invited to show on the map where the violations occurred. This helped give a context for the discussion of specific issues. This approach tended to result in Community Profile reports that charted community histories better than an analysis of the social and economic impact of violations on the community.

209. By engaging in these discussions at the beginning of their work in communities, Regional Commissioners and staff developed trust and understanding. This helped with the implementation of other work, such as individual statement-taking, community reconciliation hearings and individual victim support work.

Sketch maps

210. An important feature of the workshops was the production of sketch maps. The maps, sometimes drawn by workshop participants, sometimes by Commission district staff, served to record violations as well as elicit memories of them. They were a particularly useful tool for stimulating discussion between community members who had low levels of literacy. They also revealed the prolonged terror in which many communities lived for 24 years.

211. Some maps used colour coding to distinguish events and their impact. For example, in some maps Falintil posts were marked by yellow and white flags so that they could be distinguished from Indonesian military posts that had red and white flags. Pink crosses were used to indicate places where people were murdered by the Indonesian military and blue crosses to mark sites of death due to starvation and illness, or death counts were highlighted by using pink or red markers (see Sketch Map 11 below). Some maps focused on events over a period of only a year or two; for others a longer timeframe was shown in different ways. For example Diagram 1 – Sketch Map Iliomar I (Iliomar, Lautém) used annotation to record period information, whereas Diagram 2 – Sketch Map Pairara Moro, (Lautém) added arrows to record abuses at the same location but at different points in history.

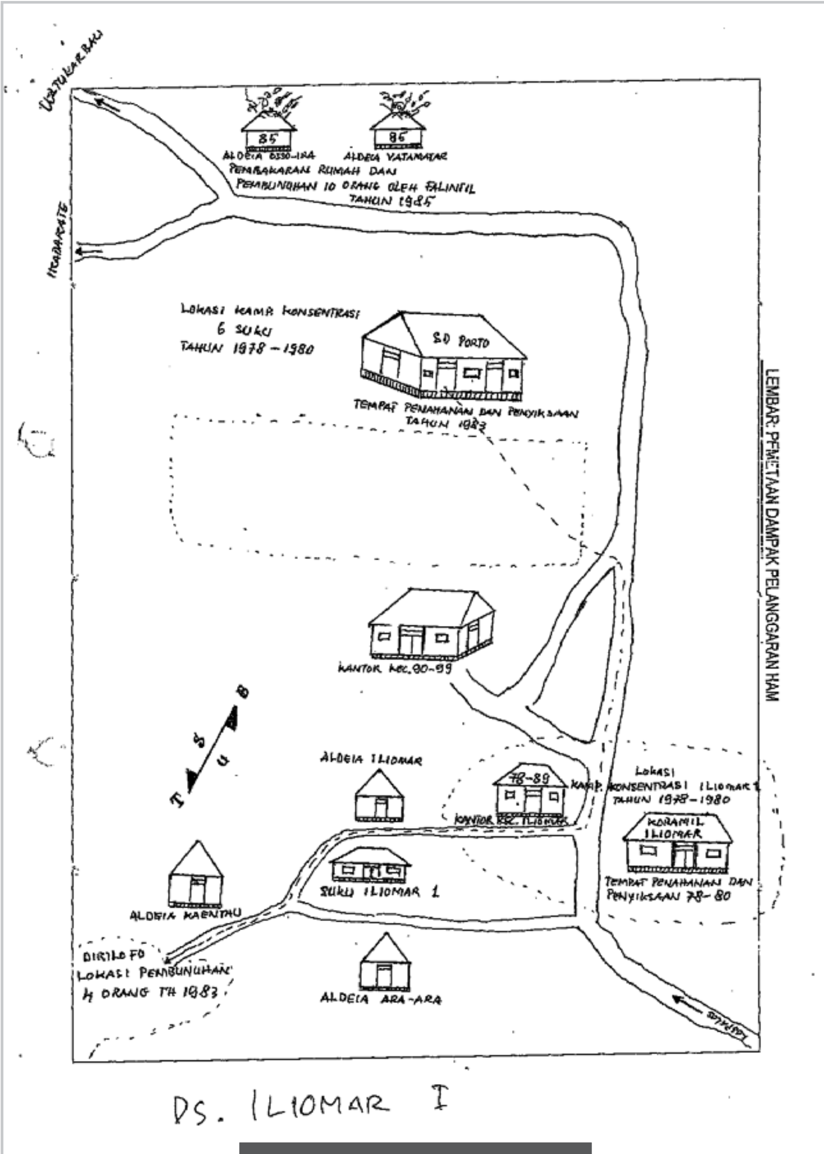


Diagram 1: Sketch Map Iliomar I

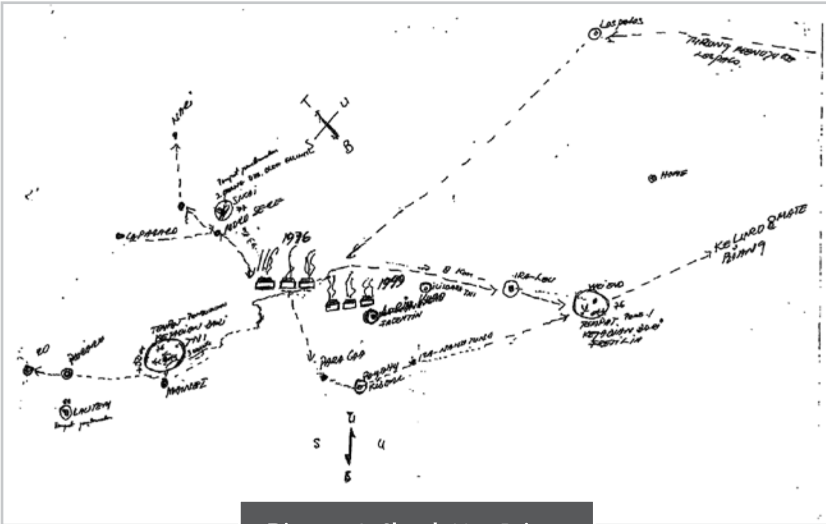


Diagram 2: Sketch Map Pairara

212. Other communities spanned the distance of time by producing more than one map. When placed side-by-side, sketch maps 3 and 4 from the community workshop in Beco 2/Tasilin (Zumalai, Covalima) graphically depict the upheaval this community experienced at the beginning and end of the Indonesian occupation, in 1975 and 1999. The 1977 map shows an army tank moving into the area, the 1999 map shows trucks of refugees being evacuated to Atambua. Both maps show armed soldiers, houses burning, and villagers fleeing to the mountains.

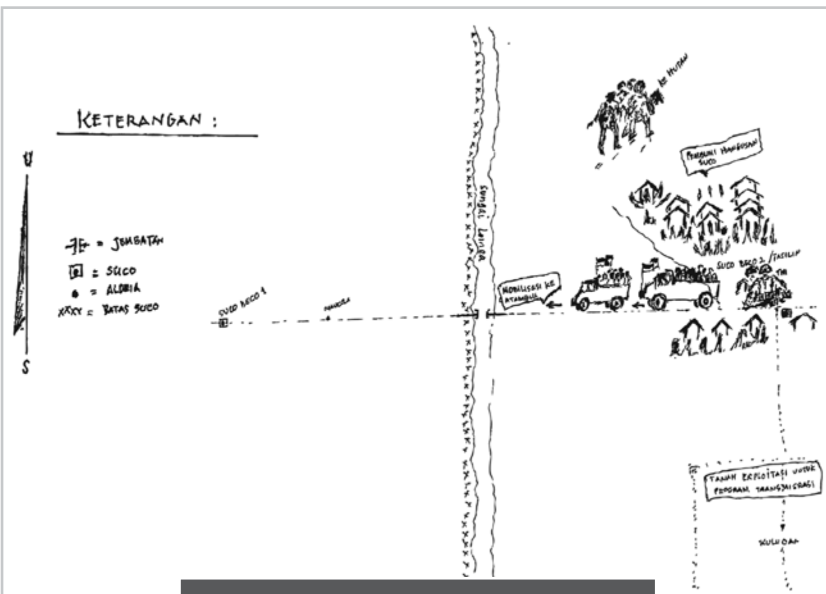


Diagram 3: Sketch Map Beco 2/Tasilin 1977

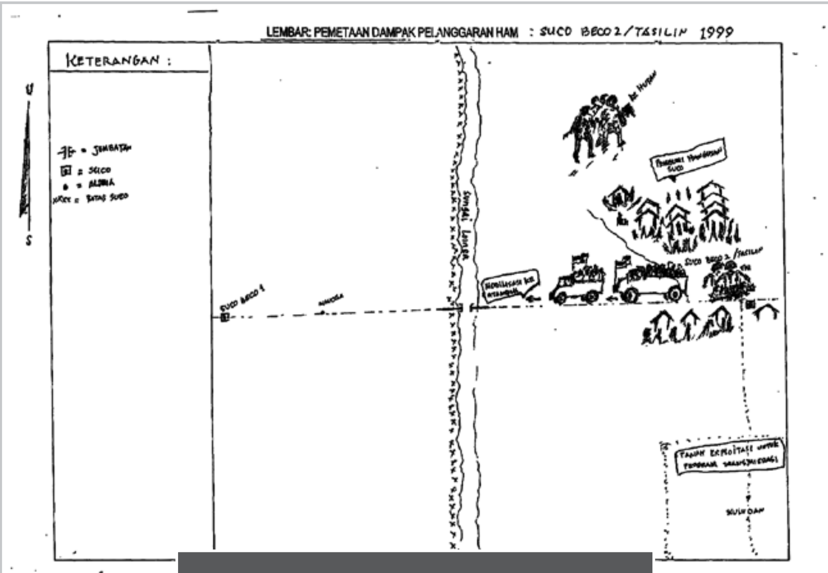


Diagram 4: Sketch Map Beco 2/Tasilin 1999

213. Sketch Map from Guda village (Lolotoe, Bobonaro) and Sketch Map from Osso-Huna (Baguia, Baucau) give two renderings of aerial bombardment of villages and of villagers hiding in the mountains.

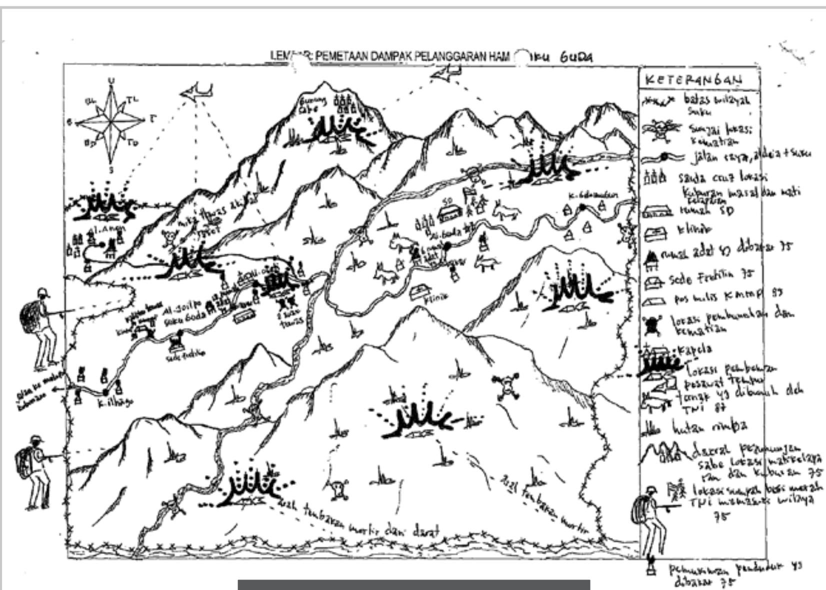


Diagram 5: Sketch Map Guda

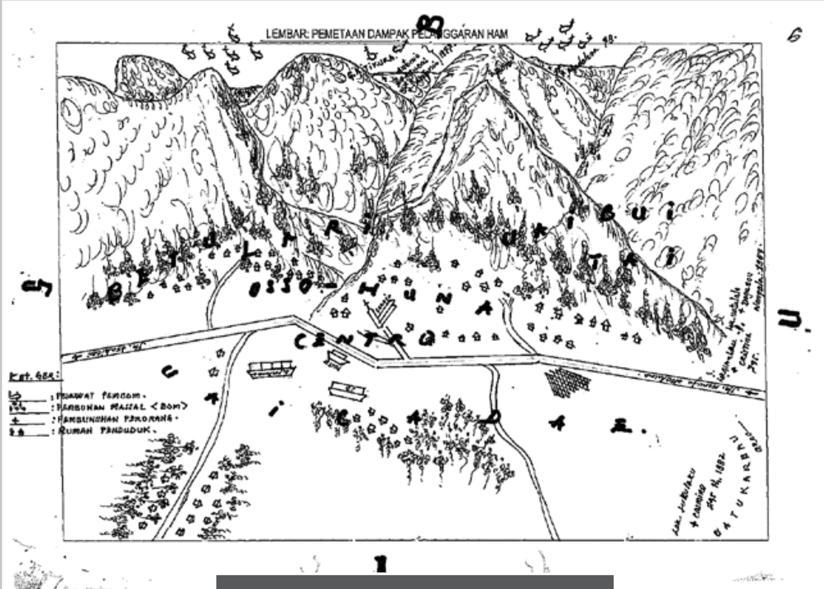


Diagram 6: Sketch Map Osso-Huna

214. A few maps indicate victim counts by means of annotation and the insertion of crosses as seen in the Sketch Map of Uaitame (Quelicai, Baucau). More common, however, is the insertion of skull and crossbones, a simple technique able to convey trauma by the sheer weight of repeated images as seen in the Sketch Map of Caimauk (Turiscai, Manufahi), the Sketch Map of Ura-Hoci (Hatolia, Ermera), and the Sketch Map of Mahaklusin (Alas, Manufahi).

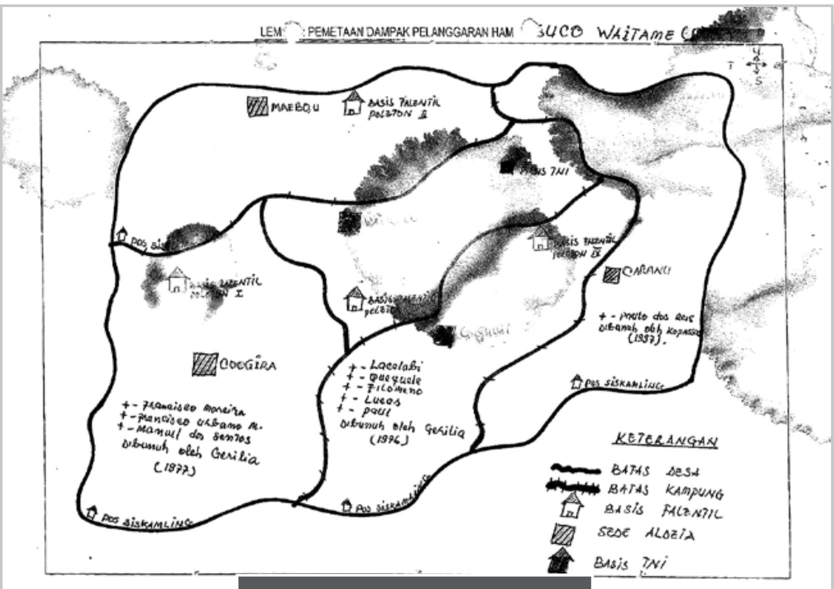


Diagram 7: Sketch Map Uaitame

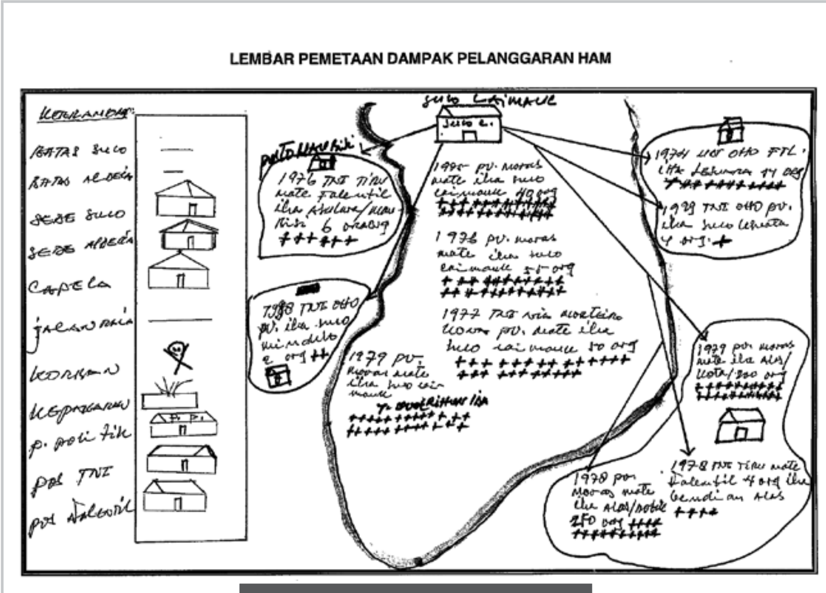


Diagram 8: Sketch Map Caimauk

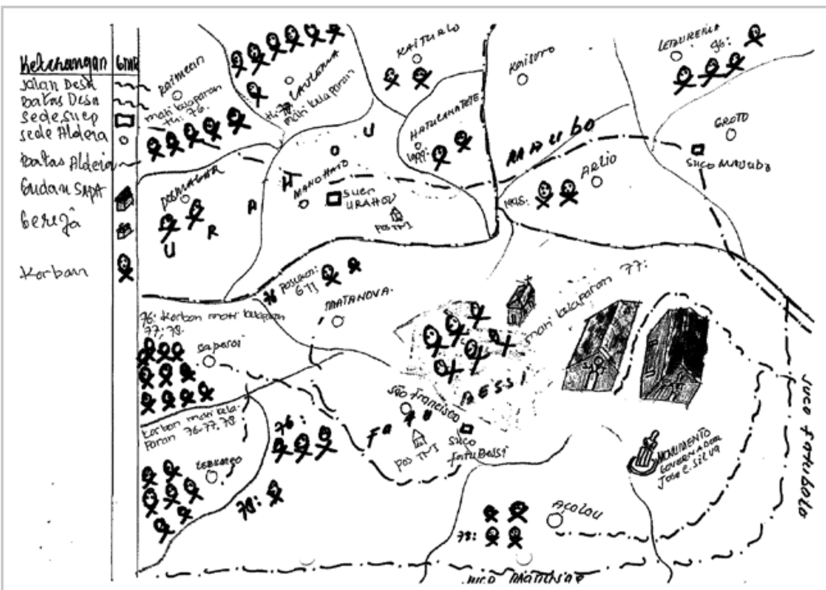


Diagram 9: Sketch Map Ura-Hoci

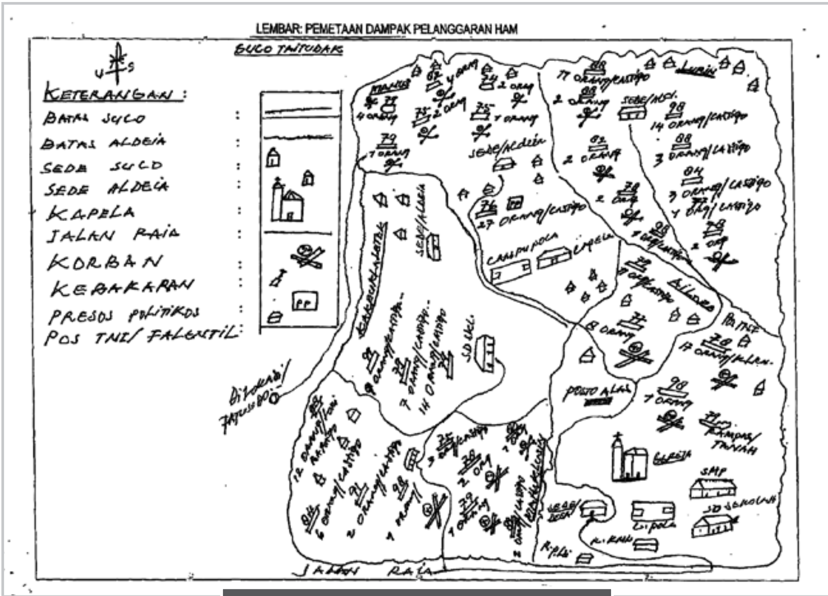


Diagram 10: Sketch Map Mahaklusin

215. Taken together, the sketch maps produced by Commission community meetings – from more rudimentary maps like the Sketch Map of Rasa (Lospalos, Lautém) to the more detailed Sketch Map of Miligu (Cailaco, Bobonaro), to maps like the Sketch Map of Taiboco (Pantai Makasar, Oecussi) that charts violations in motion – offer visual images that begin to capture the collective impact of human rights violations in Timor-Leste from 1974 to 1999.

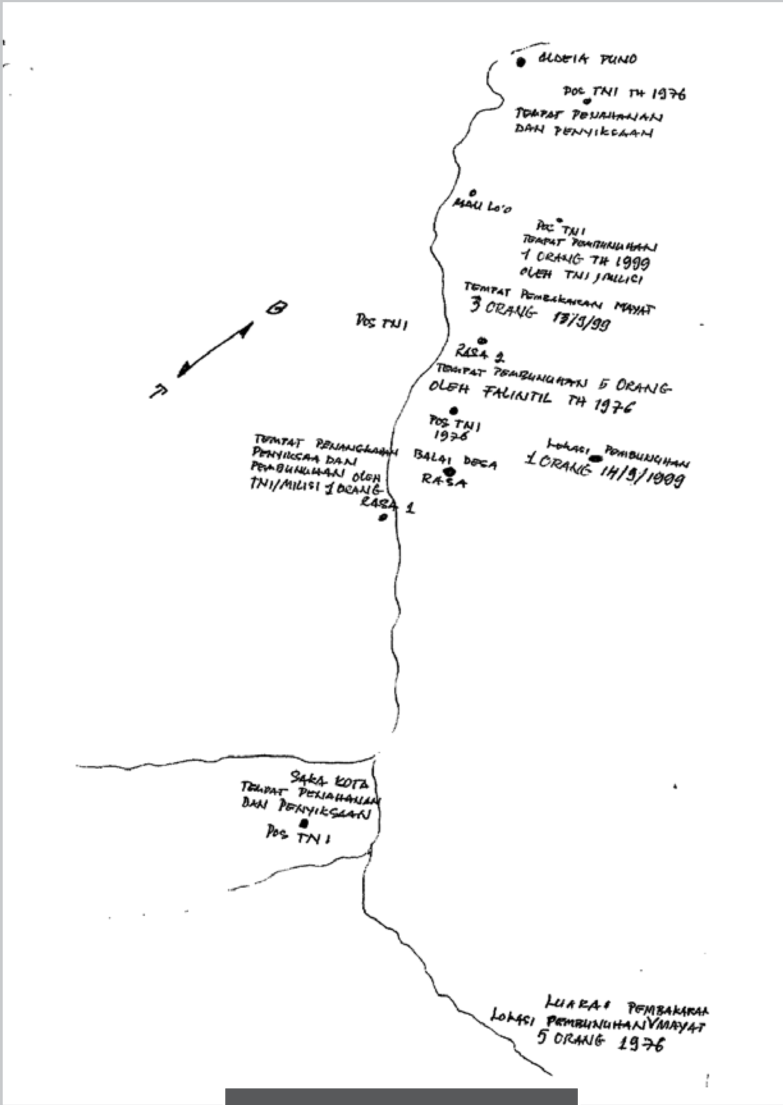


Diagram 11: Sketch Map Rasa

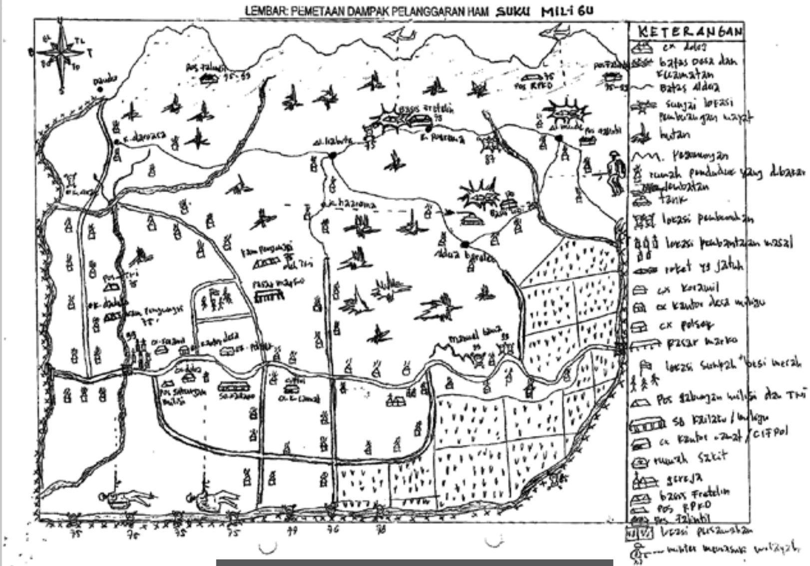


Diagram 12: Sketch Map Miligu

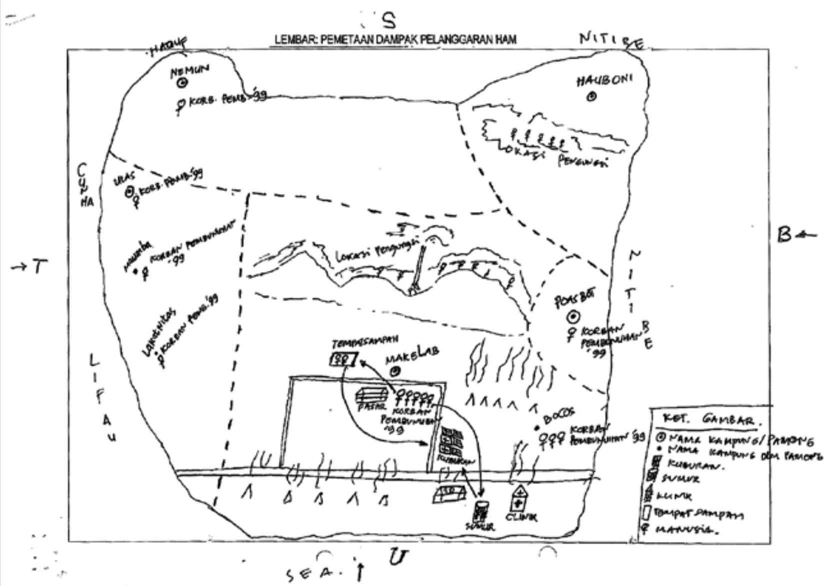


Diagram 13: Sketch Map Taiboco

216. Sketch Map 14: Beidasi (Fatululik, Covalima) is a reminder that, despite the scope and magnitude of the violence in Timor-Leste, in local communities its impact was never anonymous. The map's poignancy is captured in the names written by each house that give identity by ownership, residency, and community. It is the juxtaposition between this close-knit community, where everyone knows and is connected to each other, and just a few short annotations – "Veronica died here" next to a double black and pink cross to indicate that she was killed by the militia, "82 killed by TNI" written below a pink cross, and "30 children die" written above a black cross to indicate death by starvation – that is striking. It turns an otherwise ordinary neighbourhood map into a document that records a history of violence and suffering in a community: for years violations occurred in the neighbourhood of Alberto and Carlos, Martinho and Mausesu, and to so many other individuals and families.

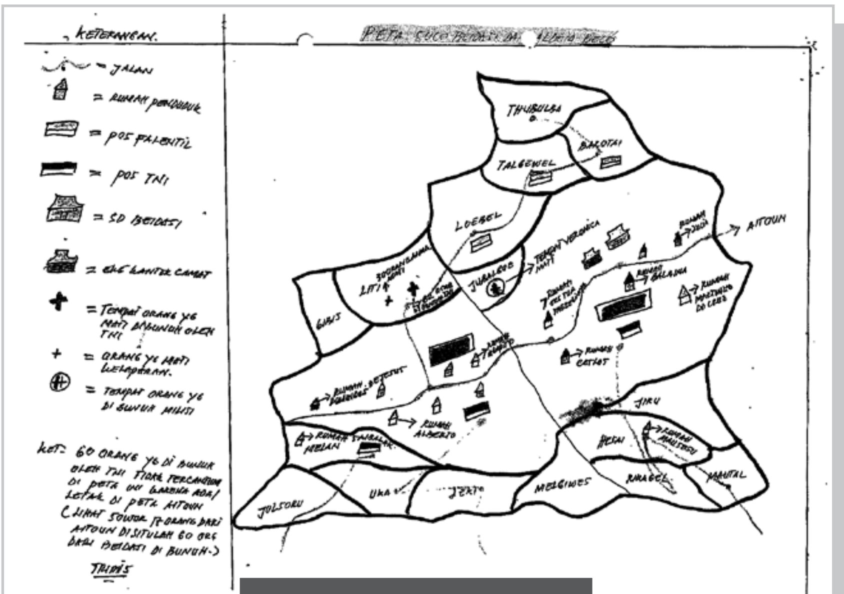


Diagram 14: Sketch Map Beidasi

Impact

217. Community Profile workshops gave many rural communities a sense of respect and acknowledgment by listening to and recording their experiences as part of an official national truth-telling process.

218. All district teams reported positive feedback from village communities, which were grateful for an opportunity to speak about their experiences during the conflicts. Because the discussions were communal rather than private, moments of catharsis or insight about the past became part of the community's experience, much as they did in Victims' Hearings.

219. The workshops did not provide empirical data to be tabled and analysed in a way that would allow regional comparisons to be made. The value of the material gathered in these workshops is in its detail and local focus. Weaknesses in the information include that it was usually not possible for communities to give statistically accurate figures of the number of people who died from starvation or in the large military campaigns that totally disrupted community life. Dates of events were not always specific or accurate, and figures in relation to property, such as livestock destroyed, were often generalised. Further, the stories told depended on the participants who attended – their age and therefore the reliability and extent of their memories, their literacy, their gender, and also their political affiliation. For example, if most participants were members of a particular party, this could be an obstacle to discussion of violations committed by that party.

220. Whatever their shortcomings as tools for seeking the truth, at the very least Community Profiles were able to present the broad sweep of a community's experience over the 25-year span of the political conflicts. But they often did far more than that by giving insight into the impact on communities of both general phenomena like mass displacement and forced recruitment, and specific events like the Mau Chiga uprising, and the Kraras and Santa Cruz massacres as well as many other incidents which had hitherto not been recognised outside the locality where they occurred.

Lessons learned

Reception (*acolhimento*), returnees and West Timor

221. State and non-state actors in Timor-Leste need to continue to work with East Timorese in West Timor. This work needs to focus on building trust and mutual understanding, sharing information, and helping those who decide to return to Timor-Leste. This work can be carried out only if there is cooperation between East Timorese and Indonesian state and non-state institutions. One essential element of building trust among East Timorese in West Timor is that the engagement between East Timorese on both sides of the border should not be fitful, but should display a continuing commitment to their needs.

222. The work of the Commission with East Timorese in West Timor represents a contribution to a process that began before the Commission came into existence, and will continue after its mandate has expired. While the support of the international community will be vital to achieving this continuity, that support will not be forthcoming without a clear, high-level commitment from the Government of Timor-Leste to this work.

223. Any future work in this area will have to address a number of difficult issues. They include:

- Finding ways to talk to refugees about reconciliation in a constructive manner. One obstacle to constructive discussion is the gap between those who see reconciliation as a political issue linked to amnesty for past crimes,

and those who see it as a social issue of healing divisions between people and communities. The fact that the hierarchy of power in West Timor has solidified these differences of perspective makes them particularly difficult to remove.

- Continuing to seek ways to overcome obstacles to women participating fully in decision-making about their and their families' futures.
- Building on the partnerships, experience and good-will developed with individual Indonesians and Indonesian government and non-government institutions.

224. There needs to be continuing support to reintegrate those who return to their communities and to the communities that receive them. Reintegration is not an instant process, but one that requires constant attention and support over a period of time. Mutual trust and confidence will return only gradually. While much of the work of reintegration is essentially for individuals, families and communities to undertake, with help from locally-based institutions such as the Church and traditional leaders, the Commission's experience in this area is that the latter can benefit from the support of a legitimate and respected national institution.

Urgent reparations

225. The Commission's Urgent Reparations Programme helped a number of the most disadvantaged victims to meet their pressing needs. The scheme offered both financial and non-financial assistance, to individuals and communities. Through this work the Commission was able to develop a clearer understanding of the strengths and weaknesses of different types of reparations schemes in the Timorese context, and thereby develop recommendations for a more comprehensive approach.

226. The Commission understands that its Urgent Reparations Scheme was a stop-gap measure that could in no way be regarded as a substitute for a comprehensive, long-term programme.

227. The Commission is convinced that there is a pressing need for a comprehensive and multi-faceted reparations programme to be established beyond the Commission. This programme should address the needs of victims by offering formal recognition of victims by preserving and honouring their memory, and the provision of social services and economic assistance. It should be targeted at individual and community levels.

228. The Commission has learned that it is hard to attract financial support for a reparations scheme, from national and international sources. Politicians, policy makers and others in a position to provide funding too often subsume reparations programmes within the domain of general national development. Reparations should not be treated in this way: they play a complementary role to national development, but also quite distinct in that they are fundamental to delivering justice and human rights protection in our post conflict society. This issue is addressed more thoroughly in Vol 4, Part 11: Recommendations.

Victims

229. In its work with victims over the three years of its existence, the Commission learnt much. The quiet strength and resilience of many survivors, their dignity and generosity towards others, and their wish to participate in shaping their new nation are inspiring. Families, communities and the values of Timorese culture have sometimes been able to help sustain and heal victims. At other times they have been an obstacle to healing. We have also learned that many people's lives are difficult today because of the violence they have suffered. Once they have attained a certain level of security, whether physical, mental or economic, individuals, families and communities can do much to effect their own healing. But they also often need outside help, in the form of physical and mental health services, education and training, the means to restore economic sustainability, recognition and a sense that the State cares for their well-being.

230. Health, including mental health, is evidently an area for future victim support work. The experience of violence and loss can have profound consequences for victims' mental health and well-being. The Healing Workshops were an opportunity to learn more about victims' needs in this area, to provide support, and to refer people to specialised services when they were available. The Commission also worked with a combined community and mental health team from the University of New South Wales to develop a preliminary assessment of the needs of victims of human rights violations in light of the Commission's findings in this area.

231. The Commission found that many victims of serious human rights violations continue to suffer health problems as a result of their abuse. The Commission has encountered victims who have bullets lodged in their bodies, wounds that have not healed, bones that have not been properly set, gynaecological problems resulting from rape, and a variety of physical disabilities caused by prolonged or repeated torture. Without attention to their health needs, these victims will not be able to take up their rightful place as active citizens of Timor-Leste.

232. These findings highlight the need for a thorough assessment that can form the basis of a health support programme that would be part of the proposed reparations scheme.

233. The Commission has identified certain specific groups in the community that seem to be particularly vulnerable to mental health problems. These groups' problems are not confined to mental illnesses requiring clinical treatment, but cover the whole spectrum of mental well-being that allows a person to thrive and live a full life. Justice, compassion and the quest for a fair and inclusive society all demand measures to restore mental and physical well-being to victims who have lost them as a result of an act of abuse. The groups that the Commission identified as high-risk and which should therefore be the focus of any future programme are set out below.

Rape survivors

234. Through the healing workshops and other activities, it became clear that women who had been raped were more likely to suffer symptoms of trauma than other victims of violations. This may partly be because many women raped or forced into situations

of sexual slavery by the Indonesian military reported that they were shunned by their family and community, and thereby lost the support necessary for healing and mental well-being. The plight of women who had children as a result of rape, or being in a situation of sexual slavery, was even worse. There are communities, such as Suai, where women were subjected to mass rape after the Popular Consultation in 1999, where large numbers of women are in need of support.

235. The Commission found that in general young women raped during the violence of 1998-99 suffered more severe and more persistent symptoms of trauma than their older counterparts who had suffered rape in earlier periods of the conflict. The explanation for this difference may be that the older women were more often able to rely on support deriving from their established roles as family and community members, whereas the violation seemed to have prevented many of the younger women from developing these roles. At the same time, the older group were generally less forthcoming about their experiences and so, if in need of support, less likely to obtain it.

Young men, especially in urban areas

236. In the political conflicts in Timor-Leste young men constituted a group that frequently suffered and perpetrated violence. The emergence of a clandestine movement in the 1980s resulted in many young people becoming engaged in resistance activities. Others were involved in groups formed by the Indonesian military to respond to the Resistance. The education of many of these young men was disrupted by their involvement in clandestine activities, periods of imprisonment and serious injuries suffered as a result of torture and ill treatment.

237. Many of these young people were teenagers in the 1990s, and are now in their twenties or early thirties. Lacking education and training, many today feel excluded from opportunity in the new Timor-Leste that they see themselves as having helped create. Unlike young women, who often have a social role maintaining household and family, many young men live on the margins of society. The Commission observed anger and frustration among many young male survivors. Their isolation is exacerbated by the cultural constraints that inhibit males from seeking assistance or speaking about emotionally difficult matters. Lack of work or educational opportunities intensify their problems.

238. These issues place many young men at risk of mental health problems. Coupled with their intense experience of violence in their younger years, this also raises issues of domestic and social stability. Such young men should be a high priority for future support.

Disabled middle-aged men

239. The Commission has observed that many middle-aged male victims had “broken bodies” as a result of torture or severe, often repeated, beatings. Especially for rural men, whose livelihood depends on being able to farm their land, these disabilities have serious economic consequences. Many expressed anxiety and showed signs of stress because they were not able to provide for their families, and the impact this would have

on their children's education and future opportunities. Unable to fulfil their social role of family provider, many of these men are vulnerable to mental health problems.

Ex-political prisoners and torture survivors

240. The Commission heard repeatedly how the Indonesian security forces routinely tortured those they detained. It also heard of torture and ill-treatment perpetrated in the early years of the conflict by East Timorese political parties. The psycho-social consequences of torture are well documented. The Commission worked closely with many ex-political prisoners and survivors of torture. In some cases, political prisoners showed themselves able to cope well with post-traumatic stress. However, the Commission also heard from many ex-political prisoners that they hold their suffering deep inside themselves. While they appear to cope in their day-to-day lives, they continue to suffer. Some victims told the Commission that their deep-seated feelings sometimes erupt in violence within the family. Former detainees are a high-risk group that should be supported in future programmes.

Victims and families of victims of violence by Fretilin/Falintil

241. The Commission heard about the silence that has surrounded violence committed by East Timorese political parties, especially in the 1975 internal conflict and then between 1976 and 1979 when Fretilin still controlled and administered territory in the interior. Many victims or families of those killed or disappeared have expressed their desire to clear the names of family members and friends. The lack of recognition of both the violence, the losses suffered by families and the injustice of their treatment has caused the deep suppression of feelings and the isolation of people in this category. Without public recognition that these events occurred, it is difficult for those affected to come forward to seek the support they may need.

The future

242. The identification of groups most in need of support is not intended to minimise the needs of individual victims or of communities whose experience does not fit into these categories. It does underline the fact that there are specific groups in need of support within the East Timorese community, and that support programmes tailored to their needs should be developed. A comprehensive needs assessment must be carried out before an appropriate reparations programme can be designed. It is also vital that the Government, East Timorese NGOs and other civil society groups, and religious organisations, as well as international agencies and donors, continue to provide support and step up their efforts to alleviate the suffering of so many victims of human rights violations. Based on the lessons we have learned from working with victims of human rights violations, the Commission has developed a Reparations Scheme which is outlined in Vol 4, Part 11: Recommendations.

Endnotes

1. CAVR Interview with Manuel Cárceres da Costa, UNHCR Repatriation/Protection Assistant, Dili, 25 November 2002.
2. Ibid.
3. Ibid.
4. CAVR Interview with Iria Moniz, Ilat Laun, Bobonaro, Bobonaro, 19 December 2003.
6. CAVR Archive.



Photo/CAVR archives

Chega!

Part 11.

Recommendations

Part 11. Recommendations

11 Recommendations

In an independent East Timor, the children and youth shall represent our hope in the future, and the protection and promotion of their rights shall always be a priority. Their education shall be based on cultivating love and respect for life, peace, justice and equality so that a new world can be built on the ruins of war.

Magna Carta concerning Freedoms, Rights, Duties and Guarantees for the People of East Timor adopted by the National Council of East Timorese Resistance (CNRT), Peniche, Portugal, 25 April 1998.

What's the point of continually collecting information from us if there's nothing to show for it?

Community of Lalerek Mutin, Viqueque

Introduction

The Commission is required to make "recommendations concerning reforms and other measures whether legal, political or administrative which could be taken to achieve the objectives of the Commission, to prevent the repetition of human rights violations and to respond to the needs of victims of human rights violations" (Regulation 10/2001, Section 21.2).

The thousands of first-hand testimonies of victims and witnesses that were given to the Commission have provided this nation and the international community with a clear picture of the intense suffering of the East Timorese people between 1974 and 1999. This suffering was primarily caused by violations against individual citizens committed by state agents particularly after 1975. It was made possible due to the climate of

impunity that prevailed for most of this period due on the one hand to the absence of democratic checks and balances on the Indonesian military within the Indonesian system and, on the other hand, to the tolerance by the international community of the Indonesian government's excesses in the conduct of its affairs.

The Commission has been given the duty to make recommendations that, if implemented, will assist in preventing a recurrence of the violations of the past. As most of the human rights violations recorded in this report were committed by the state and the state has primary responsibility to uphold human rights, prevention must be focussed on ensuring that the actions of state agents do not once again become alienated from legal obligations and the will of the general population. Members of the military, police, intelligence services, judiciary and government agencies must at all times remain strictly accountable to the people, the law and internationally agreed standards. For its part the international community must not only enunciate standards but insist, through all the measures available to it, that these standards are complied with particularly at this stage when the architecture of the new state is still being developed.

History teaches us that nations recovering from long conflict face a difficult task to develop the democratic institutions and laws that can protect and guarantee human rights. Some nations fail to meet this challenge and revert to violence. It should not be taken for granted that human rights will automatically be protected in Timor-Leste. Vigilance against the kind of practices that lead to violations needs to be constant.

The need for vigilance is demonstrated by the fact that although the vast majority of serious violations examined by the Commission were committed by members of the Indonesian security forces, these perpetrators were both Indonesian and East Timorese members of the forces. Although the worst periods were during the military occupation, violations were also committed by East Timorese against their brothers and sisters during the struggle for power in the internal armed conflict of 1975 and within the Resistance especially in 1977. The proper safeguards of a democratic state need to be put in place, strengthened where they already exist, and applied and respected by all the institutions and citizens of Timor-Leste.

These recommendations have been made in the spirit of building a future for our children who must be guaranteed that the violence of the past shall not be repeated. We must learn from the past in order that every child in Timor-Leste can fulfill his and her potential.

The Commission commends the national leaders of Timor-Leste, the elected representatives who developed the Constitution, our members of Parliament and Church leaders and those in government, civil society and the business community who strive to build a nation based on the principles of the Constitution and international human rights. They are motivated by values and objectives born from our painful past which have also been given powerful expression in the Magna Carta of human rights formulated by the National Council of Timorese Resistance (CNRT) in 1998 and the policies of all East Timorese political parties. In recognition of these commitments and out of a deep conviction based on our inquiry, the Commission makes these

recommendations acknowledging that this is a long-term process requiring sustained commitment and action.

The recommendations are organised as follows:

- Timor-Leste and the international community
- Timor-Leste and Portugal
- Human rights in Timor-Leste: protecting and promoting all rights for all
- Human rights in Timor-Leste: protecting and promoting the rights of the vulnerable
- Human rights in Timor-Leste: protecting and promoting rights through effective institutions
- Human rights in Timor-Leste: security services that protect and promote human rights
- Truth and justice
- Reconciliation in the general community
- Reconciliation in the political community
- Reconciliation with Indonesia
- Acolhimento (Reception)
- Reparations
- Follow-on institution.

Recommendations

1. Timor-Leste and the international community

The relationship of Timor-Leste to other nations was defined by the nature of the political conflicts between 1974 and 1999. The conflict in Timor-Leste was not primarily an internal conflict but one of foreign intervention, invasion and occupation that caused the people of Timor-Leste great suffering and loss and violated international law and human rights which the international community was duty bound to protect and uphold. While these relationships have evolved since the intervention of the United Nations in 1999, there are a number of steps to be taken which will assist the building of this new nation and its international relations and will ensure that Timor-Leste's experience is not repeated in other situations.

The Commission recommends that:

1.1. This Report is given the widest possible distribution at all levels in the international community through the media, internet and other networks and particularly within the United Nations and those individual nations and institutions that are highlighted in the Report, viz. Australia, China, Britain, France, Indonesia, Japan, Portugal, Russia, US, the Catholic Church, as well as the East Timorese diaspora and international civil society organisations.

1.2. This Report is disseminated at all levels in the Community of Portuguese Language Countries (Communidade dos Paises de Lingua Portuguesa -

CPLP) with a view to it contributing to greater understanding of Timor-Leste as the newest member of the Community.

1.3. This Report is disseminated at all levels in each of the countries of the Association of Southeast Asian Nations (ASEAN) in order to deepen appreciation of Timor-Leste's recent history and its needs as a new candidate member of this important regional body.

1.4. The Vatican and the governments of China, Britain, France, Japan, and Russia make available to Timor-Leste their classified and other archival material on the period 1974-1999 so that this information can be added to that already provided by other countries to ensure that Timor-Leste, after so many years of isolation, can build a comprehensive depository of information on its history.

1.5. The UN Secretary-General refers the Report to the Security Council, the General Assembly, the Special Committee on Decolonisation and the UN Commission on Human Rights, and requests that each of these bodies devotes a special session to discussion and reflection on the Report and the lessons to be learned from its contents and findings.

1.6. The states that had military cooperation programmes with the Indonesian Government during the Commission's mandate period, whether or not this assistance was used directly in Timor-Leste, apologise to the people of Timor-Leste for failing to adequately uphold internationally agreed fundamental rights and freedoms in Timor-Leste during the Indonesian occupation.

1.7. The Permanent Members of the Security Council, particularly the US but also Britain and France, who gave military backing to the Indonesian Government between 1974 and 1999 and who are duty bound to uphold the highest principles of world order and peace and to protect the weak and vulnerable, assist the Government of Timor-Leste in the provision of reparations to victims of human rights violations suffered during the Indonesian occupation.

1.8. Business corporations which profited from the sale of weapons to Indonesia during the occupation of Timor-Leste and particularly those whose material was used in Timor-Leste contribute to the reparations programme for victims of human rights violations.

1.9. All UN member states refuse a visa to any Indonesian military officer who is named in this Report for either violations or command responsibility for troops accused of violations and take other measures such as freezing bank accounts until that individual's innocence has been independently and credibly established.

1.10. States regulate military sales and cooperation with Indonesia more effectively and make such support totally conditional on progress towards full democratisation, the subordination of the military to the rule of law and civilian government, and strict adherence with international human rights, including respect for the right of self-determination.

1.11. The governments of Australia, Britain and New Zealand undertake a joint initiative to establish the truth about the deaths of the six foreign

journalists in Timor-Leste in 1975 so that the facts and accountability are finally established.

1.12. The international Church, led by the Vatican, honours Dom Martinho da Costa Lopes and the Catholic sisters, priests and laity who were killed in 1999 seeking to protect the people of Timor-Leste.

1.13. The Government of Timor-Leste, with the support of the United Nations, honours the contribution of international civil society to the promotion of human rights in Timor-Leste, particularly the right of self-determination, and invites civil society organisations to contribute their documentation on this struggle to the people of Timor-Leste as a tool for remembering and fostering ongoing relations and solidarity.

1.14. Support, both practical and financial, be given by business, philanthropic bodies, corporations and academic institutions to assist key East Timorese figures and others to document their histories and experiences in order to build up the limited stock of East Timorese-generated literature for future generations.

2. Timor-Leste and Portugal

The Commission recommends that the Portuguese Government:

2.1. Formally acknowledges receipt of this Report, refers it to the Parliament of Portugal and implements the recommendations relevant to Portugal that it contains.

2.2. Supports financially and logistically the dissemination of the Report and its related products through the relevant sectors of Portuguese society and within the Community of Portuguese Language Countries (CPLP).

2.3. Assists the Government of Timor-Leste in the provision of reparations to victims of human rights violations from the conflicts in Timor-Leste.

2.4. Provides copies of relevant official archival material on Timor-Leste from 1960 on to the people of Timor-Leste as an essential part of our national heritage and assists Portuguese civil society organisations, the media and the Portuguese Church to provide material in their possession to Timor-Leste.

2.5. Conducts an audit of artifacts and other cultural property of East Timorese origin currently in Portugal with a view to repatriation to Timor-Leste in order to assist in the conservation, development and diffusion of its culture in accordance with the right to cultural self-determination and the principles of the International Covenant on Economic, Social, and Cultural Rights.

2.6. Promotes two-way relations with Indonesia, bearing in mind Portugal's long historical links with the region and the changed situation in Timor-Leste, in order to deepen mutual understanding and cooperation, particularly at the level of people-to-people relationships, and contribute jointly to Timor-Leste.

3. Human rights in Timor-Leste: promoting and protecting all rights for all

The violence of war in Timor-Leste was not restricted to combatants but also resulted in violations of the human rights of civilians. Civil and political rights and freedoms were violated during the conflict, including the right to life itself and the rights to security of person, participation and the basic human freedoms essential to human dignity and development. The long period of conflict also impacted on the economic, social and cultural rights of the people of Timor-Leste including on the standard of living, health, family welfare and education.

Through the creation of the CNRT Magna Carta and the nation's Constitution and the ratification of the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, Timor-Leste has demonstrated its commitment to break with the past and to promote and protect all rights for all.

The Commission recommends that:

3.1.1. The Government of Timor-Leste adopts a human rights approach to governance, policy-making and development so that all decisions across the whole government system are informed by human rights principles.

3.1.2. The Government takes all measures necessary to ensure the implementation of the rights it has committed to uphold through its ratification of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other treaties.

3.1.3. The Government uses its human rights treaty reporting to the United Nations as a tool to evaluate its progress in implementing all human rights for all and that these reports are made widely available for public discussion in Timor-Leste.

3.2. The right to life, to freedom from hunger and to an adequate standard of living

Large numbers of East Timorese people were killed or died during the CAVR mandate period from conflict related causes, including massacres. Most deaths resulted from preventable famine during the early years of the Indonesian military occupation in violation of the "fundamental right of everyone to be free from hunger" (International Covenant on Economic, Social and Cultural Rights: Art. 11.2).

The Commission recommends that:

3.2.1. Families be assisted to locate and to re-bury the remains of relatives and loved ones who perished during the conflict and that, where resources permit, exhumation according to appropriate standards is carried out to allow for identification and establishment of the cause of death.

3.2.2. In consultation with families and the community, significant sites of killings or deaths be memorialised in honour of the victims.

3.2.3. A public register of the disappeared be established and, in collaboration with the Government of Indonesia, a systematic inquiry is undertaken to establish the whereabouts and fate of those on the list.

3.2.4. The Parliament determines an annual day of national remembrance of the famine of 1978-1979 in order to remember those who perished from hunger and related causes at that time and to encourage discussion, research and educational activities on contemporary food security issues in Timor-Leste, including effective disaster preparedness.

3.2.5. In case of a humanitarian disaster causing people to leave their homes, the Government acts according to the UN Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, 11 February 1998).

3.2.6. The Government develops and implements policies that ensure that the fruits of development are enjoyed equitably, reaching the most isolated communities, benefiting and involving men and women, children, the elderly and the disabled, and providing opportunities to those who are most disadvantaged.

3.3. Right to security of person

The right to security of person is upheld in the International Covenant on Civil and Political Rights but for most of the period 1974-1999 the people of Timor-Leste experienced constant personal insecurity in many forms. This included arbitrary detention, torture, inhuman and degrading treatment or punishment, interrogation, invasion of privacy and unfair trials.

The Commission recommends that:

3.3.1. Buildings in all parts of Timor-Leste that were regular sites of detention be recorded in a national register, along with information about those detained and the conditions of detention in these places, and that selected sites are memorialised with a name plate or in other appropriate ways.

3.3.2. Individuals who continue to suffer physically or mentally from torture or other forms of inhuman and degrading treatment or punishment experienced during the conflict have their condition professionally diagnosed and be assisted with counselling and other forms of rehabilitation.

3.3.3. Law enforcement agencies adhere to the highest standards of due process in relation to the carrying out of arrests, investigations after arrest, access to counsel and detention in custody, as required by domestic law and human rights standards.

3.3.4. The Government applies at all times a policy of open access to outside monitoring of all prisons in Timor-Leste, by institutions of the state, East Timorese civil society and international organisations.

3.3.5. The Government ensures the establishment and maintenance of proper procedures to guarantee that prisoners are held in conditions which respect their human dignity, including:

- Access to full medical care for all people held in custody
- Adequate food and water for all people held in custody
- Proper procedures for holding of child and youth prisoners, including being held separately from adult prisoners
- Proper procedures for holding women and men prisoners in separate facilities
- Provision for the worship of religion
- Development of a programme of rehabilitation of prisoners, in order to help them prepare to return to daily social and economic life and be a full, participating member of the community. Such programmes should be adequately funded
- Strict rules and procedures preventing the use of any kind of torture or sexual abuse of those held in custody
- Strict procedures for the use of solitary confinement. Solitary confinement should only be allowed temporarily and exceptionally on the basis of a court order warranting it. Strict physical and mental health procedures should be developed and implemented for those held in solitary confinement
- Development and implementation of ongoing human rights training for all corrections services personnel, including high ranking personnel.

3.4. Right to security of person: a national commitment to non-violence

For the greater part of the conflict, the people of Timor-Leste were exposed to widespread violence. The conflict between the principal political parties in 1975 degenerated into short-term physical violence in many communities, and Indonesia used military firepower and strength of numbers to force its will on the people of Timor-Leste and maintain its presence at huge cost to many throughout the 24 years of the conflict. The effective use of power depends on cooperation. In a culture of violence and fear, however, force is the preferred way to resolve issues and maintain control and those in power can come to assume an attitude of arrogant superiority over others. Once embedded a culture of violence can become normal and corrupt relations at all levels and in many different ways including between officials and citizens, men and women, employers and staff, teachers and students, parents and their children.

On the other hand, the East Timorese Resistance, the Church and international civil society earned respect and support for their creative use of dialogue and non-violent strategies to achieve their goals of self-determination and independence.

The Commission recommends that:

3.4.1. The people of Timor-Leste explore ways of reflecting deeply on both their negative experience of violence – its origins, uses and impact – and on their positive experience of dialogue and non-violence to achieve their political goals, and how the important lessons from these experiences can be further creatively used to promote a culture of respect, justice and peaceful resolution of conflict in all areas of life in Timor-Leste.

3.4.2. Political parties continue their practice of solemnly renouncing the use of violence in the political process and take the strongest possible stand against any in their midst who advocate violence, compromise the professional impartiality of the police and military, or who support groups in any way associated with violence.

3.4.3. The Parliament institutes an inquiry into land disputes that have arisen as a result of the wide-scale resettlement programmes undertaken during the Indonesian occupation, with a view to promoting peaceful mediation of these disputes and avoiding violence.

3.4.4. The public campaign to raise awareness and support for the prevention of domestic violence be continued and intensified, particularly in the districts.

3.4.5. Timor-Leste uses its membership of regional and international forums to be a vigorous opponent of military aggression and a strong advocate of international principles, the UN system and dialogue and diplomacy in the resolution of conflict.

3.4.6. The education system in Timor-Leste, both governmental and private, promotes values in education and develops courses and teaching methods to impart skills and a culture of peace, respect, and non-violence to students, including exposure to East Timorese and other figures who achieved their goals, both big and small, peacefully.

3.4.7. The power of sport, music, drama and other arts in Timor-Leste are harnessed as tools to promote peace, non-violence and the building of positive values and community relations, especially among youth.

3.5. Right to participation – guaranteeing essential freedoms

The freedoms which are essential to exercise the right of participation were repressed under both the Portuguese colonial system and the Indonesian regime of occupation. Those who exercised their rights to freedom of information, opinion, movement, association and assembly during the conflict with Indonesia ran grave risks, were forced to operate clandestinely and often suffered grievously for exercising these rights. Secrecy and heavy-handed control were the hallmarks of the system. This resulted in the killing of foreign journalists and, inter alia, the massacre of demonstrators at the Santa Cruz cemetery on 12 November 1991. Only information, media, political parties and associations acceptable to the Indonesian military were tolerated and freedom of movement within Timor-Leste and abroad was monitored and restricted. East Timorese were treated as subjects not as citizens. As a result, government was not accountable, development failed and human rights violations were committed with impunity.

The Commission recommends that:

3.5.1. The Government of Timor-Leste continues its policy of open government in its dealings with the community and, in the interests of promoting participation and accountability, seeks to maximise open two-way communication with the community, including through their elected representatives in the Parliament, civil society organisations and the media.

3.5.2. The parliament enacts legislation on national archives to ensure that official records in all parts of Timor-Leste are appropriately preserved and organised based on a standard national system and that, to enhance public participation and the accountability of public servants, the rules of access place very few restrictions on the information that can be made public and include Freedom of Information provisions.

3.5.3. Publishers, journalists and all sections of the media recognise that their role is vital to effective citizenship in Timor-Leste and that their overriding professional responsibility is to provide independent and accurate news, information and alternative points of view on significant public issues to all sections of East Timorese society.

3.5.4. The media institute an annual award for investigative journalism carried out by an East Timorese journalist and that this award be given in honour of journalists who lost their lives in Timor-Leste in the service of the truth during the period 1974-1999.

3.5.5. The fundamental importance of the rights of freedom of movement, opinion, association and assembly to the vitality and creativity of political, cultural, social and economic life in Timor-Leste continue to be recognised and upheld and, in particular, that law enforcement agencies continue to receive training on these rights and on strict procedures for the peaceful handling of public demonstrations.

3.5.6. Defamation laws not be criminalised, allowing for the proper regulation of these matters by the civil courts.

3.6. Right to participation – citizenship

After generations of marginalisation, the individual citizen is now the centre of the new democratic nation of Timor-Leste - as beneficiary and as actor. This shift owes much to the spirit of inclusiveness that was developed by the Resistance and that contributed significantly to its success. The opportunity to contribute remains equally important for the future – both as a right and as a duty inspired by the same sense of initiative, creativity, self-reliance and self-sacrifice that served Timor-Leste well in the past. The Commission was repeatedly reminded that the “little people” want to be able to participate fully in the life of the new nation despite the distance felt, especially in the rural areas, from the mechanisms and processes of government and decision-making.

Citizenship symbolises our unity as a nation. It is based on a sense of belonging to this country, national pride and commitment to our people, values and common future. It is essential to nurture the sense of citizenship through on-going public education about its importance and what it means in practice.

The Commission recommends that:

3.6.1. A comprehensive civic education programme is implemented that is focussed on the structure, institutions and processes of democracy and the rights and obligations of citizens; this programme should also be taught in the schools.

3.6.2. All public servants, including police, military, teachers and staff in government departments, continue to receive training, periodic in-services and performance evaluation on their role as servants of the government and citizens of Timor-Leste to ensure that they carry out their duties in a politically impartial, ethical and professional manner.

3.6.3. A Citizenship Day is established in Timor-Leste in order to heighten awareness of the meaning and importance of citizenship and to promote and celebrate our democratic values and responsibilities.

3.6.4. Annual awards be established for East Timorese citizens who make a special contribution to their local community or to the nation and are recognised as models of initiative and good citizenship for the emulation of others, particularly youth.

3.7. Right to education and cultural self-determination

The International Covenant on Economic, Social and Cultural Rights (Article 15) recognises the right of all to cultural life and the related need to conserve, develop and diffuse culture including through the formal education system. Though parts of Timor-Leste's unique way of life and culture survived, this right was denied to varying degrees under the colonial systems introduced by Portugal and Indonesia. The Portuguese system particularly neglected education for the people. Indonesia, though it addressed illiteracy and provided educational opportunities, used these as vehicles to promote integration not cultural self-determination.

The Commission commends the Government for its commitment to universal education and recommends that:

3.7.1. Ways of drawing on East Timorese culture and traditions be further developed as a source of national identity and nation-building, including through the education system, and that research for this purpose is undertaken by universities and relevant agencies.

3.7.2. The Government and Church education systems collaborate to develop curricula and teaching methodologies which are values-based and aimed at developing key values which are appropriate to Timor-Leste's traditions and current situation and that will promote a culture of peace, non-violence, and human rights.

3.7.3. The Government and Church education systems collaborate to develop a human rights curriculum and teaching methodologies for use at all levels of the education system and that makes use of this Report and related materials to ensure the course is grounded in Timor-Leste's lived experience.

3.7.4. The Government, bearing in mind creative initiatives undertaken in 1974-75, develops special programmes aimed at eradicating illiteracy in Timor-Leste, including for adults, especially women in remote communities;

3.7.5. The Department of Education, teachers and academics make use of the multi-media resources created and collected by CAVR - during its work

on reconciliation and its inquiry into the period 1974-1999 - as a way of enriching East Timorese content in the education curriculum and to assist in the teaching of history, political science, conflict-resolution, international relations and law.

3.7.6. The Government establishes a programme of repatriation for East Timorese artefacts, documents and culturally-related material currently outside the country and invites governments, institutions and individuals who have these items in their possession to return them to Timor-Leste to assist in the conservation, development and diffusion of East Timorese culture in keeping with Article 15 of the International Covenant on Economic, Social and Cultural Rights.

3.7.7. The Government establishes a programme to restore and preserve sites and materials of particular cultural importance damaged or destroyed during the conflict such as the Palácio das Cinzas site in Dili to serve as a reminder to future generations of the destruction of 1999 and the challenges that had to be faced by the East Timorese leadership in establishing the new state.

3.8. Right to health and a sustainable environment

The enjoyment of basic rights to health, adequate food, housing and livelihood depend on a healthy environment. Harm to the environment is not only a crime against nature it is also a violation of human rights. Timor-Leste suffers from obvious depletion of its flora, fauna and soil. This is due to many factors but includes colonial exploitation of natural resources, war damage, the disruption of land care due to the long conflict, the consuming of native plants and animals during periods of displacement, and the removal of flora and fauna as war trophies to Indonesia.

The Commission recommends that:

3.8.1. The United Nations Environment Programme (UNEP), which has considerable experience in post-conflict environmental regeneration, is invited to undertake a study of the environmental situation in Timor-Leste and, taking into account excellent projects already underway, to make recommendations for remedial activities to help Timor-Leste realise the UN Millenium Development Goal of environmental sustainability.

3.8.2. Regions where defoliants are believed to have been used for military purposes are researched to ensure that they are safe for local communities and that, if necessary, rehabilitation is undertaken in cooperation with the affected communities and with the support of governments and companies who were involved in the supply of military equipment to the Indonesian armed forces.

3.8.3. The herbal and other alternative medicines and remedies used in the interior during the war of resistance be documented and evaluated for their effectiveness with a view to continued use.

3.8.4. A long-term public education programme be undertaken, including through the education system, to deepen community understanding

of the relationship between a clean physical environment and health, especially for children.

3.8.5. World Health Day, held on 7 April each year, be successively devoted to each of the above themes.

4. Human rights at home: promoting and protecting the rights of the vulnerable

4.1. Women

During the conflict women played a crucial role in East Timorese society – both in Timor-Leste and in the diaspora – as the bedrock of families and communities, often left without husbands, brothers or fathers for support, and as advocates for human rights. In Timor-Leste, the conflict created conditions which limited the freedoms of women and girls who were also especially vulnerable to violations of human rights. These included rape, sexual slavery and other forms of sexual violence which, though mainly perpetrated by the Indonesian security apparatus also involved East Timorese men. Women who were victims of sexual violence were often ostracised by their community, increasing their vulnerability to new violations. Some continue to be victimised today because of their experience.

Through its interaction with victims and their families, the Commission observed that domestic violence was a common occurrence in the current lives of many victims. For example, some male survivors of detention and torture told the Commission that they had fallen into a pattern of violent behaviour.

The incidence of domestic violence and sexual assault in Timor-Leste remains high. A national commitment to the elimination of violence against women, in both the public and private domains, is essential to break the cycle of violence and fear that characterises the lives of many women and girls. This programme of action must also promote the development of a culture of equality because discrimination against women is a key contributing factor to violence against women.

The Commission recommends that:

4.1.1. The diverse contributions of women involved in the Resistance – internally and in the diaspora - be more fully recognised and that additional ways of documenting and disseminating their contribution be developed, including for teaching in the schools.

4.1.2. The call by Komisi Penyelidik Pelanggaran HAM Tim-Tim (Commission for the Investigation of Human Rights Violations in East Timor, KKP-HAM) to the Government of Indonesia to provide rehabilitation, compensation and support to the victims of the 1999 upheaval in Timor-Leste, including women and families, be implemented.

4.1.3. Crimes against humanity and war crimes committed in Timor-Leste which involved sexual violence against women and girls are excluded from any amnesty provisions, in accordance with UN Security Council

Resolution 1325 on Women, Peace and Security (par. 11, S/Res/1325 2000).

4.1.4. Continuing prejudice against women who have been victims of sexual violation be urgently addressed by the Government, religious institutions, local communities and civil society organisations in order to uphold the dignity of those who have suffered in this way.

4.1.5. The Government, together with religious organisations and civil society, continues efforts to eliminate all forms of violence against women and that measures to be taken include (a) the urgent introduction of legislation on domestic violence, including emergency measures to protect victims at times of crisis; (b) the provision of more resources and training to law enforcement agencies, the judiciary and legal aid groups, in order to enable an effective response to cases of domestic violence; (c) continued support for agencies and civil society organisations providing quality services and support to victims, and to those who work with men to transform patterns of violent behaviour.

4.1.6. The National 16 Days of Activism against Violence against Women be continued each year and be intensified particularly in the districts.

4.1.7. The Armed Forces and Police Services develop strong enforcable policies which promote gender equality, outlaw sexual exploitation and violence against women and impose the strongest possible sanctions on security personnel guilty of breaches of these policies so that never again should East Timorese women have cause to fear those entrusted to protect and uphold their rights.

4.1.8. The harmonisation of Timor-Leste laws with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is continued, that adequate capacity is provided to institutions responsible for the implementation of CEDAW and reporting to the UN on Timor-Leste compliance with CEDAW, and that understanding of CEDAW is promoted in the community, particularly through the education system, the media and the Church.

4.1.9. Access to information and services on reproductive health care, family planning and parenting are widely available to both men and women, including through the schools, in order that decisions about reproduction are informed and the responsibilities of reproduction and parenthood are equally shared and free of coercion or violence.

4.1.10. Measures are taken to recognise and support the role of women in the prevention and resolution of conflicts and in peace-building, including at the local level.

4.1.11 The Government upgrades the Office for the Promotion of Equality to a Ministry of Women's Affairs as a way of further promoting and mainstreaming gender equality and the full participation of women in the economic, social, cultural and political life of Timor-Leste, including through the promotion of literacy for rural women and the greater participation of girls and women in secondary and tertiary education.

4.2. Children and youth

The rights of children were violated during the years of conflict. Children saw or experienced traumatic violence, died from starvation, were displaced from their homes, orphaned, separated from their parents, and were disadvantaged through lack of access to health, educational and other services. Children were also conscripted into the fighting, both during the internal armed conflict in 1975 and during the Indonesian occupation when they were used by the Indonesian military to provide logistic and other support. Some children were taken away from their families by the Indonesian military and officials, often to distant places in Indonesia, and remain separated from their families. With profound sadness, the Commission heard from East Timorese children in West Timor that they felt a dual sense of belonging to and alienation from Timor-Leste.

To ensure a better future for children in Timor-Leste, the Government has ratified the Convention on the Rights of the Child. In so doing, it has committed itself to protect and ensure children's rights and agreed to be accountable for this commitment before the international community. Ensuring a future for our growing youth population is one of Timor-Leste's main challenges.

The Commission recommends that:

4.2.1. The process of harmonising Timor-Leste laws with the Convention on the Rights of the Child (CRC) is continued, that adequate capacity is provided to institutions responsible for the implementation of the CRC and reporting to the UN on Timor-Leste compliance with CRC, and that understanding of CRC is promoted in the community, particularly through the education system, the media and the Church.

4.2.2. A public education campaign similar to that already underway on domestic violence be undertaken to educate parents, teachers and the community about the effects of physical and emotional violence on children and to provide alternative forms of behavioural control and character development.

4.2.3. Positive role models for girls and young women, and for boys and young men, be identified and promoted.

4.2.4. Adequate resources be allocated to the development of sporting infrastructure and management so that the potential of sport to contribute to community relations and the holistic development of youth, including equal access for girls and young women, is realised.

4.2.5. Reproductive health education programmes that are accurate, balanced and comprehensive and that promote responsibility are provided to the youth of Timor-Leste in keeping with Article 17 of the CRC which upholds the right to know especially where information promotes social, spiritual and moral well-being and physical and mental health.

4.2.6. Measures are undertaken to ensure that the Government policy of universal education is extended in practice to all children, especially orphans, the disabled and those in remote rural communities including

to guarantee that all girl children have full and equal access to education, and that more opportunities for vocational training are provided.

4.2.7. East Timorese children who were taken to Indonesia and remain separated from their parents and families are given the opportunity for family contact and reunion, including the option of freely returning to Timor-Leste, in keeping with Articles 9 and 10 of the CRC.

4.2.8. Special consideration is given to the situation of East Timorese children who have been disadvantaged educationally and in other ways because of their clandestine work and sacrifices as youth for the liberation of Timor-Leste.

5. Human rights at home: promoting and protecting human rights through effective institutions

5.1. An effective civil society

The freedoms required for the flowering of civil society were denied for most of Timor-Leste's colonial history and harshly repressed during the Indonesian occupation. Nevertheless, civil society emerged as a positive force for change both in Timor-Leste itself and in Indonesia and, together with international civil society, played an important role in the struggle for self-determination and independence. This role, the independence of civil society and the values of initiative and commitment to human rights that inspired it, are equally critical today. Outside government and political parties, civil society is the principal vehicle for the participation and contribution of citizens to nation-building. It is important that this sector enjoys an enabling environment as Timor-Leste continues to make the transition from opposition to constructive interaction between government and civil society.

The Commission recommends that:

5.1.1. Support and encouragement continue to be provided to civil society in Timor-Leste so that it can adequately fulfill its role in amplifying the voices of the poorest, contributing to development and holding government and business accountable, and that the fundamental civil and political freedoms that are necessary for this sector continue to be respected and upheld.

5.1.2. Civil society organisations, while valuing their independence and diversity, continue to find ways of working cooperatively with other NGOs, nationally and internationally, both to ensure the best use of scarce resources and the impact of their advocacy and contribution, and to exemplify in their organisation strong community links and the highest possible standards of democracy, professionalism and accountability.

5.1.3. Government and civil society organisations, while respecting each other's respective roles and independence, continue to build direct channels of communication in order to foster interaction through policy dialogue, consultation, shared training, and operational collaboration.

5.1.4. Government and donors continue to provide financial assistance, training and other forms of support for civil society in Timor-Leste to ensure it has the capacity to take its seat at the table and fulfill its role constructively and effectively.

5.1.5. International organisations provide specialist training to national NGOs to enable them to contribute to the process of external scrutiny when the Government makes its treaty-based reports on human rights to the United Nations.

5.1.6. The Catholic Church and other faith communities continue to contribute to the building of a culture of peace and human rights in the community, to providing assistance to victims of human rights violations and to fostering reconciliation and social cohesion.

5.2. An effective Parliament

Under Portugal and Indonesia, Timor-Leste had legislative institutions but these bodies were not representative of the people or accountable to them and served the interests of those in power rather than the people. This system has been replaced with a democracy in which a parliament freely elected by the people is sovereign. This new system is characterised above all by responsiveness and accountability to the people, through both its legislative function and, on behalf of the people, its scrutiny and monitoring of the executive government and public service, including the expenditure of public money.

The Commission recommends that:

5.2.1. Members of Parliament have sufficient facilities and resources to carry out their responsibilities effectively on behalf of the people.

5.2.2. The National Parliament and individual Parliamentarians continue to strengthen their representative role and demonstrate accountability to the people through mechanisms such as regular reporting, visits to the districts and interaction with the community, public hearings, and communication through the media.

5.2.3. The National Parliament and its members have an on-going programme to inform and educate the community about the role of the Parliament, particularly among young people and in schools; this will help overcome the sense of alienation inherited from the past by increasing understanding about the role of Parliament on behalf of the people and will encourage participation both through voting in elections and through a more active role in politics and use of the system.

5.2.4. The executive government and public service acknowledge the sovereign role of the Parliament and, in a spirit of accountability and partnership, make themselves regularly available for policy dialogue, consultations and questions from members of Parliament on behalf of the people.

5.2.5. The National Parliament enacts legislation to meet the reporting obligations of Timor-Leste under human rights treaties that have been ratified.

5.3. An effective judiciary

An independent, functioning judicial system is essential to secure the rule of law in Timor-Leste. During the Indonesian occupation, the judicial system was seriously flawed. The independence of the judiciary from government policy was compromised, and the judicial system failed to protect the basic human rights of those accused through due process. In so doing it contributed substantially to the culture of impunity, the breakdown of the rule of law and itself was the cause of human rights violations.

A result of this experience is that many East Timorese people do not trust the judicial system. They know the system during the Commission mandate period was corrupt, inaccessible and politically influenced. This is a major challenge in developing a new judicial system.

A fair, professional, accessible and effective judicial system is a cornerstone of establishing the rule of law in Timor-Leste. Experience shows that the rights of people can only be protected when there is an effective way to hold power accountable before the law. Without this accountability, protection of human rights is virtually impossible. The development of a strong, independent judicial system in Timor-Leste is a fundamental pillar of our new democracy. It should be given appropriate priority in terms of funding and policy.

The Commission recommends that:

5.3.1. The Government finalises formulation of the Penal Code and the Code of Criminal Procedures, incorporating adequate formulation of crimes against humanity and war crimes.

5.3.2. All the measures necessary to ensure the independence of the judiciary are put in place, including:

- Administrative autonomy of the Prosecutor General's office and the courts, as well as the development of a mechanism of judicial appointments and tenure that is insulated from political pressures
- Priority being given to a sustainable programme of education and training for East Timorese judges
- Development of career paths for judges, including a system of proper remuneration and tenure in order to reduce the risk of corruption or political pressure on judges
- Development of an independent supervisory system, established by legislation.

5.3.3. Access to the judicial system for East Timorese citizens is guaranteed by:

- Ensuring that there is an adequate number of East Timorese judges and that university law schools and other resources of a suitable standard are available
- Ensuring that there is an adequate number of well-trained judicial administrative officials to support the work of the courts
- Ensuring that courts can regularly sit in the districts
- Ensuring that East Timorese citizens coming before the courts have access to support in their mother tongue

- Guaranteeing the independence of public prosecutors
- Allocating adequate resources to defence lawyers and to para-legal support services to ensure that East Timorese citizens, accused and victims, can understand the judicial and legal system
- Ensuring that people arrested are brought before a court within the statutory time period, and that the court can convene at short notice to guarantee this.

5.3.4. The appellate system is strengthened in order to provide internal enforcement of the highest international legal standards.

5.3.5. The Government ensures that the judicial system is fully resourced to fulfill its vital functions by making it a high priority in the national budget.

5.3.6. The United Nations and international community continue to support the development and strengthening of the legal and judicial system in Timor-Leste to ensure accountability before the law.

5.4. An effective public service

The public service in Timor-Leste during the Indonesian occupation had many of the negative features of the Indonesian bureaucracy of which it was a part: the system was politicised, centralised, top-down, corrupt, over-staffed, inefficient, wasteful of government resources and did not enjoy the confidence of the community. Families with connections to local elites and civil servants got faster and cheaper access to basic services. Corruption, high costs and bribes, and personal connections in public service delivery worked most heavily against the poor.

Today, the system in Timor-Leste, like its Indonesian counterpart, is still weak and is caught in an "institutional limbo" between the old structures and the emergence of a new institution and culture. To deliver the economic, social and cultural services to which the citizens of Timor-Leste are entitled as human rights, public servants must be politically impartial, appointed and promoted on merit, and be people of integrity and professional competence characterised by a strong ethos of duty and service.

The Commission recommends that:

5.4.1. Recruitment to the public service is based on equal opportunity and merit, not political affiliation, and that women are given every encouragement to apply and occupy positions of leadership in the government bureaucracy.

5.4.2. The training provided to public servants includes a strong emphasis on the equal rights of all citizens in Timor-Leste to services which protect and uphold their economic, social and cultural rights without discrimination and that this training is reinforced in practice through regular evaluation of staff performance, encouragement of feedback from citizens, including allegations of bribery, and the rewarding of best practice.

5.4.3. Government Ministers and senior public servants, including in the districts, practice accountability by informing citizens of policies and

services, consulting with interest groups and being available to the media, and through regular attendance at the National Parliament to answer questions and hear the concerns of Members.

5.4.4. Allegations or evidence of patronage, favouritism, bribery or abuse of government property and equipment, even in small ways, are investigated and dealt with promptly, impartially and in a transparent manner, and those found guilty are appropriately sanctioned.

5.4.5. Budgets, expenditure and audits of government departments and agencies are published and the subject of public scrutiny.

5.4.6. Civil society organisations and the media inform citizens of their rights in relation to service delivery and government accountability and develop ways of acknowledging and rewarding best practice in the public service.

5.5. An effective Provedor

Timor-Leste's recent history shows how state institutions that are not respectful of the rule of law have a disproportionate capacity to contribute to human rights violations. For most of the period reviewed by the Commission, the East Timorese people lived without the protections of effective rule of law or the functioning of a financially accountable administration. Establishing these as the norm is a significant challenge for the government, civil society and the community.

The Commission applauds the establishment of the Office of the Provedor for Human Rights and Justice, and acknowledges the key role this independent institution has in protecting human rights in Timor-Leste including those rights at risk from corruption in the public sector.

The Commission recommends that:

5.5.1. The Office of the Provedor, in order to carry out its mandate to protect human rights and to prevent corruption effectively, be guaranteed full independence and appropriate levels of funding and human resources; the Provedor conducts a review of all laws, public policies and procedures relevant to the prevention of corruption, and reports to the National Parliament on reforms required to establish a strong legal framework and mechanisms to promote government integrity and to prevent corruption at all levels of public administration.

5.5.2. The National Parliament adopts the legislation recommended by the Provedor, that all sections of government and the public administration implement the recommendations and that a strict monitoring regime be put in place.

5.5.3. The State of Timor-Leste ratifies the UN Convention Against Corruption (UNCAC) which it signed in December 2003.

5.5.4. The Office of the Provedor holds regular consultations with business and civil society on the issue of corruption, uses International Anti-corruption Day on 9 December to heighten public awareness of the

damage corruption does to the poor, development and foreign investment, and cooperates with organisations such as Transparency International to undertake a thorough and objective report on Timor-Leste as part of its Global Corruption Report.

5.5.5. The Office of the Provedor works with the private sector and the Chamber of Commerce to develop an anti-corruption code of conduct for business and that resources and training are provided to all members of the Chamber.

5.5.6. The Office of the Provedor develops as a state institution which the people regard as close to their communities and problems and which can assist in finding quick and effective responses to potential or actual human rights abuse, including by developing early warning mechanisms in areas where violence might develop.

5.6. An effective Church community

The Catholic Church has a significant place in East Timorese history and society. Though largely compromised during the Portuguese period, the Church was a strong advocate for human rights in Timor-Leste during the Indonesian occupation consistent with Catholic social doctrine based on the dignity and value of each human person. In partnership with other faith communities, it has a responsibility and resources to continue as a major force for human rights in the new democratic era.

The Commission recommends that:

5.6.1. The Church continues its mission to protect and promote human rights in Timor-Leste both through its services to the community in health, education and other areas and, where necessary, through public advocacy in defence of human rights.

5.6.2. The Church, through its organs for justice and peace, provides human rights training to all its personnel, including seminarians, teacher trainees, members of religious orders and catechists.

5.6.3. The Church reviews past practices of excluding women who were victims of sexual violence from the full life of the Church, thereby significantly increasing their experience of social stigmatisation, and addresses its responsibilities to these women.

5.6.4. The Church develops a programme of human rights education, which includes due emphasis on the rights and duties of citizens, for dissemination to the community through its network of parishes and schools.

6. Human rights at home: security services that protect and promote human rights

Building a new paradigm for the security services is one of the biggest challenges for Timor-Leste. It involves breaking with past models in which, particularly during

the Indonesian period, the security apparatus was an instrument of force rather than community service, was a major perpetrator of human rights violations, was not accountable to the rule of law or subject to civilian control and did not enjoy the trust of the people. The demarcation of roles between the armed forces and police was ill-defined and the security apparatus proliferated into an unmanageable plethora of militia, groups and networks with differing loyalties and roles. The military had a dual role (*dwi-fungsi*) which, in addition to regular defence and security, also legitimated its intervention in socio-political affairs. The East Timorese Resistance developed a similar policy in 1975 when it broke with the Portuguese practice of non-involvement in politics (*apartidarismo*) and aligned mainly with the Fretilin party until the policy was discarded in favour of political impartiality in the 1980s.

The Commission fully supports current government policies which are focussed on the development of a politically neutral professional security apparatus. The following recommendations are intended to reinforce this new paradigm for the sake of the protection of human rights in Timor-Leste.

6.1. An accountable security policy

The Commission recommends that:

6.1.1. A public education programme be undertaken to deepen community understanding of Timor-Leste security policy and the role, limits and accountability of the police and armed forces.

6.1.2. This education programme highlights and explains the following:

- The democratic control of the security policy and apparatus by the civilian authorities (President, Cabinet and Parliament), as provided for in the Constitution
- The duty of the security apparatus to uphold human rights in compliance with the rule of law as laid down in the Constitution and legislation
- The duty of the security apparatus and their members to stand apart from political life and under no circumstances to use their resources for political purposes, as occurred in the past
- The duty of the security apparatus to comply with national security policy as articulated by the National Parliament in order to ensure (a) that there is a clear demarcation of roles; (b) that there is no proliferation of agencies as occurred in the past (c) that there is no breakdown of coordination leading to inter-agency rivalry and abuses as in the past; (d) that there is no politicisation of the security apparatus as occurred in the past; (e) that the security budget and weapons procurement and distribution are overseen and approved by the National Parliament; and (f) that the human rights of civilians are not violated at a time of national crisis (such as a state of siege or state of emergency when extra powers are given to the security apparatus) as happened in the past
- The rules governing arrest by the police and the rights of the public in these situations so that there is no recurrence of past practices of

- arbitrary arrest and detention and the potential abuses which can occur in such circumstances
- The rules governing police behaviour during public demonstrations to ensure that there is no recurrence of the serious human rights violations that occurred in the past in these situations.

6.2. Police Service

The Commission recommends that:

6.2.1. The National Parliament plays an active role as the final civilian oversight mechanism of the Police Service and receives regular reports from the Minister of the Interior who is responsible for the police and answerable to Parliament.

6.2.2. Members of the Police Service are accountable for their actions outside the law and police involved in cases of human rights abuse should be brought before a normal court of law and not shielded by police or internal procedures.

6.2.3. Procedures and mechanisms for reporting complaints about police behaviour are established in collaboration with the Office of the Provedor in order to reverse the practices of the past when the security enjoyed impunity and the public had little recourse to justice.

6.2.4. A paradigm shift in police culture is fostered aimed at replacing a past "police force" mentality with a stronger emphasis on a community service approach to policing.

6.2.5. In addition to technical training all police personnel, including senior officers, receive on-going training in both the theory and practice of human rights as part of their professional development as protectors of human rights.

6.2.6. All police personnel, including senior officers, receive ongoing training in relation to gender-related crimes and the rights of victims of such crimes.

6.2.7. Specialised and ongoing training is provided on the gathering of evidence, forensic practice and appropriate methods of interrogation in order to lessen the risk that members of the police will seek to gather evidence from confessions obtained under duress.

6.2.8. The police respect the right of civil society organisations to monitor their work in order to ensure protection of human rights and, in collaboration with such organisations, develop procedures to ensure access.

6.2.9. Members of the Timor-Leste police be encouraged to join international peacekeeping operations under the mandate of the United Nations in order to increase experience of international best practice.

6.3. Defence Forces

The Commission recommends that:

6.3.1. The National Parliament establishes monitoring mechanisms to ensure that it effectively oversees the military.

6.3.2. Members of the Defence Forces are treated as citizens of Timor-Leste, not a separate caste above the rule of law and norms of society as happened in the past, and accordingly will be brought before a normal court of law if involved in cases of human rights abuse.
6.3.3. The role of the Defence Forces is limited to external defence and assistance in the event of a non-military disaster as determined by National Parliament; the use of the military to control perceived internal threats, as happened in the past, is prohibited in Timor-Leste.
6.3.4. Members of the Defence Forces at all levels should play no role in political life or in business and should only take direction from the legally authorised state institutions.
6.3.5. The development of civilian extensions of the military through the quasi-militarised or intelligence groups be prohibited, because in the past such practices contributed to human rights violations and were a cause of major divisions in the community.
6.3.6. On-going training in international human rights, humanitarian law and civic education is provided to the members of the Defence Forces, including senior leadership.
6.3.7. Ongoing dialogue is encouraged between national human rights organisations and the Defence Forces in relation to human rights and the respective roles of civil society and a professional military in a democracy.
6.3.8. Members of the Defence Forces are encouraged to join international peacekeeping operations under the mandate of the United Nations in order to increase experience of international best practice.
6.3.9. The Defence Forces not conduct joint training exercises with armed forces that have a known and proven poor human rights record and that, if this is in question, the National Parliament decide on the appropriateness of such training.

6.4. Other security agencies

In addition to the armed forces and the police, a plethora of community-based security groups and networks emerged on both sides during the conflict period. Those on the Indonesian side in particular were part of the doctrine of "total people's defence" and as such were sanctioned and armed by the state and were responsible for an array of human rights violations committed with impunity.

To ensure these developments do not recur in Timor-Leste to the detriment of human rights, the National Parliament must take responsibility for the ultimate oversight of security issues and policy.

The Commission recommends that:

6.4.1. State security bodies such as intelligence gathering agencies are strictly regulated by law, monitored and held accountable for their actions when these exceed their legal mandate.

6.4.2. Officers in such security agencies participate in training about the role of these agencies in a democratic country and also receive human rights training.

6.4.3. State intelligence and security agencies are coordinated and subject to parliamentary oversight.

6.4.4. Legislation is enacted by National Parliament regarding non-state security agencies which, inter alia, requires that private security companies receive compulsory training by the Police Service and in human rights and that all such agencies are registered.

7. Justice and truth

> *Because of what took place on 20 August 1982 many of our people died, women were raped, became widows, children became orphans, many became impoverished, many are still traumatised…Do you think by taking statements from the people we can resolve [our problems] and heal our wounded hearts? Do you think by bringing people who committed crimes to the courts we can heal our wounded hearts?*
>
> Letter from the people of Mau Chiga (Hato Builico, Ainaro), 31 May 2003

The Commission has listened to the voices of victims of serious violations of human rights from all districts of Timor-Leste. In recording nearly 8,000 individual statements, and listening to testimony in hearings at national, sub-district and village level, the Commission has sought to understand better the demands of the people for justice for past crimes. The Commission understands that the demands and needs of any two victims may not be the same, and that any single solution is unlikely to meet all the needs of all victims. From its relationship with victims of serious violations across the country, the Commission concludes that the demand for justice and accountability remains a fundamental issue in the lives of many East Timorese people and a potential obstacle to building a democratic society based upon respect for the rule of law and authentic reconciliation between individuals, families, communities and nations.

The Commission has completed its mandate to establish the truth of past human rights violations. The ability of the Commission to do this was based on its good faith with victims of human rights violations and by respecting their dignity and their right to demand justice for the crimes committed against them. The Commission considers that truth is a fundamental basis for pursuing justice and building new relationships founded on honesty and mutual respect. In addition to justice measures, the Commission believes it is important that the truth established in its Final Report be widely available to the people of Timor-Leste for generations to come, and for the governments and general public of nations who have an involvement in the story of Timor-Leste. Preservation, dissemination and development of educational materials are all important aspects to be followed up to secure the legacy of the CAVR and to honour the trust that the people of Timor-Leste placed in the Commission.

7.1. Justice for past atrocities

The findings of this Report show that the human rights violations which occurred in Timor-Leste were spread across most of the 25-year period from 1974-1999. The international community demonstrated its horror at the crimes committed in 1999, when the world witnessed systematic atrocities compounded by the failure of the Indonesian authorities to honour their agreements to guarantee security. An additional factor in the international outrage was the killing of UN personnel during the violence surrounding the Popular Consultation.

Egregious as they were, however, the crimes committed in 1999 were far outweighed by those committed during the previous 24 years of occupation and cannot be properly understood or addressed without acknowledging the truth of the long conflict. The Commission was established during the same period as the Serious Crimes Unit and the Special Panels for Serious Crimes, as part of the fight against impunity and the struggle to achieve genuine reconciliation.

The Commission acknowledges the difficulties faced by the international community and the governments involved as they continue to seek resolution to the issue of serious crimes of 1999. The Commission notes that, in this process, the international community has paid little or no attention to the issue of justice for the grave crimes committed in Timor-Leste throughout the 23 years prior to the 1999 atrocities. Now that the Commission has reported on the truth of these atrocities, it is its mandated duty to draw the appropriate conclusions based on concerns of international law and not on political considerations. The findings of the Commission indicate that there have been no adequate justice measures for the crimes against humanity committed in Timor-Leste throughout the 25-year mandate period. Based on its mandate founded on respect for international law, the Commission concludes that justice for past crimes must encompass the violations committed throughout the 25-year period of its mandate.

The legacy of this lack of justice for years of human rights violations is manifold. For both Timor-Leste and Indonesia the result is that impunity has become entrenched. Those who planned, ordered, committed and are responsible for the most serious human rights violations have not been brought to account, and in many cases have seen their military and civil careers flourish as a result of their activities. Respect for the rule of law and the organs of the state responsible for its administration, a fundamental pillar of the democratic transition in Indonesia and nation building in Timor-Leste, will always be extremely fragile in this context.

The conflicts in Timor-Leste were of an internal nature during the confrontation of August-September 1975, while Timor was still a non-self governing territory under Portuguese authority. When Indonesian forces invaded Timor-Leste, from October 1975, the conflict was internationalised. Independently of the nature of the conflict, however, the crimes committed over this long period reached on many occasions the threshold of extreme conduct that invokes the responsibility of the international community.

In addition to the nature of the crimes, serious immediate circumstances invoke the responsibility of the international community. The Commission is persuaded that our nascent and still fragile State cannot be expected to bear the brunt of pursuing the daunting task of justice on its own. It is further concerned that the State of Indonesia has never shown a genuine will to bring to book the perpetrators, not just for the crimes committed for 1999, but for any of the crimes committed during the long occupation. Therefore the Commission believes that the definitive approach to achieve justice for the crimes committed in Timor-Leste should hinge critically on the commitment of the international community, in particular the United Nations. They should provide unqualified support for strong institutions of justice, able to act independently of the political situation within and outside Timor-Leste.

The Commission is aware that any formula for the solution to impunity for the crimes committed in 24 years of conflict and occupation will be complex and difficult to achieve. However, a few elements should be identified. Any formula to seek justice for the victims should be based on respect for international law and guarantees of due process. Equally, any design for justice should have the practical support not just of the United Nations as such but of individual countries, ready to help the process in different ways. Finally, any response to impunity should face the challenge of how to ensure that the major perpetrators are accountable in spite of the current protection they enjoy.

The Commission is aware that by the time this report is published, the international Commission of Experts appointed by the Secretary-General of the United Nations to review the process of justice for 1999 will have issued its recommendations. Therefore, while we will express ideas for the cases of 1999 we will include recommendations on the crimes committed before 1999 that have received, regrettably, far less attention.

The Commission recommends that:

7.1.1. The Serious Crimes Unit and Special Panels in Timor-Leste have their respective mandates renewed by the United Nations and their resources increased in order to be able to continue to investigate and try cases from throughout the period 1975-1999.

7.1.2. The renewal of the mandate should be based on the conditions on which these institutions were originally established – that is, directly depending on the UN and not on the nascent national judicial system in Timor-Leste which is not prepared to deal with the technical and political challenges of the cases.

7.1.3. In relation to the crimes committed before 1999, the work of the Serious Crimes Unit includes investigation and preparation for prosecution of the following historical cases and periods, which the Commission concludes are exemplary and of critical importance in terms of the scale and nature of the human rights violations which occurred:

- The execution of Fretilin-linked youth in Manufahi on or around 28 August 1975 by UDT-linked perpetrators
- The executions of UDT and Apodeti-linked prisoners by Fretilin-linked perpetrators in Aileu, Maubisse and Same in December and January 1976

- The reported massacre of civilians in Kooleu Village in Lautém District by Fretilin-linked perpetrators in January 1976
- The executions of Fretilin members and associates by Fretilin members and associates during party divisions in 1976, and especially 1977
- The massacres of civilians in Dili on the day of the full-scale Indonesian military invasion, 7 December 1975, and killings on following days
- The Indonesian military encirclement and annihilation campaigns of 1977-79
- The massacres of civilians by Indonesian security forces which occurred in and around Kraras Village, Viqueque District, from 1983
- The policy and practice of removing civilians to be held in captivity on the island of Ataúro from the early 1980s
- The Santa Cruz Massacre of 12 November 1991, and subsequent detention, torture and reported killings.

7.1.4. The renewed Serious Crimes Unit prepares indictments for these cases and that the Special Panels, after appropriate review, issue warrants for the arrest of those responsible, seeking transfer to their authority.

7.1.5. Those institutions of the Indonesian Armed Forces and those in positions of command responsibility named in the Part 8: Responsibility and Accountability of this Report (Vol. IV), for crimes other than those in the above list, should be the subject of focused investigation and prosecution by Indonesian authorities.

7.1.6. The list of alleged perpetrators submitted to the President of Timor-Leste by the Commission be referred to the Office of the General Prosecutor for further investigation and action.

7.1.7. A regime of preservation and management be established by the United Nations for all evidence gathered by the Serious Crimes Unit to enable this material to be used for prosecutions as required and that ongoing technical and financial support be provided for this purpose by the United Nations.

7.1.8. All evidence gathered by the CAVR, Indonesia's Komnas HAM and Ad Hoc Human Rights Court on East Timor and others be preserved in a proper manner to enable this material to be used for prosecutions as required.

7.1.9. The international community urges and supports Indonesia to declassify information held by the Indonesian security forces so that it is available for judicial processes.

7.1.10. A proper system of protection for victims and witnesses be put in place as part of the justice process both for crimes committed in 1999 and crimes committed in the preceding years.

7.1.11. Indonesia, in an authentic spirit of reconciliation and with the aim of strengthening its own nascent democracy, be encouraged to contribute to the achievement of justice by (a) transferring those indicted who reside in Indonesia to the renewed Panels, and (b) strengthening the independence and efficiency of its judicial system in order to be able to genuinely pursue justice and reverse the record of impunity that regrettably has been the norm regarding the crimes committed in Timor-Leste.

7.1.12. The international community demonstrates its commitment to justice and the Serious Crimes process by, inter alia:

- Ensuring that their law enforcement authorities are enabled to transfer those indicted to the Serious Crimes regime established by the UN, to try those indicted themselves or to extradite them to a jurisdiction genuinely interested in trying them
- Ensuring that persons responsible for the crimes described in this report are not allowed to continue profitable careers regardless of their crimes
- Establishing a special board of investigation under the auspices of the United Nations to establish the extent, nature and location of assets held by those indicted for crimes against humanity in Timor-Leste
- Freezing the assets of all those indicted for crimes against humanity in Timor-Leste, subject to national and international laws and pending hearing of cases before the relevant tribunal
- Placing travel bans on those indicted for crimes against humanity in Timor-Leste
- Linking international aid and cooperation to specific steps by Indonesia towards accountability, such as cooperation with the Serious Crimes process, the vetting of perpetrators who continue their careers in the public sector, and the scrutinising of Indonesian members of peacekeeping missions and training courses to ensure that alleged perpetrators of violations are not included.

7.2. International tribunal

The Commission recommends that:

7.2.1. The United Nations and its relevant organs, in particular the Security Council, remains seized of the matter of justice for crimes against humanity in Timor-Leste for as long as necessary, and be prepared to institute an International Tribunal pursuant to Chapter VII of the UN Charter should other measures be deemed to have failed to deliver a sufficient measure of justice and Indonesia persists in the obstruction of justice.

7.3. Commission of Truth and Friendship

As this Report neared completion, the Governments of Timor-Leste and Indonesia announced the establishment of a Commission of T and F (CTF), a bilateral truth-seeking mechanism to review the crimes of 1999.

The CAVR believes that nothing should compromise the rights of victims to justice and redress. Accordingly it considers that anh additional truth-seeking measure related to the crimes committed in 1999 should be undertaken in good faith and with a view to strengthening, not weakening, the chances of criminal justice. Similarly, although the CAVR recognises that its investigation still leaves aspects for further research, it believes that its work and the work of the Serious Crimes Unit should be respected and protected from denial. Any additional truth-seeking should be complementary, not opposite to the work that has been conducted.

The Commission recommends that the Governments and Parliaments of Indonesia and Timor-Leste:

- 7.3.1. Guarantee that the Commission of T and F is permitted to act independently, impartially and objectively and to make recommendations as it sees fit, including the possibility of further criminal trials and a policy of reparations to victims.
- 7.3.2. Require that the names of alleged perpetrators be cleared by the Commission of T and F only if this is based on judicial due process consistent with international standards.
- 7.3.3. Require that the Commission of T and F fully respects the rules governing access to information which has been given under promise of confidentiality to previous institutions, such as the CAVR or the Serious Crimes bodies, in order to safeguard the well-being of victims and witnesses.

7.4. Dissemination of the Final Report in Timor-Leste

The Final Report of the Commission is a document of national importance for Timor-Leste and of international significance. Recommendations for its international dissemination can be found in Part 1, Timor-Leste and the International Community (par. 1.1 -1.5 above). Though it has been produced to meet the statutory obligations of the Commission, the Report will have lasting significance for future generations of East Timorese and should therefore be widely accessible.

The Commission recommends that:

- 7.4.1. The Final Report be translated into the Tetum language and widely distributed in Timor-Leste so that current and future generations have access to its contents.
- 7.4.2. The Ministry of Education in the Government of Timor-Leste works with the post-CAVR institution to utilise the Final Report and other Commission materials in the development of curricula and other educational resources related to human rights, reconciliation, history, law, gender studies and other relevant disciplines.

7.4.3. The Government of Timor-Leste and international donor partners support the reproduction of the Final Report and related materials to enable this continuing education programme.

7.5. Archives of the CAVR

The Commission has preserved and organised its archives in accordance with its statutory obligations pursuant to Regulation 10/2001. The archives are a unique part of Timor-Leste's national heritage and comprise thousands of multi-media records that have been entrusted to the Commission by individuals, families and communities across the country as well as national and international organisations and governments. In many instances the opportunity to gather this information and material will never come again. This archive forms the basis of what should be a continuing effort to gather, restore, and make available important historical materials for further reference, research and use. Continued national and international support will be needed to ensure the preservation of the collection and its development into a first class depository.

The Commission recommends that:

7.5.1. The National Parliament of Timor-Leste adopts legislation regulating the preservation, organisation and use of national archives.

7.5.2. The archives of the Commission be maintained at the site of the former Balide Comarca and be administered as part of the official national archives in accordance with the access policy decided by the CAVR Commissioners until national legislative provisions are determined.

7.5.3. The archives form an integrated part of an active human rights centre to be developed in the former Balide Comarca whose overall purpose will be to remember, honour and learn from Timor-Leste's recent human rights history.

7.5.4. Financial support is provided by the Government for the maintenance and development of this centre and an ongoing programme of research and education.

7.5.5. The Government of Indonesia be asked to return to the former Balide Comarca any documents it has in its possession relating to the administration of the prison between 1975 and 1999 so that these can be added to the existing archives.

7.5.6. The Government of Portugal be asked to return to the former Balide Comarca any documents it has in its possession relating to the building and administration of the prison prior to 1975.

8. Reconciliation

*Cry of a child of the nation**

At that moment a whisper, melodious
Seconds to the announcement of the Timor Lorosae's independence
But why are the children still scattered in all directions?

Lorosae
20 May is your first day of independence
A day when you feel happiness incomparable
A day when you hear your children clapping, laughing, embracing

But why, among them, are there faces of sadness
You can hear their lament and suffering

Do you not feel that there is something missing, something lost, Lorosae?

Throughout its mandate, the Commission was painfully aware of the divisions among our people. At the time of writing these recommendations, it is estimated that many thousands of East Timorese are still living in Indonesia, mostly in West Timor, and that most of these have opted for Indonesian citizenship. Some are living in refugee camps, others have built a new life in self-exile. These divisions are not only between East Timorese living in Timor-Leste and Indonesia, but also exist within our own communities in the newly independent Timor-Leste. Although some of these differences are caused by new tensions and new problems, often the roots of conflict can be traced back to old divisions of the past.

The Commission addressed these splits through a multi-leveled approach. At the national leadership level, party leaders were asked to publicly explain what took place during the civil war of 1975. The 4-day CAVR National Public Hearing on the Internal Political Conflict of 1974-76 in December 2003 was a landmark in the history of East Timorese political life, and an important time for all East Timorese people to better understand the events of this tragic period and listen to leaders taking responsibility.

At grassroots-level, the Commission facilitated a mediation process where perpetrators who committed lesser crimes and did harm to their communities voluntarily and publicly admitted their wrong-doing so that they could be reconciled with their communities. More than 1,400 perpetrators took part in this process and successfully completed the community reconciliation process.

* Poem written and read by Edy M Parada, a child from Viqueque living in Naibonat refugee camp in West Timor, Indonesia, played by video recording during the CAVR National Public Hearing on Children and Conflict, 29-30 March 2004 (Translated from Indonesian).

The Commission believes that to be effective a process of reconciliation in Timor-Leste must engage individuals, families and community groups from all sides of the political conflicts, reach to the highest levels of the national leadership, and continue for many years to come.

Reconciliation in the general community

Violence occurred at the community level throughout the period 1974-1999. The violence of the civil war which started in Dili in 1975 quickly spread to other communities, pitting neighbours and even family members against each other. The Indonesian military created extensive intelligence and paramilitary organisations whose members were involved in violations of human rights against people in their communities. In late 1998 and 1999, the activities of militia groups formed by the TNI further terrorised and divided communities.

From our Community Reconciliation Process (CRP) programme, it is clear that there is a continuing need to assist communities to come to terms with the divisions caused through the long years of political conflict. The Commission commends village communities for the way in which they adapted the Community Reconciliation Process to their local situations. The Commission also commends the courage of those who spoke honestly and openly abut the harm they had done to individuals and communities and sought to become accepted as full members of their communities once again. And the Commission extends its highest respect to those who had been wronged and yet found it in their hearts to accept back into the full life of the community those who had done the harm. The Commission also pays special respect to the traditional leaders who gave their unique support and authority to these processes.

From these experiences with communities, the Commission knows that reconciliation is not a simple or immediate matter. It cannot be achieved in just one step, or a single procedure, and people cannot be obliged to reconcile according to the wishes of an institution or a state. But it is also clear that communities, victims and those who have harmed their communities are often open to assistance to help them come together to resolve past problems for the sake of a peaceful future. The Commission also believes that there is more work to do to secure the peace achieved by communities across the country since the end of the conflict.

The Commission recommends that:

8.1. The Government of Timor-Leste establishes a community-focussed mechanism for conflict prevention and resolution, based on the lessons learned from the CAVR community reconciliation process, that this mechanism be mandated by legislation, and be conducted by an independent national institution that works in cooperation with the judiciary, police and local authorities.

8.2. The basic principle of this mechanism will be to assist communities to resolve local conflicts or problems within a framework which is consistent with the rule of law and respect for human rights, including equality between women and men, but also respectful of traditional processes and the diversity of cultures in Timor-Leste.

8.3. This mechanism has a clear focus on the capacity building of local community facilitators of conflict prevention and resolution and on helping young people build a culture and capacity to resolve conflict peacefully.

8.4. This mechanism be mandated to address both past political conflicts in Timor-Leste and contemporary challenges to the peace and stability of communities.

8.5. The post-CAVR institution recommended elsewhere in this Report be requested to convene consultations with the Government and community on this proposal and to submit draft terms of reference to the National Parliament.

8.6. The Prosecutor General decides within three months of the release of this Report what action he will take in relation to the 85 cases of pending Community Reconciliation Processes held by his Office, recognising that these deponents sought the assistance of the Commission in good faith, and that he communicates his decision on each case to each deponent and his community individually.

9. Reconciliation in the East Timorese political community

The Commission worked to understand the underlying causes of the political conflict in Timor-Leste and the violence committed by East Timorese and the Indonesian armed forces. It listened to victims of violence from all sides, and interviewed political leaders from all points of view, including conducting interviews in Indonesia. The Commission believes that the deep divisions in our society from 25 years of conflict, and the violence which entered East Timorese political life in 1975, remain a potential stumbling block to the development of a sustainable culture of democracy and peace in Timor-Leste.

Violence and intimidation have no place in political life in Timor-Leste – the cost is too great. The Commission was encouraged by the humility of political leaders who testified at the National Public Hearing on the Internal Political Conflict of 1974-76, and the positive community response to their openness. However more needs to be done to heal the deep hurt from this period and to consolidate the development of pluralistic and peaceful political life in Timor-Leste.

The Commission recommends that:

9.1.1. All political parties ensure that the universal principles of human rights enshrined in the Constitution of Timor-Leste are fully respected in their policies and practices.

9.1.2. All political parties respect the neutral role of the Police Service, Defence Forces and other state security bodies and include a commitment to respect this principle of neutrality in their party policies.

9.1.3. All political parties make a public commitment to conduct their political activities in a peaceful and non-threatening manner and to take strong

disciplinary measures against any party member who advocates or uses the media to ferment aggression or fear in the community.

9.1.4. All political parties make a public commitment that they will never mobilise youth groups for political purposes other than in peaceful and lawful ways.

9.1.5. The five historical political parties – Apodeti, ASDT/Fretilin, KOTA, Trabalhista, and UDT – institute processes, where necessary, to address human rights violations committed in the past by their members or those linked to them, and undertake to work for the implementation of the recommendations in this Report, in particular those directed at permanently removing the threat of violence from political life in Timor-Leste.

9.1.6. The former pro-autonomy political groups still in existence in Indonesia undertake to work for the implementation of the recommendations in this Report, in particular those directed at permanently removing the threat of violence from political life in Timor-Leste.

9.1.7. Civic education programmes make use of the material in this Report to impress on the community the importance of non-violence and the appalling cost of political violence.

9.1.8. The Office of the President undertakes new initiatives to foster political, social and cultural dialogue between East Timorese in Indonesia and Timor-Leste, and that this initiative seeks the involvement of political leaders from all backgrounds and the support of the Government of Indonesia.

10. Reconciliation with Indonesia

Timor-Leste and Indonesia have demonstrated since 1999 that they want to build a new relationship. The Commission commends this forward-looking and generous attitude. The Commission believes that for this new friendship to flourish the principles of acknowledging the truth of the past, accountability for violence, and a spirit of generosity in assisting those who have been harmed by that violence, are vital. During its extensive work in the community, especially with victims of serious violations perpetrated by Indonesian soldiers, the Commission was struck by the generosity of those victims toward Indonesia. Communities in all parts of the country have made clear to the Commission their need to see justice done for the serious crimes committed during the conflict. However this call for justice has rarely been made in a vengeful or hateful way, nor generalised against Indonesia or the Indonesian people. Accountability on the part of those responsible and the competent authorities will open the way for a deeper new relationship based on genuine reconciliation.

The Commission recommends:

Truth as the basis for the relationship

10.1.1. That the Government of Indonesia formally acknowledges receipt of this Report and tables it in the Indonesian Parliament.

10.1.2. That, in order to foster a spirit of reconciliation, the Government of Indonesia sends a senior delegation to Timor-Leste to acknowledge the violations committed by its representatives during the occupation and to apologise to the victims and families of victims for these violations.

10.1.3. That the Government of Indonesia undertakes a revision of official accounts and education materials relating to Indonesia's presence in Timor-Leste to ensure that these give the Indonesian people an accurate and comprehensive account of the period 1974 to 1999, including the UN conduct of the 1999 Popular Consultation, and contribute to reconciliation.

10.1.4. That Indonesia and Timor-Leste continue to develop ways of deepening people-to-people relations and cooperation in social, cultural, economic and political life.

Recognising Indonesian military casualties and assisting Indonesian families

10.1.5. That the Governments of Indonesia and Timor-Leste continue to cooperate in the maintainence of Indonesian war cemeteries in Timor-Leste.

10.1.6. That the Governments of Indonesia and Timor-Leste cooperate to provide information to Indonesian and East Timorese families who do not know the full circumstances of the death and/or whereabouts of the remains of family members who were members of the Indonesian armed forces in Timor-Leste.

10.1.7. That the Governments of Indonesia and Timor-Leste cooperate to assist Indonesian families to visit Timor-Leste to pay their respects to their dead and/or to repatriate the remains of loved ones to Indonesia.

Making available full documentation of military operations resulting in human rights violations of civilians

10.1.8. That the Government of Indonesia makes available to the Government of Timor-Leste and the international community records of military operations that resulted in civilian deaths and injuries and damage to property, including:

- Operation Seroja and the massacres of civilians in Dili on 7 December 1975 and killings on following days
- The military encirclement and annihilation campaigns of 1977-1979
- The Mau Chiga offensive of 1982 in the district of Ainaro; the massacres of civilians in Kraras in 1983 in the district of Viqueque
- The removal of civilians to the island of Ataúro from the early 1980s
- The Santa Cruz Massacre in Dili of 12 November 1991 and subsequent reported killings and disappearances.

10.1. 9. That the Government of Indonesia makes the following information available to the Government of Timor-Leste and the international community:

- The names and details of all ABRI/TNI personnel of East Timorese origin killed in Timor-Leste between 1975 and 1999
- The names and details of all East Timorese children removed from Timor-Leste by the Government of Indonesia, military or related personnel or institutions between 1975 and 1999
- The names and details of all political prisoners who died in custody between 1975 and 1999
- All Indonesian military units which served in Timor-Leste between 1975 and1999, including names of commanding officers
- The formation and funding of East Timorese para-military groups by the Indonesian military and/or other state agencies between 1974 and1999
- All military and civilian intelligence records on Timor-Leste from 1974-1999
- All weapons, military equipment and material purchases or donations from governments and companies between 1975 and 1999 that were used in Timor-Leste during this period.

10.1.10. That the Government of Indonesia makes available to the Government of Timor-Leste and the international community records relating to the involvement of the Indonesian administration and military in the operations of 1999 which resulted in killings and the displacement of more than half the population of Timor-Leste, including:

- Liquiçá Church Massacre, Liquiçá District (6 April 1999)
- Cailaco killings, Bobonaro District (12 April 1999)
- Massacre at Manuel Carrascalão's Dili residence in Dili (17 April 1999)
- Killing of two students at Hera, Dili District (20 May 1999)
- Suai Church Massacre, Covalima District (6 September 1999)
- Maliana Police Station Massacre, Bobonaro District (8 September 1999)
- Murder of church personnel and the journalist accompanying them in Lospalos, Lautém District (25 September 1999)
- Massacres in Passabe and Maquelab, Oecussi District (September-October 1999)
- Massacres in Nitibe, Oecussi District (October 1999).

10.1.11. That the Government of Indonesia cooperates fully with any future international or East Timorese initiatives established to address justice for violations of human rights committed in Timor-Leste between 1974 and 1999.

Peace and stability

10.1.12. That the Government of Indonesia continues to make clear its respect for the independence and sovereignty of Timor-Leste and takes action against any individuals or organisations in Indonesia who undertake illegal activities aimed at destabilising Timor-Leste.

Clearing the names of those wrongly accused

10.1.13. The Government of Indonesia expunges the criminal record of all East Timorese political prisoners tried and found guilty of crimes associated with the peaceful expression of their political beliefs during the period of the conflict.

10.1.14. The Government of Indonesia destroys all intelligence files maintained on East Timorese people relating to the period 1974-1999.

10.1.15. The Government of Indonesia expunges from Department of Immigration "black lists" the names of East Timorese and non-East Timorese human rights activists and instructs all relevant intelligence agencies and government offices to remove these names from lists and files.

Reparations

10.1.16. The Government of Indonesia makes financial contributions to the reparations trust fund recommended elsewhere in this Report.

10.1.17. Indonesian business companies which profited from war and related activities in Timor-Leste between 1974 and 1999 make financial contributions to the reparations trust fund recommended elsewhere in this Report.

11. Acolhimento (Reception)

The 25 year period covered by the Commission mandate saw East Timorese people flee the country for reasons of personal security, political beliefs, or because they were forced to leave. Many thousands who fled in 1999 remain in Indonesian West Timor and other parts of Indonesia. Thousands more who fled Timor-Leste in 1975 and later, live in Portugal and Australia, and smaller numbers are spread across the world. East Timorese children taken to Indonesia during the war continue to be separated from their families.

The creation of a climate of welcome or acolhimento for East Timorese who wish to visit or return to Timor-Leste should be a national priority. This will strengthen the inclusive, democratic nature of our society and add to its capacity and security in important ways. Where East Timorese people have been involved in human rights violations, due process should apply consistent with official commitments to build a society based on accountability, rule of law and human rights.

The Commission recommends that:

11.1.1. There are ongoing initiatives to promote contact and goodwill between East Timorese in Timor-Leste and East Timorese in Indonesia, particularly West Timor, with an emphasis on social, cultural and educational exchanges for children and youth, and that community leaders, the Catholic Church and other faith communities, Indonesian NGOs and the Government of Indonesia be requested to assist this process.

11.1.2. Ways of nurturing Timor-Leste's relationship with East Timorese who are living abroad or who have taken citizenship in other countries are developed so that overseas East Timorese people are encouraged to retain their family, cultural and other links with the country of their origin and to contribute to the interests of Timor-Leste through their activities and connections abroad.

11.2. Separated children

Many East Timorese children were separated from their families during the Indonesian occupation of Timor-Leste, including some 4,500 in 1999. Many in the pre-1999 category are now adults and include some who are looking for their families but may not know where they come from. Most of those who became separated from their families during the violence of 1999 have either been reunited with their families or have continued to stay with caretakers. Responsibility for this category rests with the Governments of Indonesia and Timor-Leste following the signing in December 2004 of a "Memorandum of Understanding Concerning Cooperation to Protect the Rights of Separated and Refugee Children", facilitated by UNHCR.

The Commission recommends that:

11.2.1. The implementation of the 2004 MOU between the Governments of Timor-Leste and the Indonesia be monitored by NGOs in both countries to ensure that the rights of separated children, particularly any whose cases have not been resolved and those in the custody of caregivers, are protected – including their right to unhindered access to identity and nationality procedures.

11.2.2. The Governments of Timor-Leste and Indonesia ensure that regular and free communication is maintained between the child and parents while the child remains with the caretaker or with an institution and that separated children are able to make informed decisions about their future free of intimidation or fear.

11.2.3 Assistance be provided, particularly for those in remote, poor areas, so that parents and adult separated children can trace each other, communicate and meet.

12. Reparations

> *Because of the war I was used like a horse by the Indonesian soldiers who took me in turns and made me bear so many children. But now I no longer have the strength to push my children towards a better future.*[1]

12.1. Introduction

The Commission urges the Government of Timor-Leste to implement a programme of reparations for the most vulnerable victims of human rights violations.

All East Timorese people have been touched and victimised by the conflict in one way or another. However, in the course of its contact with many communities the Commission became acutely aware of those among us who still suffer daily from the consequences of the conflict and whose children will inherit the disadvantages their parents face as a consequence of their victimisation. They include those who live in extreme poverty, are disabled, or, who - due to misunderstandings - are shunned or discriminated against by their communities. We are all victims but not all victims are equal. We must acknowledge this reality and lend a hand to those who are most vulnerable.

The Commission believes that this recommendation is consistent with:

- The Constitution of Timor-Leste which states that "the State shall ensure special protection to the war-disabled, orphans, and other dependents of those who dedicated their lives to the struggle for independence and national sovereignty, and shall protect all those who participated in the resistance against the foreign occupation" (Section 11);
- The mandate of the Commission which requires it to assist in restoring the human dignity of victims, to promote reconciliation [Regulation 10/2001, Section 3.1(f) and (g)] and also to make "recommendations concerning reforms and other measures whether legal, political or administrative which could be taken to achieve the objectives of the Commission, to prevent the repetition of human rights violations and to respond to the needs of victims of human rights violations" [Regulation 10/2001, Section 21.2];
- East Timorese tradition, according to which a person who experienced a wrong-doing has the right to receive some measures to correct the offence;
- International human rights law,*according to which victims of human rights violations have the right to seek redress.

A reparations programme will ensure that:

- The most vulnerable victims, who are often on the margins of their communities, will gain access to basic services and opportunities provided to the general community;

* Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law, approved by the Human Rights Commission of the UN on 20 April 2005 [UN Doc. E/CN.4/RES/2005/35, Annexe].

- A form of justice is delivered which directly benefits the victim and will contribute to healing, national reconciliation and a further reduction in the possibility of violence;
- The most vulnerable victims of past atrocities will be afforded recognition and the means to enjoy their fundamental rights and fulfil their potential on an equal footing with other citizens of Timor-Leste.

12.2. What are reparations?

During the course of its work, the Commission defined reparations as measures to repair damages suffered by victims of human rights abuses, including rehabilitation, restitution, compensation, recognition of a truthful account of what happened, and guarantee of non-repetition of these violations. Reparations can take shape as measures directed to individuals or, collectively, to groups of victims.

The Commission places reparations in a human rights framework which includes three essential components which cannot be substituted for each other: truth, justice and reparations.

Some forms of reparations

Compensation which includes fair and adequate compensation through litigation or mediation.

Restitution which is the re-establishment, as far as possible, of the situation that existed for the beneficiary prior to the violation.

Rehabilitation which is the provision of medical and psychological care and the fulfillment of significant personal and community needs.

Restoration of dignity, which includes symbolic forms of reparation.

Establishment of the truth which may include public confession and apology from perpetrators, and testimonies on violations and their impact from victims and their families.

Reassurance of non-repetition which is the creation of legislative and administrative measures that contribute to the maintenance of a stable society and the prevention of the re-occurrence of human rights violations.

12.3. Legal and moral foundations for reparations

In its inquiry into past human rights violations the Commission listened to victims of violations from all districts of the country, who suffered at the hands of all sides to the

conflicts. Life has been terribly altered for many victims who survived violations. The thousands of dead due to human rights violations left behind families. Many families continue to look for loved ones who have disappeared. There are thousands of survivors of rape, torture and other gross human rights violations who still suffer consequences of these violations in their everyday lives.

As it listened to survivors, in hearings and workshops or giving statements and interviews, the Commission was struck by the humble nature of what most survivors seek. Overwhelmingly they have expressed to the Commission that they seek some kind of accountability on the part of the perpetrators, and simple assistance to enable them and their children to participate on an even footing in the new democratic Timor-Leste. For many this participation is difficult due to the severe hardships they still suffer due to the violations inflicted upon them

As Timor-Leste seeks to establish itself as a new democratic nation based on the rule of law and respect for human rights, there is a deep moral obligation to reach out to and assist our brothers and sisters who are struggling to participate in this new life. The values of our nation will be measured by our actions in this regard, not merely by the words of our new laws and leaders.

Furthermore, as a member of the United Nations, Timor-Leste has committed to uphold, respect and enforce human rights and humanitarian law standards. This includes the principle of ensuring appropriate remedies and reparations to victims of human rights violations, as stipulated in the UN Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law.

Timor-Leste context

From its inquiry, the Commission has found that all sides of the conflict were responsible for committing human rights violations. During the Commission's National Public Hearing on the Internal Political Conflict, leaders of political parties bravely and honestly testified about the violence during the period of the internal armed conflict, claiming institutional responsibility for some of the crimes of the past and their commitment to repair the harms inflicted upon victims and their families.[*]* This commitment is reflected in the Constitution of Timor-Leste which obliges the state to provide "special protection to the war-disabled, orphans, and other dependents".[2] Following this, the State of Timor-Leste has the moral and constitutional obligation to ensure that victims of past human rights violations receive measures of reparations.

However, the highest proportion of institutional responsibility for human rights violations falls on the shoulders of State of Indonesia, the occupying force whose agents

* Testimonies of key historical actors and representatives and members of the five political historical parties, at the CAVR National Public Hearing on The Internal Political Conflict 1974-76 held between 15 and 18 December 2003, are recorded in the CAVR Archive on video recording. The Commission also published a book on this hearing titled: *The Internal Political Conflict 1974-76,* CAVR National Public Hearing 15-18 December 2003.

committed most of the gross violations. Indonesia has the moral and legal responsibility to repair the damage caused by its policies and state agents.

Learning from the experience of repairing past violations in other nations, the struggle to gain reparations from an invading nation is one that may take time. In the meantime, many of the victims can no longer wait. Timor-Leste must step into the void. The international community, who looked the other way when atrocities were committed, also bears a portion of this responsibility.

12.4. The Commission's contribution

> *Not one person cared about what happened to me. I was alone.*[3]

As a transitional justice mechanism, the Commission had as its core focus the experience and rights of victims of past human rights violations. The Commission, in implementing its mandate, placed victims at the centre of its long-term goal of social rebuilding and reconciliation.

The Commission listened to thousands of victims and asked them what they needed to assist in this transformation. This was done during hearings at national, sub-district and village levels and at healing workshops conducted with survivors of human rights violations from all districts.

A special section in the executive body of the Commission was established to support victims who participated in Commission activities. This unit helped implement an urgent reparations programme to assist vulnerable victims with urgent medical and other matters. This programme identified 712 victims with urgent needs who were then helped to access services, were provided with US$200 each, and in some cases, were supported to participate in healing workshops and public hearings organised by the Commission. The Commission, in partnership with NGOs, also developed a number of pilot projects on collective measures for urgent reparations in severely affected communities (see Chega! Vol 4, Part 10: Acolhimento and Victim Support).

In all aspects of its work, the Commission sought to have a reparative effect but the need for targeted reparations exceeded the Commission's capacity in the time available. Individual victims and communities told the Commission clearly and repeatedly of the need for ongoing healing and work to repair damage caused by human rights violations.

12.5. Reconciliation

The Commission believes that lasting reconciliation cannot be achieved without establishing the truth, striving for justice, and providing reparations to victims. Reparations are necessary to restore the dignity of victims and to repair damaged relationships within our society. In East Timorese culture, the institution of *kasu sala* – a traditional mediation process which establishes who has been wronged by whom and what compensation should be given to the wronged party - sets the foundation for

community reconciliation and peace-building. In the same way, acknowledging the suffering of victims through reparations is a cornerstone to lasting reconciliation in a nation that has experienced more than two decades of violence.

12.6. Guiding principles for a reparations programme in Timor-Leste

The following principles will assist in the development of an effective reparations programme for the most vulnerable victims of human rights violations in Timor-Leste:

Feasibility

As a new nation in the early stages of development, Timor-Leste is faced with many competing needs. In order to be feasible in this context, the reparations programme should be selective and focus on the most urgent needs of the most vulnerable and, where possible, provide collective responses that are cost-effective and inventive.

Accessibility

Care should be taken to ensure the programme is accessible to victims who are disadvantaged not only as a consequence of their experience but also by their isolation, lack of information and means of transport, particularly those in remote rural areas.

Empowerment

The programme should empower those who have suffered gross human rights violations to take control over their own lives and to free themselves of both the practical constraints and the psychological and emotional feelings of victimhood. The delivery of rehabilitation services and other reparation measures should use a victim-centred and community-based empowerment approach.

Gender

The programme should take gender differences into account because the conflict in Timor-Leste affected men and women differently. Men and women experienced not only different types of human rights violations during the conflict, but also different barriers to mitigating the impact of these violations. More men were targeted as victims of detention, torture, killings and disappearances than women. However, when women became victims of detention, torture and other violations, they suffered disproportionately from sexual violence and faced on-going discrimination as victims. Women also suffered when their husbands, sons, fathers, and other members of their families experienced human rights violations. They became the primary carer in their family, taking responsibility for the sick and wounded, and working to feed their children and other dependents when other providers in the family were detained, disappeared, killed or maimed. They also became increasingly vulnerable to sexual violence when the traditional "protector" of the family was absent. At least 50% of programme resources should be directed to female beneficiaries.

Prioritisation based on need

The programme should address those most in need of support due to past violations. It is not possible for a single reparations programme to answer all the needs of all those who suffered during the conflict in Timor-Leste and the programme is not intended to take the place of long term national development, itself the major objective of the Timorese state.

12.7. Reparations programme

The main aim of this reparations scheme is to assist vulnerable victims of gross human rights violations, within the scope of the mandate of the Commission, by repairing, as far as possible, the damage to their lives caused by the violations through the delivery of social services and symbolic and collective measures.

Rehabilitation

The rehabilitation of victims should include medical and psycho-social care. Where this is already being provided to the general community by the Government and civil society, the programme should support victims to access these services, give service providers additional resources to reach beneficiaries and ensure quality service delivery by monitoring and providing feedback to service providers.

Collective measures

The programme should also ensure that rehabilitation takes place in a community context. This means that collective measures be developed to ensure that rehabilitation of victims of human rights violations takes place in context and together with their communities. A special window should be developed through which communities or groups of victims can apply for such assistance. These measures should be determined in consultation with the victims and can take the form of symbolic recognition, as described below, and/or material support for activities or items identified by victims together.

Symbolic measures

Symbolic measures, developed in consultation with victims, might include memorialisation, commemoration ceremonies, exhumations and reburials or marking and honouring of mass graves. Symbolic measures honour victims of past atrocities, strengthen the social commitment to oppose repetition of such acts, are educative and promote reconciliation.

12.8. Objectives

- To identify the most vulnerable victims of human rights violations committed during the Commission's mandate period and support their rehabilitation.

- To facilitate rehabilitation of communities or groups of victims most severely affected by human rights violations during the mandate period.
- To promote recognition and respect for victims of human rights violations and to preserve the memory of past atrocities and suffering in order to ensure the non-repetition of such acts.

12.9. Target beneficiaries

According to the Commission's mandate "a victim means a person who, individually or as part of a collective, has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of his or her rights as a result of acts or omissions over which the Commission has jurisdiction to consider and includes the relatives or dependents of persons who have individually suffered harm." (Regulation 10/2001, Section 1)

Taking into account the principles of feasibility and needs-based prioritisation, the Commission recommends that the programme focus on benefiting the most vulnerable among those who continue to suffer the consequences of gross human rights violations which took place between 24 April 1974 and 25 October 1999, namely:

- Victims of torture
- People with mental and physical disabilities
- Victims of sexual violence
- Widows and single-mothers
- Children affected by the conflict
- Communities who suffered large-scale and gross human rights violations, with a relatively high concentration of victims identified above.

Working definitions for beneficiaries

Victims of torture are those who were detained, tortured, and continue to gravely suffer the consequences of the torture they experienced.

People with disabilities due to gross human rights violations are those who have become permanently physically or mentally disabled, either totally or partially, as a consequence of the conflict. Examples are victims who suffered amputations, lacerations, loss of body parts, gunshot wounds; victims with bullets or shell fragments in their bodies, or who have permanent problems due to severe beatings and torture which have left them totally or partially disabled; or victims with disabling mental health problems due to past violations.

Victims of sexual violence are those women and girls who were subjected to acts such as rape, sexual slavery, forced marriage or other

forms of sexual violence; and boys and men who suffered sexual violence.

Widows and single mothers are women whose husbands were killed or disappeared and who, as a result, are the primary breadwinners for their families. Also included here are women whose children were born out of rape or sexual slavery and consequently became single mothers.

Children affected by the conflict are defined as:

- children who suffer from disabilities due to gross human rights violations
- children whose parents were killed or disappeared
- children born out of an act of sexual violence whose mother is single
- children who suffer psychological damage.
- Children will be eligible for reparations if they were 18 years of age or younger on 25 October 1999.

The Commission recommends that the reparations programme begins with a list of victims who came before the CAVR, selected and prioritised according to the criteria set out in this reparations policy. A two-year window period for further identification of beneficiaries eligible for reparations to complement those identified by the Commission, shall be provided, in order to ensure inclusiveness to those most vulnerable who did not come before the CAVR.

12.10. Financing

Indonesia should bear a significant proportion of the costs. As the occupying power which committed most of the violations, Indonesia has the greatest moral and legal responsibility to repair the damage caused by its policies and agents in Timor-Leste.

Member states of the international community, and business corporations who supported the illegal occupation of Timor-Leste and thus indirectly allowed violations to take place, are obliged to provide reparations to victims based on the principle of international responsibility recognised in the international customary law of torts.

Contributions will also be welcome from international agencies and NGOs, based on the principle of social justice.

Timor-Leste is obliged by the Constitution to ”ensure special protection to the war-disabled, orphans, and other dependents who dedicated their lives to the struggle for independence and national sovereignty, and shall protect all those who participated in the resistance against the foreign occupation.” [Section 11, Constitution of RDTL]. In the spirit of reconciliation, the Commission recommends that this undertaking to take care of members of the Resistance is extended to include victims of human rights violations committed by all sides.

If Indonesia is slow to respond, Timor-Leste and the international community should make their contributions while pressing Indonesia to fulfil its responsibilities. Many of the victims cannot afford to wait.

The Commission therefore recommends that the reparations scheme be jointly funded by:

- Fixed allocation (guaranteed by legislation) from the Timor-Leste national budget
- Reparations by the State of Indonesia
- Reparations by Indonesian business companies, including State Owned Enterprises, and other international and multinational corporations and businesses who profited from war and benefited from the occupation
- Reparations from the Permanent Members of the Security Council – China, France, Russia, United Kingdom, United States of America
- Contributions from governments who provided military assistance, including weapons sales and training, to the Indonesian Government during the occupation and business corporations who benefited from the sale of weapons to Indonesia.

Contributions from governments, international agencies, foundations and other civil society organisations, including special funds for victims of human rights violations, such as the United Nations Fund for Victims of Torture.

The Commission recommends that a trust fund be established to receive and manage the contributions and that this fund be regularly audited.

12.11. Duration

The Commission recommends that the programme functions for an initial period of 5 years, with the possibility of extension. It is recommended that the scholarship programme for children continues until the last eligible child turns 18 years old in 2017.

12.12. Methods

Methods for delivery of the reparations programme shall be developed in consultation with victims and victims groups and will include the following:

Support for single mothers and scholarships for their children

The programme will provide single mothers, including victims of sexual violence and war widows, with a scholarship for their school-aged children until they turn 18 years old. The package will include funds for school fees and other costs and will be administered by government agencies and/or NGOs at district level. Single mothers will be expected to travel to a service delivery organisation once a month to receive the funds, and at the same time have access to other services, such as counselling, peer support, livelihood skills training, and access to micro-credit for livelihood activities. The monthly activity will also serve as a focal-point for accessing other essential services, such as healthcare.

Support for the disabled, widows, and survivors of sexual violence and torture

The programme will provide widows, survivors of sexual violence (without school-aged children), the disabled, and torture survivors with social services, including rehabilitation, skills training and access to micro-credit for livelihood activities. The delivery of these services will be conducted by government agencies, specialised NGOs and community-based NGOs.

Support for severely affected communities

The programme will provide support to severely affected communities who make a collective application for reparations. Applications will be required to include an account of how the community was affected by the conflict and, in general terms, the violations experienced, a concrete project to alleviate the harm suffered, and a list of beneficiaries who will be involved in the activities. This programme can also be used by government agencies and/or NGOs for activities such as healing workshops and other restorative work, including creative therapy and activities such as theatre, graphic arts, music and prayer. A gender-balance of beneficiaries is a criteria for eligibility.

Memorialisation

The programme will promote national memorialisation in consultation with victims and other stakeholders including the government. The programme of memorialisation should be guided by, but not limited to, atrocities described in this Report and include commemoration ceremonies, dates, monuments, and other initiatives to honour and remember victims of human rights violations in local communities and at the national level. Memorialisation will also include the development of educational materials on Timor-Leste's historic struggle to uphold human rights, the development of popular literature, music and art for remembrance, and – as recommended elsewhere in this Report – an education programme to promote a culture of non-violent resolution of conflict.

Commitment to non-recurrence of violence

As part of a national commitment to non-repetition of violence, a special education programme to mitigate the impact of 25 years of violence will be conducted together with relevant government agencies and civil society. Acknowledging the cycle of violence which continues to permeate East Timorese society, at the workplace and in our homes, the national reparations programme shall develop an education campaign to increase public awareness of the link between past abuses and current violent behaviour. The aim of this education programme is to facilitate a change in the practice of using violence a means to mediate conflict, at all levels of life. In order to honour victims of mass violence, we must make a clear commitment to transform this legacy from the past.

12.13. Implementing body

The Commission recommends that an implementing body for the national reparations programme be established that will function for the duration of the programme. Its task will be to implement and coordinate the National Reparations Programme in cooperation with a range of relevant partners. These will include service delivery government agencies, such as the Ministry of Labour and Solidarity, Ministry of Health, Ministry of Education, and service delivery NGOs and church-based organisations working at national and district levels.

The implementing body will engage grassroots "social workers" or facilitators at the district level, who will receive some training and transportation support. These district workers will help connect victims to services needed.

The implementing body will develop and support innovative programmes, together with NGOs, to assist victims, victims groups, and communities, to address needs and issues in a sustainable and empowering way.

The implementing body shall establish an advisory board which includes representatives of victims and victims groups, and organisations and individuals with high-standing in the community for protecting the rights of victims, as a permanent consultative body in the development and delivery of its programme.

13. Follow-on institution to the CAVR

The Commission has made a certain contribution to the nation building process of Timor-Leste in the early years of transition in our new democracy. This transition will be an ongoing and long process. It is the Commission's view, based on three years of dialogue with local communities, that many aspects of its work should be followed up as part of the national effort to build a society based on acknowledging the truth of the past, non-violence, reconciliation and reparations. The work of recording, preserving and sharing the truth of our history, of continuing the promotion of lasting reconciliation, and of creating a society based on human rights and the rule of law can all be enhanced by the establishment of an institution to carry on aspects of the Commission's work.

The Commission recommends that:

13.1.1. The National Parliament supports the recommendations in this Report, takes primary responsibility for overseeing and monitoring their implementation and delegates this task to an appropriate Parliamentary Committee.

13.1.2. The National Parliament mandates an appropriate organisation to conduct a national consultation under the auspices of the Presidency on the role, terms of reference and feasibility of a follow-on institution and, based on these findings, to make a recommendation for consideration by the National Parliament. Issues to be considered should include:

- The implementation of the Recommendations in this Report

- The need for further reconciliation in Timor-Leste
- The preservation of the ex-Balide Comarca as a heritage site and its use as a national memorial centre for victims and human rights
- The preservation and use of the CAVR archives
- The legal status of the institution.

Endnotes

1. CAVR Interview with a victim of sexual slavery in Uatolari, Viqueque, 18 September 2003.
2. RDTL Constitution, Section 11, 2002.
3. HRVD Statement 06400.

After looking at forty truth commissions world-round, I concluded that the truth commission of East Timor was among the five strongest. It was an impressive, passionate and scrupulous exercise. And its report, *Chega!*, stands in testament to this careful and rigorous exercise, honestly re ecting the victims' stories as well as the far-reaching conclusions that emerged from this work. It is wonderful that this will now be available, in full, in English; it will be an important reference for others embarking on a similar path.

Priscilla Hayner,
Author, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd ed., 2011)



"The extensive CAVR Report is an encyclopedia of our history, rich in both teachings and suffering. We must utilise its great teachings to better understand today's crisis and to help prevent future crises."

Jose Ramos-Horta,
Nobel Peace Laureate, former President and Prime Minister of Timor-Leste (July 2006)

"*Chega!* is troubling testimony. This report will jolt Indonesian readers who think that under the Soeharto regime everything was peaceful in Indonesia's then 27th province. Page after page recounts the stories of victims of massacres, rape, forced disappearances, torture and other unimaginable crimes ... Indonesia can learn from *Chega!* This report is an important contribution to democratisation and security sector reform in Indonesia."

Ifdhal Kasim,
Chair, Indonesian Commission on Human Rights (August 2010)

"The CAVR Report constitutes an important milestone in the search for justice, truth and reconciliation in Timor-Leste. It is my sincere hope that (it) will be an enduring contribution to building the Timorese nation and will help to prevent the recurrence of such tragic events in Timor-Leste and elsewhere."

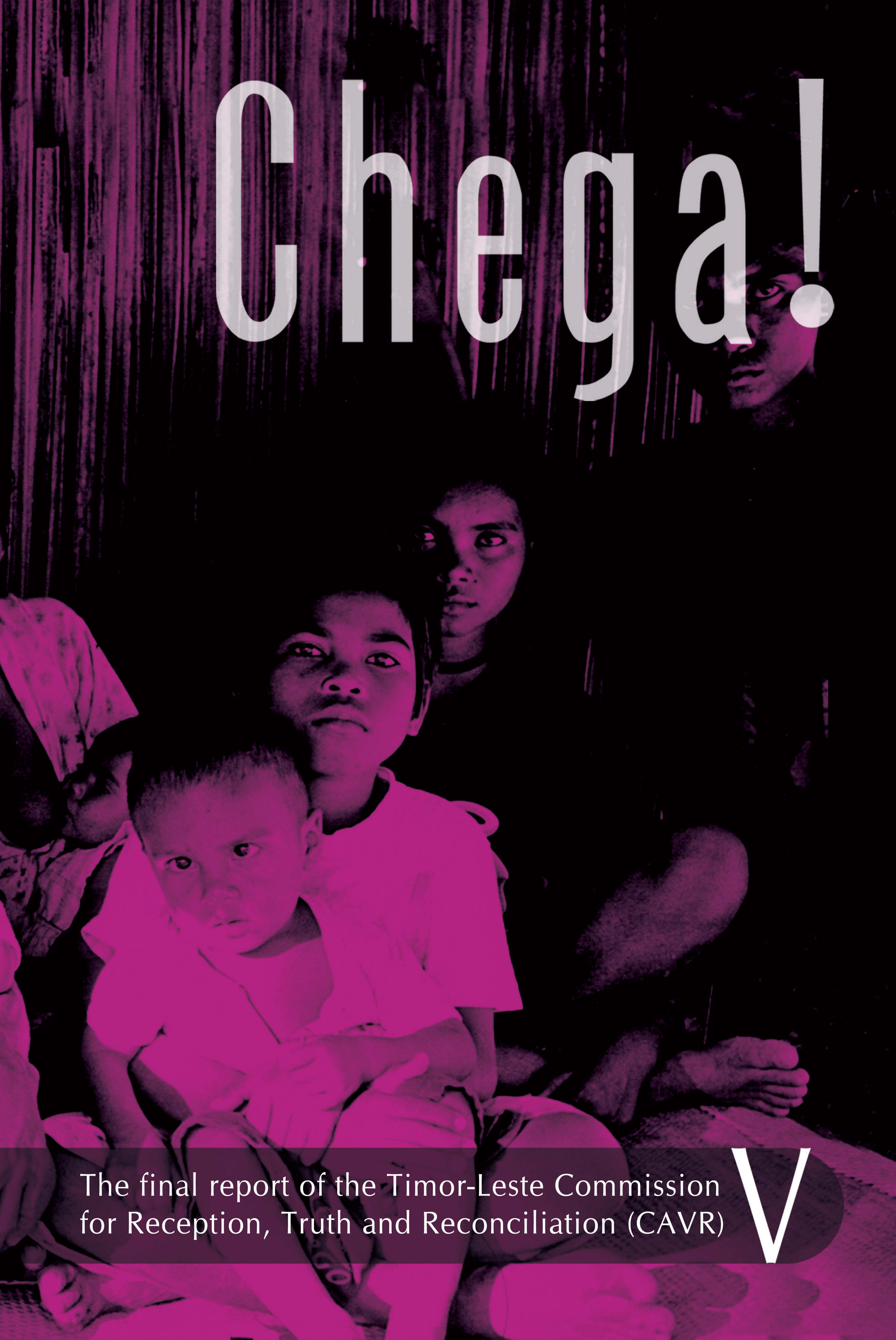
Kofi Annan,
UN Secretary-General (July 2006)

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Chega!

The final report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)

V

Chega!

Volume V

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Chega!

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Volume V

JAKARTA
KPG IN COOPERATION WITH STP-CAVR

Chega!

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Volume V

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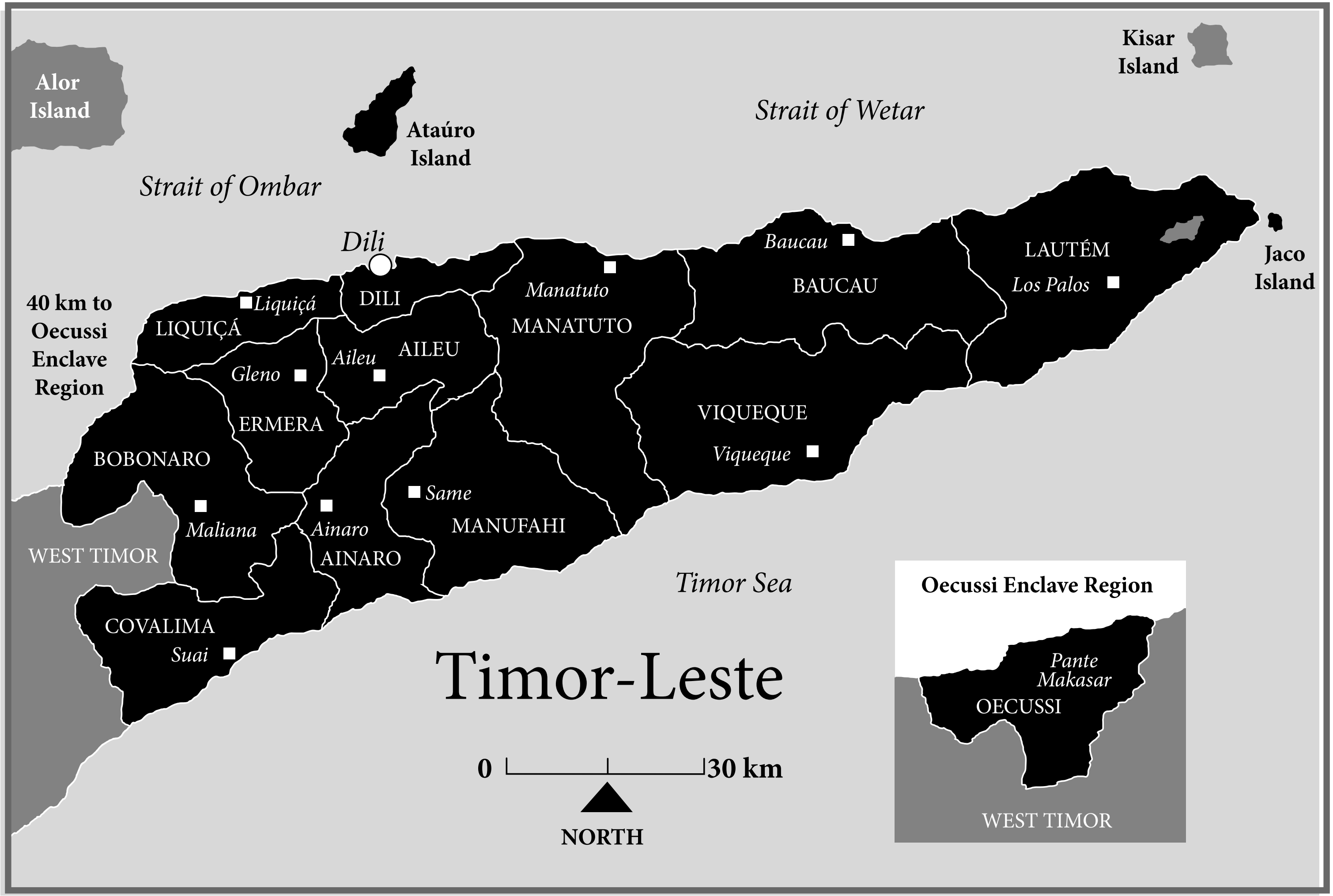
Every effort has been made to ensure that the contents of this English language version are faithful to the approved Indonesian version entitled *Chega! Laporan Komisi Penerimaan, Kebenaran, dan Rekonsiliasi (CAVR) di Timor-Leste* (KPG, 2010).

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Annexe 1:

Timor-Leste 1999: Crimes against Humanity

Report Commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR)

Geoffrey Robinson,
University of California, Los Angeles (UCLA)

Geoffrey Robinson made some small changes to the 2003 version of this report when he was preparing it for publication in Indonesian by the Timor-Leste NGO Yayasan HAK in 2007. To avoid confusion, this new HAK version of the report is reproduced here.

Timor-Leste 1999: Crimes against Humanity

Report Commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR)

Tables:

Annexe 1:

East Timor 1999: Crimes against humanity

Report commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR)

Preface

In the aftermath of East Timor's historic vote for independence in August 1999, the supporters of Indonesian rule reduced the country to a shattered, smouldering ruin. By late October, some 1,500 people had been killed, scores of women had been raped, 70% of all the buildings in the country had been destroyed, and more than half the population had been forced to flee their homes.

This report provides a detailed account of that violence, and an analysis of its principal causes, patterns and variations. Drawing upon previously unpublished documents and eyewitness testimonies, it also offers a new assessment of political and legal responsibility for the crimes committed, and recommendations aimed at ensuring that those responsible will be brought to justice.

The violence of 1999 provoked outrage not only in Timor-Leste but around the world. State leaders and UN bodies, including the Security Council, vowed that the culprits would be punished. Two UN-authorised investigations, both conducted in late 1999, concluded that crimes against humanity had been committed, and that Indonesian authorities bore primary responsibility. A report by Indonesia's own Human Rights Commission drew similar conclusions, and all three investigations recommended that an international criminal tribunal should be established to ensure that the perpetrators would be brought to justice in accordance with international law. The UN Secretary General welcomed these findings, and said that he would follow closely the efforts to secure justice for the victims.

In an effort to defuse pressure for an international tribunal, in 2001 Indonesia established a special judicial mechanism to try some of those responsible. That process has now been widely dismissed as a sham and a travesty of justice, even by Indonesia's most loyal allies. Of the 18 people charged and tried before the Ad Hoc Human Rights Court in Jakarta, all but one have now been acquitted; and that one suspect, the notorious

militia leader Eurico Guterres, remains free pending appeal of his sentence. Not a single Indonesian officer or official has been jailed as a result of those trials; indeed, most of those accused have been promoted, and some now occupy highly sensitive positions within the country's security apparatus.

Timor-Leste's judiciary, with UN and international assistance, has done better. As of late 2004 more than 370 people had been indicted for crimes against humanity committed in 1999, including General Wiranto and several other high ranking Indonesian officers and officials. Of that number, some 50 had been convicted and sentenced to prison terms by Timor-Leste's Special Panels for Serious Crimes. Unfortunately, virtually all of those convicted have been local militiamen or low ranking East Timorese soldiers. Indonesian officers and officials have remained effectively beyond the reach of Timor-Leste's courts. In late 2004, for example, around 280 of the 370 indictees remained at large in Indonesia.

This disappointing lack of progress is partly due to the weakness of Indonesia's judiciary, and to the refusal by Indonesian authorities to cooperate with the East Timorese process. It is also related to the reluctance of Timor-Leste's own political leadership to antagonise so powerful and potentially dangerous a neighbour as Indonesia. That concern has led the President, Xanana Gusmão, and some government ministers to publicly disavow the idea of an international tribunal, and to focus instead on the goal of reconciliation. The real problem, however, has been the utter failure of key states and of the United Nations itself to assume and accept responsibility in the matter. Notwithstanding early expressions of outrage, and some significant support for the judicial process within in Timor-Leste, there has been no serious international effort to ensure that those most responsible for the 1999 atrocities will be brought to justice.

The idea of an international criminal tribunal for Timor-Leste, endorsed by all three serious investigations, has effectively been abandoned. In its place, interested parties have proposed a variety of half-measures, including the establishment of a UN Commission of Experts, to assess the Indonesian and East Timorese trials, and a joint Indonesia-East Timor Truth and Friendship Commission, with a mandate to discuss what happened in 1999, but not to do anything about it. While some good might eventually come from such initiatives, there is a real danger that they will simply delay further, and more likely derail altogether, proper judicial proceedings.

This report offers a more straightforward recommendation: that the UN Secretary General and the Security Council establish, without further delay, an international criminal tribunal to try those responsible for the crimes against humanity committed in Timor-Leste in 1999. Given the severity of the crimes in question, the fact that they were committed more than five years ago, and that all available remedies have been tried and found wanting, this is not an unreasonable proposal. Indeed, to do any less would arguably be an expression of contempt for the rule of law. And it would send a clear message to past and future perpetrators - whether in Indonesia, in the Sudan, in Iraq, in the United States, or elsewhere - that they need not fear any sanction for grave breaches of international human rights and humanitarian law.

The idea for this report originated within the Human Rights Unit (HRU) of the United Nations Mission of Support in East Timor (UNMISET), and I was commissioned to

write it in mid-2002 by the UN's Office of the High Commissioner for Human Rights (OHCHR). The idea was to draw upon the considerable body of evidence that had been gathered by UN Political Affairs and Human Rights Officers since 1999, with a view to writing a more fully textured account than had been possible in the immediate aftermath of the violence. Among other things, it was envisioned that the report would be submitted to Timor-Leste's new Commission for Reception, Truth and Reconciliation (CAVR) which was then just starting its important work, and to other official bodies entrusted with investigating and prosecuting the crimes of 1999. There was also general agreement that the report would be published and widely disseminated, if possible in Indonesian and Tetum as well as in English.

As expected, the information gathered by UN Political Affairs and Human Rights Officers based in Timor-Leste was extraordinarily rich and harrowing. But it soon became clear that other offices in Timor-Leste held additional information that would usefully complement the evidence gathered by the HRU, including a large volume of documents that had been retrieved from the ruins of Indonesian military, police, and militia offices in late 1999. The most important collections were those held by the local human rights organisation, Yayasan HAK, and the Serious Crimes Unit (SCU), an office established in 2000 by the United Nations Transitional Authority in East Timor (UNTAET).

Despite some early concerns about confidentiality, both Yayasan HAK and the SCU eventually granted access to their archival collections for the purpose of preparing this report. Both also offered invaluable assistance with fact checking and legal interpretation, as the report was being written. Other individuals and organisations - notably staff at the International Center for Transitional Justice in New York and at Amnesty International headquarters in London - provided valuable comments and advice on various drafts. Without the help of these people and organisations, without their genuine commitment to the cause of justice, this report could scarcely have been written.

The report was completed in July 2003, and in early 2004 the UN Office of the High Commissioner for Human Rights formally submitted a copy to the CAVR. Copies were also furnished to Yayasan HAK and the SCU, in accordance with earlier agreements and in appreciation of their assistance. The version published here by Yayasan HAK has been lightly edited, but its substance and its principal arguments and conclusions remain unchanged from the original.

More than five years have now passed since the crimes described in this report were committed, and since the international community vowed that those crimes would be punished. As one of those who witnessed the terrible events of 1999, and who had faith that the promises of justice were sincere, I am saddened that so little has been done to give them effect. I hope that the publication of this report will go some way toward remedying that situation.

Geoffrey Robinson

Los Angeles, November 2004

Executive Summary

*The past cannot remain shrouded in mystery. In such situations the victims continue to seek justice and are unable to come to terms with their sorrow and distress.**

In the course of 1999, Timor-Leste was the scene of terrible violence. Between early January and late October, at least 1,200 civilians, and perhaps as many as 1,500, were killed. Some were shot dead, while others were decapitated, disembowelled or hacked to death with machetes. Many were subjected to torture and ill-treatment. Women and girls suffered rape and other crimes of sexual violence. The systematic violence fuelled the forcible displacement of the population on a massive scale.

The violence took place in the context of a referendum, or Popular Consultation, on Timor-Leste's political status supervised and carried out by the United Nations (UN) on 30 August 1999. In the period before the ballot, suspected supporters of independence were subjected to persistent threats and acts of violence by pro-Indonesian militia groups. In spite of the evident dangers, East Timorese welcomed the opportunity to vote on their political future and voted resoundingly for independence.

The worst of the violence followed the announcement of that vote on 4 September. Over the next few weeks, Indonesian soldiers and police joined armed pro-Indonesian militiamen in a campaign of violence so sustained and so brutal that it shocked even those who had predicted a backlash. Before a UN-sanctioned military force arrived to restore order in late September, hundreds of people had been killed and an estimated 400,000 people - more than half the population - had been forced to flee their homes.

Indonesian authorities have offered a variety of explanations for these events. They have claimed that the pro-Indonesian militia groups formed spontaneously in response to provocation by pro-independence activists, and that the violence was the result of 'clashes' between the two sides. The post-ballot violence, according to the official view, was an understandable expression of anger on the part of pro-Indonesian East Timorese at a perceived UN bias toward independence. In response to evidence that Indonesian soldiers had themselves committed acts of violence, the authorities have acknowledged that some 'rogue elements' might have done so, but they have insisted that the armed forces as an institution had been disciplined and had worked hard to contain the violence.

Outside observers, as well as many East Timorese, have offered a different interpretation. They have questioned the claim that the violence was the result of 'clashes' among East Timorese, arguing instead that it was instigated by Indonesian military authorities and in particular by its Special Forces Command (Komando Pasukan Khusus - Kopassus). They have asserted that the pro-Indonesian militia groups were essentially proxy forces,

* United Nations, *Situation of Human Rights in East Timo*r (UN No. A/54/660) 10 December 1999, paragraph 65.

created, supplied, and organised by Indonesian military and civilian authorities, and that they acted under orders from Indonesian military officers. In response to official claims that military involvement had been limited to a handful of 'rogue elements,' they have pointed to evidence that high-ranking officers were involved, and that much of the violence appeared to have been planned.

While bearing these divergent views in mind, this report seeks to provide an independent assessment of the nature and causes of the violence in Timor-Leste. More specifically, this report has three aims. First, it sets out to describe and to characterise the violence as fully and accurately as possible, focussing on the period between 1 January and late October 1999. Second, it attempts to explain how and why the violence happened and took the forms that it did. Third, and most importantly, it seeks to establish who was responsible for the violence, and what the appropriate remedy might be.

Method and mandate

The findings and conclusions of this report are not based on unsubstantiated claims made by Indonesian government officials or by their critics. Nor do they rest on the discovery of a 'smoking gun,' either documentary or testimonial. Rather, they are based on a careful examination and analysis of the now substantial documentary and testimonial record. The principal sources consulted include:

- Secret internal reports, memoranda, and orders originating with Indonesian military, police, and civilian authorities, and with various militia groups and other pro-Indonesian organisations;
- Testimony of eyewitnesses to and victims of the violence, as recorded and compiled by respected international and domestic human rights organisations, by jurists, and by United Nations officials;
- Internal reports and memoranda on the events of 1999 prepared by the UN Mission in East Timor (UNAMET), the UN Transitional Administration for East Timor (UNTAET) and the UN Mission of Support in East Timor (UNMISET);
- Findings of other credible investigations into the violence, including those issued by three UN Special Rapporteurs (December 1999), by the International Commission of Inquiry on East Timor (January 2000), and by Indonesia's Commission on Human Rights Violations in East Timor (January 2000);
- Criminal indictments filed against the suspected perpetrators of the violence, by prosecutors in Indonesia and in Timor-Leste, and information emerging from criminal proceedings in both places;
- Scholarly analyses, media reports, and other secondary sources.

This report was commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR) in July 2002. It was researched and written by Dr. Geoffrey Robinson, Associate Professor of History at UCLA. An expert on human rights in Indonesia and Timor-Leste, Dr. Robinson served as a Political Affairs Officer with the United Nations Mission in East Timor (UNAMET) in Dili from June to November 1999. He conducted research for this report in Dili between August and

October 2002, and completed it in July 2003. He was assisted in the preparation of this report by the Human Rights Unit of the United Nations Mission of Support in East Timor (UNMISET), and by the Serious Crimes Unit (SCU) in the Office of the Deputy General Prosecutor for Serious Crimes in Dili.

Outline and conclusions

The report is divided into five parts, each containing two or more chapters. The first part (Chapters 1 and 2) places the events of 1999 in historical and political context, and outlines the essential elements of Indonesian strategy in Timor-Leste in 1999. The second (Chapters 3-5) examines and analyses the main patterns of human rights violations in Timor-Leste in 1999. The third (Chapters 6-8) spells out the nature of the relationship between the armed militia groups and the Indonesian authorities. The fourth (Chapters 9 and 10) provides summaries of the human rights situation in each of Timor-Leste's 13 administrative districts, and detailed examinations of 15 major human rights cases. The final part (Chapters 11 and 12) addresses questions of responsibility and judicial remedy for the crimes committed in 1999.

The report concludes that the acts of violence in 1999 constituted crimes against humanity, that they were part of an operation planned and carried out by the Indonesian authorities, and that senior Indonesian officials bear individual criminal and command responsibility for the crimes committed. More specifically, it concludes that:

1. The acts of violence described in this report - including murder, rape, torture, forcible displacement, and destruction of property - were part of a widespread and systematic attack on the civilian population of East Timor that targeted real or alleged supporters of independence. As such, they are appropriately considered not only grave violations of human rights but also crimes against humanity.
2. The direct perpetrators of those crimes were primarily members of armed pro-Indonesia militia groups, of which there were more than two dozen in 1999. However, members of the TNI, and to a lesser extent the Police, were also very often directly responsible.
3. Contrary to the claims of Indonesian officials, the militia groups did not emerge spontaneously in response to provocation by pro-independence groups. Rather, they were recruited, trained, armed, paid, and coordinated by Indonesian military authorities, in accordance with long-established Indonesian military doctrine and practice.
4. TNI officers and civilian government authorities conspired to use the militias as proxies to terrorise the population into supporting the 'special autonomy' option in the August 1999 ballot and, to that end, they authorised, encouraged or acquiesced in acts of violence amounting to crimes against humanity.
5. Some 50 military officers at or above the rank of Lieutenant-Colonel, and some 30 senior civilian government and police officials, appear to bear either command or individual responsibility for the crimes that were committed, and should be the subject of further criminal investigation.

6. Notwithstanding their eventual contribution to ending the violence in September 1999, powerful members of the international community share responsibility for the crimes committed in 1999, by virtue of their historical acquiescence in Indonesia's unlawful occupation of Timor-Leste, and through their failure to insist upon adequate security provisions for the Popular Consultation in 1999.
7. The United Nations bears a special responsibility to ensure that the perpetrators of the violence in Timor-Leste are brought to justice. The Security Council should act upon the recommendations of previous UN investigations, and establish an international criminal tribunal for East Timor at the earliest opportunity.

Historical and political context

1. At the heart of the crisis in 1999 was the question of Timor-Leste's political status. Long a colony of Portugal, Timor-Leste was invaded by neighbouring Indonesia in 1975 and subsequently annexed. For the next 24 years, the territory's political status remained in dispute, both in Timor-Leste itself and internationally. Though some states recognised Indonesian sovereignty, the United Nations never did so. As far as the UN was concerned, Portugal retained its formal status as administering authority.

2. The period of Indonesian rule (1975-1999) was marked by persistent resistance, both armed and peaceful. In the early years, that resistance was led by Fretilin (Frente Revolucionária de Timor Leste Independente – Revolutionary Front for an Independent East Timor); and its armed wing, Falintil (Forças Armadas de Libertação Nacional de Timor Leste – Armed Forces for the National Liberation of East Timor). In the 1990s, an umbrella organisation called the CNRT (Conselho Nacional da Resistência Timorense –National Council of Timorese Resistance) assumed the leadership, supported by a range of social and political organisations, the Clandestine Front, and by Falintil.

3. Indonesian rule was also marked by a pattern of serious and systematic human rights violations by the Indonesian armed forces and by pro-Indonesian militias and paramilitary groups serving as proxies. Notwithstanding growing international criticism of Indonesian abuses, and continued resistance, little concrete action was taken to address the question of Timor-Leste's political status.

4. That situation began to change with the resignation in May 1998 of Indonesia's long-time President, Soeharto. In January 1999 the Government of Indonesia announced its readiness to rescind its annexation of Timor-Leste if the people of the territory rejected its proposal for greater 'autonomy.' That initiative paved the way for a set of accords between Indonesia and Portugal, under UN auspices, known as the 5 May Agreements. The Agreements spelled out the modalities through which the people of the territory would vote and security be maintained, and stipulated that the ballot would be organised and carried out by the United Nations. The UN Mission in East Timor (UNAMET) began its work later the same month, and the ballot was conducted on 30 August 1999.

Indonesian invasion and occupation

5. For roughly three centuries, the territory known as Timor-Leste was governed as a colony of Portugal. That arrangement began to unravel in 1974 when, in the aftermath of its own Carnation Revolution, Portugal set about to relinquish control of its colonies, including Timor-Leste. Portuguese disengagement stimulated the growth of political parties in Timor-Leste.

6. By 1975, three principal parties had emerged: the ASDT (Associação Social Democrática Timor) later renamed Fretilin; the UDT (União Democrática Timorense – Timorese Democratic Union), and Apodeti (Associação Popular Democrática Timorense – Timorese Popular Democratic Association). Fretilin was a social democratic party whose

leaders called for immediate independence. UDT, a more conservative party, advocated maintaining ties with Portugal pending a gradual transition to independence. Apodeti, the smallest of the three parties, favoured integration with neighbouring Indonesia.

7. Despite an alliance between Fretilin and UDT formed in January 1975, tensions between the two parties grew and, following an attempted UDT coup in August, degenerated into armed conflict. At that critical juncture, the Portuguese authorities effectively abandoned Timor-Leste. The Portuguese Governor and his staff fled to the offshore island of Ataúro, and the government in Lisbon made only perfunctory efforts to negotiate a satisfactory process of decolonisation.

8. After several weeks of fighting, in the course of which serious human rights violations were committed, Fretilin emerged as the victor in the civil war and began efforts to consolidate its authority at home, and to win international support. Those efforts, however, ran up against the plans of Indonesia, the neighbouring country then led by President Soeharto, a former Army General who had come to power in an anti-communist coup in 1965, and who remained in power until May 1998.

9. Soeharto's so-called 'New Order' regime had provided unparalleled opportunities for the expansion of the military's economic and political power. Civilian institutions and leaders were gradually pushed to the margins of political life, and deprived of meaningful decision-making authority.[*] The manner in which Soeharto and his allies came to power also shaped and prefigured a new style of governance that profoundly affected political life in Indonesia for the next 30 years, and which gave rise to a pattern of egregious human rights violations in Indonesia and, after 1975, in Timor-Leste.

10. That new style entailed a state ideology preoccupied with security and national unity, and an extreme official intolerance of dissent. It also led to the articulation of a military doctrine of 'total people's defence' that involved the mobilisation of militia forces to wage war on the state's internal enemies.[†] In the post-coup period, both the military and the militias adopted increasingly brutal repertoires of action, many of them modelled on the actions taken in the massacres of 1965-66. Under Army guidance – and especially under the notorious Special Forces Command (Kopassus) – militias and paramilitary forces were deployed to carry out a range of 'dirty tricks' and covert operations, including assassination, torture, public execution, decapitation and rape, as mechanisms of political control.[‡]

11. Those ideological tendencies and patterns of behaviour shaped the New Order's response to developments in Timor-Leste in 1975. While outwardly conducting diplo-

* On the political role of the armed forces during the early New Order period, see Harold Crouch, *The Army and Politics in Indonesia*, Ithaca: Cornell University Press, 1978, chapters 9-14.

† On the history and political implications of this doctrine, see Geoffrey Robinson, "Indonesia: On a New Course?" Muthiah Alagappa, ed. *The Declining Role of the Military in Asia*, Stanford University Press, 2001. Also see Abdul Haris Nasution, *Fundamentals of Guerrilla Warfare*, Praeger, New York, 1965.

‡ The origins and evolution of these features of New Order military doctrine and practice have been analyzed in some depth. See Richard Tanter,"The Totalitarian Ambition: Intelligence Organisations and the Indonesian State," and Michael van Langenberg "The New Order State: Language, Ideology, Hegemony," both in Arief Budiman, ed. *State and Civil Society in Indonesia*, Clayton, Vic: Monash Papers on Southeast Asia, No. 22, 1990.

matic negotiations with Portugal, and maintaining a public posture of non-interference in Timor-Leste's internal affairs, Indonesia set in motion a covert campaign to ensure the territory's annexation.

12. The covert campaign launched in 1975 entailed the infiltration of combat units and paramilitary forces across the border from West Timor into Timor-Leste, where they posed as anti-Fretilin 'volunteers' favouring integration with Indonesia. These covert military operations were revealed to a wider public in October 1975, when five Western journalists covering the story were killed by Indonesian troops in the town of Balibó, inside Timor-Leste. Recently declassified government documents reveal that a number of governments chose not to press the issue with Indonesian authorities.

13. Under constant pressure from repeated cross-border raids, abandoned by Portugal and much of the international community, and with a full-scale Indonesian invasion looming, on 28 November 1975 Fretilin declared Timor-Leste's independence. The declaration of an independent Democratic Republic of East Timor provided the final pretext for Indonesia's invasion. Claiming that it posed a threat of communist insurrection and political instability on its border, on 7 December 1975 Indonesia launched a combined land, sea, and air invasion of the newly independent country.

14. Indonesian military leaders expected that the operation to occupy Timor-Leste would take only a matter of days, and that the population would offer no more than token resistance before succumbing to Indonesian control. The reality was different. The Indonesian operation was poorly planned and executed, and East Timorese resisted the invading force with great tenacity.

15. In an apparent effort to silence international critics, Indonesian authorities set up a Regional People's Assembly in Timor-Leste that, in its sole meeting on 31 May 1976 formally requested integration as an Indonesian province. Indonesian authorities obliged on 17 July 1976, with the promulgation of Law 7/76 that provided for Timor-Leste's integration as Indonesia's 27th province.

16. Meanwhile, the Indonesian Armed Forces responded to continuing resistance by stepping up military operations. Particularly intense and brutal operations were conducted in the years 1975-1983. Using U.S.-supplied OV-Bronco warplanes, Indonesian forces conducted large-scale aerial bombardment of the countryside. Populations thought to be supporting the resistance were forcibly resettled in an Indonesian version of the 'strategic hamlets' used by U.S. forces in Vietnam.

17. The bombings and forced relocations led to widespread famine and disease. By 1980 church and human rights organisations estimated that as many as 200,000 of a pre-invasion population of less than 700,000 had already died. The vast majority died of starvation and disease, but a substantial number were killed in combat or in summary executions. While the scale of the killing and humanitarian crisis declined somewhat over the next two decades, Indonesian forces and the local militia groups they mobilised continued to be responsible for gross and systematic human rights violations until their final departure from the territory in October 1999.

Resistance

18. Indonesian forces faced persistent resistance, both armed and peaceful, throughout the 24 years of their occupation of Timor-Leste. The Resistance movement benefited from the support of the Catholic Church and from large segments of the younger generation that devised new strategies linking their struggle to international networks and organisations.

19. For most of the period of occupation, the Resistance was spearheaded by Fretilin, and by its armed wing, Falintil. In the early 1980s, Falintil evolved into a mobile guerilla force, whose component units operated with a high degree of autonomy. They also had support from at least part of the population who provided them with food, shelter and intelligence. That approach created certain dangers for the civilian population, who became the target of Indonesian army operations. At the same time, it allowed a group of perhaps 1,000 armed fighters to engage and occasionally inflict casualties upon well-equipped Indonesian forces as much as twenty times larger.

20. Important as these fighters were, resistance to the Indonesian occupation was not solely, or even primarily, exercised through force of arms. That was especially true after 1981, when the overall leadership of the Resistance, and of Falintil, passed to José Alexandre Gusmão, better known as Xanana Gusmão. Under his leadership, the armed Resistance was increasingly complemented by a network of groups that operated primarily in the political sphere, both in Timor-Leste and abroad. The formally constituted organisations included Renetil (Resistência Nacional dos Estudantes de Timor Leste – East Timorese National Students Resistance), Ojetil (Organização de Juventude de Timor Leste – Organisation of East Timorese Youth), and the women's group OMT (Organização da Mulher Timor – Organisation of Timorese Women), but they were joined by dozens of semi-formal and informal groups spread across the country and in major towns and cities in Indonesia.

21. Broadly described as the Clandestine Front, this network maintained links with the armed resistance, but did not play a direct role in the armed conflict. Many of those active in the Clandestine Front were young people and students who had been raised and educated under Indonesian rule. In addition to their work inside Timor-Leste, elements of this network also gathered information on political and human rights developments and disseminated it to international human rights organisations, the media and foreign governments. Among the most prominent groups engaged in such work was the human rights group, Yayasan HAK.

22. Critics and opponents of Indonesian rule also found support within Timor-Leste's Catholic Church, a powerful ally among a population that was overwhelmingly Catholic.* Religious leaders provided sanctuary to the victims of military operations, and spoke out strongly against the occupation. The tone was set by Monsignor Martinho da Costa Lopes, an outspoken critic of Indonesian rule who was removed from his post

* For an account of the role of the Catholic Church see Arnold Kohen, *From the Place of the Dead: The Epic Struggles of Bishop Belo of East Timor*. New York: St Martin's Press, 1999.

as Apostolic Administrator in 1983. His successor, Monsignor Carlos Filipe Ximenes Belo, was expected to be more compliant. In 1989, however, Monsignor Belo wrote to the then UN Secretary General, Javier Perez de Cuellar, decrying Indonesian violence and urging UN support for a referendum on Timor-Leste's political future.*

23. In the late 1980s the resistance underwent a further political transformation. Eschewing the leftist rhetoric of previous years, Xanana Gusmão called on the different East Timorese parties to join in a united national resistance front called CNRM (Conselho Nacional da Resistência Maubere – National Council of Maubere Resistance).

24. At a convention in Portugal, in April 1998, the CNRM was reconstituted as the CNRT (Conselho Nacional de Resistência Timorense), with Xanana Gusmão as President. Falintil, which had begun as the armed wing of Fretilin, was declared to be the armed force of the whole national resistance.

25. The resignation of Indonesia's President Soeharto in May 1998 added greater urgency to the objective of forging a national front, while also providing unprecedented opportunities for organisation and mobilisation inside Timor-Leste. In September 1998, the CNRT openly declared its existence in Timor-Leste, and established offices around the country. CNRT officials quickly came under political and physical attack by pro-Indonesian groups, forcing many of them to close down their offices and to flee. Indeed, by some accounts, the mobilisation of the pro-Indonesian militia groups that became the main perpetrators of violence in 1999 began at this time in response to CNRT initiatives.

26. Nevertheless, by early 1999 the CNRT had emerged as the principal political representative of the pro-independence position, both in Timor-Leste and in dealings with the United Nations and foreign governments. Notwithstanding some objections from certain groups, the CNRT flag became the universally recognised symbol of the independence option, and appeared as the symbol of the "No" vote on the ballot for the 1999 Popular Consultation.

International response

27. Indonesia's claim to sovereignty over Timor-Leste was never recognised by the United Nations. Between 1975 and 1981 the UN Security Council and the UN General Assembly passed a series of resolutions deploring the Indonesian invasion and recognising the inalienable right of the people of Timor-Leste to self-determination.† In keeping with those resolutions, the UN continued to regard Portugal as the formal administering power in the territory.

* The text of the letter is reproduced in Kohen, *From the Place of the Dead*, p. 137.

† The relevant Security Council Resolutions were: No. 384 (1975) of 22 December 1975 and No. 389 (1976) of 22 April 1976. Both called for Indonesia to withdraw all its troops from Timor-Leste without delay. Thereafter, until 1981, the General Assembly passed yearly resolutions reaffirming the inalienable right of East Timorese to self-determination, and expressing concern at the suffering of the population.

28. Timor-Leste remained on the agenda of the General Assembly until 1982 when, with Resolution 37/30 (1982) the Secretary General was mandated to work with Indonesia and Portugal to find an internationally acceptable solution. Talks were held periodically under the Secretary General's auspices through the 1980s. Throughout this period, East Timor also remained on the agenda of the UN's Decolonisation Committee, which convened annually in New York to consider the status of the few remaining cases of non-self-governing territories.

29. Nevertheless, little was done in practice to reverse the Indonesian invasion. On the contrary, many governments effectively supported Indonesia's position. The December 1975 invasion, for example, was launched just one day after a meeting in the Indonesian capital, Jakarta, between President Soeharto and U.S. President Ford and Secretary of State Kissinger. The transcript of that 6 December 1975 meeting, finally released in uncensored form in 2001, reveals that the United States effectively condoned the Indonesian invasion.*

30. President Ford assured President Soeharto that the United States would "understand" if Indonesia deemed it "necessary to take rapid or drastic action" in Timor-Leste. Kissinger told Soeharto: "Whatever you do, we will try to handle in the best way possible." The two men asked only that any Indonesian action be delayed until they had returned to Washington so that, in Kissinger's words, they could "influence the reaction" and lessen "the chance of people talking in an unauthorized way."

31. The supportive posture of the U.S. government and its allies became even clearer in the months and years after the invasion. According to the U.S. State Department's own estimates, roughly 90% of the military equipment used in the 1975 invasion was supplied by the United States. And in the years after the invasion, successive U.S. administrations funnelled hundreds of millions of dollars of economic and military aid to the Indonesian government, and protected it from any serious political challenge to its illegal occupation of Timor-Leste.

32. The United States was not alone in lending its support to Indonesia. Official documents recently declassified by the governments of Australia and New Zealand reveal a similar pattern of inaction and acquiescence.

33. Australia chose not to interfere with the 1975 invasion, and later became the first and only major power to give *de jure* recognition to Indonesia's claim to Timor-Leste. Declassified government documents make it clear that Australia was privy to Indonesian plans to invade in 1975, and had details of the atrocities that Indonesian forces committed throughout the 24-year occupation.† For most of that time, however, a succession of Australian governments sought to downplay reports of gross human rights violations in the territory, and provided substantial military training

* U.S. Department of State, Cable from U.S. Embassy Jakarta to Secretary of State, 6 December 1975, on "Ford-Suharto Meeting." The full text of this document can be found on the website of the National Security Archives, at http:// www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB62/

† See Wendy Way, ed. *Australia and the Incorporation of Portuguese Timor, 1974-1976: Documents on Australian Foreign Policy*. Melbourne University Press, 2000.

to Indonesian forces. In 2001, the former Australian Foreign Minister (1988-1996), Gareth Evans, admitted that much of Australia's military training to Indonesia had "helped only to produce more professional human rights abusers."*

34. Events on the ground in Timor-Leste and shifts in the international context began gradually to weaken Indonesia's position through the 1990s. The watershed event was unquestionably the Santa Cruz massacre of 12 November 1991, in which as many as 270 people were shot or beaten to death by Indonesian soldiers.† Shocking video footage of the massacre was broadcast worldwide, prompting outrage and stimulating the formation of Timor-Leste support groups throughout the world.

35. The arrest of the resistance leader Xanana Gusmão in late 1992, his political trial the following year, and his dignified advocacy for Timor-Leste's independence from his prison cell, further raised the profile of the Resistance. These developments stimulated renewed activity at the UN Commission on Human Rights, and led to the dispatch of UN officials to Timor-Leste to investigate allegations of human rights violations.‡

36. A further critical development came in 1996 when two East Timorese, the international spokesman for the Resistance, José Ramos-Horta and the Bishop of Dili, Monsignor Carlos Belo were awarded the Nobel Prize for Peace. The Nobel Prize raised hopes for independence to unprecedented levels, and further increased the leverage of Timor-Leste support groups and non-governmental organisations (NGOs). The prospects for a resolution of the Timor-Leste question were further raised in 1997 by the appointment as UN Secretary-General of Kofi Annan.

37. The most important change, however, came in May 1998 when a rising storm of protest in Indonesia coupled with a major economic crisis forced President Soeharto to step down after more than 30 years in power.

Breakthrough in Indonesia

38. President Soeharto's resignation stimulated widespread demands for democratisation, and an unprecedented questioning of the role of the Indonesian armed forces in politics. The economic crisis, moreover, made the new government especially attentive to the demands of donor countries, and lending institutions such as the International Monetary Fund and the World Bank.

* Gareth Evans, "Indonesia: My Mistake," *International Herald Tribune*, 26 July 2001.

† For a contemporary account and analysis of the massacre, see Amnesty International, *East Timor: The Santa Cruz Massacre*, November, 1991.

‡ The UN Special Rapporteur on the question of torture visited Indonesia and Timor-Leste in 1991; Amos Wako visited the territory as personal envoy to the UN Secretary-General in 1992 and 1993; the UN Special Rapporteur on extrajudicial, summary or arbitrary executions visited in 1994; the UN Special Rapporteur on violence against women, its causes and consequences, visited in late 1998; the UN Working Group on arbitrary detention visited in February 1999; and the personal envoy of the UN High Commissioner for Human Rights visited in May 1999. In November 1999, three UN Special Rapporteurs conducted a joint mission to the territory. The three were: the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture, and the Special Rapporteur on violence against women, its causes and consequences.

39. For these reasons, Soeharto's successor, President B.J. Habibie, and some members of his cabinet, were anxious to demonstrate their commitment to democratisation, human rights and civilian rule. As part of that new approach, in June 1998 the Habibie government indicated that it was prepared to grant Timor-Leste wide-ranging autonomy, with Jakarta retaining control over foreign affairs, external defence and fiscal policy.

40. The new posture gave impetus to the UN-brokered talks between Indonesia and Portugal, and in October 1998 a proposal to grant Timor-Leste 'wide-ranging autonomy' under Indonesian rule was prepared under UN auspices. Indonesia took the position that 'autonomy' would constitute a final dispensation. Portugal took the view that 'autonomy' would constitute a transitional phase, leaving open the possibility of full independence at some future date. The East Timorese leadership – including Xanana Gusmão and José Ramos-Horta – took a similar view, suggesting that a referendum on independence might follow several years of autonomy under Indonesian rule. Despite these differences, all parties agreed to continue discussions on the autonomy proposal.

41. In Timor-Leste, Soeharto's resignation galvanised the CNRT, Falintil and other supporters of independence. Thousands of people took to the streets to demonstrate in favour of independence, and against the proposal for 'autonomy.' While most of these expressions were peaceful, some were not. In November 1998 Falintil forces attacked and killed TNI soldiers at Alas, in Manufahi District. The open expression of popular support for independence, and the attacks at Alas, generated anxiety on the part of Indonesians and East Timorese who favoured continued Indonesian rule. The attacks at Alas led to heavy retaliation by TNI forces, in which more than a dozen civilians were killed (See District Summary: Manufahi, par. 718, below). It was at about this time, too, that the mobilisation of new militia groups began to gather pace.

42. Against this backdrop, on 27 January 1999 Indonesian President Habibie unexpectedly announced that the people of Timor-Leste would be given a chance to express their views on the political future of the territory.* Clarifying the new policy, the Foreign Minister Ali Alatas said that East Timorese would be asked whether they accepted or rejected the proposed 'autonomy' under Indonesian rule. If they rejected it, he said, Indonesia would withdraw and Timor-Leste would be on its own.

43. The boldness of the decision seems to have surprised even those who had been urging a policy adjustment – notably Australian Prime Minister John Howard who had written to Habibie in December 1998 proposing an act of self-determination after several years of autonomy under Indonesian rule. It also surprised Indonesia's powerful armed forces. The preservation of 'national unity' at all costs had long been a central tenet of Indonesian military thinking, and most senior officers were implacably opposed to Timor-Leste's independence.

44. Army leaders apparently put up little resistance to Habibie's proposal in cabinet, but that did not mean they supported it. Indeed, as discussed in greater detail

* The initial announcement was made on 27 January 1999 by Foreign Minister Ali Alatas, and Minister of Information Yunus Yosfiah. *Kompas*, 28 January 1999.

elsewhere in this report, there is evidence that active and retired military officers began at this time to develop plans to derail the process or, failing that, to ensure a victory for the pro-autonomy option. In any case, the surge in the mobilisation of militia forces in late 1998 and early 1999 was more than a coincidence.

UNAMET and the Popular Consultation

45. The Indonesian announcement on 27 January 1999 also changed the terms of reference for the continuing UN-sponsored negotiations. The focus shifted from the details of the 'autonomy' package itself, to arrangements for ascertaining the opinion of East Timorese with respect to the political status of the territory. That shift laid the foundation for the direct involvement of the UN in conducting a ballot on Timor-Leste's political future.

46. To the surprise of UN and Portuguese negotiators, in March 1999 Indonesia readily accepted the idea of a direct ballot, though it rejected the use of the term 'referendum.' Thus reoriented, the talks led quickly to a set of accords known as the 5 May Agreements, signed by Indonesia, Portugal and the UN Secretary-General. The Agreements spelled out a constitutional framework for the future status of Timor-Leste, and entrusted the UN with conducting a 'popular consultation' of East Timorese on the proposal.*

47. The main agreement, signed by Indonesia and Portugal and witnessed by the UN, stipulated that East Timorese would be asked to accept or reject the autonomy package. The rejection of that package, the agreement made clear, would set Timor-Leste on the path toward independence. The two options on the ballot were to be phrased as follows: "Do you *accept* the proposed special autonomy for East Timor within the Unitary State of the Republic of Indonesia?" or "Do you *reject* the proposed special autonomy for East Timor, leading to East Timor's separation from Indonesia?" Despite some concern that this language might cause confusion, this part of the agreements was widely welcomed.

48. More controversial was the agreement on security – signed by Indonesia, Portugal and the UN – which placed sole responsibility for maintaining law and order during and after the consultation in the hands of Indonesian security forces, and specifically the Police. The UN contingent in Timor-Leste would include as many as 300 Civilian Police (Civpol), but they were to serve in a purely advisory capacity, and would be unarmed. The agreement emphasised the responsibility of the Indonesian authorities in securing an environment free from violence and intimidation and conducive to the conduct of the popular consultation. It also stressed that the absolute neutrality and impartiality of the Indonesian Armed Forces and Police would be essential in that regard.

* The full text of the agreements is in Report of the Secretary-General (A/53/951-S/1999/513), 5 May 1999. It consists of "Annexe I: Agreement Between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor" (the main agreement) to which is appended "A Constitutional Framework for a Special Autonomy for East Timor" (the autonomy proposal); "Annexe II: Agreement Regarding the Modalities for the Popular Consultation of the East Timorese Through a Direct Ballot" (the modalities agreement); and "Annexe III: East Timor Popular Consultation" (the security agreement).

49. Despite these caveats, the potential danger of the security arrangement was not lost on outside observers, or even on those who had helped to negotiate it.* The Secretary-General Kofi Annan was evidently so concerned about it that in a separate memorandum, submitted to the signatories, he set out several criteria by which he would judge whether the security situation was acceptable.† These included an immediate ban on rallies by armed groups, the prompt arrest and prosecution of those inciting or threatening violence, and the redeployment of Indonesian military forces. He also made it clear that he would stop the process should he find that these criteria were not being met.

50. With that fragile guarantee, in late May 1999 the UN began to recruit and to deploy its personnel in Timor-Leste with the objective of conducting a referendum in early August. The UN flag was raised over the mission's headquarters in Dili on 4 June, and a week later, on 11 June, the Security Council formally established the United Nations Mission in East Timor, more commonly known as UNAMET.

51. The mission was led by Ian Martin, who was designated Special Representative of the Secretary General (SRSG). The principal components of UNAMET were: Civilian Police (Civpol), Military Liaison Officers (MLOS), Electoral Affairs, Political Affairs, Security, and Administration. At UN headquarters in New York, the UNAMET operation was coordinated and overseen by the Department of Political Affairs. High-level diplomatic contacts with the Indonesians were handled by Ambassador Jamsheed Marker, who had been Personal Representative of the Secretary General for Timor-Leste since 1997.

52. UNAMET established its headquarters in Timor-Leste's capital city, Dili, and eight regional offices were established to cover the territory's 13 administrative districts. Staff were deployed in, or made regular visits to, most sub-districts and villages in the territory, to conduct voter education, register voters, monitor the political and human rights situation, advise and liaise with Indonesian Police and Army forces on security issues, and finally to administer the ballot itself.

53. Aside from important political, logistical, and administrative matters, UNAMET's first order of business was to devise, and set in motion, a credible system of voter registration within the tight time-frame spelled out in the 5 May Agreements. That work was being carried out in record time by UNAMET's Electoral Affairs Office. On 22 June, however, the Secretary-General announced a three-week delay in the registration (and also in the ballot) on both operational and security grounds. Security concerns, and in particular the continuing violence by pro-Indonesian militias, led to a further three-day delay in mid-July, and to the threat of additional delays, or even cancellation, should the situation not improve substantially by the half-way point in registration.

54. Despite these concerns, voter registration finally commenced on 16 July, and continued without interruption through the half-way point of 25 July, on the un-

* On the negotiations, see Tamrat Samuel, "East Timor: The Path to Self-Determination," in Chandra Lekha Sriram and Karin Wermester, eds., *From Promise to Practice: Strengthening UN Capacities for the Prevention of Violent Conflict*. Boulder: Lynne Reiner, 2003.

† These points had originally been spelled out in a letter from the Secretary-General to Indonesian President Habibie, but when Foreign Minister Alatas refused to accept the letter, it was submitted to both parties in the form of a memorandum.

derstanding that the Indonesian authorities would further improve the security climate and the situation of internally displaced persons (IDPs). Registration ended on 6 August, having been extended by two days beyond the planned 20-day period at the insistence of some Indonesian officials and pro-Indonesian East Timorese leaders. Notwithstanding pervasive threats and acts of violence by pro-Indonesian militias during this period, 446,666 people registered to vote, a figure that substantially exceeded expectations.*

55. Registration was followed by a formal campaign period lasting roughly two weeks, from 14 to 26 August. Campaigning was governed by a code of conduct developed under UNAMET auspices, and monitored by committees with representatives from the different political parties. Throughout this period, UNAMET also worked toward a mutual "laying down of arms" by pro-independence and pro-Indonesian forces. Despite these initiatives, the campaign period was marred by serious acts of violence, principally from the pro-autonomy side. On the final day of pro-autonomy campaigning, for example, at least eight people were killed in the city of Dili alone (See District Summary: Dili, par. 595, below).

56. In an apparent effort to limit or forestall violent conflict, in August Xanana Gusmão initiated the unilateral 'cantonment' of pro-independence forces. By 12 August, Falintil had withdrawn its forces to four cantonment sites, and had given a commitment that they would remain there for the duration of the ballot process. The armed pro-Indonesian militia groups, backed by Indonesian authorities, refused to follow that example. Between 16 and 19 August, the militias conducted a series of 'cantonment ceremonies' at which they handed over some, but by no means all, of their weapons to Indonesian Police and military authorities. In reality, however, the militias continued to operate without inhibition, and the weapons they had handed over were later returned to them.

57. Notwithstanding serious concerns about possible violence, the vote proceeded as planned on 30 August. To the surprise of many, there was little violence through most of the day, and a remarkable 98.6% of registered voters cast their ballots. Regrettably, the peace did not last. Almost as soon as polling ended, militias began to attack those they believed to be supporters of independence. The earliest victims included local UNAMET staff members who were killed as they carried ballot boxes from a polling station to their vehicle.

58. The Secretary-General announced the results of the ballot on the morning of 4 September. A substantial majority (78.5%) had voted against autonomy and for independence. Within hours of the announcement, however, pro-autonomy militias and TNI soldiers took to the streets and began a campaign of violence of unprecedented ferocity. Private homes, public buildings, and infrastructure were systematically burned and destroyed. More than 400,000 people were forced to leave their homes and flee to the hills, or were forcibly displaced by TNI and militia units to areas outside Timor-Leste.

* That number included 433,576 in Timor-Leste, and 13,090 who registered at designated centres outside the territory.

59. These events coincided with two significant changes to the chain of command in Timor-Leste. The first came on 4 September, when the TNI assumed responsibility for all security operations in the territory, formally relegating Police and civilian authorities to auxiliary roles. The new command arrangement was designated Koops Nusra (Komando Operasi TNI Nusa Tenggara – Nusa Tenggara Military Operations Command). Ko-ops Nusra was commanded by Maj. Gen. Adam Damiri, the Military Commander for Region IX of which Timor-Leste was a part.

60. The second major shift came with President Habibie's declaration of Martial Law in the territory, with effect from 00.00 hours on 7 September. After that date all military, police and civilian operations in Timor-Leste were formally under the control of the Martial Law Commander, Maj. Gen. Kiki Syahnakri, who was accountable to President Habibie, as Supreme Commander.*

61. Notwithstanding these changes, the violence continued to escalate. As a consequence, the UNAMET mission was forced to evacuate its staff from Timor-Leste in the early morning hours of 14 September 1999. Some 1,400 East Timorese civilians who had sought refuge in the UN compound were also airlifted to safety. The violence and destruction continued unabated after the departure of the mission, despite repeated calls on the Government of Indonesia to control the situation and respect its obligation to ensure order and security.

62. On 12 September, the Government of Indonesia formally agreed to the presence of an international intervention force in Timor-Leste. This force, known as the International Force for East Timor (Interfet), began deploying on 20 September and began immediately to re-establish law and order and to facilitate the distribution of humanitarian assistance. In October 1999, the Indonesian legislature rescinded the law under which Timor-Leste had been declared an Indonesian province, and by the end of the month, Indonesian forces had completely withdrawn from the territory.

Indonesia: power and strategy

63. Notwithstanding the dramatic changes that had taken place in 1998-99, the official Indonesian response to the prospect of a vote in Timor-Leste was shaped by attitudes and structures of political and military power that had become deeply entrenched over at least three decades. Those attitudes and structures of power formed the backdrop to, and facilitated, the systematic violations of human rights observed in 1999.

* Although he was formally in charge as of 7 September, it would appear that Maj. Gen. Syahnakri did not take effective command in Timor-Leste until a few days later. When UNAMET's Head of Mission Ian Martin went to Korem headquarters on the evening of September 8, for example, he found that Maj. Gen. Damiri was still in charge. A credible source later told Martin that Syahnakri did not assume effective command until his written orders arrived from Jakarta some time after 8 September. Personal communication with Ian Martin, 1 June 2003. According to a separate account, Syahnakri assumed effective command at 11 pm on 9 September. See Don Greenlees and Robert Garran, *Deliverance: The Inside Story of East Timor 's Fight for Freedom*. Crow's Nest, NSW: Allen & Unwin, 2002, p. 229.

64. The key institution within this power structure was the Indonesian Armed Forces (Tentara Nasional Indonesia – TNI). Despite the challenges to its authority that attended President Soeharto's fall, in 1999 the TNI remained the most powerful political institution in the country, and its influence was especially great in Timor-Leste. The unique power of the TNI, and certain aspects of its doctrine, structure, and standard operating procedure go a long way to explaining the pattern of human rights violations in 1999. Especially important were its doctrine of 'total people's defence,' its territorial command structure, the dominance of special forces and intelligence units, and its penchant for mobilising proxy militia forces.

65. But the Indonesian strategy to ensure victory for the autonomy option was not simply a military, or paramilitary, one. It also relied upon a range of other institutions, including the Indonesian Police and the civilian government apparatus. Subordinate to the TNI, and therefore unable or unwilling to challenge its strategy, the Police contributed to the violence primarily by failing to take effective measures to stop it. Likewise, the civilian government apparatus played a contributing role, by implementing an official campaign to 'socialise' the autonomy option. Finally, the strategy entailed the mobilisation of new pro-Indonesian political groups, such as the FPDK and the BRTT, and various specialised government agencies, which together provided a cover for official efforts to influence the outcome of the vote by peaceful as well as violent means.

The Indonesian Armed Forces

66. Under the terms of the 5 May Agreements, the Indonesian Armed Forces (TNI) were enjoined to maintain a strict neutrality with regard to the Popular Consultation. However, given the deeply entrenched political power of the TNI in Indonesia and in Timor-Leste, the long established patterns of behavior of military forces, and the strong feelings of officers and men on the issue, that was an implausible expectation.

67. The TNI had never been purely 'professional' in the sense of being an apolitical institution that implements orders from a civilian political leadership. From its origins during the Indonesian struggle for independence from the Dutch colonial authorities (1945-1949), the Indonesian military – and in particular the Army – had always played an important role in the political, social, and economic life of the state. The political power of the military became more deeply entrenched during the New Order regime of President Soeharto (1965-1998). Even after Soeharto's resignation in 1998, the TNI remained by far the most powerful institution in the country, and in Timor-Leste.

68. At the heart of the TNI's power, both in Indonesia and in Timor-Leste, were certain unique features of its command structure. One of these was its territorial organisation. In 1999, roughly two thirds of TNI forces were dispersed throughout the country in a structure that descended all the way to the village level. Thus, the country was divided into ten Regional Military Commands (Komando Daerah Militer – Kodam). Each Kodam was further divided into a series of successively smaller geographical command units known as: Sub-Regional Military Commands (Komando Resor Militer – Korem); District Military Commands (Komando Distrik Militer – Kodim); and Sub-District Military Commands (Komando Rayon Militer – Koramil). At the village level, the TNI was represented by a Non-Commissioned Officer, known as a Babinsa.

69. In 1999, Timor-Leste fell under the authority of Regional Military Command IX (Kodam IX/Udayana), which had its headquarters in Bali. Kodam IX was commanded by Maj. Gen. Adam Damiri. Timor-Leste itself was under the authority of Sub-Regional Military Command 164 (Korem 164/Wiradharma), commanded by Col. Tono Suratman and, after August 13, by Col. Noer Muis. Beneath the Korem, Timor-Leste was further divided into 13 District Military Commands (Kodim 1627 through 1639), each of them commanded by a 'Dandim', usually of Lt. Colonel rank. The Kodims were in turn each divided into several Sub-District Military Commands (Koramil), each of them commanded by a 'Danramil.'

70. It was through this structure of territorial military command that much of Indonesia's basic military policy was carried out in Timor-Leste. Indonesian military strategy in 1999 was framed by a strategic plan called 'Operation Tatoli IV Korem 164/WD' (Operasi Tatoli IV Rem 164/WD).* Other operational plans framing military action in Timor-Leste were the Sub-Regional Military Command's plan for the referendum, 'Operation Wira Dharma-99' (Operasi Wira Dharma-99); the Regional Military Command's post-ballot evacuation plan, 'Operation Pull-Out' (Operasi Cabut Kodam IX/UDY); and an overall 'Contingency Plan 1999-2000' (Rencana Kontingensi 1999-2000) developed at TNI headquarters to address the possibility of Indonesian defeat in the referendum.†

71. The system of territorial military command ran parallel to the structures of civilian political authority down to the village level – the Korem Commander shadowed the Governor; the 13 Kodim Commanders looked over the shoulders of the 13 District Heads (Bupati); the 62 Koramil Commanders supervised the 62 Sub-District Heads (Camat); and the 442 Babinsas operated alongside an equal number of Village Heads (Kepala Desa). In this way, the territorial military command effectively ensured military involvement in and dominance over, the formulation and implementation of policy at every level. Thus, even if civilian authorities such as the Governor and the Bupatis were formally in charge, in the final analysis military officers within the territorial command exercised greater power.

72. In addition to the territorial command system that was a feature of Indonesian rule everywhere, in 1999 military power in Timor-Leste had a number of unique features that stemmed from its long history as an area of active military operations. It had, for example, two 'organic' infantry battalions permanently based in Timor-Leste. Battalion 744, with its headquarters in Dili, and Battalion 745, based in Lospalos, had been formed in the late-1970s, shortly after Indonesia's invasion. Though many of the soldiers in these units were East Timorese, the officers were predominantly Indonesian. Both units, moreover, were formally answerable to the Korem commander.‡

* The title indicated that the operation was controlled by the Korem Commander, while the designation 'IV' suggested that 1999 was the fourth year of the operation. See Dan Sat Gas Pam Dili to Danrem 164/WD and others. Secret Telegram STR/199/1999, 24 August 1999 (Yayasan Hak Collection, Doc #40).

† In some TNI documents, the 'Contingency Plan' was referred to as "Rencana Tindakan Menghadapi Kontinjensi Purna Penentuan Pendapat di Timtim (Jika) Opsi-1 Gagal". See Menteri Pertahanan Keamanan/Panglima TNI (Jen. Wiranto), "Direktif Panglima TNI, Nomor: 02/P/IX/1999, tentang Komando Penguasa Darurat Militer Wilayah Timor Timur". (8) September 1999 (HRU Collection, Doc. TNI #9). For further discussion of the various post-ballot plans, see Chapter 5.

‡ See: Dan Yonif 744/SYB (Maj. Yakraman Yagus) to Danki Yonif 744/SYB and others. Secret Telegram No.TR/74/1999, 30 January 1999 (Yayasan HAK Collection, Doc #5).

73. These 'territorial' and 'organic' units were supplemented by combat forces drawn from other parts of the country to perform tours of duty in Timor-Leste. The number of combat forces deployed at any time in Timor-Leste varied, but in the first half of 1999 there were at least ten combat battalions, bringing the total estimated TNI force there to something in excess of 15,000 men. The number of combat battalions, and the overall force strength, increased substantially with the President's declaration of Martial Law in Timor-Leste on 7 September 1999.

74. Military power in Timor-Leste and government strategy in 1999 also rested crucially on two elite counter-insurgency units: the Special Forces Command (Komando Pasukan Khusus – Kopassus), and the Army Strategic Reserve Command (Komando Strategis Angkatan Darat – Kostrad).* Crucially, both units operated outside the normal territorial chain of command, and often without the knowledge of territorial officers.

75. Established before the 1965 coup, Kostrad evolved into a formidable mobile strike force, its units deployed in response to perceived major threats to internal security in Aceh, Irian Jaya/West Papua, Timor-Leste, and elsewhere. Despite their reputation for professionalism and esprit de corps, however, Kostrad units were accused of serious human rights violations. Nevertheless, with the declaration of Martial Law in Timor-Leste, on 7 September 1999, Kostrad forces were among those deployed to restore order.†

76. It is noteworthy that many of the highest-ranking TNI officers, who shared command responsibility for Timor-Leste in 1999, had Kostrad backgrounds. They included: TNI Commander, Gen. Wiranto; TNI Chief of Territorial Affairs, Lt. Gen. Bambang Yudhoyono; Head of the national intelligence agency (BIA/BAIS), Lt. Gen. Tyasno Sudarto; TNI Chief of General Staff, Lt. Gen. Sugiono; Operations Assistant to the Army Chief of Staff, and later Martial Law Commander in Timor-Leste, Maj. Gen. Kiki Syahnakri; Assistant for Operations to the Armed Forces Chief of General Staff, Maj. Gen. Endriartono Sutarto; and the Commander of Regional Military Command IX, Maj. Gen. Adam Damiri.‡

77. Like Kostrad, Kopassus had a reputation for expertise in methods of unconventional warfare, but also for brutality and abuse of authority, especially in Timor-Leste. In early 1999 Kopassus formed a special task force in Timor-Leste, called Satgas Tribuana VIII (Task Force Tribuana VIII), under the command of Lt. Col. Yayat Sudrajat.§ Satgas Tribuana VIII controlled a network of officers and soldiers deployed in small units

* For details of the history, size, and mission of Kopassus and Kostrad, see Lowry, *Indonesian Defence Policy*, pp. 40, 81-84, 93.

† One full Kostrad battalion was deployed in Dili at that time, and a full company from that unit was assigned to protect UNAMET headquarters. The commander of the Kostrad troops deployed at UNAMET was Capt. Catur. See: Dandim 1627/ Dili (Lt. Col. Soedjarwo), "Data Kekuatan Pengamanan UNAMET dan Objek Vital," September 1999 (Yayasan HAK Collection, Doc #45). The overall Kostrad Commander in 1999 was Lt. Gen. Djamari Chaniago.

‡ For details on the career backgrounds of these officers, see Hamish McDonald et al. *Masters of Terror*, Canberra: Strategic and Defence Studies Centre, Australian National University (Canberra Paper #145), 2002. Also at: http:// yayasanhak.minihub.org/mot/booktoc.htm.

§ Speaking to Indonesian investigators in September 2000, Lt. Col. Sudrajat said that he had received orders for deployment to East Timor from the Kopassus Commander on 27 January 1999. See: Yayat Sudrajat, statement to the Office of the Indonesian Attorney General, Investigations Team for Gross Violations Against Human Rights in East Timor, 12 and 20 September 1999. Translation (SCU Collection, Doc #C).

across the territory.[*] Although Kopassus maintained some fixed posts, most Kopassus officers and men operated covertly, often in plainclothes, and were engaged mainly in intelligence gathering and counter-intelligence operations. There were credible allegations, discussed in greater detail elsewhere in this report, that some militia members were in fact highly trained Kopassus soldiers, whose job it was to command and to stiffen the resolve of local militia members.

78. In addition to those actively serving with Kopassus units in Timor-Leste, a number of senior military officers with command responsibility for Timor-Leste in 1999 had Kopassus backgrounds. They included: Army Chief of Staff, Gen. Subagyo Hadisiswoyo; Territorial Assistant to Armed Forces Chief of General Staff, Maj. Gen. Sjafrie Sjamsuddin; Deputy Assistant for Security to the Army Chief of Staff (and later Deputy Martial Law Commander in East Timor), Brig. Gen. Amirul Isnaeni; Chief of Staff of Kodam IX, Brig.Gen. Mahidin Simbolon; East Timor Korem Commander until mid-August 1999, Col. Tono Suratman; and his successor in that post, Lt. Col. Noer Muis.[†]

79. Also closely linked to Kopassus were many of the key Cabinet ministers with responsibility for Timor-Leste in 1999. They included: the powerful Coordinating Minister for Political and Security Affairs, Lt. Gen. (ret.) Feisal Tanjung; the Minister of Transmigration and Resettlement, Lt. Gen. (ret.) A.M. Hendropriyono; the Minister of Information, Lt. Gen. (ret.) Yunus Yosfiah, and a close military adviser to President Habibie, Maj.Gen. (ret.) Sintong Panjaitan.[‡]

80. The various combat forces deployed in Timor-Leste, including Kopassus and Kostrad, appear to have had a distinct command structure related to their combat function. Unlike the territorial forces, which were divided into 13 District Military Commands, combat forces deployed in Timor-Leste were grouped into two Sectoral Commands, known as 'Sektor A' which covered the eastern part of the territory, and 'Sektor B' which covered the western districts.[§] Each Sector was commanded by an officer of Colonel rank. Significantly, these Sectoral commanders, and their deputies, all had backgrounds in Kopassus or Kostrad, and in military intelligence.[¶] The Sectoral command structure was

* In a September 2000 statement to Indonesian investigators, Satgas Tribuana VIII Commander, Lt. Col. Sudrajat, identified by name the Kopassus commanders in 8 of Timor-Leste's 13 districts: Lt. Rahmat Zulkarnaen in Lautém; Capt. Alfi Shari Lubis in Baucau; Lt. Aminton Manurung in Viqueque; Capt. Sugiyono in Manufahi; Sgt. Tukiran in Ainaro; Lt. Masgen Abas in Ermera; Sgt. Mulyono in Bobonaro; and Lt. Kawan in Dili. See: Yayat Sudrajat statement, SCU Collection, Doc #C. According to a media report about leaked Australian intelligence, in September 1999 Kopassus had formed special hit squads, named 'Kiper-9' to hunt down pro-independence leaders and pro-Indonesian figures who had changed sides. See Hamish McDonald, "Australia's bloody East Timor secret," and "Silence over crime against humanity," *Sydney Morning Herald*, 14 March 2002.

† See *Masters of Terror*: http://yayasanhak.minihub.org/mot/booktoc.htm

‡ See *Masters of Terror*: http://yayasanhak.minihub.org/mot/booktoc.htm

§ Combat Sector A apparently covered the Districts of Baucau, Viqueque, Lautém and Manauto. Sector B covered the Districts of Aileu, Ainaro, Bobonaro, Covalima, Ermera, Manufahi, and Oecussi.

¶ The Commander of Sector A (until 21 June 1999) was Col. Sunarko, who had a background in Kopassus and military intelligence. He was replaced by Col. Irwan Kusnadi, whose career had been spent with Kopassus and Kostrad. Sector B was commanded by Col. Tatang Zaenuddin, whose background was in Kopassus and military intelligence. The Deputy Commander of Sector B was Lt. Col. Nyus Rahasia, another career Kopassus officer. Some documents suggest that the Sector A Commander during the period of Martial Law in September 1999 was Col. Gerhan Lantara.

a legacy of Timor-Leste's long history as a military operations area, and was evidently maintained to facilitate counter-insurgency operations there. There are indications that it played a key role in mobilising and coordinating the militias in 1999.

81. Finally, military power and strategy in Timor-Leste rested on a pervasive intelligence network. Military intelligence officers and units were attached to, and often played a dominant role at, each level of the territorial command hierarchy (Kodam, Korem, Kodim, and Koramil). Complementing, and often superceding, those normal intelligence operatives, however, was the 'Intelligence Task Force' commonly referred to as SGI (Satuan Tugas Intelijen). In 1999, it maintained posts throughout the country but much of its work – including the mobilisation and coordination of militia groups – was covert.* Formally, SGI was under the authority of the Korem.† In practice, however, it appears to have been controlled and coordinated by Kopassus officers. The SGI commander in 1999, for example, was Lt.Col. Yayat Sudrajat, who was also the commander of the Kopassus unit in Timor-Leste, Satgas Tribuana VIII.‡

82. Each of these units, and in particular SGI, mobilised an extensive network of spies and informants. This system permitted the armed forces, and especially Kopassus, to engage with considerable ease in continual surveillance or intelligence gathering, and also to carry out covert counter-intelligence operations, including the mobilisation of militia groups.

The Militias

83. Among the most conspicuous elements of the government's strategy, and an element with immediate consequences for human rights, was the mobilisation of armed militia groups dedicated to maintaining the tie with Indonesia. Militia groups had always been an integral element of Indonesian counter-insurgency strategy in Timor-Leste and elsewhere, so their sudden proliferation at this time pointed strongly to military involvement.

84. Although they had deep historical roots, militia groups began to mobilise anew in mid-1998, shortly after President Habibie first floated the 'autonomy' option for Timor-Leste.§ News of the new militia groups began to trickle out of the country in late 1998 as the UN-sponsored negotiations over special autonomy for Timor-Leste

* One known SGI post was 'Post Nanggala-13' (Pos-Nanggala-13) in Baucau. A secret list of Sera militia members, issued by that post in January 1998, confirms the long-standing links between SGI and militia groups. See: Komandan Pos Nanggala-13, Satuan Tugas Intelijen (Sgt. Mudji Maulani), "Daftar Nama Nama Anggota Sera (Surwan) Kec. Baguia," 2 January 1998 (Yayasan HAK Collection, Doc #2). Another SGI post was 'SGI Post Kresna 12' (Pos SGI Kresna 12) in Atsabe Sub-District, Ermera. The Commander of that Post, Amran Odhe, co-signed a document listing 62 Aitarak members in the village of Atudame, again confirming the link between SGI and militia groups. See: Kepala Desa Atudame, Danramil 04/Atsabe, Dan Pos SGI Kresna 12/Atsabe, and others. "Daftar Nama-Nama Dari Markas Besar Komando PasukanAitarak Sektor B," 22 August 1999 (SCU Collection, Doc #20).

† See: Kepala Bagian Intelijen (Capt. Sarengat) for Komandan Satuan Tugas Intelijen, Korem 164/WD to Koordinator Judi, concerning "Surat Panggilan," 28 May 1998 (SCU Collection, Doc #221).

‡ Lt. Col. Sudrajat's predecessor as SGI Commander in Timor-Leste was Lt. Col. Wioyotomo Nugroho.

§ A former Secretary-General of Apodeti, Francisco Carvalho, reportedly showed Australian journalists a document, dated 24 June 1998, said to be an Apodeti report on a meeting with military officers at which plans for creating a militia force were laid out. See ABC, *Four Corners*, "A License to Kill," 15 March 1999, transcript, p. 11.

gathered steam. With President Habibie's announcement in late January 1999 that East Timorese would be free to choose autonomy or independence, the trickle became a flood. Within a few months, more than two dozen militia groups had formed, and they quickly became the main conduits for pressuring the population to vote for autonomy, and the main perpetrators of human rights violations.

85. Some of the groups that came to light at this time had existed for several years, such as Halilintar in the district of Bobonaro, Team Saka and Team Sera in Baucau, and Team Alfa in Lautém. But others were new, including: Besi Merah Putih, based in Liquiçá, Aitarak in the District of Dili, Dadurus Merah Putih in Bobonaro, Mahidi in Ainaro, Laksaur in Covalima, AHI in Aileu, and ABLAI in Manufahi (See Table 4: Pro-Indonesian Militia Groups in Timor-Leste, 1999, par. 1113, below).

86. Reflecting their close ties to the TNI, the militia groups adopted military rhetoric and modes of organisation. They were organized into 'companies' and 'platoons' and their members were described as soldiers, or freedom fighters. The headquarters of one of the most notorious groups, Aitarak, adopted the title 'Aitarak Troop Command' (Komando Pasukan Aitarak).*

87. By early 1999 the different militia groups had been drawn together under a single military-style structure, called the 'Integration Fighters Force' (Pasukan Pejuang Integrasi – PPI). The PPI was led by a long-time pro-Indonesia figure, João Tavares, who was given the military-style title of Panglima or 'Commander.' In a further imitation of military organisation, the PPI was made up of three 'Sectoral Commands,' each of which was under the control of a 'Deputy PPI Commander.'†

- Sector A of the PPI covered the easternmost districts of Baucau, Lautém, Viqueque and Manatuto, and was commanded by Joanico Cesario Belo who was also commander of the Team Saka militia. A Kopassus officer with the rank of 1st Sergeant, Belo was a protégé of the notorious Kopassus officer and Soeharto's son-in-law, Prabowo Subianto.‡
- Sector B covered the central districts of Dili, Liquiçá, Ermera and Aileu, and was under the command of Eurico Guterres, who was also the commander of Aitarak. Once a supporter of independence, Guterres emerged in 1995 as the head of Gadapaksi, a pro-Indonesian youth organisation established by Kopassus, and deployed to harass and intimidate members of the independence movement.
- Sector C covered the western districts of Bobonaro, Covalima, Ainaro, Manufahi, as well as the enclave of Oecussi. It was commanded by Cancio Lopes de Carvalho, who was also the commander of the Mahidi militia group.

* For details of Aitarak's structure, see: Wakil Panglima, Komando Pasukan Pejuang Integrasi (Eurico Guterres) to Governor of Nusa Tenggara Timur. Letter No. 55/SP/MK-AT/VI/1999, 30 June 1999 (SCU Collection, Doc #39).

† The different militia sectors are outlined in: Wakil Panglima, Komando Pasukan Pejuang Integrasi (Eurico Guterres) to Governor of Nusa Tenggara Timur. Letter No. 55/SP/MK-AT/VI/1999, 30 June 1999 (SCU Collection, Doc #39).

‡ Joanico was also said to be the adopted son of a career Kopassus officer, Lt. Gen. Luhut Panjaitan. See Don Greenlees and Robert Garran, *Deliverance: The Inside Story of East Timor 's Fight for Freedom*. Crow' s Nest, NSW:Allen & Unwin, 2002, p. 132.

Carvalho had close ties to Brig. Gen. Mahidin Simbolon, a Kopassus officer who was Chief of Staff of Kodam IX in 1999.

88. The stated aims of the militias reflected a preoccupation with the outcome of the popular consultation, and an approach that was both dogmatic and bellicose. In a letter to his Post Commander dated 30 March 1999, for example, an Aitarak member spelled out his vision for the coming months:

> "Aitarak, which now has 400 men, is going to answer and destroy all threats from the pro-independence side . . . . If in spite of that there are still those who insist on asking for independence, they are welcome to it but they should beware that independence will, without a doubt, end with the spilling of blood . . .This is the foundation on which Aitarak has been created, under the leadership of Eurico Guterres."*

89. Indonesian authorities asserted that these groups were spontaneous reflections of local support for integration, and that the violence was the result of conflict among pro-independence and pro-integration East Timorese. Accordingly, they argued, the TNI and Police were more than ever needed to preserve the peace. As discussed in detail in later chapters, that claim disguised the central role of the TNI in creating and supporting the militias responsible for the violence. Thus, it helped to ensure that the relationship with the militias remained intact, and that the systematic pattern of human rights violations that stemmed from it would continue without serious interruption.

The Indonesian Police

90. Under the 5 May Agreements, the task of maintaining security during the popular consultation was entrusted to the Indonesian national police force (Kepolisian Negara Republik Indonesia – Polri). The key figure on the ground in Timor-Leste was the Regional Police Commander (Kepala Kepolisian Daerah – Kapolda), Col. Timbul Silaen. Beneath him were 13 Police Resort Commanders (Kepala Kepolisian Resor – Kapolres), one for each of Timor-Leste's administrative districts; and a larger number of Police Sector Commanders (Kepala Kepolisian Sektor – Kapolsek).

91. As part of its responsibility for maintaining law and order, in August 1999 the Regional Police Command developed a detailed plan, called 'Operasi Hanoin Lorosae II' (Operation Hanoin Lorosae II), which included plans for a post-ballot evacuation.† Some observers have argued that the existence of this plan is evidence that the post-ballot violence, and in particular the forcible relocation of civilians, was planned in advance at the highest levels. A close examination of the document, however, does not support that conclusion. As discussed in greater detail below (see par. 298), whatever one may say about the behaviour of the Police, the document itself reads as a fair attempt to plan for the widely predicted violence in the post-ballot period.

* The author of the letter was Mário Pinto da Costa. See: Letter from Mário Pinto da Costa to Komandan [Aitarak], 30 March 1999 (SCU Collection, Doc #262).

† Kepolisian Negara Republik Indonesia, Daerah Timor Timur,"Rencana Operasi Hanoin Lorosae II," Secret Plan No. Pol: Ren Ops/04/VIII/1999, August 1999 (Yayasan HAK Collection, Doc #39).

92. Faced with accusations that they were not doing enough to stop militia violence, Polri officials sometimes complained that they were seriously understaffed, and that maintaining order with so few men was a 'mission impossible.' But the reality was that Polri had a substantial number of officers on the ground in Timor-Leste, and their numbers grew significantly as the ballot date drew near. The evacuation plan cited above, for example, indicates that there were 6,704 Police officers stationed in Timor-Leste in August 1999. That number included 3,876 organic Police forces and 2,828 who had been seconded from other units.*

93. A more plausible explanation for the ineffectiveness of the Police in containing militia violence was that Polri was subordinate to the TNI and, at the same time, shared much of the latter's institutional culture. Polri had been part of the armed forces until April 1999, when it was formally separated. Even after the separation, however, Polri maintained its character as a highly militarised police force, and it remained under the authority of the Minister of Defense, Gen. Wiranto, who was simultaneously TNI Commander.

94. The militarised character of the Indonesian Police was especially evident in its elite unit, the Mobile Brigade (Brigade Mobil – Brimob), deployed in substantial numbers in Timor-Leste. According to the Police document cited above, 2,497, or almost half, of the Police deployed in Timor-Leste in August 1999 were from Brimob. Armed with automatic weapons, and with counter-insurgency training and field experience, Brimob was and is a paramilitary unit, with a record of serious human rights abuse across the country.

95. In response to criticism of the deteriorating security conditions, Indonesia deployed more and more Brimob units to Timor-Leste as the Popular Consultation approached. Indonesian authorities argued that these deployments would help to control the situation, but they did not. By some accounts, the growing number of Brimob forces only made it worse. As discussed in more detail below (see par. 191), Brimob officers committed most of the violations of human rights committed by Police in Timor-Leste in 1999.

The civilian government and the 'socialisation' campaign

96. A central component of Indonesian strategy in 1999 was a campaign to 'socialise' the proposed autonomy package. As depicted by government authorities, 'socialisation' was a community education effort aimed at explaining the advantages of the autonomy option to the people of Timor-Leste. In practice, it was a concerted propaganda offensive involving a combination of inducements, threats, and acts of violence designed to pressure civil servants and ordinary citizens to vote for continued Indonesian rule.

97. Under the auspices of the 'socialisation' campaign, civilian government officials used the authority of their office to pressure civil servants and others to support the autonomy option, and to persecute those who favoured independence. In some cases, the names of independence supporters were recorded and submitted to military intelligence authorities.

* Ibid.

98. The Governor of Timor-Leste, Abílio Osório Soares, had started to issue such demands and threats against disloyal civil servants as early as mid-1998. A secret Indonesian military intelligence report, dated 23 June 1998, reporting on his remarks to a meeting of the pro-integration group, Gadapaksi, quotes him saying:

> "On June 23, 1998, I am going to call together all government servants of Echelon IV and above, and tell them that if they do not support integration, they must resign immediately."*

99. Such measures were explicitly ordered by the Governor in a circular, dated 28 May 1999, distributed to the heads of all government bodies in Timor-Leste, and copied to the Indonesian Minister for Home Affairs. The circular stated that any civil servant who supported independence would be "terminated." The circular further stated that civil servants suspected of harbouring pro-independence sympathies would be made to sign oaths of loyalty to the government, and threatened with dismissal should they later engage in pro-independence activities.†

100. These were not idle threats. Known or suspected supporters of independence were indeed forced from their jobs, and their homes, under the auspices of the 'socialization' campaign. The agents of enforcement, more often than not, were the militias. A letter from an Aitarak militia member to his Post Commander shows that the militias regarded this as one of their main purposes:

> "We members of Aitarak are going to take a tough stance in investigating and rooting out civil servants who support independence. We will oust them from their positions, we will strip them of the official uniforms they are wearing, and we will confiscate from them any official vehicle they may be using. This is the concept behind the operations we plan to undertake in April 1999."‡

101. In keeping with its status as an element of government policy, the 'socialisation' campaign was amply funded by the Indonesian treasury (see par. 431ff). Public 'socialisation' meetings and rallies were organized throughout the country, at which civilian and military authorities spoke at length about the benefits of autonomy. Buttressed by the government's largesse, official speakers underlined their case by distributing rice, T-shirts, and other goods, and by promising more of the same to those who supported Indonesian rule. A UN-accredited observer, commented:

> "We went to one autonomy rally . . . where two big trucks came in with bags full of T-shirts, hats, bandanas, flags . . . and then they

* The Governor's demands were echoed by the head of Timor-Leste's Provincial parliament (DRRD I), Armindo S. Mariano, who said that disloyal civil servants would be fired. See: Dandim 1627 (Lt. Col. Endar Priyanto) to Danrem 164/WD and others, "Laporan hasil pertemuan di Gada Paksi," 23 June 1998 (Yayasan HAK Collection, Doc #3)

† See: Governor of Timor-Leste to Para Kepala Instansi Vertikal dan Otonom Propinsi Dati I Timor Timur. Circular No. 200/ 827/Sospol/V/1999, concerning "Tindakan terhadap PNS yang terlibat organisasi/ kegiatan yang menentang Pemerintah RI," 28 May 1999 (SCU Collection, Doc #10). Copies of such loyalty oaths are held by UNMISET's Human Rights Unit, in Dili.

‡ Letter from Mário Pinto da Costa to Komandan [Aitarak], 30 March 1999 (SCU Collection, Doc #262).

> were thrown to them and the people were grabbing at them. Nobody in the pro-independence campaign had those sorts of resources."*

102. The distribution of rice to the population was an especially important element of the government's 'socialisation' campaign. Secret military documents reveal that the explicit aim of distributing rice was to influence the opinion of the population with regard to the popular consultation. The documents also indicate that substantial resources were devoted to this effort, and that the highest-ranking military officers in the country were involved. In a secret telegram to Gen. Wiranto, dated 6 July 1999, Brig.Gen. Mahidin Simbolon (Chief of Staff, Kodam IX) requested the immediate deployment of a Frost-type Navy vessel to transport rice to Timor-Leste. The telegram explained that "the government must distribute rice to the population" because food distributions by some 35 NGOs were bound to affect the outcome of the referendum.†

103. Such inducements were supplemented by open and veiled threats of violence should the autonomy option fail.‡ Among the threats commonly reported from 'socialisation' meetings was the following: "If autonomy wins, blood will trickle. If independence wins, blood will flow!" Such threats were reinforced by the public statements of pro-autonomy leaders, and further underlined by the menacing presence of armed pro-autonomy militiamen. Indeed, the militias effectively served as enforcers of the 'socialisation' campaign – ensuring that people came to meetings and threatening or physically abusing those who refused.

Pro-autonomy political parties

104. A related element of the government's strategy was the encouragement, and funding, of a number of new pro-integration political parties and organisations, led and staffed by East Timorese. The two principal groups were the Forum for Unity, Democracy and Justice (Front Persatuan, Demokrasi dan Keadilan – FPDK), and the East Timor People's Front (Barisan Rakyat Timor Timur – BRTT), both of which were established in the first half of 1999.§

* ABC, *Four Corners*, "Silenced Majority," transcript, p. 4.

† Secret telegram from Chief of Staff, Kodam IX/Udayana (Brig. Gen. Mahidin Simbolon) to Armed Forces Commander (Gen. Wiranto), 6 July 1999 (HAK Collection).

‡ Like the demands for the removal of disloyal civil servants, the implied threats of violence date at least to mid-1998. Addressing a Gadapaksi meeting in June 1998, for example, the Speaker of Timor-Leste's Parliament, Domingos S. Mariano, reportedly said: "In my opinion, if there is a referendum, there will certainly be an even greater blood-letting than we had in 1975." See: Dandim 1627 (Lt. Col. Endar Priyanto) to Danrem 164/WD and others, "Laporan hasil pertemuan di Gada Paksi," 23 June 1998 (Yayasan HAK Collection, Doc #3).

§ The FPDK was formally established on 27 January 1999, and BRTT was set up in April 1999. See Ian Martin, *Self-Determination in East Timor: The United Nations, the Ballot, and International Intervention*, London: Lynne Rienner Publishers, 2001, p. 43. Another organisation, the East Timor Unity Form (Forum Persatuan Timor Timur – FPTT) was established on 7 December 1998, under the leadership of Eurico Guterres. It appears to have been dissolved some time in January 1999, and replaced by FPDK and Aitarak. See: Forum Persatuan Timor Timur (FPTT) to Danrem 164/WD. Hand-written (draft?) letter, requesting TNI funding for FPTT activities, [December] 1998 (SCU Collection, Doc #233); and Ketua Umum Forum Persatuan Timor Timur (Eurico Guterres) to Kepala Biro Keuangan Pemda Tkl Timor Timur, 1 January 1999 (SCU Collection, Doc #159).

105. The two parties adopted slightly different tactics, with BRTT reaching out to older members of the political elite, and the FPDK seeking to mobilise a somewhat younger element.* The FPDK was also more closely linked to the militia groups – with which it claimed an 'advisory' relationship – than was the BRTT, some of whose leaders were concerned that militia violence was counter-productive.† Despite these differences, the FPDK and the BRTT both represented the East Timorese face of the Indonesian government position. And as ballot day approached, the two groups were merged into a single party, known as the United Front for East Timor Autonomy (UNIF) which advocated the pro-Indonesian position without question.‡

106. The formation and encouragement of these political parties may have been intended to substantiate the official Indonesian claim that the conflict was among East Timorese, with the government serving as neutral arbiter. That claim was weakened, however, by the fact that FPDK, BRTT, and UNIF leaders were overwhelmingly Indonesian government officials. The leader of the BRTT, for example, was the Indonesian Government's Ambassador-at-large for Timor-Leste, Mr. Francisco Lopes da Cruz. That relationship was symptomatic of a more general phenomenon. As Ian Martin writes:

> "The links between the local administration, the FPDK, the militia, and the TNI were so close that they constituted a single operation to counter pro-independence activities and ensure a pro-autonomy vote."§

107. In addition to their overt political goals, there is some evidence that these pro-autonomy political organisations also served a more covert purpose – as a conduit for the disbursement of funds and materials to the militias. As detailed elsewhere in this report, the FPDK and the BRTT both received substantial funding and resources from official sources, both civilian and military (see par. 431, below).

Specialised government bodies

108. A final vital element of the government's strategy was the creation of a number of specialised political bodies in Timor-Leste. These bodies – most notably the Commission on Peace and Stability (Komisi Perdamaian dan Stabilitas – KPS) and the Task Force for the Implementation of the Popular Consultation in Timor-Leste (Satuan Tugas Pelaksanaan Penentuan Pendapat mengenai Timor Timur – Satgas P3TT) – served as public relations machines.¶ The latter also served as a cover for the coordination of covert Indonesian government and military strategy.

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* *Far Eastern Economic Review*, 27 May 1999.

† Some of the older group did associate with the FPDK, but there were signs of tension. In July 1999, the long-time pro-Indonesia advocate Herminio da Silva da Costa resigned from the FPDK Board of Advisors. In announcing his resignation he drew attention to the important role of the older generation of pro-integration activists. *Suara Timor Timur*, 15 July 1999.

‡ UNIF's formation was made public in a joint declaration by the FPDK, BRTT, and PPI, on 23 June 1999 (Yayasan HAK Collection).

§ Ian Martin, *Self-Determination in East Timor*, p. 43

¶ The English here is not an exact translation of the Indonesian. However, these were the titles used in official correspondence and documents.

109. The Commission on Peace and Stability (KPS) was a product of the 'peace agreement' brokered by TNI commander Gen. Wiranto and signed by pro-independence and pro-Indonesian groups in Timor-Leste on 21 April 1999. Ostensibly established to facilitate dialogue among the different parties in Timor-Leste, in practice the KPS almost invariably served as a mouthpiece for the Indonesian government position. This was partly the consequence of its composition, which was heavily weighted toward the Indonesian and pro-autonomy side.* It also stemmed from the deeply partisan position adopted by representatives of Indonesia's Human Rights Commission (Komisi Nasional Hak Asasi Manusia – Komnas HAM) which had been drawn in to convene the KPS.

110. The public relations antics of the KPS were part of a broader government effort to present its version of events, and its preferred option, to East Timorese and Indonesian audiences. It was assisted in this effort by a generally compliant domestic media – including radio, TV, and print. The government's campaign included what appeared to be deliberate efforts at disinformation by the KPS designed to discredit UNAMET and to lay the foundation for a future challenge to the credibility of the process.

111. In addition to their general hostility toward UNAMET, Indonesian and pro-autonomy spokesmen claimed that UNAMET had deliberately hired only supporters of independence. Despite the absence of evidence, they repeated this claim with increasing frequency as ballot day approached, and in its immediate aftermath. Government and military officials, as well as pro-autonomy leaders, also issued direct and veiled threats against local staff members, causing some of them to resign and flee to the mountains.

112. A less visible but significantly more influential body established by the government in 1999 was the Task Force for the Implementation of the Popular Consultation in East Timor (Satgas P3TT). The Task Force, as it was commonly known, represented a national ministerial group (TP4 OKTT) headed by the Coordinating Minister for Political and Security Affairs.† The Task Force was headed by a former Indonesian permanent representative to the UN in Geneva, Ambassador Agus Tarmizi, and, like its parent body (the TP4 OKTT), included representatives from several central government Ministries and bodies.

113. Formally, the Task Force represented Indonesian government interests in Timor-Leste, and served as a direct point of contact with UNAMET, in the context of the Popular Consultation. However, because it reported directly to the Coordinating Minister for Political and Security Affairs in Jakarta, the Task Force also constituted a

* Representatives from the government, the TNI, the Police, and each of the two pro-autonomy parties, were ranged against just two delegates from the CNRT/Falintil. The sole CNRT representative present at the signing of the agreement, Leandro Isaac, was brought to the venue from a Police station where he had taken refuge after his house had been attacked. UNAMET was entirely excluded from the KPS as were local non-governmental organisations and other civil society groups. On the composition and weaknesses of the KPS, see Ian Martin, *Self-Determination in East Timor*, pp. 30-31, and 70.

† TP4 OKTT stands for Tim Pengamanan Pelaksanaan Penentuan Pendapat mengenai Otonomi Khusus Timor Timur – Team for the Security and Implementation of the Popular Consultation on Special Autonomy in Timor-Leste. It would appear to have been established on the authority of Presidential Decision No. 43, dated 18 May 1999. See: Armed Forces Chief of General Staff (Lt. Gen. Sugiono) for Panglima TNI (Gen. Wiranto), "Surat Perintah No. Sprin/1096/VI/1999," 4 June 1999 (Yayasan HAK Collection, Doc #28); and Panglima TNI (Gen. Wiranto), "Surat Perintah No. Sprin 1180/P/VI/1999," 16 June 1999 (Yayasan HAK Collection, Doc #29). The TP4 OKTTministerial team comprised: the Minister of Foreign Affairs, the Minster of Home Affairs, the Minister of Defense, the Minister of Justice, the National Chief of Police, and the Head of the National Intelligence Agency (BAIS). Ian Martin, *Self-Determination in East Timor*, p. 42.

crucial channel of authority directly under the control of the Minister, Lt. Gen. (ret.) Feisal Tanjung.

114. Moreover, the Task Force leadership included a number of high-ranking military officers, active and retired, with long experience in Timor-Leste, and backgrounds in military intelligence or Kopassus, or both. They included: H.R. Garnadi, a retired Army Major General, with a background in military intelligence; and Brig. Gen. Glenny Kairupan, who had served as Deputy Korem Commander in Timor-Leste in the mid-1990s, and who reportedly had a Kopassus background.*

115. The key figure on the Task Force, however, was Maj. Gen. Zacky Anwar Makarim. A career intelligence officer, Makarim had served until January 1999 as head of the military intelligence agency, BIA (Badan Intelijen ABRI, renamed BAIS, Badan Intelijen Strategis, in April 1999). Officially appointed to his post in Timor-Leste in early June, † he had been involved in military and political operations there for some time before that.‡ In the early 1990s, he had been a military intelligence officer in Aceh, at the height of a counter-insurgency campaign in which the army mobilised militia groups to assist in their effort to crush a local independence movement.

116. The most senior military officer in Timor-Leste until the declaration of Martial Law in September 1999, Maj. Gen. Makarim is the most likely candidate for the role of overall field coordinator of military and government strategy in Timor-Leste. To the extent that that strategy entailed the mobilisation of armed militia groups, and the commission of systematic acts of violence against the civilian population, he is also a leading suspect among those aiding and abetting crimes against humanity.

Violations, victims and perpetrators

117. There is no doubt that the Indonesian authorities sought to influence the outcome of the Popular Consultation in favor of 'special autonomy.' Nor is there any doubt that egregious acts of violence were committed in the context of that plan. The real question is whether that violence was the spontaneous work of local militiamen and 'rogue elements' of the TNI, as Indonesian authorities have claimed, or an integral part of an operation planned and carried out by Indonesian officials.

* A third member, Col. (Pol.) Andreas Sugianto, had served as Chief of Police in Timor-Leste in 1994-96. As such, he had worked closely with a number of TNI officers who played key roles in 1999, including Mahidin Simbolon and Kiki Syahnakri, who were Commanders of Korem 164 in the mid-1990s, and Glenny Kairupan, who served as Deputy Danrem at that time.

† Maj. Gen. Makarim was formally ordered to deploy to Timor-Leste as a member of TP4 OKTT on 4 June 1999. The order (Surat Perintah No. Sprin/1096/VI/1999) was issued under the authority of TNI Commander, Gen. Wiranto, but signed by the Armed Forces Chief of General Staff, Lt. Gen. Sugianto (Yayasan HAK Collection, Doc #28).

‡ He and Maj. Gen. Kiki Syahnakri were members of a team sent by TNI headquarters to investigate the Liquiçá church massacre in April 1999. See Greenlees and Garran, *Deliverance*, p. 126-127.

118. A fair answer to that question requires a careful description of the violence, and an analysis of the underlying patterns and variations in that violence. This chapter is the first of three in this report that undertakes that task. It describes and analyses the most basic patterns of the violence in 1999, asking the following questions: What kind of violations were committed? When did they happen? Who were the victims? And who were the perpetrators?

119. The answers point to one central conclusion: most of the acts of violence committed in 1999 were part of a widespread and systematic attack directed against the civilian population of Timor-Leste, targeting those who were believed to be supporters of independence. As a matter of international law, then, those acts constitute not only grave violations of human rights but also crimes against humanity.

Types of violation

120. The principal crimes committed in Timor-Leste in 1999 included unlawful killing, torture and ill-treatment, sexual violence, forcible transfer of population, and destruction of property. These acts infringed a wide range of fundamental human rights recognised in international law, including the right to life, the right to personal security, the right to physical integrity, freedom of thought, freedom of association, and the right to own or hold property.

Unlawful killing

121. The most notorious of the crimes committed in 1999 were unlawful killings (murders) of which there were at least 1,200 and perhaps as many as 1,500 during the year. These killings were typically committed by multiple assailants, armed with an assortment of weapons, including knives, machetes, swords, home-made firearms, and automatic weapons.

122. Many of the victims were individually targeted, but a significant number – perhaps as many as 400 – died in mass killings. Many of these mass killings occurred in places of worship and/or refuge, including Catholic churches and the homes of prominent citizens (See Case Studies: Liquiçá Church Massacre, par. 768; Carrascalão House Massacre, par. 803; and Suai Church Massacre, par. 903). They also took place on the premises, or in the custody of Indonesian Army and Police forces (See Case Studies: Cailaco Killings, par. 787; and Maliana Police Station Massacre, par. 923).

123. As a rule, the method of killing was cruel. Victims were commonly beaten, hacked with machetes or swords, and their bodies sometimes deliberately mutilated, both before and after death. An especially common form of mutilation was the removal of one of the victim's ears, but other body parts were sometimes also removed, and several victims were deliberately decapitated. In some cases, the mutilated bodies (or body parts) of the dead were left in public places, in an apparent effort to terrorise the population. In other cases, especially where large numbers had been killed, the authorities took pains to dispose of the bodies, and other evidence.

Torture and ill-treatment

124. Torture and ill-treatment, like unlawful killing, had for years been part of standard Indonesian counter-insurgency strategy in Timor-Leste and elsewhere. It was not surprising, therefore, that the practice was commonly reported in 1999. The torture of detainees typically took the form of beatings and the infliction of wounds with sticks, machetes, knives, swords, and rifle butts.

125. As noted in the joint report of the UN Special Rapporteurs, in 1999 torture in Timor-Leste commonly occurred as a prelude to murder or attempted murder.[*] More recent evidence indicates that torture and ill-treatment were also used, as they had been for many years, as methods for extracting information about the pro-independence movement.

126. As in the past, torture and ill-treatment in 1999 were also part of a strategy aimed at intimidating and terrorising the population. The purpose of that intimidation varied over time. In the pre-ballot period, it was intended primarily to silence pro-independence voices in the context of the registration and campaigning, and to force recruitment into the pro-Indonesian militia groups. In the post-ballot period, it was used to force or 'convince' the population to flee.

Gender-based violence

127. As the UN Special Rapporteurs noted in their report, torture and ill-treatment also took the form of sexual violence, including rape, sexual slavery, and sexual harassment.[†] By 2001, the local non-governmental organisation Fokupers had documented some 182 cases of gender-specific violations committed in 1999. These included 46 cases of rape, five cases of attempted rape, and 16 cases of sexual assault. More than half of the 46 rape victims were raped repeatedly, or by more than one attacker. In addition, many women were raped over a period of months, and sometimes years, after being forced into a relationship of sexual slavery by TNI soldiers and militiamen.[‡]

128. Given the understandable reluctance of most East Timorese women to speak about such experiences, it is very likely that the actual number of cases of rape and sexual slavery in 1999 was significantly higher than thus far reported.[§] The problem of under-reporting has been compounded by social, legal, and logistical barriers to documentation and redress. East Timorese women, like women elsewhere, have suffered guilt, shame, and isolation in the aftermath of these attacks. Some have also been abandoned by their

* United Nations, *Situation of Human Rights in East Timor*, 10 December 1999, paragraph 42.

† United Nations, *Situation of Human Rights in East Timor*, 10 December 1999, paragraphs 42 and 46-58.

‡ They included at least 20 women taken to West Timor after the Suai Church massacre of 6 September. UNTAET, "Investigations by the Serious Crimes Unit on cases of abduction of East Timorese women during the 1999 conflict," Dili, May 2001.

§ Fokupers notes that ". . . barriers such as social isolation, trauma from the incident, and fear of public judgment . . . make the process of documentation . . . extremely difficult." Fokupers, "Progress Report 1 – Gender-based Human Rights Abuses," Dili, June 2000, p. 3.

husbands, who have claimed or implied that their wives had consented to their own rape and or sexual slavery.*

129. The perpetrators of crimes of sexual violence were predominantly militiamen, but almost half were TNI soldiers and officers.6† In some cases, militiamen and TNI soldiers entered the home of a young woman and, brandishing their weapons, threatened to kill family members if she refused to have sex. In other cases, TNI officers and militiamen connived to abduct women, and then shared them like chattel.

130. Apart from the identity of the perpetrators, certain details of these assaults make it clear that rape and sexual violence were not random acts, but were planned by or with the approval of military authorities. For example, military authorities appear to have designated those women considered 'fair game' for rape or sexual assault. Some attackers, moreover, had access to relatively sophisticated contraceptive technology, including medication that they injected into their victims prior to raping them (See Case Study: Arbitrary Detention and Rape in Lolotoe).

Forcible transfer of population

131. In addition to constituting crimes in their own right, sexual violence, torture, and unlawful killing also formed the essential underpinning for the further crime of forcible transfer of the population. Such forcible transfers occurred in Timor-Leste in two broad waves. The first, which took place before the ballot, saw as many as 60,000 people displaced from their homes to other parts of Timor-Leste. The second, which occurred in the immediate aftermath of the 30 August vote, resulted in the displacement of an estimated 400,000 people – or about half the total population. More than 250,000 of that number were forced across the border into Indonesian West Timor, and neighbouring islands, while the remainder took refuge in the hills and forests of Timor-Leste.

132. In the pre-ballot period, forcible displacement stemmed primarily from a campaign of violence and terror by pro-Indonesian forces in perceived pro-independence strongholds. The campaign took a variety of forms, including the burning of houses, and the detention, torture, and execution of alleged pro-independence leaders. Starting in late 1998, and reaching a crescendo in April 1999, that campaign caused residents of entire villages to flee to the mountains, or to neighbouring towns. Many took refuge in places of worship, including churches in the towns of Liquiçá, Suai, and Maliana. Others sought protection in the homes of prominent citizens in Dili and elsewhere. As noted above, many people were killed in these places of worship and refuge.

133. Forcible relocation of the population also threatened to derail the popular consultation and deny thousands the right to vote, by disrupting plans for registration,

* To make matters worse, in early September 1999 the office of Fokupers, the only organisation that had seriously documented the problem of gender-based violations in 1999, was burned and looted by militias, and all of its records were destroyed.

† Of the 46 cases of rape documented by Fokupers, 18 were committed by TNI soldiers alone or jointly with militiamen. See Fokupers, "Progress Report 1 – Gender-based Human Rights Abuses," Dili, June 2000.

voter education, and voting. Internally displaced persons (IDPs), particularly those in the hills, were understandably reluctant to leave their places of refuge to take part in such activities. Ultimately, UNAMET was able to make special arrangements that permitted all but a small number of IDPs to register and to vote.

134. Even more serious was the forcible relocation of roughly half of the population, mostly to West Timor, in the days and weeks after the ballot. Some observers* have concluded, on the basis of documentary evidence, that the forced transfer of the population was part of a strategy devised by Indonesian authorities at the highest level. While there is reason for caution in drawing that conclusion solely from the available documents, the pattern of behavior reported by numerous eyewitnesses strongly supports the claim that the forcible evacuation was deliberate and well-organised (See Case Study: Forcible Relocation and Murder of Refugees in Dili).

135. The pattern of evacuation was virtually identical everywhere in the territory. It began in the days immediately after the vote with a campaign of intimidation and violence carried out jointly by militias and TNI soldiers. Across the territory, bands of militiamen and soldiers roamed freely through villages and towns, setting fire to homes and offices, selectively beating or killing pro-independence figures, and threatening residents that they must leave or suffer the same fate. Police either took part in the violence, or appeared unwilling or unable to stop it.

136. Victims and witnesses from widely disparate locations in Timor-Leste reported that they were told by TNI and Police officials, as well as militias, that they would be killed, and in the case of women, raped, if they did not board the trucks or boats to West Timor. They also reported consistently that the vehicles used in the evacuation were seized by military officials and militia under duress, and that money was extorted from those being forced to board the trucks.

137. Faced with the evident collapse of law and order, and imminent danger of death, many citizens felt they had no option but to flee. Their flight was encouraged by military and civilian authorities who told residents their safety could not be guaranteed unless they moved to police and military stations, and other designated gathering points throughout the territory. At these designated sites, refugees were systematically loaded onto trucks or ships, and transported to West Timor and neighbouring islands.

138. The problems did not stop once the refugees left Timor-Leste. On the contrary, they faced perilous conditions in the Indonesian refugee camps where they were placed. The most serious problem was that the militiamen who had terrorised them into fleeing were also in the camps, where they continued to harass, threaten, and intimidate the refugees. As in Timor-Leste, the Indonesian authorities, including the TNI, made little effort to control the militias inside the camps. The predictable result was that they were free to commit serious violations of human rights against the refugees, including rape, sexual slavery, and murder.

* For example, the Indonesian Commission on Human Rights, and the International Commission of Inquiry on East Timor, whose reports were both issued in January 2000.

Destruction of property

139. The violations committed in 1999 also included the massive destruction of property, and in particular the targeted burning of houses and the killing of livestock. Some of this destruction took place in the context of the campaigns of terror in the pre-ballot period. Most, however, occurred in a period of three weeks immediately after the 30 August ballot. In that brief period, roughly 70% of all buildings in the territory were deliberately burned or otherwise rendered uninhabitable. The buildings destroyed included private homes, shops, government offices, schools and medical clinics. Crucial infrastructure, including water, electricity, and telecommunications facilities were also destroyed or disabled.

140. Although some parts of the territory were harder hit than others, the pattern of destruction indicated that the violence against property was planned and orchestrated at a high level. Eyewitnesses from disparate towns and villages all reported that the burning and destruction was done systematically, and with either the full participation, or acquiescence, of TNI soldiers and Police (See District Summaries, par. 496, below).

141. Physical destruction on this scale had dire humanitarian consequences. It rendered hundreds of thousands of people homeless, and left a similar number without access to adequate food. It also deprived the vast majority of the population of access to health care and education. In these ways, as the International Commission of Inquiry on East Timor noted in its January 2000 report, the destruction of property also constituted breaches of basic economic and social rights.*

Chronology of violations: three periods

142. The pattern of human rights violations, and crimes against humanity, committed in 1999 varied significantly over time. Three rough periods, each with its own characteristic features, can be discerned: (i) the Pre-UNAMET period (January to late May); (ii) the UNAMET period (early June to 30 August); and the Post-ballot period (30 August to late October).

Pre-UNAMET period (January to late May)

143. Some of the worst human rights violations occurred in the pre-UNAMET period, before Timor-Leste had become the focus of serious media and international attention. Militia groups had begun to form in mid-1998, and by January 1999, together with TNI units, some had already embarked upon a campaign of violence and intimidation targeting real or alleged supporters of independence.

* The Commission of Inquiry noted that various economic and social rights ". . . were violated through the large-scale destruction, including the right to work, the right to an adequate standard of living, including food, clothing, housing and medical care, and the right to education." United Nations, Office of the High Commissioner for Human Rights, "Report of the International Commission of Inquiry on the Question of East Timor to the Secretary General," UN Doc A/54/726,S/2000/ 59, 31 January 2000. See esp. paragraphs 20, 102-103, and 142.

144. As more militia groups formed, and as military and civilian authorities lent them political and logistical support, the violence accelerated and spread. Between January and the end of May 1999 several dozen people were unlawfully killed, and tens of thousands were forcibly displaced from their homes. Many of those who fled their homes sought refuge in nearby churches or in the private homes of prominent citizens. It was against these people, and in these places of refuge, that some of the most egregious human rights violations were committed.

145. Among the most notorious violations of this period were three mass killings that took place in April 1999. The first, on 6 April 1999, was a massacre of at least 60 people at the parish church in the town of Liquiçá. The second was the deliberate execution of seven people while they were in the custody of TNI soldiers and officers, in the Sub-District of Cailaco, Bobonaro. The third was the killing of at least 12 people who had taken refuge at the Dili home of a prominent supporter of independence, Manuel Carrascalão on 17 April (See Case Studies: Liquiçá Church Massacre, par. 768; Cailaco Massacre, par. 787; and Carrascalão House Massacre, par. 803). These massacres coincided almost exactly with the final negotiations taking place in New York that would lead to the 5 May Agreements.

UNAMET period (early June to 30 August)

146. The human rights situation improved slightly after UNAMET and a substantial number of international observers and journalists began to deploy throughout the territory in early June 1999. Measured by the number of people killed in acts of political violence, there was a marked improvement. Nevertheless, serious violations – including ill-treatment, sexual violence, and forcible relocation – continued. By mid-July 1999, UNAMET and other organisations estimated that there were some 60,000 IDPs, in a population of just over 800,000.*

147. The most commonly reported violations during the UNAMET period were acts of intimidation, beating, and forcible relocation of alleged supporters of independence. Among the best documented cases during this period was the 29 June militia attack on the UNAMET headquarters in the town of Maliana, in Bobonaro District. That attack left several people injured and caused considerable property destruction. An internal UN investigation concluded that the attack had been organised and coordinated by local military commanders, including the District Military Commander, and that it had been intended to intimidate UN staff (See Case Study: Attack on UNAMET Maliana, par. 835). Another well-documented incident typical of this period was the 4 July militia attack on a humanitarian convoy in the town of Liquiçá (See Case Study: Attack on Humanitarian Convoy, par. 852).

148. The human rights situation deteriorated further in late August, during the pe-riod of open campaigning prior to the vote. In addition to a greater number of incidents of threat and intimidation, and a new surge in forcible displacement, there was a significant increase in the number of killings.

* Ian Martin, *Self-Determination in East Timor*, p. 57.

149. The worst single day of violence during the UNAMET period was 26 August, the final day of campaigning for the pro-autonomy side. The incidence of human rights violations was especially great in Dili, where pro-autonomy forces from around the country had gathered in large numbers, and engaged in aggressive campaigning. In the course of the day in Dili, at least eight people were killed, all but one of them supporters of independence killed by militiamen or members of the security forces (See District Summary: Dili, par. 595).

Post-ballot period (30 August to late October)

150. The most serious and widespread violations of human rights occurred in the aftermath of the ballot. Between 30 August 1999 and the final departure of the TNI at the end of October, an estimated 900 people were unlawfully killed, and some 400,000, or roughly half the population, fled their homes under extreme duress. Of that number at least 250,000 fled or were forcibly relocated to West Timor, and other parts of Indonesia, while the rest took refuge in the hills and forests.

151. The opening salvo came at about 5 pm on ballot day, when a group of militiamen and TNI soldiers attacked a polling station in the village of Boboe Leten, in Ermera district. Two Timorese UNAMET staff members were killed in the attack, and a third was wounded. Subsequent UN investigations revealed that the attack had been planned in advance with the knowledge of the Sub-District military commander, and that TNI soldiers had participated in the attack (See Case Study: Murder of UNAMET Staff Members at Boboe Leten, par. 871).

152. Serious human rights violations were also reported from other notorious centers of pro-autonomy activity. On 2 September, for example, militia forces and TNI soldiers in the town of Maliana began to threaten and attack known independence supporters, and to loot and burn their homes. Similar activities were reported from the districts of Covalima and Ermera.

153. In much of the territory, however, the violence did not begin in earnest until 4 September, the day the result of the ballot was formally announced. The announcement was made in the morning, local time, and by early afternoon the militias, TNI soldiers, and Police had taken to the streets in towns and villages across the territory, firing their weapons, attacking supporters of independence, and burning houses and public buildings.

154. Although it had vowed to remain in Timor-Leste after the vote, UNAMET was rendered powerless in the face of the mounting violence. By 7 September, all staff had been evacuated to Dili, where they took refuge in the UNAMET headquarters. They were joined there by several hundred local people who had fled their homes for the relative safety of the compound. By 8 September there were roughly 500 UN staff and 1,500 IDPs inside the compound. Meanwhile, armed militia gangs had laid siege to the compound, preventing UNAMET staff and refugees from venturing outside. With UNAMET under siege in its main headquarters, and virtually all observers and journalists having fled the country, the violence began in earnest.

155. It was against this background that the TNI took two initiatives ostensibly aimed at restoring order. On 4 September, the TNI assumed responsibility for law and order from the Police, under the auspices of a special command headed by Maj. Gen. Damiri, called 'Nusa Tenggara Military Operations Command'(Ko-Ops TNI Nusra). Then, on 6 September, President Habibie declared Martial Law in Timor-Leste, with effect from 00.00 hours, 7 September. Indonesian military authorities gave assurances that these measures would bring the violence under control. In reality, however, it was during this period that the most egregious violations of human rights took place.

156. A sense of the pattern can be glimpsed by noting just a few of the major violations that occurred in the immediate post-ballot period, and after the military took charge.

- On 6 September, TNI and Brimob troops backed militias as they executed scores of people, including three priests, who had sought refuge in the Cathedral in the town of Suai (See Case Study: Suai Church Massacre, par. 903).
- On the same day, soldiers and police stood by as militias forcibly evacuated thousands of people who had taken refuge in the Dili residence of Bishop Belo, and at the International Committee of the Red Cross and the Canossian Convent nearby (See Case Study: Forcible Evacuation and Murder of Refugees in Dili, par. 887).
- Two days later, on 8 September, militias and TNI soldiers massacred as many as 14 people who were among hundreds who had taken refuge at the police station in Maliana. Another 13 who fled the massacre were hunted down and killed the next day (See Case Study: Maliana Police Station Massacre, par. 923).
- At least 21 people, including a foreign journalist, were killed in September, by elements of TNI Battalion 745 as it withdrew from its base in Lospalos through Baucau and Dili, en route to West Timor (See Case Study: Battalion 745 Rampage, par. 981).
- In the enclave of Oecussi, almost one hundred people were massacred by militiamen and TNI soldiers in two separate incidents in September and October, bringing the total number killed in the district to 170 people (See Case Study: Passabe and Maquelab Massacres, par. 947).

157. These incidents, and many others, formed a critical backdrop to the pattern of systematic threat, intimidation, and terror that, by a conservative estimate, led to the forcible relocation of half of the entire population in a space of two to three weeks. The mass killings were arguably an essential part of a deliberate campaign of terror. They more or less guaranteed that virtually all who could do so would flee their homes, even go into exile, to avoid a similar fate.

Victims

158. The victims of human rights violations in 1999 were overwhelmingly real or alleged supporters of independence, and their close relatives. Some of those targeted were well-known political leaders or prominent members of society, but most were ordinary men

and women, more often than not farmers or fishermen. Important sub-categories of pro-independence victims included: CNRT leaders; local authorities; alleged traitors; villagers in pro-independence base areas; members of the Catholic clergy; students and young people; locally employed UNAMET staff; women and girls; and small children.

159. Non-Timorese – including UNAMET staff, journalists and observers – were also subjected to threats, intimidation and harassment, and some were physically attacked and injured. It was notable, however, that international staff and observers were very seldom the target of lethal violence, and only two foreigners were killed during the year.[*] As discussed below, that pattern appears to have been part of a deliberate strategy on the part of Indonesian authorities, rather than simply a matter of good fortune.

160. A small number of the victims of violence were members of pro-autonomy groups, or known supporters of Indonesia. The total number of pro-autonomy supporters killed in 1999 was not more than 20 out of a total death toll of at least 1,200. This disparity belies claims by Indonesian authorities that pro-autonomy forces were the chief victims of violence, and that the mobilisation of militias was a matter of self-defence.

161. Taken together, these patterns make it clear that the violence in 1999 was not random, but targeted, and that it was designed to achieve a particular political purpose: victory for the pro-autonomy option in the Popular Consultation.

CNRT leaders

162. Known leaders of the CNRT were conspicuous among the victims of human rights violations in 1999, both before and after the ballot. In the pre-UNAMET phase, several such leaders were unlawfully killed, and dozens of others were forced to seek protection in police stations or to flee to the mountains or other towns. The situation became even more dangerous in the post-ballot period. In virtually every district of the country, militiamen and TNI soldiers deliberately targeted CNRT leaders for execution.[†]

Local authorities

163. Also targeted, both before and after the ballot, were local authorities – including village heads, Sub-District heads, and civil servants – who had not shown sufficient enthusiasm for the pro-autonomy option, or who had resisted it altogether. Such local officials were subjected to intense pressure not only from militias but also from TNI soldiers and officers, and from civilian authorities. The forms of pressure included

* The two were an elderly German priest, Carolus Albrecht, and a Dutch journalist, Sander Thoenes (See Case Study: Battalion 745 Rampage, par. 981).

† There is no doubt that CNRT leaders were deliberately targeted. In addition to the abundant circumstantial evidence outlined in this report, there is also some documentary evidence to that effect. For example, in an order dated 3 September 1999, Aitarak Commander, Eurico Guterres instructed his Deputy, Inacio de Jesus, and ten other militia members to coordinate with Aitarak and BMP members inspecting people trying to leave Timor-Leste. The order states explicitly that they should "arrest and detain CNRT and Falintil leaders, and await further instructions from the Commander of Aitarak Forces." See: Komandan, Komando Pasukan Aitarak, Sektor B (Eurico Guterres). Order No. 39/SPT/MK-AT/IX/1999, (3) September 1999 (SCU Collection, Doc #27).

public denunciation at meetings, physical threats, and assault on family members, the burning and looting of the victim's house and, in some cases, killing.

Alleged traitors

164. An important sub-category of independence supporters targeted in 1999 were those who had once been considered supporters of Indonesian rule. Such figures were regarded as traitors by Indonesians and pro-Indonesian Timorese, and were singled out for attack or murder.

165. One example of that pattern was the murder of the Liurai of Lospalos, Verissimo Dias Quintas, on 27 August 1999. Although he portrayed himself to Indonesians as a supporter of Indonesian rule, he nevertheless seems to have been a covert supporter of independence, and in 1999 made his home available to the CNRT for use as their office. His murder, committed by militias and BRTT members, under the direction of Kopassus officers and the Bupati, was widely understood as payback for his 'treachery.' Likewise, the violent attack on the home of Manuel Carrascalão on April 17, 1999, which resulted in the death of at least 12 people, appears to have been motivated by animosity toward the Carrascalão family, which had undergone a change of political heart in the final years of Indonesian rule.

Ordinary villagers

166. While some of the victims of human rights violations in 1999 were prominent local or national figures, most were ordinary people living in villages thought to be pro-independence strongholds. Some were suspected of being active members of the Resistance, while others were accused of supplying the Resistance with food. Still others were targeted as proxies for family members who had fled.

167. Whatever the reasons, it was overwhelmingly these people, typically farmers and fishermen, whose homes were looted and burned to the ground, and who were forced to flee to the mountains or to nearby towns, both before and after the ballot. Difficult to access by road, without telephones, and with few outside visitors, the villages were vulnerable to the depradations of militia groups and TNI soldiers. The massacre of almost 100 people in several villages in Oecussi in mid-September 1999 is a case in point (See Case Study: Passabe and Maquelab Massacres, par. 947).

Members of the clergy

168. One of the most shocking aspects of the violence by pro-autonomy forces was the deliberate targeting of Roman Catholic clergy and places of worship. The massacres at the churches in Liquiçá and Suai, in April and September respectively, the attack on Bishop Belo's residence in September, and the execution-style killing of a group of clergy along the road to Baucau on 25 September, seemed deliberately calculated to terrorise a population that was (and still is) 80% Roman Catholic.

169. Some observers have suggested that the targeting of Catholic clergy and places of worship implied a religious motive to the violence, perhaps encouraged by Muslim

Indonesians. The available evidence does not support that claim. Rather, it appears that the assault on religious figures and faithful was rooted in a perception that the Church had supported, and even encouraged, the cause of independence. Violence against church leaders and followers, then, was motivated, or at least justified, on political rather than religious grounds.

Students and young people

170. Students and young people were among those deliberately targeted by the militias and the Indonesian security forces. Like some Catholic church figures, the youth and students had gained a reputation over several years as a focal point of pro-independence activity. It is fair to say that young people had been on the frontlines of the struggle for independence, at least since the early 1990s, and many had already died in that cause. The Indonesian authorities and pro-Indonesian Timorese recognised the danger they posed, and were keen to thwart their efforts.

171. Members of the various pro-independence student organisations were especially vulnerable. One group singled out in 1999 was the Student Solidarity Council of East Timor (Dewan Solidaritas Mahasiswa dan Pelajar Timor Timur – DSMPTT), which had started to conduct vigorous public information activities in August 1998. Many of the DSMPTT's members were threatened, beaten, and killed in the course of 1999 (See Case Study: Killing of Two Students at Hera, par. 820).

UNAMET local staff

172. Timorese working with UNAMET were also singled out for attack. At least 14 local UNAMET staff were killed in 1999, all of them in the post-ballot period. Among those killed were the two men, already mentioned, stabbed to death at the end of polling on 30 August, in Boboe Leten, Ermera (See Case Study: Murder of UNAMET Staff Members in Boboe Leten, par. 871). When militia groups began their rampage of violence in Maliana, on 2 September 1999, two more local UNAMET staff were among the first victims there.

173. Local UNAMET staff were sometimes targeted because of their real or alleged pro-independence sympathies. That would appear to have been one reason for the attack on Ana Lemos, a UNAMET staff member beaten, raped, and then killed in Ermera in the days after the ballot (See Case Study: Rape and Murder of Ana Lemos, par. 964). They were also singled out because of a general antipathy toward UNAMET among supporters of Indonesia, that had been fueled by repeated allegations, including some from official sources, of UNAMET bias and unfairness. In other words, these killings were not random acts of violence but politically motivated assassinations.

Women and girls

174. Among the victims of gross human rights violations in 1999, East Timorese women and girls warrant special mention. For, in addition to suffering the full range of violations experienced by men – including murder, torture, and forcible displacement – women and girls were also subjected to gender-specific violations of human rights, including rape and sexual slavery.

175. The political climate in 1999 left women especially vulnerable to such attacks. As the violent campaign against independence gathered pace, many men fled to the mountains or to major towns, leaving their wives and children at home to tend fields and livestock. There, as the local women's rights organisation Fokupers has noted, "women and their children became proxy targets of intimidation and terror."* Women whose husbands were believed to be Falintil fighters, or who were alleged to have pro-independence sympathies themselves, were especially vulnerable to attack (See Case Studies: Arbitrary Detention and Rape in Lolotoe, par. 826; and Rape and Murder of Ana Lemos, par. 964).

Children

176. Although very young children do not appear to have been specifically targeted in 1999, a significant number did suffer serious human rights violations. At least a dozen children were killed in political violence during the year. They included a small child and two young teenagers killed in the massacre at the Suai church on 6 September, and five children from one family killed, together with their mother, after being abducted by militiamen in September 1999. The mother of the children, Georgina Tilman, was known for her pro-independence views (See District Summary: Ermera, par. 618).

177. Children also suffered mental anguish and serious injury when they were caught up in, and became witness to, indiscriminate violence, including attacks on their family members. A number of children witnessed their relatives being beaten or hacked to death. Children were also among the victims of sexual violence in 1999. Of the cases of sexual violence documented by Fokupers, three involved the rape of a minor, and five involved the sexual assault of a minor. Five others were cases of a minor being forced to witness a rape.†

International staff and journalists

178. A striking feature of the pattern of human rights violations in 1999 was that, in spite of the apparent chaos and the rampaging militias – and notwithstanding some very close calls – not a single member of the UN's international staff was killed. While some considered this to be simply a matter of good fortune, it provides a further indication that the descent into violence was carefully planned, most likely by those in Jakarta conscious of the potential international ramifications of violence against foreigners.

179. An essential part of the plan, it appeared, was to create an impression of anarchy that was calculated to terrify – but not to kill – UNAMET and international observers and journalists. That approach was evident in the assaults on UNAMET in late June and early July, and in the August 30 attack at Atsabe that left two local UNAMET staff dead, but no international staff killed or even injured.

* Fokupers, "Progress Report 1 – Gender-based Human Rights Abuses," Dili, June 2000, p. 7.

† Fokupers, "Progress Report 1 – Gender-based Human Rights Abuses," Dili, June 2000, p. 5.

180. One near exception to this general rule occurred in the course of the UNAMET evacuation from Liquiçá, on 4 September 1999. In that case, a UNAMET convoy was ambushed and fired upon by militias, Police, and TNI as it left the compound. One U.S. Civpol was shot and seriously wounded, and several vehicles were riddled with bullet holes, but somehow there were no fatalities. A second near exception occurred in Baucau on 7 September when Brimob fired directly on the UNAMET compound, with apparent intent to kill or injure UN staff. In that case, too, there were no injuries.

181. Notwithstanding these near exceptions, there was clearly a strategy of terrorizing but not killing foreigners. That strategy, it would appear, was based on the recognition – at a fairly high level and most likely in Jakarta – that the death of a foreigner was likely to stimulate a strong and undesirable international response. By contrast, the creation of an appearance of chaos, and even the death of some East Timorese, would provide a plausible pretext to remove all international observers from the countryside, and to call upon the Indonesian army to 'restore order.'

182. For a time, in early September 1999, the strategy appeared to have worked. With most international observers having fled the territory, and the rest confined to the UN compound in Dili, Indonesian authorities and the militia were free to take their revenge against East Timorese who had voted for independence. By all accounts, this is when the worst of the violence was unleashed.

Pro-autonomy figures and militiamen

183. The victims of political violence in 1999 also included a number of well-known pro-autonomy figures, and members of militia groups. Some were detained, beaten, and interrogated before being released, while others were killed. Indonesian authorities and pro-autonomy leaders alleged that a great many of their supporters were killed in 1999. However, fewer than 20 such murders could be confirmed.

184. The killings that did occur often stimulated retaliatory violence by pro-autonomy groups and Indonesian troops, thereby contributing to the cycle of violence. For example, the murder of an FPDK officer and civil servant, Manuel Gama, in April 1999 set in motion a major crackdown by Indonesian forces that resulted in several killings in Cailaco, Bobonaro (See Case Study: Cailaco Killings, par. 787). Likewise, in Manatuto, the murder of a leader of the Morok militia group, Filomeno Lopes da Cruz, in April led to retaliatory killings by pro-Indonesian forces (See District Summary: Manatuto, par. 693). Similarly, the killing of two ABLAI militiamen in Dili in April appears to have contributed to a wave of violence in their home district of Manufahi later that month, in which at least five people were killed (See District Summary: Manufahi, par. 718).

The perpetrators

185. The direct perpetrators of human rights violations in 1999 were predominantly militiamen, but TNI soldiers and officers were almost always involved, either directly or indirectly. Members of the Indonesian Police and Mobile Brigades were somewhat less frequently identified as direct perpetrators, but they were almost always described

as having taken no action to prevent, stop or investigate serious violations of human rights. Falintil soldiers, and possibly members of other pro-independence groups, were responsible for ill-treating and killing a small number of pro-autonomy figures and militiamen.

186. Beyond these general patterns, the available evidence shows that certain militia groups, TNI detachments, and Police units were more commonly involved in directly perpetrating human rights violations than others.

Militias

187. The worst militia groups, from the point of view of the severity and frequency of the violations they committed, were Dadurus Merah Putih and Halilintar in Bobonaro, Sakunar in Oecussi, Aitarak in Dili, Besi Merah Putih in Liquiçá, Darah Integrasi in Ermera, Mahidi in Ainaro, and Laksaur in Covalima. Somewhat less conspicuous, but nevertheless responsible for serious violations, were Team Alfa in Lautém, Makikit in Viqueque, Saka and Sera in Baucau, ABLAI in Manufahi, and Morok and Mahadomi in Manatuto.

Military

188. TNI involvement in human rights violations in 1999 took four basic forms. First, the TNI helped to recruit, train, fund, and arm militia groups that committed violations. Second, the TNI led and took part in joint operations with militia groups, in the course of which violations were committed. Third, TNI forces contributed to the commission of violations by deliberately taking no action to prevent or stop planned or continuing militia violence. Finally, in a substantial number of cases, TNI forces directly committed acts of violence amounting to grave human rights violations.

189. The single most dangerous military unit was the Special Forces Command, Kopassus, and its Intelligence Task Force, known as SGI (Satuan Tugas Intelijen). Although relatively few in number, Kopassus and SGI officers and operatives were instrumental in orchestrating and carrying out some of the most brutal and deadly assaults and acts of violence throughout the territory in 1999. The other elite TNI unit deployed in East Timor, the Stragetic Army Reserve (Kostrad) appeared to play an important, if somewhat less conspicuous role in human rights violations.

190. The most dangerous of the regular territorial TNI units in East Timor were those attached to Kodim 1636 in Bobonaro, Kodim 1635 in Covalima, Kodim 1638 in Liquiçá, Kodim 1633 in Ainaro, and Kodim 1639 in Oecussi. Also conspicuous for its systematic violations of human rights, especially in the post-ballot period, was TNI Battalion 745 based in Lospalos. As noted above, elements of this battalion were responsible for killing at least 21 people, including the Dutch journalist Sander Thoenes, as they withdrew from Lospalos to West Timor in September 1999 (See Case Study: Battalion 745 Rampage, par. 981).

Police

191. The Police units most frequently involved in killings and other human rights violations were the paramilitary Mobile Brigades (Brimob), which were deployed in substantial numbers throughout the territory in 1999. Brimob troops were directly responsible, for example, for the unlawful killing of an unarmed pro-independence supporter in Dili on 26 August. The young man in question was exhorting the Brimob soldiers to take action against armed militiamen who were attacking unarmed pro-independence youths. In response, the Brimob soldiers raised their automatic weapons and shot him dead (See District Summary: Dili, par. 595).

192. It needs to be noted, however, that in contrast to the other patterns of Police behavior observed, the direct perpetration of violence by Brimob officers appeared to be somewhat sporadic. Thus, there is a possibility that such incidents were not in fact part of an overall plan, but were instead the product of an institutional pre-disposition to use lethal force. Equipped with high-powered automatic weapons (S-1s), and given military-style training, the Brimob were (and still are) essentially a paramilitary rather than a Police force, and they therefore shared much of the institutional culture of the regular TNI and combat forces.

Falintil

193. For the most part, Falintil forces exercised restraint in the face of attacks by pro-Indonesian forces. However, there were exceptions. In late 1998, and again in April 1999, Falintil units in different parts of the country initiated operations in which pro-Indonesia militiamen, soldiers, and civilians were detained, beaten or killed. Such attacks and killings are known to have occurred in Manufahi, Ermera, Manatuto, Bobonaro, Liquiçá, and Dili. In the post-ballot period, Falintil security bodies, known as Forças Popular and Segurança, committed violations of human rights. In a number of cases, known or suspected pro-Indonesian militiamen were detained and tortured while being interrogated.

194. To sum up, the principal crimes committed in East Timor in 1999 included unlawful killing, torture and ill-treatment, sexual violence, forcible transfer of population, and destruction of property. These acts infringed a wide range of fundamental human rights recognised in international law, including the right to life, the right to personal security, the right to physical integrity, freedom of thought, freedom of association, and the right to own or hold property.

195. The victims of human rights violations in 1999 were overwhelmingly real or alleged supporters of independence, and their close relatives. Important sub-categories of pro-independence victims included: CNRT leaders, local authorities, alleged traitors, villagers in pro-independence base areas, members of the Catholic clergy, students and young people, locally employed UNAMET staff, women and girls, and small children. A very small number of the victims of violence were members of pro-Indonesian groups.

196. Non-Timorese – including international UNAMET staff, journalists and observers – were also subjected to threats, intimidation and harassment, and some were physically

attacked and injured. It was notable, however, that international staff and observers were very seldom the target of lethal violence, and only two foreigners were killed during the year. As discussed below (par. 199 ff), that pattern appears to have been part of a deliberate strategy on the part of Indonesian authorities.

197. The direct perpetrators of human rights violations in 1999 were generally members of one of the many militia groups, but TNI soldiers and officers were involved in most cases. TNI officers, especially those attached to military intelligence and Kopassus units, led or directed most militia groups, while some TNI officers and soldiers directly committed grave violations of human rights. Members of the Indonesian Police and Mobile Brigades were also identified as direct perpetrators, though somewhat less frequently than members of the TNI. In addition, the Police seldom took action to prevent, stop or investigate serious violations of human rights. The main perpetrators of the violence against pro-Indonesian figures were Falintil soldiers.

198. These patterns leave little doubt that the acts of violence committed in Timor-Leste in 1999 were carried out on a scale that was both widespread and systematic, in the context of a deliberate attack against particular segments of the East Timorese population. As such, we can fairly conclude that those acts constituted crimes against humanity, as defined in the Rome Statute and related international treaties and instruments.

Patterns and variations

199. A closer examination of the violence in 1999 reveals yet further patterns and variations in its character and its distribution. These include: systematic variations in the intensity of violence over time; a pattern of routine failure by the Police to take effective measures against acts of violence; marked similarities in the modus operandi of militia forces; and a significant variation in the geographical distribution of violence. These patterns and variations provide some of the strongest evidence available that the violence in 1999 was not spontaneous, but was systematic and coordinated by Indonesian authorities.

Temporal variation – turning off the faucet

200. As noted in the previous section, from the perspective of the severity of human rights violations in Timor-Leste, 1999 can be divided into three periods: (i) the pre-UNAMET period, from January to late May; (ii) the UNAMET period, from 1 June to 30 August; and (iii) the post-ballot period, from 30 August to late October. Broadly speaking, human rights violations were most frequent and grave in the first and third periods, and somewhat less serious in the second.

201. That pattern was not random, nor can it be explained by reference to the interests or attitudes of individual militia groups or 'rogue' TNI soldiers. On the contrary, in view of the systematic nature of the variation across the territory, it can only be reasonably

explained as the product of a policy decision, taken minimally at the provincial level, and probably higher. More precisely, it appears to reflect a decision to exercise a measure of control over militias and troops during the period of a strong international presence. Both before and after that period of international scrutiny, both the TNI and the militias engaged jointly in systematic campaigns of violence.

202. Perhaps even more revealing of high level planning is the pattern of variation within each of these three broad periods. A close examination shows that the violence ebbed and flowed rather precisely in accordance with the international political interests of Indonesian authorities. Secret documents from 1999 leave no room for doubt, moreover, that TNI commanders in Timor-Leste sought to exercise direct control over the violent actions of the militias, effectively turning the violence on or off in accordance with broader political objectives.

203. This pattern began to come into focus in late January 1999, at the height of the first wave of militia violence and shortly before a planned visit to Timor-Leste by a United Nations delegation on 9 February 1999. In anticipation of that visit, Indonesian military authorities – and in particular the Danrem, Col. Tono Suratman – took deliberate steps to ensure that the militia violence would either stop, or would be invisible to the delegation.

204. A number of secret TNI documents record these initiatives. The first is an order from Col. Suratman, dated 28 January 1999, to all 13 Dandim in Timor-Leste. It opens by referring to "the planned visit by the UN Human Rights Commission to East Timor on 9 February 1999" and "a number of cases that have occurred in Timor-Leste involving Wanra [i.e. militias] that resulted in the loss of life." It then continues:

> "In connection with the foregoing, you are ordered to . . . withdraw the weapons held by Wanra and Ratih [i.e. militia] members when they are not conducting special tasks or combat operations in your respective Kodim areas."1[*]

205. This document is revealing on several levels. First, as discussed below (par. 367 ff), it confirms that the TNI had indeed distributed weapons to the militias, and that armed militias were routinely deployed by the TNI to carry out combat operations. Second, it convincingly demonstrates that Indonesian military authorities were in a position to control the flow of militia violence, and did so in accordance with larger political objectives. In this instance, the aim was to hide from the expected UN delegation the facts about TNI-militia collaboration.

206. Another secret TNI document, dated 12 April 1999, reveals a similar pattern – a well-orchestrated plan by military officers to temporarily control militia violence in order to deceive international observers. The telegram is an order from Col. Tono Suratman to a wide range of operational commanders, including the commander of Kopassus' Satgas Tribuana, and the commanders of military Sectors A and B. It opens by referring to the violent "clashes" in Liquiçá on 5 April that had left many dead. The crux of the matter, however, is revealed in the next paragraph of the cable, which refers

* See: Danrem 164/WD to Dandim 1627-1639 and others. Secret Telegram No. TR/41/1999, 28 January 1999 (Yayasan HAK Collection, Doc #7).

to “the planned visit by foreign guests – including Military Attaches, Ambassadors and NGOs – to Timor-Leste, and specifically to Liquiçá” in the coming weeks. In connection with that visit, the recipients of the telegram are given the following order:

> “In order to avoid criticism of our territorial operations by these foreign visitors, for the time being activities should be limited to base security operations.”*

207. The reason for this order was straightforward. TNI authorities understood – or had perhaps been told by their superiors in Jakarta – that it would be politically disadvantageous to Indonesia’s international position if the foreign delegation of military attaches, ambassadors and NGOs saw any evidence of joint TNI-militia co-operation. Accordingly, for the duration of the visit, unit commanders were ordered not to conduct such operations.†

208. The pattern of official manipulation of violence came into focus again in mid-July 1999, in the week before UN Secretary-General Kofi Annan was scheduled to determine whether the registration process, and the Popular Consultation as a whole, should continue. Serious concern had been expressed about the poor security situation and there was a real possibility that Annan might issue a negative determination, and blame it on Indonesia’s failure to establish the necessary security conditions. That outcome would have been extremely damaging to the Indonesian government’s international prestige and to its strategy in Timor-Leste. The government underlined its concern by sending a high-level delegation of cabinet ministers to Dili on 12 July to meet UNAMET and local officials.

209. It was significant, therefore, that as the day of reckoning approached, there was a marked decline in militia activity. While there were instances of violence, the many threats of major, coordinated militia attacks on local people and UNAMET staff simply did not materialise.‡ More general indicators of militia activity – roadblocks, shooting incidents, house-burning, and beatings – also appeared to decline during this period. The TNI, the Police, and some Indonesian civilian authorities seemed to be making an effort to behave in accordance with the 5 May Agreements.

210. UNAMET’s Political Affairs Office saw the lull as evidence that the violence was being coordinated at a fairly high level – from TNI headquarters, under pressure from the Foreign Ministry and the President – and that it could resume as quickly as it had ended. The metaphor they began to use was that of a water faucet, which could

* See: Wakil Danrem 164/WD (Col. Mudjiono) for Danrem 164/WD, to Dan Sektor A and B, and others. Secret Telegram No. STR/43/1999, 12 April 1999 (Yayasan HAK Collection, Doc #12).

† The Danrem’s order was passed on to lower levels in the TNI hierarchy in the following days. In a telegram dated April 16, 1999, the Dandim of Dili, Lt. Col. Endar Priyanto, conveyed the same order to all operational commanders in his command area. See: Dan Sat Gas Pam Dili to Kapolres Dili, Dan Yonif 521/DY, and others. Secret Telegram No. STR/192/1999, 16 April 1999 (Yayasan HAK Collection, Doc #50).

‡ These included some that forced the temporary closure of registration centres in four or five locations.

be turned on and off at will. What was happening in mid-July, they believed, was an example of the violence being turned off, in a carefully calibrated official effort to avoid a negative determination at the halfway point of the registration. If the violence could be turned off, they reasoned, it could just as easily be turned back on.*

211. Documentary evidence discovered since that time provides strong support for those conclusions. The evidence includes a secret telegram from the Dandim of Dili to all Danramil, ordering them to establish tighter security at weapons stores, to assist the Police and government authorities in controlling the militias, and in particular to assist in dismantling road-blocks. The relevant passage of the order reads:

> "1.BB. Weapons are only to be used on official duty; afterwards weapons should be returned to the storage area. 2.AA. Unit Commanders are to assist the Government and the Police in controlling the Pam Swakarsa in their respective areas. 2.BB. Coordinate with Police to re-open roads that have been closed by road-blocks . . . ."†

212. This instruction was issued as a follow up to an order on the same subject, issued by the Danrem on 17 July 1999.

213. The timing of these orders leaves little doubt that they came in response to strong UN and international pressure on the TNI to improve the security situation or risk a negative determination that would derail the whole process. Just as importantly, they confirmed the UNAMET analysis that military authorities had the ability to turn the violence on and off, and that they did so in accordance with their political needs.

214. Events in August provided additional support for that interpretation. As the end of registration neared in early August, there were serious militia attacks on UNAMET staff in Bobonaro and Ainaro and then a sudden spasm of violence in Dili on the final day of campaigning in which at least eight people were killed. The surge of violence in August was followed by an almost complete cessation of militia activity on the day of the vote, August 30, and during the ballot count in the following days.‡

215. Both of these occasions – the vote and the ballot count – offered ample opportunity for pro-Indonesian militias to completely derail the process, but they did not do so. The

* A weekly situation report written by the Political Affairs Office, for the period 12-18 July 1999, noted: "There were signs of modest improvement in the security climate in certain districts during the week, but it is still too early to conclude that the necessary security conditions exist for a free and fair consultation. The main reason for caution is that there has not been any verifiable change in the fundamentals that lie at the heart of insecurity, with the result that any apparent improvements could quickly be reversed." UNAMET, Political Affairs, "Weekly Sitrep #3 (12 July-18 July)." Reprinted in UNTAET, Political Affairs Office, *Briefing Book on Political Affairs and Human Rights in East Timor*, Dili, November 1999.

† See: Dandim 1627/Dili to Danramil 01-04 and others. Secret Telegram No. STR/173/1999, 20 July 1999 (Yayasan HAK Collection, Doc #37).

‡ 20/7A handful of polling stations had to be closed down temporarily during the day as a result of threats or acts of violence, but on the whole, voting proceeded much more smoothly than anticipated. The same was true of the ballot count that took place in the government-run museum next door to the regional Police headquarters (Polda) in Dili between 31 August and 4 September.

only plausible explanation for the sudden lull in violence at such critical moments was that the militias and their Indonesian patrons still believed their side was likely to win. Indeed, in comments to the media after the vote key Indonesian officials – including Ali Alatas and Maj. Gen. Zacky Anwar Makarim – indicated that they had expected the vote to be won or lost by a narrow margin.* If they had believed otherwise, the days of the vote and of the ballot count would have been the ideal times to step up the intimidation and violence, rather than stopping it. The fact that the same pattern occurred across the territory would seem to indicate that the decision not to attack on these days must have been made at a high level.

216. Finally, it was notable that militia activity, which Police and TNI authorities had consistently claimed was uncontrollable, suddenly stopped on almost every occasion that important high-level delegations visited the territory. As already noted, this had happened in February, in April, and near the mid-point of registration in July. However, the most conspicuous instance came on 11 September 1999 when the UN Security Council delegation, and Gen. Wiranto, visited Dili to investigate reports of militia and TNI violence. Sandwiched between several days of relentless shooting and burning, the day of the visit was almost completely without incident. For those who had been in Timor-Leste for some time, including analysts in the Political Affairs Office, this came as no surprise. It was further evidence that the violence could be turned on and off like a tap, in accordance with the political interests or needs of senior TNI and government officials.

217. Given that evidence, the pattern of violence and human rights violations after the declaration of Martial Law on 7 September 1999 is especially revealing. In virtually every district of the territory, TNI forces joined the militia in a systematic campaign of burning and looting, or at least did nothing to stop it (See District Summaries, par. 496).

218. In Manatuto, for example, UNAMET Military Liaison Officers witnessed the TNI transporting numerous drums of petrol that were then used in an orchestrated six-day burning operation that decimated the town. Although it is true that that operation began before 7 September, the imposition of Martial Law did not appear to inhibit or slow it in any way. The same pattern was observed first hand by numerous UNAMET personnel, including the Chief Military Liaison Officer, who witnessed TNI soldiers burning buildings throughout Dili long after Martial Law had been declared and the TNI had taken full control of the territory.

219. Perhaps even more striking, it was after the imposition of Martial Law that some of the most notorious massacres occurred, virtually all of them with TNI and/or Police complicity. For example:

- On 8 September, militiamen and TNI soldiers killed at least 14 people, and possibly more, who had taken refuge in the Maliana Police station (See Case Study: Maliana Police Station Massacre, par. 923).

* Speaking to journalists in January 2000, Maj. Gen. Zacky Anwar Makarim said: "In our prediction, we would either lose or win by a slight margin . . . But only 21 per cent voted in favour of Indonesia's continued rule in East Timor . . . It was really disappointing." *South China Morning Post*, 5 January 2000.

- Between 8 and 10 September, militiamen together with TNI soldiers rounded up and executed at least 82 men from three villages in the District of Oecussi, in the most concentrated mass killings in the territory (See Case Study: Passabe and Maquelab Massacres, par. 947).
- In a systematic campaign of violence, as they moved from their base in Lospalos to West Timor in September, soldiers of Battalion 745 killed as many as 21 people, including a Dutch journalist (See Case Study: Battalion 745 Rampage, par. 981).
- On 25 September, several Kopassus-trained and armed militiamen from Lospalos ambushed and executed five clergy and four lay people as they drove down the road toward Baucau. (See Case Study: Murder of Lospalos Clergy, par. 1002.)

220. Some observers have suggested that certain senior TNI officers made serious, albeit unsuccessful, attempts to bring the militias and territorial forces under control, shortly before and after the imposition of Martial Law. According to one unconfirmed report, for example, Gen. Wiranto tried to order the withdrawal of the militias to West Timor before the ballot, but was unable to make his order stick in the face of opposition from within the TNI. Likewise, some who had direct dealings with the TNI leadership at the time have claimed that Martial Law Commander Maj. Gen. Kiki Syahnakri and Col. Noer Muis made an effort to control the violence during Martial Law. If these claims could be demonstrated to be true, they might affect judgments about the culpability of individual officers. They might also help to clarify whether the post-ballot violence was ordered through the normal chain of command or not. However, they would not alter the more general conclusions drawn here – that very serious acts of violence were committed after the imposition of Martial Law, and that some senior TNI officers coordinated or condoned that violence.

221. The persistence of apparently coordinated violence after the declaration of Martial Law is especially significant because Martial Law entailed the deployment of Kostrad troops. Unlike the territorial and other forces that had been in Timor-Leste for some time – and who it was thought may have been 'contaminated' by links with the militias – the Kostrad troops were new and centrally commanded. Moreover, they were considered to be loyal to Gen. Wiranto, who had served as Kostrad commander in 1996-97. For these reasons, some observers expected that the Kostrad troops would be more disciplined and that they would break the grip of any 'rogue elements' in the TNI who might have been assisting the militias. But as demonstrated by the evidence just noted, the reality was rather different.

222. In short, the patterns in the timing of the violence leave little question that the violence was systematic and that it was coordinated to some degree by the TNI and other government authorities.

Police inaction and complicity

223. The view that the violence was planned, and not spontaneous, finds further support in the patterns of Indonesian Police behavior. The most conspicuous pattern was the

routine failure of the Police to respond to acts of violence by militia groups while they occurred, or to take adequate measures to investigate or punish them after the fact.

224. One of the clearest examples of this pattern was the Police response to the militia attack on the humanitarian convoy in Liquiçá on 4 July. Despite clear warnings that the convoy might be attacked, and despite repeated requests by UNAMET for an official Police escort, none was provided. Indonesian Police also failed to intervene once the attack was underway, even though the District Police headquarters (Polres) was only a few minutes away by car. In the immediate aftermath of the attack, moreover, the Police made no effort to detain, or even to interview any of the militia members who had been observed attacking the convoy with weapons. On the contrary, they worked with the militia to round up those who were fleeing from the attack. As UNAMET and NGO personnel drove toward Dili in their damaged vehicles, they encountered a road-block just outside the Liquiçá District Police station (Polres). The roadblock was manned by two militia-men one of whom was carrying an automatic weapon (See Case Study: Attack on Humanitarian Convoy, par. 852).

225. Militiamen known to have committed acts of violence were almost never arrested or charged with any crime. The only known exceptions came in the wake of intense international pressure and political intervention at the highest level. In response to such pressure, several militia-men were detained and charged in connection with the 4 July attack on the humanitarian convoy, and a 29 June attack on UNAMET headquarters in Maliana. However, the cases were not vigorously prosecuted and, after receiving very short suspended sentences of four or five months, all of the accused were set free.*

226. The problem was not one of legal ambiguity. Even in Timor-Leste, Indonesian law unequivocally prohibited murder, kidnapping, property destruction, and the carrying of weapons without a license, so there was ample legal foundation for Police action against the militias. Moreover, under the terms of the 5 May Agreements, the Indonesian Police were given sole responsibility for the maintenance of law and order during the Popular Consultation. Nor was it a matter of inadequate training or expertise. On occasion the Police did act assertively and professionally, although this was usually in pursuit of an alleged criminal from the pro-independence side.

227. The real problem was that the Indonesian Police were politically and operationally subordinate to the TNI.† To the extent that East Timor's militias were backed by the TNI – and the Police were under no illusions on that score – the chances were extremely slim that the Police would dare to interfere with them. Indeed, Indonesian Police officers told their UN Civpol counterparts that they were constrained by the TNI. This was not only a matter of following TNI demands or orders. It was also the result of a general perception that some of the militiamen were actually TNI, perhaps

* See, UNAMET, Political Affairs Office, "Weekly Sitrep #4 (26 July – 1 August)," pp. 3-4; "Weekly Sitrep #5 (2 August – 8 August)," p. 4; and "Weekly Sitrep #6 (9 August – 15 August), p. 4). Reprinted in UNTAET, Political Affairs Office, Briefing Book, Dili, November 1999.

† Speaking to an Australian journalist in late 1999, for example, a former Indonesian Police officer said: "As for who had ultimate authority, we all know it was the TNI." ABC, *Four Corners*, "The Vanishing," 18 October 1999, transcript, p. 9.

even Kopassus, soldiers. Under the circumstances, the Police were legitimately afraid to intervene forcefully.

228. The nature of the problem was well illustrated by the experience of a UNAMET team that went to the Sub-District of Atsabe on 31 August 1999 to investigate the murder of João Lopes, one of two local UNAMET staff members killed in the area by militias on ballot day. Approaching the building where Mr. Lopes' body lay, the team saw that it was surrounded by about 50 militiamen – evidently the very men who had killed him – armed with machetes, home-made guns, and rifles. Mingling among them were Police and TNI soldiers. Lengthy discussions with the local Police chief (Kapolsek) and an Indonesian Police officer based in Ermera, produced assurances that the militias would be dispersed and restrained. But no action was ever taken, and the militias remained in the immediate vicinity, weapons in hand. In response to renewed protests, both the Kapolsek and the officer from Ermera explained that they did not dare to order the militias to do anything, because they would very likely turn against the Police (See Case Study: Murder of UNAMET Staff Members at Boboe Leten, par. 871).

229. Police also took part in operations that facilitated militia and TNI violence, some of which judging from their scope must have been planned at the provincial level or higher. The most powerful evidence to that effect came from the post-ballot period, and specifically from the behavior of the Police and TNI during the evacuation of UNAMET personnel from district offices in early September. The events leading to the evacuations bore remarkable, indeed chilling, similarities, and had the hallmarks of a well-planned psychological warfare operation. A UNAMET report about the evacuations from five separate district offices on 3 and 4 September concluded that the violence had been part of a "deliberate strategy to force UNAMET to withdraw from certain regions back to Dili."* In retrospect, it is evident that an important aim of that operation was to terrorise UNAMET international staff and all other international observers, with a view to making them leave the territory.

230. In every instance, the sequence of events began with militias roaming freely through the main town, more heavily armed than usual, shooting, setting fire to buildings, and killing. In every case, the Indonesian Police and TNI either made no attempt to restrain the militias, or actively assisted them. Within a matter of hours, the Police in every affected district warned that they could no longer control the situation, and recommended that all UNAMET staff relocate to the District Police station. Once they had gathered UN staff in their stations, Police suddenly announced that they would be leaving, and advised UNAMET to follow. Having no means of guaranteeing their own security, and cut off from all independent sources of information, district UNAMET officials had little choice but to go along. And so, in each case, they joined the Police convoy out of town and back to Dili.

231. Now and then the Police went beyond their customary failure to act, or their facilitation of militia violence, and actually played a direct role as perpetrators of

* 24/11 UNAMET, Political Affairs Office, "Incidents on 3 and 4 September which led to the relocation to Dili of UNAMET staff from Aileu, Ainaro, Maliana, Liquiçá and Same regencies." Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

violence. This was particularly true of the Police Mobile Brigades (Brimob), several thousand of which were deployed to Timor-Leste during the Popular Consultation. In one incident in Dili, on the final day of campaigning (26 August 1999) a uniformed member of the Mobile Brigade shot a civilian in the back with his automatic weapon, killing him instantly. The victim was a student, Bernardino Agusto Guterres (a.k.a. Bernardino da Costa). The incident was witnessed by several bystanders and captured on video. In a sworn statement to the independent Electoral Commission that oversaw the ballot process, one eyewitness described the incident:

> The crowd shouted to the Police to stop the militias who were shooting. One of them . . . remonstrated with the Police, directing their attention to the militias. A Policeman who was not wearing a beret like his comrades . . . told [the youth] that he could shoot him because he was exciting the people. [The youth] turned and ran. The Policeman thereupon shot him at a range of about three paces. I subsequently saw a gunshot wound in the middle of his back and one behind the neck. He died there. When the ambulance attendants lifted the body later I saw a large gaping wound to the throat.*

232. A local resident who called UNAMET later the same day, claimed that Indonesian Police had been observed handing weapons to militia members before and during the incident. Other bystanders claimed that the Aitarak militiamen were in fact TNI soldiers. These claims were never independently verified, but they were consistent with the well-established pattern of official support for the militia.

233. To sum up, there is a substantial body of evidence, based on field observation, that the Indonesian Police were unwilling or unable to intervene to prevent or stop unlawful militia activity, and that the reason lay primarily in their subordinate position vis-a-vis the TNI. This conclusion is not based on any single act or event but on the analysis of clearly patterned behavior.

234. The fact that virtually the same sort of Police behavior was observed consistently throughout the territory strongly suggests that this was a matter of policy, at least as high as the regional level (Polda). The chillingly similar pattern of Police behavior at the time of the forced evacuations of early September suggests the same conclusion. The documentary evidence also confirms that the Police role in the evacuation was planned at the Provincial (Polda) level. But, since we know (from the documents analyzed in Chapter 5 of this report) that overall strategic planning for the evacuation took place at TNI headquarters in Jakarta, we can be reasonably sure that this observed Police behavior was mapped at that level, and very likely under TNI supervision.

Militia *modus operandi*

235. The militias' style and *modus operandi* were virtually the same everywhere in the territory. Those broad similarities, across all 13 districts, provide additional indications

* UNAMET, Electoral Commission, "Statement Minuted on Friday, 27 August 1999."

of planning and co-ordination of the militias by military and government authorities, at least at the provincial level, and possibly higher.

236. The militia style was designed to deceive. A small handful of militiamen wore Indonesian military uniforms, or parts of one, but most wore 'civilian' clothing – red and white bandanas around their neck or head, and often a T-shirt bearing a pro-autonomy slogan of some sort. Such 'civilian' garb was evidently designed to sustain the illusion that the militias had formed spontaneously, and to provide plausible grounds for denial of official involvement in acts of violence.

237. If the militia style was intended to deceive, the *modus operandi* was designed to terrorise, and intimidate. Significantly, perhaps, none of the methods used were unique to Timor-Leste. Like the very idea of using 'civilian' militia forces, they were drawn from the repertoire developed by TNI forces in other counter-insurgency and anti-crime operations conducted elsewhere in Indonesia over more than thirty years.[*]

238. The most common elements of the militia repertoire included the erection of road-blocks and check-points, beatings, house-burning, public death threats, the brandishing and firing of weapons, and in the case of women, the threat and reality of sexual violence, including rape.[†] When not engaged in these activities, most militia units engaged in military-style drilling and marching in formation with real or mock weapons.

239. Targeted killing, corpse display and mutilation were also part of the repertoire and, again following standard TNI practice, these were intended to be exemplary - to send a message to others in the community of what would happen to those who did not heed the militias' or the TNI's warnings. The bodies of the victim were often mutilated in some way – decapitated, disemboweled or hacked into small pieces - and then left in full public view. A report on the militias in Viqueque, prepared by UNAMET Military Liaison Officers (MLOs) in August 1999, noted that: "The methods of killing, as reported, are gruesome. For example, one victim had an animal bone driven through his brain . . .There appears to be an intention to achieve psychological impact and use the manner of death to intimidate others."[‡]

240. Another common element of the militia repertoire that was clearly intended to terrorise the population was the marking of targets for killing. As the UNAMET report from Viqueque explained:

> "This is a basic psychological ploy, which can involve issuing threats against a victim to a wide circle of people to ensure it reaches the target.

* For a detailed discussion of the TNI's counter-insurgency repertoire, see Geoffrey Robinson, "Rawanis as Rawan Does: The Origins of Disorder in New Order Aceh," *Indonesia,* No. 66 (October 1998), pp. 127-156.

† TNI soldiers were also directly implicated in rape and sexual slavery. For further detail see United Nations, *Situation of human rights in East Timor*, 10 December 1999, pp. 9-11.

‡ UNAMET Viqueque, "Outline of Pro-Integration Militia in Viqueque Area," 6 August 1999, p. 3. Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

Another tactic noted in our area is the practice of marking houses with a red 'X' to denote that the occupant(s) was/were marked for death."*

241. In the view of UNAMET analysts, the intention of such tactics was to achieve a psychological objective ". . . such as demonstrating to the population that the militia has the power to target and kill an individual."

242. The militia's manner of attacking its targets was evidently intended to produce similar psychological effects. When militias staged an attack, they did not do so with the cool precision of professional hit-men. Rather, they created the impression of men in a state of frenzy, shouting and slashing the air with their weapons. In other words, they behaved as one imagines a man 'running amok.'

243. The 'amok' style of militia attack was captured in much of the terrifying television footage that came out of Timor-Leste between June and September 1999. One of the earliest and most shocking incidents of this kind occurred on 4 July, when members of the militia group Besi Merah Putih attacked a humanitarian convoy that had stopped briefly while passing through the town of Liquiçá† (See Case Study: Attack on Humanitarian Convoy, par. 852). A UNAMET report on the attack provided the following account:

> "About five minutes after the convoy stopped in Liquiçá, a blue-green mini-van with the word 'Miramar' on the side sped down the hill from the south, and came to a sudden stop near the middle of the line of parked vehicles. As the van stopped, some 20 young men jumped out and began to approach the NGO and UNAMET staff, shouting 'kill them!' Most were carrying machetes, knives or home-made guns. At least one member of the group was carrying an automatic weapon. Without warning or provocation the militia members began to attack, waving their machetes and knives menacingly, pointing their guns at members of the convoy, and smashing the windows of most of the vehicles. The attack continued as people tried to flee. . ."‡

244. The marked similarity in the repertoire of militia violence across Timor-Leste appears to confirm that the militias were trained and their actions orchestrated by the TNI. The militia behaviour observed was so widespread, and so consistent, that it can

* UNAMET Viqueque, "Outline of Pro-Integration Militia in Viqueque Area," 6 August 1999, p. 4. Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

† The attacks of 4 July did not occur in isolation. In the preceding days, UN staff in Liquiçá had been subjected to a series of threats and assaults. In most of these incidents, members of the Besi Merah Putih militia had directly taunted UN staff, while brandishing firearms or machetes. Each of several incidents was reported to the Indonesian Police, as a result of which some additional Police officers were posted to protect UNAMET staff. But nothing was done to prevent the militias, still armed, from moving freely about the town and engaging in acts of intimidation.

‡ UNAMET, Political Affairs Office, "Report on the Liquiçá Incidents of 4 July." 12 July 1999, p. 3. Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

only reasonably be understood as the product of coordinated planning, at least up to the 'provincial' (Korem) level. Even if all militia actions were not the result of direct TNI co-ordination, it is abundantly clear that the militias could not have behaved as they did without the acquiescence and encouragement of the TNI and, to a lesser extent, the Police.

Geographical variations

245. While it is true that human rights violations in Timor-Leste varied systematically over time, and that the perpetrators adopted a very similar *modus operandi* wherever they were, there were significant geographical variations in the intensity and frequency of violations. Paradoxically, those variations provide additional support for the claim that the violence was planned, not spontaneous.

246. Militia groups did not emerge simultaneously or evenly throughout the territory. Broadly speaking, militias were established first in the western and central districts and somewhat later in the east, and in the enclave of Oecussi. The western and central districts also boasted larger numbers of militia recruits, and a deeper penetration of groups down to the Sub-District and Village level. It was no coincidence that the best known, and most feared, of the militia groups – BMP, Aitarak, Mahidi, Laksaur, Darah Integrasi, Dadurus Merah Putih, and Halilintar – were all concentrated in the western districts.

247. Similarly, there was some geographical variation in the intensity of the violence. In the pre-UNAMET and UNAMET periods, the worst areas were the western Districts of Bobonaro, Liquiçá, Covalima, with the Districts of Dili, Ermera and Ainaro occasionally reaching similar levels of insecurity. By contrast the central and eastern-most Districts of Aileu, Manufahi, Manatuto, Baucau, Lautém, and Viqueque together with the enclave of Oecussi, were relatively calm, and the militias far less active, at least until the post-ballot period.

248. At first glance, those variations appear to lend credence to the claim that the 1999 violence was spontaneous. On closer analysis, however, the variations strongly suggest that the violence stemmed from a systematic pattern of linkages between the militias and the Indonesian authorities that was unique to the western districts. More specifically, militias tended to be stronger and more violent in areas: (i) that shared a border with Indonesia; (ii) where military and civilian authorities played an aggressive role in supporting them; and (iii) where there was a long-established network of pro-Indonesian operatives before 1999.

249. The first, and arguably the most important, factor explaining the concentration of violence in the western districts was their geographical proximity to Indonesia. The most violent districts – Covalima and Bobonaro – shared a border with Indonesian West Timor. The shared border offered a number of advantages, logistical, military, and political, that facilitated and encouraged the use of violence there.

250. For one thing, the common border meant that young men could easily be recruited in NTT and transported across the border to serve as 'East Timorese' militias.

Geographical proximity likewise made it easy to infiltrate TNI soldiers into Timor-Leste to undertake covert operations. An investigation conducted by an Indonesian NGO in early August 1999 revealed substantial evidence of such recruitment and cross-border movement by militias, including BMP, Laksaur, Mahidi, and ABLAI. One militia member told the investigators that approximately 250 militiamen in Suai were in fact from Belu, NTT. The same report revealed that the supreme militia commander, João Tavares, had rented a house on the NTT side of the border, in Atambua, which he used as a militia headquarters.*

251. The shared border also facilitated the disposal of the bodies of the victims of human rights violations. In September 1999, TNI and militia forces transported the bodies of at least 27 victims of the massacre at the Suai Church across the border to West Timor, and there was anecdotal evidence that other victims were disposed of in the same way (See Case Study: Suai Church Massacre, par. 903).

252. Geographical proximity was also an essential condition for the massive forcible deportation of the population in the post-ballot period. The vast majority of the roughly 250,000 people forcibly displaced to NTT were from the western districts that bordered Indonesia. The displacement of those populations could not have happened on so great a scale had Indonesia not been easily accessible by land. Support for that claim lies in the fact that the vast majority of those forcibly deported lived in towns and villages that lay along the main roads to the border.

253. The greater intensity of violence in the western districts was also clearly related to the attitudes of the military and civilian authorities serving in these areas. The posture of district and local authorities affected the way in which TNI and Police were deployed, and also the strength and level of activity of the militia groups in the area.

254. The attitudes of District Military Commanders (Dandim), and military intelligence officers, were particularly important. The Dandim of Bobonaro, Lt. Col. Burhanuddin Siagian, and his chief of intelligence, Lt. Sutrisno, were unusually energetic in their support for the militias, and this was the district with the most persistent human rights problems. Indeed, these officers – and others in Covalima, Liquiçá and Viqueque – were considered to be so much a part of the problem that UNAMET made formal representations to the Indonesian authorities for their removal less than two weeks before the ballot.† Apparently as a result of those representations, the Dandims of Bobonaro and Covalima were removed and replaced shortly before the ballot.

255. For various reasons, these 11th-hour transfers did not solve the problem. In part, that was because the transfers were not fully implemented. Lt. Col. Siagian was seen in Bobonaro on 30 August and thereafter commanding troops, and his presence coincided

* See "Hasil Investigasi Forum Solidaritas Perdamaian Timor Leste," (10) August 1999, Kupang.

† Ian Martin wrote to Ambassador Tarmidzi (Head of the Indonesian Task Force for the Implementation of the Popular Consultation) on 19 August 1999, requesting that his concerns be conveyed to the authorities in Jakarta (SCU Collection, Doc #B). Martin later wrote that he had called for the officers' removal because they were "contributing to rather than addressing the impunity of the militias, some of whom were serving members of the TNI." Ian Martin, *Self-Determination in East Timor*, pp. 76-77.

with the reported distribution of arms to the militias and a dramatic escalation of violence in the district. It is not clear whether Lt. Col. Achmad Mas Agus remained in Covalima District after his formal removal. But it is certain that his replacement as Dandim was a military intelligence officer hand-picked by Kodam IX commander, Maj. Gen. Adam Damiri. The new Dandim, Lt. Col. Lilik Koeshardianto, presided over some of the worst violence in the country, including the massacre at the Suai Cathedral on 6 September. His presence at the scene of the crime reinforces the general point that individual Dandim – and military officers more generally – were singularly important in shaping the pattern of violence.

256. The special importance of Dandims also helps to explain the relatively low levels of violence in certain districts. In Aileu, for example, the Dandim, Maj. Maman Rahman, seems to have played a rather minor role in mobilising and supporting the militias. That may have been because he was only a Major, outranked by the Bupati and by various Kopassus officers in the area, or because others in the district took the lead. Whatever the reason it is notable that Aileu suffered significantly lower levels of militia violence in 1999 than many other districts.

257. A similar pattern was evident in the District of Viqueque. By most accounts, the Dandim appointed shortly before the referendum, Lt. Col. Gustaf Heru, exercised a moderating influence on the militias, and worked actively to limit the post-ballot violence in the district. His efforts may help to explain why Viqueque reportedly suffered only two killings in the entire post-ballot period, by far the lowest level of violence in the country.

258. It was not only military officers, however, whose attitudes affected the geographical distribution of violence. The attitude of Bupatis, Sub-District Heads and Village Heads also made a difference. On the whole, the violence tended to be worst where Bupatis lent their full personal and professional support to the militias. This was most notably the case in Liquiçá, Bobonaro, and Covalima, where the Bupatis were directly and aggressively involved in organising militias.

259. The importance of the Bupati, as a potentially independent power, was also highlighted by the situation in Baucau District, where militias remained relatively quiet, even after the 30 August ballot. There, in spite of strong pressure from the Kodim Chief of Staff, the Bupati actively opposed the formation of new militias. His reasons for doing so remain unclear. There was some speculation that the older militia groups – such as Saka and Sera – were controlled by forces close to him, and that he saw the creation of new militias as a challenge to his own authority. Others have suggested that he was influenced by the Bishop of Baucau, Monsignor Nascimento. Whatever the reasons, the fact is that he managed to impede the mobilisation of new militias, at least for a time.

260. The Bupati of Manufahi appears to have had a similarly moderating effect on militia violence there. Although he served as an Indonesian government official, Nazario José Tilman de Andrade was considered to be a moderate and perhaps even sympathetic to independence. There were signs, moreover, of a rift between him and the leadership of the ABLAI militia. It seems likely that his lack of support for ABLAI contributed to its weakness, and to the relatively low levels of violence its members inflicted in 1999.

261. A third, and related, explanation for the somewhat uneven geographical distribution of violence in 1999 is that the western districts had a reliable network of pro-Indonesian power brokers in place long before 1999. The concentration of pro-Indonesian bosses in the western districts had deep historical roots. In the latter half of the 19th century, the Portuguese regarded the kingdoms in the border region as unruly, disobedient, and lawless, and made them the focus of repeated pacification campaigns.* As Portuguese power began to crumble in 1974-75, many of the powerful local families in the area saw an opportunity to get rid of them, and opted to support the Indonesian invasion and annexation.

262. That long established pro-Indonesian network was relied upon to mobilise substantial militia forces at relatively short notice. A case in point was João Tavares, the man designated in 1999 as the Supreme Commander of the Pro-Integration Forces (PPI). Tavares had earned his stripes by fighting on the Indonesian side as early as 1975. He was rewarded for his loyalty by being appointed for two terms as Bupati of Bobonaro.† He was also able to amass substantial land-holdings, making him one of the largest landlords in the territory, after President Soeharto and a number of his cronies. By 1999, then, Tavares had long been a very powerful local operator, and he was only one of several in the western districts who could be relied upon to organise pro-autonomy militias and activities.

263. By contrast, the central and eastern districts had a much less solid network of local pro-Indonesian bosses. In part this was because these districts were generally poorer than those in the west, and therefore arguably less conducive to the emergence of wealthy and powerful local power brokers. Just as importantly, the central and eastern districts had historically been important base areas for the Fretilin and Falintil resistance. Some Village Heads in these districts, and even some Bupatis, were sympathetic or at least not hostile to Fretilin, even if they did not show this outwardly. That situation seriously limited the cohort of people likely to join a militia, or to lead one.

264. Paradoxically, then, the uneven geographical pattern of militia violence does not support the claim that the violence was spontaneous. Rather, it reinforces other evidence that the violence was systematic, and that it rested crucially on the relationship between militia forces and Indonesian authorities. More precisely, the concentration of violence in the western districts was related to three main factors: geo-graphical proximity to Indonesia; the attitude and career background of District and local authorities; and the historically conditioned location of pro-Indonesian networks.

265. To sum up, this chapter makes the case that discernible patterns in the character and distribution of violence in East Timor indicate that it was not spontaneous, but rather systematic and planned by Indonesian authorities. Four distinct patterns point to that conclusion.

* On the west's reputation for lawlessness, see Katherine Davidson, *The Portuguese Colonisation of Timor: The Final Stage*, 1850-1912, Ph.D Thesis, University of New South Wales, 1994, pp. 74, 101, 170, and 181.

† Tavares was appointed Bupati of Bobonaro in 1978 and held the post for the next ten years. Dunn writes that, after the formal 'integration' of East Timor in 1976, ". . . trusted Timorese, such as João Tavares and Tomás Gonçalves were appointed Bupatis." Dunn, *Timor: A Nation Betrayed*, p. 266.

266. First, there was systematic variation in the incidence and gravity of violence over time. Three rough periods, each with its own characteristic features, can be discerned: (i) the Pre-UNAMET period (January to late May); (ii) the UNAMET period (early June to 30 August); and (iii) the Post-ballot period (30 August to late October). The violence ebbed and flowed in apparent harmony with the political needs and interests of the Indonesian authorities, and there was both circumstantial and documentary evidence that those variations were a matter of official policy.

267. Second, there was a pervasive failure on the part of the Police, and other responsible authorities, to take effective action against the perpetrators of violence. The consistency of such inaction, and the pattern of impunity to which it contributed, appeared to reflect a policy decision taken at a high level.

268. Third, there were striking similarities in the *modus operandi* of the militias across the territory. The consistency with which certain styles and behaviours were observed in different locales strongly suggested that the violence was coordinated at least at the level of the Sub-Regional Military Command (Korem), and probably higher.

269. Finally, notwithstanding such broad similarities in behaviour across the territory, there were significant geographical variations in the intensity and incidence of violence. Those variations were systematic, and consistent with other evidence of overall planning by Indonesian authorities.

Six key documents

270. Since early 1999, a number of documents have surfaced that have been portrayed as evidence of high-level TNI planning of violence both before and after the 30 August ballot. That evidence needs to be examined carefully because it may be critical in establishing questions of political and legal responsibility for the crimes committed in Timor-Leste.

271. Six documents in particular deserve special scrutiny because of the claims that have been made on their behalf. They are: a secret memorandum from a militia leader spelling out plans to conduct an operation against supporters of independence; a circular allegedly issued by the supreme militia commander, João Tavares; a secret report prepared by a high ranking government official, H.R. Garnadi; a telegram outlining plans for the mobilisation of a special military unit after the ballot; a Police plan for a massive post-ballot evacuation, called 'Operation Hanoin Lorosae II;' and a TNI operational plan for the popular consultation and evacuation, called 'Operation Wira Dharma-99.'

Operation Clean Sweep

272. The first of the documents offered as proof of high-level planning of violence is a memorandum dated 11 March 1999, addressed to Timor-Leste's supreme militia

commander, João Tavares, and other militia leaders.* Issued by the commander of the Darah Merah militia, Lafaek Saburai, the memo announces plans for the start of 'Operation Clean Sweep' (Operasi Pembersihan) at 00:00 hours on 1 May 1999. According to the document, the operation would "capture and eliminate" key pro-independence supporters, by first moving the entire pro-Indonesian population of Dili to the district of Bobonaro, and then killing all those who remained in Dili as of a certain date.

273. When the document first surfaced in early 1999 some analysts quickly concluded that it proved the existence of a central plan by Indonesian military intelligence to disrupt the referendum through militia violence and intimidation. Before long, other observers and analysts had accepted this conclusion and had begun to speak and write confidently about 'Operation Clean Sweep' as a TNI plan to subvert the referendum.† The East Timor Action Network (ETAN) wrote, for example, that "implementation of the plan [to disrupt the vote] started immediately after President Habibie's broad autonomy offer in August 1998, and it came into being formally in March 1999 under the code name Operation Clean Sweep (Operasi Sapu Jagad)."‡

274. In support of this view, analysts noted that the author of the 'Clean Sweep' document, Lafaek Saburai (also known as Afonso Pinto) was known to have links to BIA, the military intelligence organisation headed until January 1999 by Major General Zacky Anwar Makarim. ETAN wrote that because of Saburai's known links to BIA, "conclusions can be drawn as to where the orders were originating."§

275. That may be true, but there are a number of reasons for caution in accepting this reading of the document. For one thing, Saburai's background as a BIA operative does not in itself constitute evidence that his threatened 'Operation Clean Sweep' was a TNI or BIA plan, and there are reasons to doubt that it was. As later events revealed, his militia group Darah Merah was very much a local outfit and by no means among the most influential or powerful groups in the territory.¶ Compared to Aitarak in Dili, Besi Merah Putih in Liquiçá, or Mahidi in Ainaro, Darah Merah was small and insignificant. One might reasonably ask why this would be the case if Saburai and Darah Merah really were the main conduit of a central BIA plan.

276. The value of the 'Clean Sweep' document as evidence of a centrally planned military operation is also diminished by the fact that the operation it announced never

* Letter from Lafaek Saburai to João da Silva Tavares, (No. 024/Ops/R/III/1999) concerning "Operasi Pembersihan," 11 March 1999 (Yayasan HAK Collection, Doc #15). An English translation of this document is appended to the East Timor Action Network's report Subject: *Operasi Sapu Jagad – Indonesia's military plan to disrupt independence*, Ref. Doc. FAIO-1999/10/21.

† This argument seems to have appeared first in the bulletin of the Indonesian Human Rights Campaign (Tapol), "The Indonesian Army's 'dirty war' in East Timor," *Tapol Bulletin*, June 1999.

‡ 38/3 East Timor Action Network (ETAN), *Subject: Operasi Sapu Jagad – Indonesia's military plan to disrupt independence*. (Ref doc. FAIO-1999/10/21).

§ ETAN, "Operasi Sapu Jagad."

¶ Darah Merah (Red Blood) was reportedly formed on 21 March 1999. East Timor International Support Center (ETISC), "Indonesia's Death Squads: Getting Away With Murder," *ETISC Occasional Paper* No. 2 (Darwin, May 1999), p.18.

actually happened. 1 May came and went without any sign of the mass cleansing that the memorandum promised.

277. In short, the TNI may well have had a plan to terrorise the population and influence the outcome of the vote, but the 'Clean Sweep' document does not provide convincing proof of it. Instead, it appears to be the work of a slightly over-zealous local militia commander who is boasting about his intentions to fellow commanders and to any TNI officers who might be listening.

278. Yet if the 'Clean Sweep' document does not prove that there was a high level plan for violence by Indonesian military intelligence, it does provide additional evidence of the nature of the relationship between the militias and the Indonesian authorities. It shows, for example, that militia groups at least aspired to broad co-ordination with the TNI. It also reveals the extent to which the rhetoric of terror, a hallmark of the TNI's own counter-insurgency strategy, had become a standard feature of the militia style by early 1999.

The Tavares Document

279. A second document commonly cited as evidence that pre- and post-ballot violence was planned at high levels is an instruction, dated 17 July 1999, purportedly signed by Timor-Leste's supreme militia boss – formally known as 'Commander of the Integration Fighters Force' – João da Silva Tavares. The two-page instruction is addressed to the principal militia commanders in Timor-Leste, and copied to various military and Police officers, including Armed Forces Commander Gen. Wiranto and Regional Military Commander for Kodam IX, Maj. Gen. Adam Damiri.

280. With shocking bluntness, the Tavares instruction directs all militia commanders to: "Continue your terror and intimidation campaign against those who are influencing the public to reject Special Autonomy" and urges them to "pressure and threaten the public not to participate in the campaign being conducted by the pro-independence leaders . . ."[*] The instruction also promises that the Indonesian authorities will provide the militias with substantial material support. "Before the results of the Popular Consultation are announced," it says:

> ". . . weapons will be distributed – 15,000 modern weapons that have been made available by ABRI [sic]. You will be supported by TNI elite troops and backed by heavy artillery/tanks and 50 modern fighter jets. . . .When the results of the Popular Consultation are announced, if the pro-Autonomy forces are defeated then Operation Clean Sweep will be simultaneously launched in full strength against the pro-independence forces beginning with those 15 years and older, both males and females, without exception."[†]

* "Instruksi Panglima Pasukan Pejuang Integrasi Tentang Kesiapan dan Kesiagaan Pasukan Pejuang Integrasi (Milisi) Dalam Menyikapi Perkembangan Situasi dan Kondisi di Timor-Timur,"(No. 010/INS/PPI/VII/1999). A copy of this document, and an English translation prepared by UNAMET, are in the author's possession.

† "Instruksi . . .Tentang Kesiapan dan Kesiagaan Pasukan Pejuang Integrasi (Milisi)."

281. The document first appeared in early August 1999 and was immediately seized upon by observers as proof of TNI-militia co-operation in orchestrating violence across the territory.* UNAMET's Head of Mission asked his staff for their opinion of the document. The UN Civilian Police (Civpol) consulted with their Indonesian Police counterparts who quickly concluded, on technical grounds, that the document was a fake. The Political Affairs Office also had doubts about the authenticity of the document, but these were rooted in political, rather than technical or forensic, analysis.

282. For one thing, Political Affairs noted that several copies of the document had been delivered to UNAMET in a matter of just a few days. This was rather unusual, especially for so sensitive a document, and it made the analysts suspicious of its provenance. How and why had so many copies of such a document become so quickly available? Attention also focused on the use of the term 'Militia' (Milisi) in the document's title, a term that Indonesian authorities and pro-integration leaders alike had rejected. Why would the Commander of the Integration Fighters Force use that term?

283. Political Affairs analysts thought there were two possible answers to these questions. The first was that the document had been a psy-war fabrication designed by the pro-Indonesian side to sow fear among pro-independence supporters. The second possibility was that it had been created by the pro-independence side in order to discredit the TNI and the militias with one satisfying documentary blow, and at a critical moment in the process.

284. The content of the document contributed to suspicion. The language in the instruction presented altogether too tidy a package of outrageous threats and claims to be wholly credible. Even if at some stage João Tavares had issued some or all of the orders and promises cited in the document, it seemed very unlikely that he would have put them in writing.

285. Based on these considerations, the Political Affairs Office concluded that the 17 July Tavares document was probably not authentic. That did not mean that UNAMET considered Tavares and other militia leaders to be innocent of wrongdoing, or that it seriously doubted TNI involvement in the violence. On the contrary, it remained convinced that the TNI and the militia were working very closely together. It was simply that UNAMET did not regard the Tavares document as convincing evidence of that fact.

The Garnadi Document

286. A third document, which surfaced in Dili in mid-July1999, is most likely authentic – but like the others already discussed, it does not necessarily prove all that some observers have claimed that it does. This is the so-called Garnadi document, which many have considered the 'smoking gun,' proving both that there was a close official

* Several copies of the document came to UNAMET at about the same time, together with a letter addressed to the Vice Secretary of the Internal Political Front (Frente Politica Interna – FPI), of the CNRT, dated 3 August 1999.

relationship between the government and the militia, and that the post-ballot violence was planned at the highest levels – that is, in Jakarta.

287. The report, dated 3 July 1999 and entitled "General Assessment if Option I Fails," offers a candid assessment of government strategy toward the Popular Consultation process as of early July; 'Option I' referred to the government's offer of 'Special Autonomy.' The author, Maj. Gen. (ret.) H.R. Garnadi, was Special Assistant I to the powerful Coordinating Minister for Political and Security Affairs, Lt. Gen. (ret.) Feisal Tanjung. The fact that the report had been written by an important government official and sent to a senior Minister and ex-TNI General, gave it a singular significance. Here, it seemed, might be the document proving central government and TNI complicity in the violence.

288. Analysts noted that the document spoke of the government's duty to protect and support the anti-independence militias, whom it described as "heroes of integration." The relevant passage reads as follows: "We cannot ignore the attitude of the East Timorese militias that were recruited from the pro-integration groups. They are the heroes of integration."[*] More explosively, media reports and analysts claimed that the document spoke of a central government plan to destroy Timor-Leste in the event of a pro-independence victory at the polls. The key passage stated that ". . . evacuation routes must be planned and secured, possibly by destroying facilities and other key assets."[†]

289. The fact that Timor-Leste was utterly destroyed after the ballot lent credence to claims that the Garnadi report had spelled out a 'scorched earth' plan. However, a closer examination of the document reveals that it does not actually do so. Read in context, the passage about destruction cited above provides little evidence of a scorched earth policy at this stage. In fact, Garnadi's main point in the report is that, in its confidence of victory, the government had failed to plan for the possibility of defeat, and that it had better start doing so without delay. He writes, for example:

> ". . . we have another six weeks to ensure that Special Autonomy wins. But if it fails, then six weeks is a very short time to prepare an evacuation plan for the pro-integration personnel and their property. Therefore a contingency plan in case of independence must be developed as quickly as possible. The government must allocate a budget to finance such a plan."[‡]

* H.R. Garnadi, "General Assessment if Option I Fails," a confidential report to the Coordinating Minister for Political and Security Affairs, Lt. Gen. (Ret.) Feisal Tanjung, 3 July 1999. (Yayasan HAK Collection, Doc #35). An English translation of the document can be found in UNTAET, Political Affairs Office, *Briefing Book on Political Affairs and Human Rights in East Timor*, Dili, November 1999.

† Garnadi, "General Assessment if Option I Fails," paragraph 8b.

‡ Garnadi, "General Assessment of Option I Fails," paragraph 8. In paragraph 8 he also writes that "A contingency plan must be drawn up to deal with the situation in the event that Option I is rejected." On the matter of budgeting, the CNRT claimed in early August 1999 that Jakarta had set aside Rp28 million for the evacuation plan.

290. His comment that vital infrastructure might be destroyed by departing Indonesian troops in the event of the defeat of Special Autonomy is offered as one of several suggestions in the direction of developing such a contingency plan. But it is not an expression of agreed policy at that stage. Indeed, what it indicates most clearly is that, as of early July, contingency and operational planning for a pro-in-dependence victory had not really begun.

291. In short, the Garnadi document itself does not reveal the degree of official involvement in planning of violence that some have claimed that it does. At the same time, as noted elsewhere in this report, it does highlight important aspects of the relationship between Indonesian authorities and the militias, and of official attitudes toward the latter. It confirms official government support for, and solidarity with, pro-Indonesian militias, and a strong suggestion that they should be taken care of in the event of a pro-independence victory. It also makes clear that high-ranking officials in Dili and Jakarta were at least considering and discussing the destruction of Timor-Leste in the event of a defeat for the autonomy option as early as July. And it confirms that the Coordinating Minister for Political and Security Affairs, Lt. Gen. (ret.) Feisal Tanjung, was very much involved in those discussions as they developed after 3 July 1999.

The East Timor Integration Saviour Brigade Telegram

292. A fourth document that seems to suggest some degree of TNI planning is a secret telegram apparently of military provenance, dated 29 August 1999, or just one day before the ballot. The telegram is directed to a wide range of TNI officers, including the Commander of Korem 164 and the Commander of Battalion 744, with copies to the supreme militia boss, João Tavares, and to various TNI intelligence officers.

293. The telegram is signed by Sergeant Henrike Agama, Deputy Commander of the "Timor-Leste Integration Saviour Brigade Command."* It calls on all named recipients and their men to be ready to report for duty in the days immediately following the vote and the announcement of the result. The message is worth citing in detail:

> "B. In connection with the foregoing, all unit commanders are requested to authorise those of their personnel who are part of the Dili Partisan Battalion to report for duty at the Seroja Barracks in Comoro, Dili, according to the following schedule:
> 1. Monday to Thursday 14.30 to completion
> 2. Friday and Saturday 13.30 to completion
> 3. Sunday 11.00
>
> C. Co-ordination.
> 1. Brigade Headquarters/Headquarters of Dili Partisan Battalion I are located at the Seroja Barracks in Comoro, Dili.

* In Indonesian, the Komando Brigade Penyelamat Integrasi Timor Timur or Brigade P.I. Tims.

2. All unit commanders can carry out a crosscheck of their members' attendance via the Chief of Operations for the Integration Saviour Brigade at headquarters."*

294. This telegram would appear to indicate the existence of a special military command – the 'East Timor Integration Saviour Brigade' and of a Dili unit of that command, the 'Dili Partisan Battalion' – made up of regular soldiers seconded from normal TNI units, and commanded by TNI officers.† At a minimum, it makes clear that the headquarters of these units were located at a TNI facility, the Seroja Barracks in Comoro, Dili. In other words, these would seem to be officially-sanctioned military units, preparing for action on behalf of integration in the days immediately after the ballot.

295. A letter from the CNRT's Internal Political Front (FPI) sent to UNAMET's Political Affairs Office on 1 September, together with a copy of the telegram, provided additional information about the plans reportedly obtained from a source at the Timor-Leste military command (Korem).‡ The letter explained that the Brigade mentioned in the telegram had been recently established by the TNI – with the assistance of key civilian figures including the Bupati of Dili – to take repressive action against pro-independence figures in the event of their victory. More specifically, it said that the unit had been tasked to carry out "an operation to abduct all pro-independence activists, like the operation conducted at the time of the October 1965 coup in Indonesia." Finally, the letter reported that on 31 August, the Korem Commander had presided over the distribution of 600 weapons to militias, and that a further 800 weapons were to be distributed in the near future.

296. The fact that repressive actions were indeed taken with TNI help after the ballot results were announced on 4 September forces us to take the CNRT letter seriously. Viewed together, the 30 August telegram and the CNRT letter appear to provide some documentary evidence that the post-ballot violence and repression were indeed conducted with the full knowledge of the TNI, at least up to the Korem level, and were perhaps even orchestrated by TNI officers.

297. But once again there is a need for caution. The telegram may simply prove that the TNI – or some part of it – was preparing for the possibility of disturbances after the vote; not an unreasonable course of action under the circumstances.

* Telegram, dated 29 August 1999, signed by the Vice Commander of the East Timor Integration Saviour Brigade, Sgt. Henrike Agama. A copy of this document is in the author 's possession.

† It is also possible that these units incorporated irregular forces, including militiamen. A letter dated 23 August 1999, from Cancio Lopes da Carvalho (Commander of the Mahidi militia and of PPI Sector C) to Gen. Wiranto, Maj. Gen. Damiri, and Col. Noer Muis, proposes the formation of "Partisan Battalions" throughout East Timor (SCU Collection, Doc #222).

‡ Letter from CNRT, Internal Political Front, Secretariat of Region-4 Command, to Political Section, UNAMET,dated 1 September 1999. A copy of this document is in the author's possession.

Operation Pull-Out

298. The same ambiguity characterises two documents that outline the TNI and Police plans for evacuation after the vote. These include a plan developed by the Timor-Leste military command (Korem) in July 1999, for 'Operation Wira Dharma-99' (Operasi Wira Dharma-99), and a Police plan developed in August, dubbed 'Operation Hanoin Lorosae II' (Operasi Hanoin Lorosae II).*

299. Both of these documents appear to have been prepared in accordance with a Kodam IX operational plan for post-ballot evacuation, known as 'Operation Pull-Out' (Operasi Cabut), and with an overall 'Contingency Plan 1999-2000' (Rencana Kontinjensi 1999-2000) developed at TNI headquarters in Jakarta.† Although we do not yet have copies of these last two documents, we do know something about them.‡ 'Operation Pull-Out' was prepared in accordance with a 5 May 1999 order from the Army Chief of Staff, Gen. Subagyo Hadisiswoyo, to the Commander of Kodam IX, Maj. Gen. Adam Damiri. In that 5 May order, Subagyo called on Damiri to develop a plan for "evacuation in the event that the Option II [independence] is chosen."§ The plan was developed in July and set in motion in early September 1999.¶ 'Contingency Plan 1999-2000' was reportedly prepared, on General Wiranto's order, by Maj.Gen. Endriartono Sutarto, the Assistant for Operations to the Armed Forces Chief of General Staff. The 13-page document outlined with considerable accuracy what actually happened in the days and weeks after the ballot.**

300. The two documents we do have (in whole or in part) describe plans for a massive post-ballot evacuation that accord very closely with the evacuation that was actually carried out in September 1999. Those targeted for evacuation in the plans, for example, included about 180,000 East Timorese, and some 70,000 Indonesian civil servants,

* Korem 164/WD, "Rencana Operasi Wira Dharma-99," Dili, July 1999. (Yayasan HAK Collection, Doc #33); and Kepolisian Negara Republik Indonesia, Daerah Timor Timur, "Rencana Operasi Hanoin Lorosae II," No. Pol: Ren Ops/04/ VIII/1999, August 1999 (Yayasan HAK Collection, Doc #39).

† In some TNI documents, the Contingency Plan was referred to as "Rencana Tindakan Menghadapi Kontinjensi Purna Penentuan Pendapat di Timtim [Jika] Opsi-1 Gagal." See: "Direktif Panglima TNI, Nomor: 02/P/IX/1999, tentang Komando Penguasa Darurat Militer Wilayah Timor Timur," September [8], 1999 (HRU Collection, Doc. TNI #9).

‡ On 31 August 1999, Army Chief of Staff Gen. Subagyo Hadisiswoyo said that the TNI had prepared a contingency plan to face any possibility in East Timor. Embassy of Japan, "Political News Round Up," 31 August 1999. In January 2000 Maj. Gen. Zacky Anwar Makarim further clarified that "TNI headquarters . . . prepared a contingency plan while the Udayana military commander made an operational plan." See *Jakarta Post*, 5 January 2000. 'Operation Pull-Out' and 'Contingency Plan 1999-2000' are both mentioned explicitly in an order (No. Sprin/811/VII/1999) issued by Brig. Gen. Simbolon, Chief of Staff of Kodam IX, on 14 July 1999 (Yayasan HAK Collection).

§ Secret telegram (No. STR/172/1999) from the Army Chief of Staff (signed by Deputy Army Chief of Staff, Lt. Gen. Johny J. Lumintang) to Pangdam IX/Udayana, 5 May 1999 (Yayasan HAK Collection, Doc #21).

¶ In a secret telegram from early September, the Dandim of Dili, Lt. Col. Soedjarwo, informed the Danrem, Col. Noer Muis, that 'Operation Pull-Out' had officially commenced in Dili District at 15.00 hours on 6 September 1999 (Yayasan HAK Collection).

** Don Greenlees and Robert Garran, *Deliverance*, p. 209.

soldiers and police, and their respective families.* The total numbers of evacuees in both plans was about 250,000, or almost exactly the number that were in fact evacuated. The Police document also includes an intelligence assessment that predicts widespread destruction and violence in the event of a pro-independence victory.

301. At least one analyst who has examined these documents has concluded that "... the military was not planning on 'a peaceful and orderly transfer of authority ...' as the 5 May Agreement stipulated. It was secretly planning for chaos."† This is essentially true, and it is damning evidence that the Indonesian authorities were being dishonest in assuring the international community that they would stay in Timor-Leste and maintain order regardless of the outcome of the vote. It is partially confirmed, moreover, by the private and public statements of senior Indonesian officials in the weeks before the ballot. In August 1999, Maj. Gen. Zacky Anwar Makarim and Col. Noer Muis both told UNAMET about official preparations for a large post-ballot evacuation. Col. Muis and Indonesia's Minister for Justice and State Secretary, Muladi, were also quoted in the press on the issue. Muladi reportedly noted the "strong possibility" of an exodus of some 223,000 people in the event of a pro-independence victory.‡

302. But the question remains whether the documents in question prove that the post-ballot violence that did transpire was planned by TNI and/or Police authorities. The honest answer is that they do not. Indeed, the documents say nothing about the 'scorched earth' policy that is often said to have guided TNI and Police actions after the vote. Evidence of such planning might exist in the still missing documents outlining Kodam IX's 'Operation Pull-Out' or in TNI headquarter's overall 'Contingency Plan 1999-2000.' But it is unlikely that even those documents contain an explicit discussion of a post-ballot scorched earth policy. Indeed, it is quite likely that there are no written plans at all, and that the search for a documentary 'smoking gun' will ultimately prove to be fruitless.

303. Nevertheless, these two documents do provide important insights into official attitudes with regard to the Popular Consultation. They offer strong evidence that Indonesian Police and military authorities formally adopted positions antipathetic to the pro-independence side, to many outside observers, to UNAMET, and also to the Catholic Church leadership.

304. The intelligence assessment contained in the Police plan 'Operation Hanoin Lorosae II' is especially revealing.§ It describes several international and domestic

* An appendix (on logistical needs) to the TNI's 'Operation Wira Dharma-99' estimates the total number requiring evacuation at 251,187, broken down as follows: Military personnel and families (26,015), Non-Timorese (43,347), East Timorese (180,000). See: Korem 164/WD, "Operasi Wira Dharma-99, Lampiran-D (Rencana Banmin), Sub-Lampiran¬3 (Kebutuhan Angkutan)," Dili, July 1999, n.d. (Yayasan HAK Collection, Doc #33).

† Samuel Moore, "The Indonesian Military's Last Years in East Timor: An Analysis of Its Secret Documents." *Indonesia*, No. 72 (October 2001), p. 41.

‡ See *Sydney Morning Herald*, 24 August 1999; *Jakarta Post*, 26 August 1999; and *Media Indonesia*, 27 August 1999. Also see Ian Martin, *Self-Determination in East Timor*, p. 82.

§ The full title of the assessment, contained in the 'Operation Hanoin Lorosae II' document is: "Perkiraan Keadaan Intelijen Kepolisian Khusus tentang Menghadapi Kontinjensi Opsi I dan Opsi II di Polda Timor Timur,"(Yayasan HAK Collection, Doc #39).

organisations as having "acted in a way that is offensive to the pro-integration masses and to the government of Indonesia."* The groups so described include: the United States Agency for International Development (USAID), The Australian Agency for International Development (AUSAID), the US-based Carter Center, and a number of Indonesian and East Timorese non-governmental organisations. The assessment takes a similarly hostile position toward UNAMET which it says is "on a political mission, as evidenced in its biased and discriminatory attitude" toward the pro-integration side, and its encouragement of the pro-independence side.† Finally, the document says that the majority of the population are "fanatical" Catholics, and that "the Bishop has taken advantage of that fact for his own political purposes by influencing the population to support the anti-integration group."‡

305. The TNI's 'Operation Wira Dharma-99' provides similarly revealing insights into the thinking of the military authorities. In a section called "Enemy Forces" it lists the CNRT, the DSMPTT (Dewan Solidaritas Mahasiswa dan Pelajar Timor Timur – the Student Solidarity Council of Timor-Leste) and Ojetil (Organizaçao de Juventude de Timor Leste – Organisation of East Timorese Youth) all of which were civilian pro-independence groups, and all of which were key targets of violence by pro-Indonesian forces. An introductory paragraph to that section of the operational plan clarifies that: "Enemy forces are East Timorese who are against integration with Indonesia and who reject the Special Autonomy option that has been proposed by the government of Indonesia."§

306. Thus, while these documents do not prove that the post-ballot violence was planned at the highest levels, they provide other important evidence about military and Police responsibility for that violence. For one thing, they confirm that Indonesian military and Police authorities formally adopted positions that blatantly contravened the pledges of impartiality made by the government in the 5 May Agreements. The documents also prove that hostility to the pro-independence side – to the point that even civilians were described as "enemy forces" – was a matter of policy, and was not limited to a few 'rogue elements' driven by 'emotion.' Finally, by providing details of military and Police attitudes toward particular organisations and individuals, these documents also help to explain the particular pattern of human rights violations in 1999. With such openly hostile positions articulated in key policy documents, it is easier to understand why certain groups – including the CNRT, the DSMPTT and the Catholic Church – were specifically targeted.

307. To sum up, these documents do not provide definitive proof of direct high level official involvement in planning or carrying out specific acts of violence. In fact, the analysis here suggests that the planning of violence may never have been explicitly stated in writing. Accordingly, the case for or against official responsibility for the

* Polda Timor Timur, "Perkiraan Intelijen," p. 4, (Yayasan HAK Collection, Doc #39).

† Polda Timor Timur, "Perkiraan Intelijen," p. 2, (Yayasan HAK Collection, Doc #39).

‡ 28 Polda Timor Timur, "Perkiraan Intelijen," p. 5, (Yayasan HAK Collection, Doc #39).

§ Korem 164/WD, "Rencana Operasi Wira Dharma-99," Dili, July 1999, p. 2 (Yayasan HAK Collection, Doc #34).

violence must instead be established through the analysis of events observed in the field, and a more patient examination of the hundreds of documents that are now available.

308. Viewed in that light, the six documents can contribute to our understanding of the violence in several ways. First, they help to establish the existence and the nature of links between the TNI and the militias. Second, they show definitively that there was discussion at the highest levels of the TNI of contingency plans, including plans for a massive evacuation, and at least the possibility of physical destruction as part of such an evacuation. Third, they demonstrate beyond any doubt that military and Police authorities formally adopted positions hostile to the pro-independence side (and to the UN), in contravention of their obligations under the 5 May Agreements.

309. The documents reviewed in this chapter also provide an indication that the key actors responsible for military policy and planning on Timor-Leste included: Army Chief of Staff, Gen. Subagyo Hadisiswoyo; Army Vice Chief of Staff, Lt. Gen. Johny Lumintang; Coordinating Minister for Political and Security Affairs, Lt. Gen. (ret.) Feisal Tanjung; the Commander of Kodam IX, Maj. Gen. Adam Damiri; the Commander of Korem 164/Wira Dharma, Col. Tono Suratman, and the Regional Chief of Police, Col. Timbul Silaen. Although they are not specifically mentioned in the available documents, we may assume that officers responsible for operations, both at TNI headquarters and at Kodam IX, were also involved.

Militias: history, formation and legal recognition

310. The question of responsibility for human rights violations and crimes against humanity in Timor-Leste hinges critically on the nature of the links between the militias and the Indonesian authorities. If, as Indonesian officials have claimed, the militias acted without official backing or approval, then responsibility for the crimes they committed rests with the militias themselves. If, on the other hand, the militias were created by Indonesian authorities, and received support and direction from them, responsibility for the crimes they committed extends to those authorities.

311. This chapter is the first of three in this report that examines those links in detail, by drawing together extensive documentary and testimonial evidence. Focusing on three types of evidence – the historical relationship between militias and the TNI, the involvement of senior officials in forming the militias, and the granting of formal legal recognition to the militias – it demonstrates beyond reasonable doubt that the militia groups were created, supported, and authorised by Indonesian authorities. That finding, in turn, means that the Indonesian authorities in question share responsibility for human rights violations, even those that were directly perpetrated by the militias.

Historical patterns

312. Militias are not a new phenomenon in Timor-Leste. They have existed, in some form, at least since the time of Portuguese rule, and without interruption through the Japanese occupation and the Indonesian invasion. Since 1975, their history has been tightly intertwined with that of the Indonesian army, and especially its counter-insurgency force, Kopassus.

313. Militias have been a central element of Indonesian counter-insurgency and counter-intelligence strategy at least since the 1950s, and they have been mobilised in every counter-insurgency operation the Indonesian army has ever undertaken. Although justified in terms of the military doctrine of 'total peoples' defence,' the main reason they are used is that they are cheap and effective, they help to establish bonds of loyalty with occupying forces, and they provide plausible deniability for acts of violence committed by soldiers.

314. That history offers compelling evidence that the militias that emerged in Timor-Leste in 1999 were part of a carefully prepared and directed military intelligence operation. A glance at that history confirms that virtually everything about the organisation, language, style, and repertoire of the modern militias derives from well-established Indonesian military doctrine and historical practice. It also helps to explain how the militias could have sprung up as quickly as they did all across the country in 1998-99.

315. Even before the December 1975 invasion, Indonesian military planners sought to mobilise local people to gather intelligence and to assist in military operations. In September 1975, a U.S. State Department report noted bluntly that "Indonesian intelligence . . . has trained, organised and covertly committed 650 Timorese irregular troops into Portuguese Timor to stem the advance of Fretilin forces."* In the period after the invasion, Indonesian forces established local militia forces, known as 'Partisan', wherever they had established a reasonable measure of control. Remnants of these early 'Partisan' groups were still evident in certain parts of the country in 1999, and some of their members were active in the new militia groups.

316. With the start of a major new military campaign in September 1977, the Indonesian army began even more energetically to recruit local people to fight on their side. Thousands of ordinary Timorese were conscripted to join military operations against the pro-independence group Fretilin that the Indonesian authorities portrayed as communists. By the early 1980s, the use of such civilian forces had been institutionalised. Semi-permanent militia forces were now spread throughout the entire territory, a certain number in every village and town; and they were tightly controlled by Indonesian military officers and other government officials, with nominal support from District, Sub-District and Village Heads.

* U.S. Department of State, cited in James Dunn, *Timor: A People Betrayed*, Sydney, NSW: ABC Books, 2001, p. 193.

317. Secret army documents from 1982 provide important details of the original nature of these militia units and their role in the army's counter-insurgency strategy.* They make clear, for example, that the essential starting point for the strategy was the military doctrine of 'total peoples' defense'.† They also show that, in practice, this meant that East Timorese could expect to be called upon to fight 'the enemy' at a moment's notice. It is also notable that a number of these documents were signed by the then Chief of Military Intelligence for Timor-Leste, Maj. Willem T da Costa, who later served as Chief of Staff (1997-98), and Commander (2000-02) of Regional Military Command IX.

318. Most local conscripts and 'volunteers' were grouped into two distinct, but related, official bodies – Ratih and Hansip – and the role of each in eliminating the enemy was carefully spelled out in official documents. Both were village-based auxiliary units, designed to assist the armed forces in detecting and combating the enemy. Like the militias of 1999, they were organised along military lines, divided into Companies, Platoons, and Teams, and were 'guided' by an assortment of military figures, including the Sub-District Military Commander (Danramil), soldiers from Battalion 745, and representatives of the powerful Kopassus intelligence outfit, SGI (Satuan Tugas Intelijen, Intelligence Task Force).‡ In other words, these were virtual replicas of the militias that emerged in 1999.

319. The most basic units were the Ratih (Rakyat Terlatih – Trained Populace). Ratih recruits received rudimentary military training, with an emphasis on discipline and ideology. Although the Village Head was usually their formal commander, they were in reality controlled by military officers.§

320. One step up in the militia hierarchy were the Hansip (Pertahanan Sipil – Civil Defence). They received somewhat more intensive military training, typically carried firearms, and performed a variety of combat-related functions, including reconnaissance. Hansip was in fact further divided into two sections, one of which (Kamra) served as a police auxiliary, while the other (Wanra) served with the army. In practice, Wanra were far more important than Kamra, so that the terms Wanra and Hansip came to be used interchangeably.

321. In addition to these basic militia forces, in the late 1970s and 1980s the army also established a number of more highly trained paramilitary units, including: Makikit, Halilintar, Team Saka, Team Sera, 59/75 Junior, Team Alfa, and Railakan. These units performed important reconnaissance, intelligence and combat roles, but they also took part in special operations, including assassinations. Formally coordinated at the

* The eight documents in question were prepared by the Intelligence Section of the Sub-Regional Military Command (Korem) for East Timor, and signed by the Korem commander, Col. Radjagukguk, or by the Chief of Intelligence for Timor-Leste, Maj. Williem T. da Costa.

† After referring explicitly to this doctrine one document states grandly: "Thus, at root, it is the whole populace that serves as resisters of the enemy." See, Korem 164/Wira Dharma, Seksi Intel, "Rencana Penyusunan Kembali Rakyat Terlatih," prepared by Maj. Williem T. da Costa, 1982, p. 2.

‡ The presence of SGI and of Battalion 745 soldiers is mentioned in: Korem 164/Wira Dharma, Seksi Intel, "Petunjuk Tehnis tentang Desa" (Juknis/01-A/IV/1982), pp. 6-7.

§ Korem 164/Wira Dharma, SeksiIntel, "Rencana Penyusunan Kembali Rakyat Terlatih,"pp.2 and 6

level of the District Military Command (Kodim), they had close ties with and often operated alongside the elite counter-insurgency force, Kopassus – and in particular its Intelligence Task Force, the SGI, and operational units known as Nanggala.*

322. The persistence of close ties between the paramilitary groups and Kopassus/TNI is confirmed by a document, dated 2 January 1998, prepared by 'SGI Post Nanggala-13.' The document is a listing of 57 members of the Saka paramilitary unit in the Baguia Sub-District of Baucau District.† Apart from indicating that Saka was, in fact, coordinated by SGI, the document also shows clearly that many Saka members were themselves members of Kopassus' Nanggala-13. In other words, as late as 1998 Saka and very likely other paramilitary units were not only supported by the TNI, they were in fact TNI units.

323. This network of militia and paramilitary organisations formed an essential bulwark in the Indonesian occupation and counter-insurgency campaign through the next two decades. The Hansip, Ratih and paramilitary infrastructure continued to function throughout this period, and provided the model for the basic repertoire of training, marching, patrolling, and combat that were common throughout the territory in 1999. Moreover, many of the militia units that seemed to appear out of nowhere in 1999 were in fact the remnants of much older militia and paramilitary outfits that had been set up starting in the late 1970s and had continued to function in the intervening years.‡ Indeed, as explained later in this chapter, in 1999 Indonesian authorities commonly referred to the militias using the old terminology.

324. Nevertheless, these were not the only models for the militias that emerged in 1999. By the 1990s, a new version of the militia forces – more like death squads than citizens' auxiliaries – began to make its presence felt in Timor-Leste. The best known manifestations of the new type were the so-called Ninja gangs, first reported abroad in 1991, but very likely in existence a year or two before that.§ These gangs roamed the streets at night, dressed in black, their heads covered with dark balaclavas, harassing, kidnapping, and sometimes killing supporters of independence, leaving their dead bodies in public places.

325. For Indonesians, and probably for East Timorese, the Ninjas evoked memories of the terrifying state-sponsored killing of some 5,000 alleged petty criminals in the

* The Nanggala were special Kopassus units, set up in the late 1970s. A unit called Nanggala 28, commanded by a young Prabowo Subianto, was responsible for killing the Fretilin commander Nicolau Lobato in December 1978

† Komandan Pos Nanggala-13, Satuan Tugas Intelijen (Sgt. Mudji Maulani), "Daftar Nama Nama Anggota Sera (Surwan) Kec. Baguia," 2 January 1998 (Yayasan HAK Collection, Doc #2).

‡ The January 1998 list of Saka members cited above, for example, indicates that many of the 57 members listed had joined the unit more than a decade before. While many of the dates of entry in the document are illegible, most are from the 1980s and at least 11 are from the late 1970s (Yayasan HAK Collection, Doc #2). Similarly, according to a letter from Eurico Guterres to the Dili District Chief of Police, dated 22 June 1999, at least 93 members of the Aitarak militia at that time were members of the police auxiliary, Kamra. See: Komandan, Komando Pasukan Aitarak, Sektor B (Eurico Guterres) to Kapolres Dili, 22 June 1999 (SCU Collection, Doc #244).

§ Circumstantial evidence suggests that they emerged in the late 1980s, when Abílio Osório Soares, the Apodeti leader and future Governor with close links to Prabowo Subianto, was the Mayor of Dili.

mid-1980s in Indonesia, known by the acronym Petrus (*penembakan misterius*, or mysterious killings).[*]10 Those executions were often carried out by men in plain clothes and balaclavas, and the victims' bodies were usually left in full public view. At the time, officials denied government responsibility. Yet in 1989 President Soeharto boasted in his memoirs that the killings had been deliberate government policy – 'shock therapy' to bring crime under control. The admission suggested that there was very likely also an official military hand guiding Timor-Leste's Ninjas.

326. The military also set about reactivating and recasting its militia forces in the East Timorese countryside at this time. In October 1993, an army spokesman announced that some 3,844 East Timorese men had recently been sworn in as auxiliaries. Rather than calling them Ratih and Hansip or Wanra, however, the spokesman referred to them as 'Traditional Forces' (Pasukan Adat). The decision to mobilise these auxiliaries, and the odd choice of name may have been related to the fact that Indonesia was at the time under unusual international pressure to reduce its troop presence in Timor-Leste, and also to show progress on the human rights front.

327. In 1995 a new pro-Indonesian group emerged with many of the hallmarks of the earlier Ninjas – now mixed with characteristics of the notorious politically-connected gangsters of Java (known as preman). The new group was called Gadapaksi (Garda Pemuda Penegak Integrasi, or Youth Guard for Upholding Integration).[†] Gadapaksi's assigned role appears to have been to infiltrate the underground resistance and to provoke disturbances among East Timorese. Dressed in black and armed with knives, they terrorised Dili and other towns, throwing rocks, burning houses, setting up road-blocks, abducting and occasionally killing independence activists.

328. Like the Ninjas, Gadapaksi members and leaders had links to criminal networks and to Kopassus.[‡]12 We know of Gadapaksi's historical link to Kopassus/TNI through both anecdotal and documentary evidence. Among the most telling documents is a monthly report, dated 10 November 1995, on the training of Gadapaksi recruits in Surabaya, East Java. The report is signed by a TNI officer (Capt. Handy Geniadi) and pays special attention to the intelligence training received by recruits. The report does not say explicitly that the training was coordinated by Kopassus, but that conclusion may reasonably be drawn from the fact that the sole order cited as a basis for the report is a July 1995 order issued by the Kopassus Commander.[§] Additional evidence of the link between Kopassus and Gadapaksi lies in the fact that the SGI commander in Dili

* On the Petrus killings, see David Bourchier, "Crime, Law and Authority in Indonesia," in Arief Budiman, ed. *State and Civil Society in Indonesia*, pp. 177-211.

† Gadapaksi (sometimes called Garda Paksi or Gardapaksi) was inaugurated in July 1995. Reuters, 19 July 1995

‡ A senior pro-Indonesia figure who fled Timor-Leste in 1999 told an Australian journalist that the Indonesian authorities had cancelled Eurico Guterres' gambling debt as an inducement for him to lead Gadapaksi. See, "Timor Coup Planned," *The Age*, 22 June 1999.

§ The order referred to was 'Sprin/489/VII/1995'. See: Komandan Kelompok BLK Surabaya (Capt. Handy Geniadi), "Laporan Bulanan Kegiatan Pelatihan Gada Paksi di BLK Surabaya," 10 November 1995 (Yayasan HAK Collection, Doc #1).

from 1996-99 had previously been in charge of training Gadapaksi in Central Java and then in Surabaya.

329. Gadapaksi was still active in 1998, and continued to have the strong support of government authorities. A Gadapaksi meeting on 22 June 1998 was addressed by, among others, the Governor of Timor-Leste, the Head of the provincial legislature (DPRD) and the Bupati of Lautém. A secret military intelligence report on that meeting, submitted to the Timor-Leste military commander, Col. Suratman, on 23 June 1998, quoted the Governor as saying: "I formally declare myself to be a member of Gadapaksi."[*]

330. Gadapaksi survived until early 1999 when, almost overnight, it disappeared and the militia group Aitarak emerged in its stead. The link between the two groups was personified by the career path of one of the most notorious of Timor-Leste's militia leaders, Eurico Guterres. Between 1995 and January 1999, he was the leader of Gadapaksi.[†]15 When the militias were mobilised in early 1999, he was rewarded for his loyalty by being made commander of Aitarak, and overall commander for militia (PPI) Sector B. There is no reason to believe that the link with Kopassus/SGI was affected by the transformation of Gadapaksi into Aitarak.

331. In short, the militias that appeared to come from nowhere in 1999 were nothing new. Many had been around for years, though often under a different name. That fact helps to explain how the militias were able to organise and mobilise so swiftly in 1999. It also helps to explain their unique style and repertoire of violence. Forged during the 24 years of Indonesian rule, and shaped by Indonesian military doctrine and practice, the militias enacted much of the deliberate brutality that was central to the TNI's own institutional culture. Most importantly, the historical pattern of militia mobilisation by the TNI offers compelling evidence that the militias that became visible in 1999 were the product of a standard TNI strategy, of which the acts of violence they committed were an important part.

Militia formation

332. There is considerable evidence that the close relationship between Indonesian authorities and militias continued through 1999, and that high-ranking military officials

* See: Dandim 1627 (Lt. Col. Endar Priyanto) to Danrem 164/WD and others, "Laporan hasil pertemuan di Gada Paksi," 23 June 1998 (Yayasan HAK Collection, Doc #3).

† Guterres was evidently still the head of Gadapaksi until some time in January 1999, when he wrote to the Government of East Timor to request Rp7.5 million in support of Gadapaksi activities. See: Ketua DPP Gadapaksi (Eurico Guterres) to Assisten III Kessos Sekwilda Tingkat I Timor Timur, January 1999 (SCU Collection, Doc #205). After that date, Gadapaksi disappeared from sight. For a time, it was replaced by the FPTT (Forum Persatuan Timor Timur) a pro-integration organisation established on 7 December 1998, and headed by Guterres. In that capacity, in January 1999 Guterres wrote to the Head of the Finance Bureau of the Government of Timor-Leste, to request that a staff member in that bureau be seconded to the FPTT. The staff member was Inacio de Jesus Soares, who later emerged as the Deputy Commander of Aitarak. See: Ketua Umum Forum Persatuan Timor Timur (Eurico Guterres) to Kepala Biro Keuangan Pemda Tk-I Timor Timur, 5 January 1999 (SCU Collection, Doc #159); and Forum Persatuan Timor Timur (FPTT) to Danrem 164/WD, [December] 1998 (SCU Collection, Doc #233). The FPTT was apparently dissolved some time in January 1999, and replaced by Aitarak and the FPDK.

were in fact directly involved in forming and coordinating the militias in that period. The evidence comes both from the statements of former pro-integration figures, and from the secret communications of high-ranking TNI officers and civilian government officials. Given the nature and actions of the groups in question, such official involvement in forming the militias arguably constitutes incitement to commit, and therefore complicity in, serious human rights violations and crimes against humanity.

333. Some of the information about the role of high ranking TNI officers in forming the militias in late 1998 and early 1999 – and of TNI orders to commit acts of violence – has come from former government officials and pro-Indonesian East Timorese figures. In early 1999 the long-time pro-integration figure Tomás Gonçalves told Australian television how militia formation began in 1998:

> "The order came from the regional commander, [Maj.Gen.] Adam Damiri, to the Timor-Leste commander [Col. Tono Suratman] and the Special Forces commander, [Lt. Col.] Yayat Sudrajat – liquidate all the CNRT, all the pro-independence people, parents, sons, daughters and grandchildren. Commander Sudrajat promised a payment of Rp 200,000 [US$ 26.66] to anyone wanting to serve in the militia."*

334. Other sources confirm the central role of Damiri, Suratman and Sudrajat in forming the militias, but indicate that higher ranking officers – notably Maj. Gen. Kiki Syahnakri and Maj. Gen. Zacky Anwar Makarim – were also directly involved. Those sources have described a series of meetings that took place from mid-1998 to early 1999, in Dili, Denpasar, and Jakarta, at which high-ranking TNI officers formulated plans for the mobilisation of militia forces.

335. Much of the evidence of those meetings is summarised in an indictment of eight senior Indonesian officials filed by Timor-Leste's Deputy General Prosecutor for Serious Crimes in February 2003.† The passages relevant to the issue of militia formation read as follows:

> "11. In or about August 1998, Adam Rachmat DAMIRI arranged for a pro-Indonesian East Timorese leader to fly from East Timor to Denpasar, Bali, for a meeting. At this meeting, DAMIRI told the East Timorese leader to establish a group to promote integration.
>
> 12. In or about August 1998, DAMIRI travelled to Dili and met with TNI commanders and pro-integration East Timorese leaders. Suhartono SURATMAN was present at this meeting. DAMIRI told the group that international attention was focused on Timor-Leste and this was a problem for Indonesia. He told them that they needed to come up with a plan for creating organisations that would spread pro-Indonesian sentiment throughout Timor-Leste. He told

* ABC, *Four Corners*, "The Ties That Bind," 14 February 1999.

† Timor-Leste, Deputy General Prosecutor for Serious Crimes, Indictment of Wiranto et. al., February, 2003.

them they must form a solid civil defence force based on previous TNI-supported models and that this force should be expanded and developed to protect integration.

13. In or about November 1998, DAMIRI travelled to Timor-Leste. During his visit he again met with pro-Indonesian East Timorese leaders in Dili, including individuals who later became leaders of militia groups. DAMIRI asked the men to join together and assist TNI to fight the pro-independence group . . . During this meeting with pro-Indonesian leaders, DAMIRI praised future militia leader Eurico Guterres as being a young man eager to fight for integration and said that he was willing to give Guterres fifty million rupiah to begin his work.

14. In or about November 1998, SURATMAN met with pro-Indonesian East Timorese leaders at his headquarters in Dili. Yayat SUDRAJAT was present at this meeting. SURATMAN told the group that he wanted future militia leader Eurico Guterres to form a new organisation to defend integration similar to the pro-Indonesian youth organisation Gadapaksi.

15. In early 1999, Zacky Anwar MAKARIM received the founding members of the pro-Indonesian East Timor People's Front [Barisan Rakyat Timor Timur – BRTT] at his office in Jakarta. During the meeting he said that guerrilla warfare would be necessary to overcome independence supporters if the autonomy option lost at the ballot.

16. In or about February 1999, DAMIRI met with pro-Indonesian East Timorese leaders at Regional Military Command IX headquarters in Denpasar, Bali. DAMIRI told the men that TNI was ready to give secret support to pro-Indonesian forces. He explained that it must be secret in order to avoid international scrutiny and criticism. DAMIRI asked the men to gather East Timorese who had served in TNI. He told them that they should meet with SURATMAN for further instructions.

17. In or about February 1999, SURATMAN met with a pro-Indonesian East Timorese leader in Dili. He told him that because TNI was under a reformist regime, it could not take part in open operations against the independence movement. SURATMAN asked the pro-Indonesian leader to form a militia group. SURATMAN said that TNI was willing to provide any form of assistance required by the militia groups.

18. In or about February 1999, SUDRAJAT met with TNI personnel and pro-Indonesian East Timorese leaders at Intelligence Task Force headquarters in Dili. SUDRAJAT told the group that the

Intelligence Task Force had a list of independence supporters that were to be killed. He stated that the Intelligence Task Force and the pro-Indonesian groups would cooperate to carry out these killings. He said that KOPASSUS dressed as thugs would start to carry out murders of pro-independence supporters.

19. In or about March 1999, Kiki SYAHNAKRI met with pro-Indonesian East Timorese leaders at TNI headquarters in Jakarta. SYAHNAKRI told the group that TNI would support their pro-Indonesian efforts and that MAKARIM was responsible for coordinating activities leading up to the popular consultation. SYAHNAKRI told them that firearms had been sent to Timor-Leste, and that when the men returned to Dili they should contact SURATMAN to arrange distribution of the firearms."

336. Additional evidence of high-level support for the militias comes from a number of secret documents and radio communications that have come to light since 1999. In the secret Garnadi report dated 3 July 1999, discussed in Chapter 5, a senior official of the Coordinating Ministry of Political and Security Affairs referred to Timor-Leste's militias as "heroes of integration" whose opinions would have to be taken into account in any post-ballot contingency planning.* Likewise, in a secret letter to President Habibie, dated 6 September 1999, the Armed Forces Commander, Gen. Wiranto, explained that TNI forces had found it difficult to control the violence in the post-ballot period because of the "emotional bonds between the security forces and the pro-integration side."†

337. These remarks by senior officials reflected a widely shared sympathy for the militias within the highest official circles, though they stopped short of confirming a direct TNI role in mobilising and coordinating militia activity. Evidence to that effect, however, has reportedly been uncovered in a series of secret radio and telephone communications intercepted by the Australian Defence Signals Directorate (DSD) in 1999. The full transcripts of those intercepts have not yet been made public, but excerpts reported in the media appear to confirm the allegations made in the February 2003 indictment. They also add specificity and detail concerning the nature of official backing for the militias, and the identity of those involved.

* The author of the report, H.R. Garnadi, a retired Major General, was writing in his official capacity as Assistant to the Minister, Lt. Gen. (ret.) Feisal Tanjung, with responsibility for Internal Politics (Pol/Dagri) and as a member of the joint ministerial body on Timor-Leste (the P4-OKTT) over which Tanjung presided. See: Garnadi, "Gambaran umum apabila Opsi I gagal," 3 July 1999 (Yayasan HAK Collection, Doc #35).

† Letter from Gen. Wiranto to President Habibie (No. R/511/P-01/03/14/Set) concerning "Perkembangan lanjut situasi Timtim dan saran kebijaksanaan penangananannya," 6 September 1999 (HRU Collection, Doc. TNI #7). Expressing a similar view, in October 2000, Maj.Gen. Endriartono Sutarto (Assistant for Operations to the Armed Forces Chief of General Staff in 1999) said: "It is the psychology of our soldiers, because for so long they've had links to work together (with the militias) to secure East Timor as part of Indonesia." *Channel News Asia* (Singapore), 12 October 2000.

338. For example, a telephone conversation between the Danrem, Col. Tono Suratman, and Eurico Guterres, reportedly intercepted on 5 May 1999 appears to confirm Suratman's direct involvement in militia operations. In that phone call, Suratman asked Guterres where he was massing his militia forces for a show of force in Dili. Guterres reportedly responded that he had some 400 militiamen gathered outside a Dili hotel (the Tropical) which served as Aitarak's headquarters.

339. About one month later, on 1 June 1999, Australia's DSD allegedly intercepted another phone call between the two men. Evidently concerned to conceal his direct involvement with the militias, Col. Suratman is said to have told Guterres "Don't deal with me directly. Contact me via Bambang."* The Bambang to whom Suratman referred was also a senior TNI officer in Timor-Leste, the head of military intelligence at the Korem, Maj. R.M. Bambang Wisnumurty. Along with another intelligence officer, Lt. Masbuku, Maj. Bambang became one key point of contact between the TNI and the militias.

340. Another, more senior, TNI officer who evidently maintained close ties with the militias was Brig. Gen. Mahidin Simbolon, in 1999 Chief of Staff of Kodam IX. A former Timor-Leste military commander (1995-1997), he had long been suspected of involvement in establishing and running militia groups in Timor-Leste. His tie to the militias was apparently confirmed by a 14 February 1999 telephone conversation intercepted by the DSD. The conversation was between militia leader Eurico Guterres and an officer of the Kopassus unit, Satgas Tribuana VIII. Speaking about a Mahidi militia member who had been injured, the Kopassus officer reportedly said: "We know that Brig. Gen. Simbolon is concerned that one of his crew was injured."†

341. Simbolon is reputed to have had especially close ties to Cancio Lopes de Carvalho, the commander of the Ainaro-based Mahidi militia, and overall commander of Sector C of the PPI. Indeed, by some accounts the name of his militia group, Mahidi, was a tribute to the general, Mahidin Simbolon. That special link may help to explain Cancio Carvalho's emergence as one of the most powerful militia leaders in the country, and the peculiarly aggressive character of his militia group.‡

342. The officer most widely suspected as the chief militia coordinator in Timor-Leste – and named in the February 2003 indictment of Gen. Wiranto et al. – was Maj.Gen. Zacky Anwar Makarim. Makarim's career history made him an ideal candidate for that position, and his appointment as the senior military member of the government's Task Force in Timor-Leste immediately raised eyebrows among both local and international observers. Until January 1999, he had been head of the Indonesian military intelligence agency, BIA, a body with years of experience in mounting counter-intelligence operations in situations of just this sort.

* *Sydney Morning Herald*, "Silence over crime against humanity," 14 March 2002.

† *Sydney Morning Herald*, "Silence over crime against humanity," 14 March 2002.

‡ It is also noteworthy that violent militia groups appeared in West Papua at about the time Mahidin Simbolon, by then a Major General, was appointed Regional Military Commander there.

343. Just as important, in the early 1990s Makarim had served as an intelligence officer in Aceh, in the context of a major counter-insurgency campaign in which thousands of people had been killed. One of the hallmarks of that campaign, though it was little known at the time, was the mobilisation of local militia groups, and their deployment in crushing the armed opposition movement, Aceh Merdeka, now better known as GAM (Gerakan Aceh Merdeka).* Maj. Gen. Makarim was widely believed to have been responsible for that operation, so his arrival in Timor-Leste gave rise to concern that a similar strategy would be adopted there.

344. Makarim's role as militia boss has not been, and may never be, confirmed. DSD intercepts from early September 1999, however, appear to confirm allegations that he served as a coordinator of the pro-autonomy campaign, of which the militia groups were only one part. Those intercepts, as reported, reveal Makarim contacting several of the key military and political players both in Dili and in Jakarta, and discussing with them the outcome of the vote, and post-ballot plans. Among those with whom he is said to have spoken frequently in the days immediately after the vote were the Coordinating Minister for Political and Security Affairs, Lt. Gen. (ret.) Feisal Tanjung, and two other retired Generals who were cabinet ministers at the time, Lt. Gen. Hendropriyono, and Maj.Gen. Yunus Yosfiah. All three of these men were old Timor-Leste hands, with backgrounds in military intelligence or Kopassus, or both.

345. In Dili, Makarim reportedly spoke with Brig. Gen. Glenny Kairupan, another Army officer with Timor-Leste experience, and the pro-autonomy leader Basilio Araújo among others. Those conversations, as they have been reported, revealed a preoccupation with the outcome of the vote and the potential defection of key militia leaders. In a conversation with Basilio Araújo, on 4 September 1999 Makarim apparently threatened to have militia leader Eurico Guterres killed if he switched sides at the eleventh hour. After asking Araújo to keep an eye on Guterres, Makarim is reported to have said: "I'll take care of him if he goes over to the other side."†

346. In short, the available evidence lends strong support to the general allegations made in the February 2003 indictment of Wiranto et al. that:

> "During the period leading up to the popular consultation, Indonesian officials established and strengthened civilian groups to campaign for the autonomy option . . . [and that] such groups were established and maintained by the active conduct of officials within the Armed Forces of Indonesia . . . and the civilian government."‡

* See Geoffrey Robinson, "Rawanis as Rawan Does: Restoring Order in New Order Aceh," *Indonesia*, 66 (October 1998).

† *Sydney Morning Herald*, "Silence over crime against humanity," 14 March 2002.

‡ Timor-Leste, Deputy General Prosecutor for Serious Crimes, Indictment of Wiranto et al. February, 2003, paragraph 10.

Political and legal recognition

347. The militias were effectively given formal political and legal status by the Indonesian authorities. The granting of such recognition brought with it certain practical advantages for the militias, and it gave them access to inner circles of power. More importantly, it meant that Indonesian authorities bear legal and political responsibility for their actions, including violations of human rights and crimes against humanity.

348. Military, police, and civilian authorities initially made no secret of their support for the pro-autonomy groups, and for the militias. Starting in late 1998, and with increasing frequency in early 1999, TNI, Police, and civilian officials took part in numerous ceremonies marking the formation of militia groups, or spurring those already formed to take action against pro-independence forces.* Those documented included inaugural ceremonies in Cassa (12 December 1998), Same (11 March 1999), Viqueque (11 March 1999), Dili (17 April 1999), Maliana (April 1999), Suai (mid-April, 1999), Oecussi (1 May 1999), Manatuto (8 May 1999), Lolotoe (10 May 1999), Laclubar (18 May 1999) and Gleno (April or May 1999). Without exception, the respective Dandim, Kapolres and Bupati were present at all of these ceremonies. In some cases, the ceremonies were attended by higher ranking authorities, including the Timor-Leste military commander, Col. Tono Suratman.†

349. One of the clearest examples of such public support came on 17 April 1999, when key officials – including the Governor of Timor-Leste, the Bupati of Dili, Col. Tono Suratman, and Maj. Gen. Kiki Syahnakri‡ – gathered in front of the Governor's office for a large pro-autonomy rally, attended by hundreds of militiamen from all over the territory.§ According to various accounts of the rally, the militia leader, Eurico Guterres, urged those present to "conduct a cleansing of all those who have betrayed integration. Capture and kill them if you need to."¶ Later that afternoon, an estimated 1,645 militias went on a rampage through Dili, firing their weapons and attacking the home of a prominent pro-independence leader, Manuel Carrascalão, and killing at least 12 people. (See Case Study: Carrascalão House Massacre, par. 803).

350. No official voices were raised in protest against Guterres' inflammatory remarks, and no serious effort was made to prevent the militia violence. On the contrary, powerful

* As UNAMET's head of mission, Ian Martin, has written: ". . . there was no concealment of the degree of official approval of their existence: military, police, and civilian officials attended inaugural and other functions throughout the territory." Ian Martin, *Self-Determination in East Timor*, p. 25.

† The ceremony in Manatuto – led by the Bupati and attended by an estimated 5,000 people – was attended by the Danrem, Col. Tono Suratman. See Kodim 1631/Manatuto, Secret Daily Situation Report, 12 May 1999 (Yayasan HAK Collection, Doc #23).

‡ According to unconfirmed accounts, Maj.Gen. Adam Damiri and Maj.Gen. Zacky Anwar Makarim were also in attendance.

§ A TNI intelligence report on the 17 April ceremony estimated that there were 1,645 militia members present. According to the report, the groups in attendance included: Aitarak (760), BMP (400), Laksaur (750), Mahidi (75), Ahi (80), Naga Merah (75), Morok (80), Alpha (50), and Saka (50). See: Dan Sat Gas Pam Dili to Dan Rem Up. Kasi, Intel Rem 164/WD and others. Secret Telegram No. STR/200/1999, 17 (18?) April 1999 (Yayasan HAK Collection, Doc #16).

¶ Cited in Amnesty International, *Seize the Moment* (AI Index ASA 21/49/99), 21 June 1999, p. 20.

officials studiously avoided taking action, and in so doing effectively facilitated and condoned the violence. Among those who failed to act was the Timor-Leste military commander, Col. Tono Suratman. As the militia rampage began, Manuel Carrascalão came to his office pleading for him to intervene. According to the Irish Foreign Minister, David Andrews, who was there, Colonel Suratman was dismissive, and did nothing.*

351. In addition to such *de facto* political recognition, the Indonesian authorities also conferred formal legal status on the militias. In the first few months of 1999, officials characterised the militia groups as Wanra, Hansip and Ratih and sometimes Surwan (abbreviation of Sukarelawan or Volunteers) – that is, as the officially sanctioned citizen's auxiliaries that had been in existence for many years. This was not a mere public relations exercise; the same terminology was used in secret TNI reports and memoranda. In a letter of March 1999, for example, a Kopassus officer in Baucau described the militia groups Saka, Sera, and Alfa as 'Ratih.'† The significance of this designation was that it confirmed that militia groups had been granted legal standing by the Indonesian authorities.

352. Such legal standing implied a privileged relationship with official bodies, notably TNI and Kopassus units. The nature of that special relationship is suggested by various documents from 1999. In a letter of March 1999, for example, a Kopassus officer requested the Baucau office of health services to make medicines available to some 600 Ratih members and their families. There was no immediate medical rationale for the request. Rather, the explicit intention was to reward them for supporting TNI operations, and to improve their morale.‡

353. Even the Armed Forces Commander, Gen. Wiranto, evidently regarded the militia groups as an acceptable, and lawful, component of military strategy. In a contingency plan cited by the Indonesian Commission on Human Rights Violations in Timor-Leste, Wiranto described the militias as follows:

> "The armed force is about 1,100 people with 546 weapons of various kinds, including assembled [home-made?] weapons; they are joined in pro-integration organisations. The mass of militant supporters is 11,950 people joined in opposition organisations like Besi Merah Putih, Aitarak, Mahidi, Laksaur Merah Putih, Sakunar, AHI, Jati Merah Putih, Darah Integrasi, Dadarus Merah Putih, Guntur Kailak, Halilintar, Junior, Team Pancasila, Mahadomi, ABLAI and Naga Merah."§

354. Notwithstanding their view that such groups were legitimate, with the prospect of increased international scrutiny, Indonesian authorities made an effort to garb the new

* Ian Martin, *Self-Determination in East Timor*, p. 27.

† See: Komandan Satuan Lapangan-A, Satuan Tugas Tribuana VIII, to Kepala Dinas Kesehatan Tingkat-II, Kab. Baucau, "Permohonan Dukungan Obat Bulanan Pos Dan Kes Satlap-A," March 1999 (Yayasan HAK Collection, Doc #14).

‡ Ibid.

§ Wiranto, cited in Report of the Indonesian Commission on Human Rights in East Timor (Internal), Jakarta, January 2000, paragraph 40.

militia groups in a veneer of civilian legality. Starting in April 1999, key militia groups were formally designated as voluntary civil security organisations, or Pam Swakarsa. That term had been used to legitimise the gangs of youths mobilised to provide 'security' in other parts of Indonesia in preceding years. In discussions with UNAMET, and in public statements, government officials insisted that the groups in Timor-Leste were not militias but Pam Swakarsa, and that their activities were entirely within the law.

355. The formal status of the militias as Pam Swakarsa is confirmed by two documents. The first is an order from the Governor, Abílio Osório Soares, and the Timor-Leste Commander, Col. Tono Suratman, dated 23 April 1999 calling for the creation of Pam Swakarsa throughout the territory.* The second is an instruction from the District government of Dili, also from April 1999, formally incorporating the Aitarak militia as integral elements of Pam Swakarsa, and listing a range of civilian and military officials as its leaders.†

356. Even after the call to create Pam Swakarsa across the territory, TNI and other officials continued to portray the militias as part of the long-established civil defence apparatus; that is as Wanra, Hansip and Ratih. In a report of 5 August 1999 UNAMET MLOs in the District of Viqueque noted that TNI training with militias "is explained away as legitimate Wanra activity or as civic action on the part of TNI. . . Similar to the PAM-Swakarsaisation of militias in Dili we have seen the militias associate with TNI under the guise of Wanra and Hansips."‡

357. Given the historical connection between these civilian auxiliaries and the new militias, this claim was perhaps somewhat closer to the truth. At the same time, it concealed the fact that, by June 1999, the militias had been formally organised into a single military-type structure, with the explicitly military name of the 'Integration Fighters Force' (Pasukan Pejuang Integrasi – PPI), and were subject to commands and instructions from the leaders of that organisation. That structure, formally acknowledged by Indonesian authorities, adds weight to the claim that the militia groups were officially organised, not spontaneous, and that their actions – including acts of violence – were coordinated.

358. The official status of the militias, and their close relationship to the TNI, is further confirmed by a secret report, dated 21 June 1999, from the Kodim Dili to the Korem. The report is a response to a request from the head of military intelligence for Timor-Leste for clarification on a number of human rights violations reported by the local NGO, Yayasan HAK. By way of checking into these reports, Kodim Dili ran the list past Aitarak, whose members were the principal perpetrators named in the complaint. Not surprisingly, Aitarak's leadership declared that there was no truth to any of the

* The letter itself has not yet been found, but explicit reference is made to it in other official documents.

† See: Bupati Dili, "Surat Keputusan Bupati Kepala Daerah Tk. I Dili, No. 33 Tahun 1999, Tentang Pengamanan Swakarsa (Pam Swakarsa) dan Ketertiban Kota Dili," 14 May 1999 (SCU Collection, Doc #304).

‡ UNAMETViqueque, "Outline of Pro-Integration Militia in Viqueque Area," 6 August 1999. Reprinted in UNTAET, Political Affairs Office, *Briefing Book on Political Affairs and Human Rights in East Timor*, November 1999.

allegations. It was revealing that that claim was accepted without further examination and was conveyed to the Korem as a Kodim finding.*

359. Militia leaders were also granted quasi-official status within state bodies responsible for security and political affairs. Militia leaders were routinely invited to meetings and briefings with TNI, Police and civilian authorities. Some of these meetings were secret affairs, but many were a matter of public record. When asked about such meetings, government and military officials sometimes claimed that they were intended to urge the militias to desist from unlawful activities. However, participants and witnesses consistently reported to UNAMET that a common purpose of the meetings was to convey strategic and tactical plans for deliberate acts of violence – including house burning, beating, and killing – against supporters of independence.

360. In addition to countless low-level meetings, there were numerous meetings in 1999 between high-ranking military officers and militia leaders. In March 1999, for example, Maj. Gen. Damiri reportedly addressed a gathering of pro-autonomy and militia leaders at a luxury hotel in Bali, telling them that Indonesia was "behind them 100% and would never abandon them."† At Korem headquarters on 18 June, Maj.Gen. Kiki Syahnakri, Maj.Gen. Zacky Anwar Makarim, Brig.Gen. Glenny Khairupan, Col. Tono Suratman, and several militia leaders reportedly met to discuss detailed contingency plans to influence the vote, and to cause mayhem in the event of a pro-independence victory.‡ A further high-level meeting is said to have taken place in Dili in the immediate aftermath of the vote. Attended by Maj.Gen. Zacky Anwar Makarim, Maj.Gen. Sjafrie Sjamsuddin, and several other senior TNI officers, the meeting reportedly discussed plans to destroy vital infrastructure, and to kill key pro-independence leaders, in the event that the ballot result favoured independence.§

361. It should be noted that meetings among key military, police, and civilian authorities were not unique to Timor-Leste. Together, these authorities comprised an institution responsible for security issues that existed at each level of the Indonesian administrative hierarchy. Known as the Muspida at the district level, and by different names at lower levels of the administrative structure, these bodies met on a regular basis, in Timor-Leste and in Indonesia itself. What was unusual about the situation in Timor-Leste in 1999, was that militia leaders were invited to take part in such discussions. In effect, notwithstanding their responsibility for serious human rights violations, the militias were incorporated into the formal decision-making apparatus of the Indonesian state.

362. The official status of the militias, abundantly evident from their participation in such meetings, is further confirmed by a substantial number of official documents that

* See: Dandim 1627/Dili to Danrem Up. Kasi, Intel Rem 164/WD, and others. Secret Telegram No. STR/137/1999, 21 June 1999 (Yayasan HAK Collection, Doc #30).

† Dan Murphy, "Spotlight: School's Out," *Far Eastern Economic Review*, 23 September 1999.

‡ Douglas Kammen, "The trouble with normal: The Indonesian military, paramilitaries, and the final solution in East Timor," in Benedict Anderson, ed., *Violence and the State in Suharto's Indonesia*. Ithaca, NY: Cornell Southeast Asia Program, 2001.

§ "Maj.Gen. Zacky Anwar Makrim," Masters of Terror, http://yayasanhak.minihub.org/mot/booktoc.htm; and "Sjafrie Sjamsuddin siapkan rencana darurat,"MateBEAN, 1 September 1999.

are jointly signed by Indonesian authorities and militia commanders. These include, for example, an order co-signed by a Sub-District Military Commander (Danramil) and a Sub-District militia commander instructing another militia leader and his men to attend a meeting at a designated place and time.* They also include scores of 'travel permits' (*surat izin jalan*) co-signed by the militia commander Eurico Guterres and various military, police and civilian officials in early September 1999.† Among the most remarkable of these 'travel permits' is one co-signed by Guterres and the Chief of Staff for Kodim Dili, Capt. Manafe.‡ The document is remarkable because it grants travel permission to Capt. Manafe himself, and to his family. In other words, in September 1999, even the Kodim Chief of Staff needed and evidently accepted the legal authority of a militia commander in matters of security.

363. In short, the evidence presented in this chapter offers strong support for the conclusion that the militias were not independent bodies acting outside the purview of the Indonesian state, but were in fact created, supported and directed by Indonesian authorities. It demonstrates, moreover, that support for the militias was not provided simply by a handful of 'rogue elements' in the TNI, but constituted official policy, and had the backing of some of the highest ranking and most powerful officials in the country. These conclusions are based on three main findings.

364. First, the militias that wreaked havoc in 1999 were not new. On the contrary, they were the continuation of a well-established military and political strategy that had been employed by the Indonesian army in Timor-Leste since the invasion in 1975. In fact, some of the militia forces active in 1999 had been mobilised by Indonesian forces at the time of the invasion, while others had been set up by Army officers in the 1980s and 1990s. Throughout the 24-year occupation of Timor-Leste, such groups were trained, supplied and directed by the Indonesian Army, and used tactics virtually identical to those seen in 1999. This historical pattern provides powerful grounds to doubt the Indonesian claim that the militias emerged spontaneously and acted independently in 1999.

365. Second, high ranking military officers, in Dili, Denpasar, and Jakarta, were actively involved in forming the new militia groups, and in coordinating their activities, from mid-1998 through 1999. The evidence of continued official involvement comes from the testimony of former pro-Indonesian East Timorese leaders, and from the secret communications between Indonesian civilian and military officials in 1998 and 1999. This evidence points the finger at particular high-ranking officials, including: Gen. Wiranto, Lt. Gen. (ret.) Feisal Tanjung, Maj. Gen. Zacky Anwar Makarim, Maj. Gen. Damiri, Col. Tono Suratman, and Maj. Bambang Wisnumurty.

* The order (No. 02/HMP/Kec.BB/VII/1999), dated July 30, 1999, is signed by the Danramil for Bobonaro, Sgt. Poniran, and the Commander of the Hametin Merah Putih militia in Bobonaro, Alberto Leite (HRU Collection, Doc. BOB #10).

† See, for example, SCU Collection, Documents #42, 43, 53, 54, 57, and 283-299.

‡ See: Kepala StafKodim 1627 (Capt. Salmun Manafe) and Wakil Panglima PPI (Eurico Guterres), travel permit No. SIJ/ 14/IX/1999, 3 September 1999 (SCU Collection, Doc #53).

366. Finally, there is unequivocal evidence that the militias were granted formal political and legal standing by Indonesian government and military authorities. Public statements in support of the militias, made by numerous officials, constituted expressions of formal state recognition and support for those groups. They may also be viewed as having encouraged, and even incited, militia groups to commit grave human rights violations. On those grounds, the case can be made that the militias were a formal arm of the Indonesian political and security apparatus, and that their actions were thereby the direct responsibility of Indonesian authorities. The militia's legal standing, moreover, was not merely theoretical, but was confirmed by the routine inclusion of militia leaders in the security and political deliberations and decisions of Indonesian officials at all levels. Thus, both in law and in practice, the militias acted with the full sanction of Indonesian authorities.

Militias: recruitment, training, operations and weapons

367. The link between the militias and the TNI and other Indonesian officials is also clearly evident in the patterns of militia recruitment, training, operations, and access to weapons. Such patterns are significant because they demonstrate that the militias were not independent entities beyond official control, as Indonesian authorities have claimed, but rather existed and acted in accordance with TNI guidance and procedures. Moreover, they clearly implicate the TNI, including several high-ranking Army officers, in the commission of serious human rights violations by the militias.

Recruitment and membership

368. Direct TNI involvement with the militias is revealed in the patterns of militia recruitment and membership in 1999. TNI soldiers and officers were directly and indirectly involved in the recruitment of militiamen, sometimes under duress. Equally important, TNI soldiers and officers served as militia leaders and falsely posed as militiamen, rendering the distinction between the TNI and the militias virtually meaningless.

369. Militia members were a varied group, and became involved for many different reasons. Some joined a militia group more or less willingly. They included men who had fought on the Indonesian side at some stage since 1975, who had relatives who had been killed by the pro-independence party, Fretilin, or who had done relatively well under Indonesian rule. Others were recruited directly from criminal gangs involved in gambling rings, protection rackets and so on, or they were seduced by the possibility of wielding a gun and exercising raw power over others.

370. A considerable number, however, joined under duress as part of the systematic official recruitment effort set in motion in early 1999 in the context of the pro-autonomy 'socialisation' campaign. In each district a target was established by government and

military authorities for the number of militiamen to be recruited. Typically, the target was about ten men per village. It was the responsibility of the respective Village Heads and Sub-District Heads to ensure that the target was met but, in keeping with the historical pattern described in Chapter 6, TNI officers were invariably involved.

371. Speaking to journalists in early 1999, the Korem Chief of Staff, Lt. Col. Supardi, said that the military had already recruited roughly 1,200 militiamen, and that recruitment was scheduled to continue until March.* The former pro-Indonesian figure, Tomás Gonçalves, has alleged that officers of the Kopassus unit Satgas Tribuana played an especially important role in recruitment efforts. Speaking in early 1999, he said:

> "It's these people who are recruiting the militias – they force them. If they don't, they are picked up at night and killed. [Those who join] are given military training, arms, and indoctrinated."†

372. Although it was not the case that all those who refused to join were killed, coercion and threats were common elements of the recruitment effort. At public meetings and in house-to-house campaigns conducted in early 1999, members of existing militias and TNI soldiers pressured men to join. Those who refused or resisted, for whatever reasons, were typically accused of harbouring pro-independence sentiments, and were subjected to reprisals. Many had their homes burned and their families threatened, and some were killed. Where Village Heads or Sub-District Heads were themselves unenthusiastic about forming militia groups, they were subjected to threats and reprisals by militia groups, and TNI soldiers, from neighbouring communities.

373. As one former militiaman testified: "They called us, took our names and said, 'you've got to join this group.' We said, 'what are we joining it for?' They said, 'If you refuse to join, you'll see what happens.' So we were scared and we joined."‡ Similarly, the wife of a man who had fled his village after refusing to join the militias testified that: "They came to our village and destroyed everything. They killed our chickens, they took what they could carry and sold it. And they said, if [they couldn't] find [my] husband they would come back and beat me and my children to death."§

374. In addition to those who were recruited under duress, and those who joined willingly, there were some 'militiamen' who were evidently not East Timorese civilians at all, but Indonesian army soldiers dressed up as local militias. Particularly in the pre-UNAMET and post-ballot periods, there were frequent reports that the militiamen were in fact TNI soldiers in civilian clothing. Drawing on the testimony of rape survivors from 1999, the UN Special Rapporteurs reported in late 1999 that:

* "Lt. Col. Supadi," *Masters of Terror*, http://yayasanhak.minihub.org/mot/booktoc.htm

† Cited in "Timor Coup Planned," *The Age*, 22 June 1999.

‡ Cited in SBS, *Dateline*, "Timor Terror Fund," February 16, 2000, transcript, p. 34.

§ Cited in ABC, *Four Corners*, "A License to Kill," 15 March 1999, transcript, p. 6.

> "... on many occasions no distinction could be made between members of the militia and members of the TNI, as often they were one and the same person in different uniforms."*

375. Film footage, shot in 1999, which shows a TNI soldier changing into militia 'costume' and donning a long-haired 'militia' wig, lends support to allegations that at least some of the militia were not what they appeared.

376. In some cases, Indonesian authorities acknowledged that militia members were, in fact, TNI officers. In August 1999, UNAMET officials wrote to Task Force chief, Agus Tarmidzi and to Maj. Gen. Zacky Anwar Makarim, to complain about the involvement of TNI officers in militia activities. Among the TNI officers they mentioned by name were Sgt. Domingos dos Santos and Sgt. Julião Gomes, both attached to the Kodim in Bobonaro.† In reply, Makarim acknowledged that the two men were indeed TNI officers and members of the DMP militia. In an apparent effort to deflect UNAMET criticism, he claimed, incorrectly, that the two officers had been confined to barracks.‡

377. A number of military and government documents from late 1998 and 1999 confirm that there was considerable overlap in the TNI and militia membership, and that some militia members were in fact enlisted TNI soldiers. For example, a document from late 1998, listing 49 members of the Viqueque-based militia group Makikit, indicates that six of those listed were actually soldiers from TNI Infantry Battalion 328.§8 A letter from militia leader Eurico Guterres to the Dandim of Dili suggests that it was a routine matter for TNI officers to be deployed within militia units. The letter, dated 22 June 1999, requests the Dandim of Dili to permit a TNI intelligence officer (1st Sgt. Elizario da Cruz P.) to serve with Aitarak for an indefinite period.¶

378. Another document confirms these patterns, and also reveals that some 'militia' groups were, in fact, formally constituted special TNI units. An official list of 91 members of the militia group Saka (also known as Pusaka), dated 3 February 1999, shows that all were TNI soldiers, with military ranks and serial numbers, and that the unit was officially designated as a 'special company' of Kodim 1638/Baucau. In other words, Saka was not a volunteer civilian force at all, but a special TNI unit. The same document shows, moreover, that the commander of the company, Joanico Cesario Belo – who was also Commander of PPI Sector A – was in fact a Kopassus officer, with the rank of 1st Sergeant.

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* United Nations, *Situation of Human Rights in East Timor*, 10 December 1999, p. 12.

† The two were named in Ian Martin's letter to Agus Tarmidzi, dated 19 August 1999. Cited in Greenlees and Garran, *Deliverance*, p. 184.

‡ Personal communication, Ian Martin, 1 June 2003.

§ See: Kodim 1630, "Daftar: Nominatif Pemegang SenjataTeam Makikit," undated, but found at Kodim 1630 on 28 November 1998 (Yayasan HAK Collection, Doc #4).

¶ See: Komandan Komando Pasukan Aitarak Sector B (Eurico Guterres) to Dandim 1627/Dili and others. Letter No. 46/ PD/MK-AT/VI/199 concerning "Permohonan Dispensasi," 22 June 1999 (Yayasan HAK Collection, Doc #31).

379. Finally, several internal documents of the Aitarak militia clearly show that TNI personnel were members of the militia, and that they were paid as such. One such document, prepared by the Aitarak treasurer and dated 24 August 1999, is a summary of wages paid out to the group's members. Among those paid were 96 persons who were either TNI members or government civil servants.[*]

380. The direct involvement of TNI forces and officers in the forcible recruitment of militiamen in 1999, and the significant and formally sanctioned overlap between militia and TNI memberships, leaves little room for doubt about the TNI-militia link. It also underlines the case that the TNI leadership bears responsibility for human rights violations committed by militia forces.

Training

381. Notwithstanding strenuous official denials, there is no doubt that the TNI provided training to the militias on a regular basis.[†] Like the evidence of forced recruitment and overlapping membership with the militias, the evidence of training clearly implicates the TNI in militia violence.

382. In a rare instance of official candour, in early January 1999 the Korem Chief of Staff, Lt. Col. Supadi, reportedly told journalists that the military had indeed given new militias two-week training courses.[‡] His admission of a TNI role was confirmed by numerous reports by contemporary observers, and by substantial testimonial evidence gathered since 1999. The pivotal role of the TNI in militia training, however, is most convincingly demonstrated by the documentary record.

383. Four documents are especially revealing. The first is a secret telegram from the Danrem, Col. Tono Suratman, dated 13 April 1999, which orders all Dandim to exercise greater care and discipline in training Ratih (i.e. militia) units in their districts. In doing so, it confirms that the training of militia groups was routine, and that it was subject to the oversight and control of one of the highest-ranking military officers in the territory, Col. Suratman. In the relevant passages of the 13 April telegram, Suratman orders all Dandim to:

> "Carry out security precautions and activities in the context of each Ratih training session to ensure that such activities proceed smoothly;" and "Insist upon strict order and discipline in order to prevent any losses, physical or non-physical, inside and outside the training unit."[§]

* According to the report, the 96 were each paid Rp.120,000. See: Memorandum from Treasurer to Eurico Guterres concerning Aitarak budget, 28 August 1999 (SCU Collection, Doc #79).

† Testifying before the Ad Hoc Human Rights Tribunal in Jakarta, in October 2002, Col. Tono Suratman categorically denied that the TNI had ever provided training to East Timor's militias. "We never educated or trained them," he said. See "Tono Bantah Keterlibatan TNI dan Polri," *Media Indonesia*, 23 October 2002

‡ "Lt. Col. Supadi," *Masters of Terror*, http://yayasanhak.minihub.org/mot/booktoc.htm.

§ Danrem 164/WD to Dandim 1627-1639 and others. Secret Telegram No. STR/44/1999, 13 April 1999 (Yayasan HAK Collection, Doc #10).

384. Significantly, the Danrem's telegram is based on an order from the Regional Military Commander, Maj. Gen. Adam Damiri (No. STR/90/1999, undated), confirming that such training was done with his knowledge, and under his orders. Moreover, the Danrem's telegram of 13 April 1999 cites for authority a 1996 order of the Army Chief of Staff concerning the appropriate procedures for recruiting and training Ratih. In so doing, the telegram confirms that the militia training in 1999 was regulated by well-established rules and procedures issued at the very highest levels of the TNI. The relevant passages of the Danrem's telegram orders all Dandim to:

> "Stress the preparation of a Security Plan when putting together any Ratih Training Plan, in accordance with Army Chief of Staff directive No. ST/1156/96 of 26 November 1996;" and "Pay due attention to the stipulated requirements for all auxiliaries who are used to ensure that they are consistent with existing requirements/regulations and procedures."*

385. The second document relevant to the issue of training is a secret telegram, dated 16 April 1999, from the Dandim of Dili to all Danramil under his command. Referring to the Danrem's telegram of 13 April 1999, his telegram reminds all Danramil of the existing "regulations and procedures" governing the training of Ratih. In this way, it provides additional confirmation that the training of militias was a routine TNI task, conducted throughout the territory at least down to the Koramil level, in accordance with established regulations and procedures.†

386. The third document of importance is a secret TNI intelligence report from Kodim Liquiçá, dated 18 April 1999. It reports, among other things, on a visit to the towns of Liquiçá and Maubara by the Danrem, Col. Tono Suratman in mid-April. The document confirms not only that the TNI was actively involved in training the BMP militia at that time, but also that Col. Suratman played a direct role in it. The relevant passage of the report reads:

> "On 16 April 1999 at 1400 hours, the Dan Rem 164/WD and his entourage arrived at the Kodim headquarters in Liquiçá. Later he visited Koramil 1638/Maubara in order to offer words of guidance to some 500 BMP members there...."‡

387. It is noteworthy that this address by Suratman to the BMP in Maubara occurred only two weeks after these very militias spearheaded the violent assault on the church in Liquiçá in which dozens of people were killed. It is also worth stressing that Col. Suratman addressed the militiamen while they were gathered at an official TNI post, the Koramil headquarters in Maubara.§

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* Ibid.

† Kepala Staf Kodim 1627 (Capt. Salmun Manafe) for Dandim 1627, to Daramil 01-04 and others. Secret Telegram No. STR/198/1999, 16 April 1999 (Yayasan HAK Collection, Doc #13).

‡ Perwira Seksi Intelijen Kodim 1638 to Kepala Seksi Intelijen Korem 164/WD, Dan Sektor B, and others, "Laporan Harian Seksi Intelijen Dim 1638/Lqs Periode tgl. 16 s/d 17 April 1999," 18 April 1999 (Yayasan HAK Collection, Doc #11).

§ It may also be significant that Suratman's visit took place exactly one day before a team from the Army Inspector General's office came to the district to investigate the Liquiçá Church massacre.

388. The fourth document is a daily situation report, dated 20 May 1999, from Kodim 1631/Manatuto to the Korem head of intelligence, Maj. Bambang Wisnumurty, copied to the Commander of Satgas Tribuana.* Among other things, the report states explicitly that, on 17 May 1999 two senior TNI officers had given "guidance" to militiamen at the Morok militia base in Manatuto. The two officers in question were the Commander of Sector A, Col. Sunarko, and the Commander of "Sub-Sector Manatuto," who was not identified by name.† Thus, in addition to confirming that the TNI was involved in training militias, this report points clearly to the role of high-ranking Sectoral commanders in that effort.‡ It also shows that senior intelligence and Kopassus officers, notably Maj. Bambang Wisnumurty at the Korem and the Commander of Satgas Tribuana, Lt. Col. Yayat Sudrajat, were fully aware of the situation.

389. Taken together, these documents confirm abundant testimonial evidence that the training of militias was a standard element of TNI activity in Timor-Leste in 1999. They also show that the training was governed by a set of well-established rules and procedures, and in accordance with orders issued by officers at the highest levels of the military hierarchy, including the Danrem, Col. Tono Suratman, the Pangdam IX, Maj. Gen. Adam Damiri, and the Army Chief-of-Staff.

Operations

390. There is also substantial evidence, both testimonial and documentary, that militia groups received direct operational support from the TNI in 1999. Operational support took a variety of forms. In some cases, especially in the pre-UNAMET and post-ballot periods, TNI soldiers were deployed alongside militias in operations that resulted in serious human rights violations. In other cases, most commonly during the UNAMET period, militias were allowed to use TNI bases and posts as staging areas for their operations.

391. Joint TNI-militia operations had two distinctive features. First, TNI soldiers typically took up positions behind militia forces, firing their weapons only when their militia proxies were in danger. Second, in the case of killings, TNI officers and soldiers generally took the lead in organising the disposal of bodies.

392. One of the clearest examples of this pattern was the 6 April massacre in the church at Liquiçá. In that case, hundreds of BMP and Aitarak militiamen attacked a group of

* Perwira Seksi Intelijen (Capt. Dulhadjar) Kodim 1631/Manatuto to Kasi Intel Korem 164/WD, Dan Satgas Tribuana, and others. Secret Daily Situation Report, 20 May 1999 (Yayasan HAK Collection, Doc #24).

† This may have been Lt. Col. Nyus Rahasia, a Kopassus officer who was reportedly in Manatuto from mid-May to mid-June coordinating military-style training for the militias there. (See District Summary: Manatuto).

‡ Other documents confirm the role of the Sectoral commands in training the militias. They include an order, dated 27 April 1999, from the Danrem, Col. Tono Suratman, to the Commanders of Sector A and Sector B, instructing them temporarily to cease regular morning drills of pro-integration forces (i.e. militias). See: Danrem 164/WD to Dan Sektor A and B. Secret Telegram, 27 April 1999 (Yayasan HAK Collection, Doc #18).

people who had taken refuge in a church compound in Liquiçá, killing dozens. Present throughout the attack were well-armed TNI, Police, and Mobile Brigade (Brimob) troops. Not only did those troops do nothing to prevent the attack, or to stop it once it was underway, by most accounts they helped to carry it out. A BMP member involved in the attack later told UNAMET that the dead bodies had been taken away in at least five military trucks. Notably, a secret Police report on the incident noted that the close ties between the TNI and the militias had been an obstacle to Police investigations[*] (See Case Study: Liquiçá Church Massacre, par. 768).

393. With the deployment of UNAMET in June 1999, and the arrival of hundreds of journalists and observers, the TNI made an effort to avoid being seen with militias.[†] The shift in tactics led to a decline in reports of joint TNI-militia operations after early June and, probably not by coincidence, to a decline in the absolute levels of human rights violations in Timor-Leste.

394. Nevertheless, joint TNI-militia operations did continue. For example:

- In mid-June 1999, UNAMET officials directly witnessed TNI and militia forces forcibly displacing the population of certain villages in Liquiçá, and burning the contents of their houses.[‡]
- In late June, officers of the Bobonaro District Military Command were observed coordinating an attack by members the Dadurus Merah Putih militia against the UNAMET headquarters in the town of Maliana (See Case Study: Attack on UNAMET Maliana, par. 835).
- In mid-August, UNAMET personnel in Viqueque witnessed TNI and Police members coordinate and join local militias in an attack on pro-independence youths that left at least two people dead.[§]
- On ballot day, 30 August, a group of militiamen accompanied by TNI soldiers stabbed and killed two UNAMET staff members near the polling booth in Boboe Leten, Ermera District. Later investigations revealed that the Sub-District Military Commander took part in planning and carrying out the attack (See Case Study: Murder of UNAMET Staff Members in Boboe Leten, par. 871).

395. There is also substantial testimonial and documentary evidence that TNI forces allowed militias to use TNI bases and posts as staging areas for their operations. One

* In a section called "Obstacles encountered," the report states bluntly that "Army support for the pro-integration group strongly influenced the investigation process." Kepolisian Daerah Timor Timur, Direktorat Reserse, "Laporan Penanganan Kasus Liquisa," 15 April 1999. Reprinted in UNTAET, Political Affairs Office, *Briefing Book on Political Affairs and Human Rights in East Timor*, Dili, November 1999.

† The shift in approach was confirmed by a radio communication, intercepted by Australian intelligence on 1 June 1 1999. In that radio exchange, Korem Commander Col. Tono Suratman reportedly told militia leader, Eurico Guterres: "Don't deal with me directly. Contact me via [Korem Head of Intelligence, Maj.] Bambang [Wisnumurty]." *Sydney Morning Herald*, "Silence over crime against humanity," 14 March 2002.

‡ For a detailed report of that incident see UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

§ For further details, see UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

piece of evidence is a secret telegram, dated 18 April 1999, from the Dandim Dili, Lt. Col. Endar Priyanto, to the Danrem, Col. Tono Suratman. The telegram reports, in a matter of fact way, that up to 250 Aitarak members had gathered inside the 744 Battalion's Company B headquarters in Dili in the course of a 'cleansing' operation that left at least one pro-independence youth dead. The report reads:

> "At 1315 hours on 18 April 1999 one element of the Aitarak forces finished their cleansing operation and returned to Company B of Battalion 744/SYB where they joined the other Aitarak groups who had gathered there earlier. They then returned to the Tropical Hotel."*

396. It is worth recalling that this degree of TNI cooperation – and acquiescence – occurred just one day after Aitarak had gone on a violent rampage through Dili in which they killed at least 12 civilians who had taken refuge in the home of Manuel Carrascalão (See Case Study: Carrascalão House Massacre, par. 803).

397. The same pattern – of TNI facilities and premises being made available to militias – was evident throughout the territory. In Lautém, for example, Kopassus shared its headquarters with the Team Alfa militia group, and provided it with logistical and transportation support (See District Summary: Lautém). In at least two Sub-Districts of Covalima, the Laksaur militia headquarters were located right inside the Koramil.† In Liquiçá, as we have seen, the Koramil in Maubara Sub-District doubled as the BMP militia headquarters (See District Summary: Liquiçá, par. 663). Such examples could be cited for virtually every District in the country.

398. The pattern of TNI-militia joint operations shifted again in the post-ballot period. With UNAMET under siege in its main headquarters, and virtually all observers and journalists having fled the country, the TNI was free to engage in acts of violence, both directly and jointly with militias. It was in this context that some of the clearest examples of joint TNI-militia operations occurred. These included, among many other cases, the massacre of at least 40 and perhaps as many as 200 people at the church in Suai on September 6; the massacre of at least 14 refugees in the Maliana Police Station on September 8; and the systematic execution of at least 82 people in the Sub-District of Oesilo in Oecussi District between 8 and 10 September. (See Case Studies: Suai Church Massacre, par. 903; Maliana Police Station Massacre, par. 923; and Passabe and Maquelab Massacres, par. 947).

399. Witnesses to the post-ballot violence have also testified that TNI soldiers routinely did nothing to prevent or stop the militias from committing acts of violence. A clear example of that pattern occurred right under UNAMET's nose. On 10 September, three days after the declaration of Martial Law, UNAMET staff watched as a group of armed militia approached the school-yard next to the compound and began to attack

* Dan Sat Gas Pam Dili to Dan Rem, Up. Kasi Intel Rem 164/WD and others. Secret Telegram No. STR/202/1999, 18 April 1999 (Yayasan HAK Collection, Doc #17).

† See Timor-Leste, Deputy General Prosecutor for Serious Crimes, Indictment against Herman Sediyono et al. Dili, 7 April 2003, p.12.

the people gathered there. Scores of combat-ready Kostrad soldiers and Indonesian Police who were supposed to be protecting the area not only failed to stop the militias, but actually joined them in smashing the windows of UN vehicles and either looting them or stealing them.*

400. When a UNAMET staff member asked one of the Kostrad soldiers why he and his colleagues did not shoot at, or at least apprehend, the militias, the soldier replied that his unit had no orders to do so. And when Gen. Wiranto was confronted with these facts by the visiting UN Security Council delegation that same day, he denied that there was a problem and insisted that the security situation in Dili was under control.

Weapons: testimonial evidence

401. Some of the clearest evidence of the TNI link to the militias lies in the fact that military officials supplied the militias with modern firearms, and permitted them to carry a range of other weapons in contravention of the law. TNI involvement in distributing weapons to militias, and their refusal to enforce laws against the possession of weapons, constituted a clear case of official complicity in the acts of violence they committed. This is all the more so in view of the knowledge military commanders had – knowledge that is confirmed by documentary evidence – of the use to which the weapons were being put.

402. The earliest evidence that weapons were being distributed to the militias came from the public statements of high-ranking TNI officers, and from two key militia leaders. In early 1999 the Korem Chief of Staff, Lt. Col. Supadi, reportedly told journalists that the military had supplied weapons to the militias. "If we don't arm them," he said, "there will be more victims on our side. It is better for there to be victims on their side."† In February, the Korem Deputy Commander, Col. Mudjiono, told a journalist that firearms had been distributed to pro-integration groups to allow them to resist Falintil forces.‡ The Regional Military Commander, Maj. Gen. Adam Damiri, also told the media that the TNI had supplied arms to the militias, though he denied that the intention was to support the pro-integration side.§ In early February, the Army Chief of Staff, Gen. Subagyo Hadisiswoyo, said that the Army was arming 'Wanra' auxiliaries

* According to an internal TNI document, the UNAMET compound was being guarded by a full Kostrad Company (91 soldiers) and 100 Indonesian Police, under the command of Infantry Capt. Catur. See: Dandim 1627/Dili (Lt. Col. Soedjarwo), "Data Kekuatan Pengamanan UNAMET dan Objek Vital," September 1999 (Yayasan HAK Collection, Doc #45). For a detailed, first-hand account of the September 10 assault, see UNAMET, Political Affairs Office, "Note on Militia Incursion into UNAMET Compound, 10 September 1999," in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

† "Lt. Col. Supadi," *Masters of Terror*, http://yayasanhak.minihub.org/mot/booktoc.htm.

‡ "Up in Arms," *Far Eastern Economic Review*, 18 February 1999.

§ Cited in East Timor International Support Center (ETISC), Indonesia's Death Squads: Getting Away With Murder. Darwin: ETISC Occasional Paper No. 2. May 1999, p. 12. Damiri made a similar remark shortly before the attack on the Liquiçá church, noting that the military had supplied weapons to a "limited number" of militia groups. See "Timor Needs No Foreign Soldiers," *Indonesian Observer*, 5 April 1999.

to help the armed forces secure Timor-Leste.* In mid-February, the Armed Forces spokesman in Jakarta, Gen. Sudradjat, confirmed that guns had been distributed to the militias, but insisted that "we only give weapons to those we trust."†

403. At about the same time the leader of the Mahidi militia, Cancio Carvalho, told journalists that the TNI had given his group 20 Chinese-made SKS automatic weapons in late December 1998, which had then been used to carry out a number of deadly attacks on nearby villages.‡ The attacks reportedly included one in Galitas village, in Zumalai, on 25 January 1999, in which several people were killed, including a pregnant woman and a 15-year-old boy§ (See District Summary: Covalima, par. 579).

404. Speaking to journalists shortly after these events, Cancio Carvalho – who, it may be recalled, had close ties with Mahidin Simbolon, the Chief of Staff of Kodam IX –admitted to his personal involvement in the killings: "The attack was like this. I fired like this. I was leading them and we attacked in two lines. I ordered them to fire in a scissor action, like this. The woman was torn apart. I didn't cut her." He also sought to explain why the woman and other victims had been targeted: "This woman was the wife of a Falintil commander. I'm not sure if the old man was a trouble maker or not."¶

405. Cancio Carvalho's brother, Francisco Carvalho, a former General Secretary of the pro-Indonesian party Apodeti, had little doubt that the TNI had distributed weapons: "Guns have been handed out" he said at the time, "everyone knows that."** Likewise, the Aitarak militia leader, Eurico Guterres, confirmed that weapons had been distributed, but insisted that: "I was given guns not just to protect myself and the other integrationists but to protect opponents of integration as well."††

406. The direct involvement of high-ranking TNI authorities in the distribution of weapons in this period has been summarised in the indictment filed against eight senior Indonesian officials by Timor-Leste's Deputy General Prosecutor for Serious Crimes.‡‡ The indictment directly implicates Maj. Gen. Kiki Syahnakri, Maj. Gen. Zacky Anwar Makarim, Col. Tono Suratman, and Lt. Col. Yayat Sudrajat in these acts. The relevant passages read as follows:

> "19. In or about March 1999 Kiki SYAHNAKRI met with pro-Indonesian East Timorese leaders at TNI headquarters in Jakarta. SYAHNAKRI told the group that TNI would support their pro-Indonesian efforts and that MAKARIM was responsible for coordinating activities leading up to the popular consultation. SYAHNAKRI told them

* "KSAD Jelaskan Soal Sipil Dipersenjatai," *Media Indonesia*, 2 February 1999

† Cited in ETISC, *Indonesia's Death Squads*, p. 13.

‡ "Crossbows and Guns in East Timor," *Economist*, v. 350 n. 8106 (13 February 1999), p. 40.

§ ABC, *Four Corners*, "A Licence to Kill," 15 March 1999; and ETISC, Indonesia's Death Squads, p. 12.

¶ ABC, *Four Corners*, "A License to Kill," 15 March 1999, transcript, p. 10.

** ABC, *Four Corners*, "A License to Kill," 15 March 1999, transcript, p. 11.

†† ABC, *Four Corners*, "A Licence to Kill," 15 March 1999, transcript, p. 5.

‡‡ Timor-Leste, Deputy General Prosecutor for Serious Crimes, Indictment of Wiranto et al. February 2003.

that firearms had been sent to East Timor, and that when the men returned to Dili they should contact SURATMAN to arrange distribution of the firearms . . .

23. In or about March 1999 SUDRAJAT and other members of the TNI delivered a large number of firearms to a pro-Indonesian East Timorese leader. SUDRAJAT asked the East Timorese leader to give the weapons to pro-Indonesian militia groups.

24. In or about April 1999 MAKARIM told TNI commanders and pro-Indonesian East Timorese leaders that they should work hard for autonomy because if autonomy lost, more blood would flow. He offered pro-Indonesian East Timorese leaders the use of automatic firearms and ordered SURATMAN to arrange for the collection and distribution of the firearms.

25. In or about April 1999 SURATMAN, after being asked by MAKARIM to provide automatic firearms to pro-Indonesian East Timorese leaders, ordered his subordinate SUDRAJAT to arrange for the collection and distribution of the firearms."

407. Faced with widespread international condemnation for the massacres in Liquiçá and Dili, in April 1999 the Indonesian authorities began to deny that weapons had ever been distributed, and efforts were made to conceal any further distributions.* But a substantial body of evidence indicates that weapons continued to be made available to the militias after April.

408. Perhaps the most obvious evidence was the fact that militiamen throughout the country were seen carrying, and using, modern TNI and Police-issue weapons, including M-16s, SKSs, S-1s, and hand grenades, while a larger number had Portuguese-era Mauser and G-3 rifles. Even if one accepts the implausible claim that these weapons were not distributed by the TNI or Police, the fact remains that the authorities took no measures to take the weapons away, or to bring charges against those in possession of them. The only reasonable explanation is that the authorities wished to ensure that the militias had access to firearms.

409. The same conclusion can be drawn from the actions of officials and militia leaders when the question of disarmament, long a subject of intense discussion, came to a head in mid-August 1999. As noted above (par. 56 ff), in early August 1999 Falintil began to withdraw its armed units into four 'cantonment' areas in different parts of the country. There they remained, in spite of the mounting threat of violence by militias and TNI forces as ballot day approached. UNAMET officials expressed appreciation for Falintil's evident commitment to avoiding armed conflict through cantonment, and called on the militias, and the TNI, to do the same.

* The denials became even more emphatic after the terrible violence of September 1999. Testifying before the Ad Hoc Human RightsTribunal in Jakarta, Col. Tono Suratman categorically denied that the military had supplied weapons to the militias. "We never gave them weapons," he said. See "Tono Bantah Keterlibatan TNI dan Polri," *Media Indonesia*, 23 October 2002.

410. TNI and militia leaders refused categorically to do so, but in the face of mounting international pressure, in mid-August they organised four public 'cantonment ceremonies,' at which militiamen handed over an assortment of weapons to local military and Police authorities. Most outside observers, including UNAMET Military Liaison Officers (MLOs), expressed deep scepticism that the weapons publicly transferred represented anything more than a small fraction of the arms in militia hands. They also noted that, in view of the fact that militiamen were not in fact in cantonment, there was no guarantee that the weapons returned would not be redistributed to the militias immediately after the ceremonies.

411. By most accounts that is exactly what happened. As ballot day approached, the distribution of weapons to militias increased substantially, and with the departure of most international observers after 4 September, TNI officials were once again free to distribute arms to the militias without inhibition. Credible eye-witness testimony suggests that large numbers – perhaps in the hundreds – of firearms were distributed by the TNI and the Police after the vote. This pattern suggested not only a close relationship between the militia and the TNI, but a degree of planning and co-ordination on the part of the latter, at least at the Korem level and probably higher. That conclusion also accords with evidence that high-ranking TNI officers were involved in the provision of weapons in the pre-ballot period.

412. It would be misleading, however, to suggest that the militias were fully equipped with sophisticated, modern firearms. While some did have access to such weapons, the average militiaman was armed with so-called 'home made' guns (*senjata rakitan*), as well as machetes, swords, knives, and spears. Fashioned from two or more tubes of steel attached to a wooden grip, a *senjata rakitan* was fired by holding a match or cigarette lighter to a fuse on top of the weapon, at the base of the steel tubes. The resulting explosion sent a ball or cluster of metal down the tubes and more or less in the direction of the target. To the untrained eye, they resembled 17th or 18th century firearms, and by all accounts they were just as unreliable.

413. At first glance, the militia's reliance on such low-tech weapons does not seem to accord with the claim that they were officially backed by the TNI, or that the violence was carefully planned. If they were serious about using the militias to intimidate the opposition and to create mayhem, surely the TNI would simply have given them all access to sophisticated weapons and let them loose. On closer analysis, however, it is clear that the use of such basic weapons technology is entirely consistent with the evidence of TNI distribution of weapons, and co-ordination of militia violence.

414. From the point of view of TNI strategists, home-made guns, machetes, knives, spears, swords, and rocks had at least three advantages. First, they made it easier to sustain the illusion that the militias had grown spontaneously from the community. Second, there was much less danger that such rudimentary weapons could be turned against the TNI or Police in the event of a mutiny, or of the weapons' loss or sale to the other side.* Finally, despite their simplicity, these weapons were extremely

* UNAMET MLOs in Viqueque suggested this concern in relation to the militia group 59/75 Junior, in an August 1999 report: "We do not believe that TNI or KOPASSUS trust 59/75 Junior rank and file to issue them with weapons and ammunition." UNAMET, MLO-Viqueque, Sitrep, 5 August 1999, p. 3. This report is reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

effective in spreading terror. Although senjata rakitan were almost as likely to injure their owners as their intended targets, they could inflict serious wounds, and they had a terrifying effect. The same was true of machetes, knives, spears, swords, and rocks.

Weapons: documentary evidence

415. In addition to such testimonial evidence, a number of secret documents have come to light since 1999 confirming direct TNI responsibility in distributing weapons to, and tolerating their possession by, militia groups. These documents demonstrate, moreover, that TNI officers exercised careful control over the flow of weapons, handing them out and calling them back in accordance with their military and political objectives.

416. One important piece of evidence is a document from the District Military Command in Baucau (Kodim 1628/Baucau) dated 3 February 1999. The document lists 91 members of the Pusaka Special Company, also known as the Saka militia. Titled "List of Members of the Pusaka Special Company, Kodim 1628/Baucau," the document records the type and registration number of the weapon assigned to all but one member of the group. The weapons listed include: 1 PMI/Pindad, 19 G-3s, 56 SP-IIs, 10 SP-Is, 1 FNC, 1 M16A1, 1 AK, and 1 Mauser. The document is signed by the well-known militia leader, Joanico C. Belo, who is identified as a First Sergeant and Commander of the Pusaka Special Company.[*]

417. A second document relevant to the question of TNI weapons distribution is a list prepared by the Kodim in Viqueque, listing more than 49 members of the Makikit militia. Titled "List of Team Makikit Members Authorised to Carry Weapons," the document specifies the type and registration number of the weapon assigned to each member. The weapons listed include 3 M16A-1s, 35 SP-1s, and 11 Garands. The document is undated, but a marginal note indicates that it was found at Kodim 1630/Viqueque on 28 October 1998.[†]

418. A third piece of documentary evidence bearing on the question of weapons is a secret telegram, dated 2 February 1999, from the Danrem to all Dandim and to the Commander of Satgas Tribuana, issued in anticipation of a visit to Timor-Leste by a UN delegation later that month.[‡] The document makes it clear that the TNI had temporarily withdrawn weapons from the militias and then later returned these weapons to them. The telegram orders all Dandim and the Commander of Satgas Tribuana V to prepare reports on acts of violence committed against militias by the pro-independence side, and instructs them to focus on the "period after weapons were withdrawn from the Ratih and Surwan until the weapons were returned to them." The fact that this order was copied to the Commander of Satgas Tribuana indicates that

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* Kodim 1628/Baucau, "Daftar: Nominatif Anggota Kompi Khusus Pusaka, Kodim 1628/Baucau," 3 February 1999 (Yayasan HAK Collection, Doc #9).

† Kodim 1630/Viqueque, "Daftar: Nominatif Pemegang SenjataTeam Makikit," undated, but found at Kodim 1630/Viqueque on 28 November 1998 (Yayasan HAK Collection, Doc #4).

‡ Danrem 164/WD to Dandim 1627-1639, Dansatgas Tribuana, and others. Secret Telegram No. TR/46/1999, 2 February 1999 (Yayasan HAK Collection, Doc #8). According to the telegram, there was to be a visit by the "Head of the UN Commission on Human Rights" on 29 February 1999.

Kopassus was integrally – though not exclusively – involved in the distribution and control of weapons.[*]

419. The role of Kopassus in distributing weapons and in training has been confirmed in court proceedings conducted since 1999. In April 2000, a leader of the Sakunar militia group in Oecussi, Laurentino Moko testified in an Indonesian court that he had been given guns in 1999 by two Kopassus officers[†] (See District Summary: Oecussi). Similarly, in the trial of several members of the Team Alfa militia convicted of killing five members of the clergy and four other people on 25 September 1999 the militia leader, Jony Marques, testified that he had been trained by Kopassus since 1986, and had received weapons from Kopassus officers after the 30 August ballot.[‡] In its judgement in the case, the Dili District Court concluded that: "Kopassus Special Forces provided weapons and training to the members of Team Alfa"[§] (See Case Study: Murder of Lospalos Clergy, par. 1002).

420. It is worth noting that, while demonstrating direct TNI and Kopassus involvement in arming the militias, this evidence also confirms that the militias were not given unrestricted access to modern firearms. Rather, the weapons were stored – usually at a military command post – and distributed to militias in advance of particular military operations. After an operation, the weapons would be returned to the military. Speaking to Indonesian investigators in late 1999, Gen. Wiranto made precisely this point: "Sometimes weapons were provided," he said, "but this does not mean that [militias] carried weapons wherever they went. The weapons were stored at Sub-District military headquarters."[¶]

421. This pattern of TNI control over militia access to weapons, often mentioned in witness testimony, is also confirmed by other military documents. One such document is a secret telegram, dated 28 January 1999, from the Danrem, Col. Tono Suratman, to all 13 Dandim in the territory. The telegram orders the Dandims to:

> "Collect all weapons held by Wanra and Ratih members when they are not conducting special tasks or combat operations in their respective areas."[**]

422. This order not only demonstrates that TNI officers exercised a significant measure of control over militia access to weapons, it also adds weight to the evidence that military authorities were directly involved in planning and coordinating militia operations, including those that resulted in grave violations of human rights, including murder.

* Ibid.

† Karen Polglaze, "Timor militia leader back in court," *AAP*, 10 April 2000.

‡ Dili District Court, "Judgement," Jony Marques et al., p. 58.

§ Dili District Court, "Judgement," Jony Marques et al., p. 53.

¶ Cited in Kevin O'Rourke, *Reformasi: The Struggle for Power in Post-Soeharto Indonesia*, Sydney: Allen & Unwin, 2002, p. 352.

** Danrem 164/WD to Dandim 1627-1639 and others. Secret Telegram No. TR/41/1999, 28 January 1999 (Yayasan HAK Collection, Doc #7).

423. On this last point, the 28 January telegram provides important evidence. It refers explicitly to several cases in which militia members had used the firearms given to them by the TNI to kill or seriously injure civilians. The cases noted in the order included: the killing of Julião Gonçalves Sarmento by Saka militia member Norberto Lopes, in the village of Defauasi, Sub-District of Baguia, District of Baucau, on 3 December 1998; the killing of two pro-independence youth, and the wounding of five others, by Mahidi militia members in the village of Manutasi, District of Ainaro, on 3 January 1999; and the killing of Fernando Cardoso by Ratih member Alfredo, in the village of Raiman, Sub-District of Zumalai, District of Covalima, on 23 January 1999.

424. As early as 28 January 1999 then, Timor-Leste's military commander, Col. Tono Suratman, was aware that militia groups were committing serious acts of violence with the weapons provided by the TNI. That knowledge was shared by all Dandims and by several higher ranking TNI commanders to whom the telegram was sent, including: the Commander of Regional Military Command IX; his Assistants for Intelligence, Operations, and Territorial Operations; the Commanders of Sector A and Sector B in Timor-Leste; and the Commander of the Kopassus Task Force Tribuana.* Moreover, in view of the fact that Col. Tono Suratman's order was issued shortly before an expected visit by a UN delegation in February 1999, it also fits the pattern, discussed in Chapter 4, of TNI officials carefully controlling militia violence in accordance with larger political objectives.

425. Taken together, the evidence presented in this chapter points conclusively to a powerful TNI role in the recruitment, training, and operations of the militia forces, and to direct TNI complicity in the grave violations they committed. More specifically, it allows the following conclusions.

426. First, TNI soldiers and officers were integrally involved in recruiting the militias in late 1998 and early 1999, and some actually served as militia members and leaders. The documented overlap between TNI and militia memberships renders meaningless the formal distinction between the two, and directly implicates the TNI in the acts ostensibly committed by independent militia groups.

427. Second, there is no doubt whatsoever that militia groups received training and guidance from TNI officers. That training was not carried out on the sly, or by a handful of 'rogue elements.' On the contrary, the evidence shows conclusively that militia training was a routine affair, carried out in accordance with well-established rules and procedures originating at TNI headquarters in Jakarta. It was done, moreover, with the full knowledge of high-ranking TNI officers, including at a minimum: the Regional Military Commander, Maj. Gen. Adam Damiri; the Danrem Col. Tono Suratman; the Commander of Kopassus Task Force Tribuana; the Commanders of Sectors A and B; and probably all Dandims and Danramils in the territory.

428. Third, the TNI routinely conducted joint operations with militia groups, and provided backing and support for operations ostensibly conducted by the militias.

* 50 See: Danrem 164/WD to Dandim 1627-1639 and others. Secret Telegram No. TR/41/1999, January 28, 1999 (Yayasan HAK Collection, Doc #7).

High-ranking TNI officers, including Col. Tono Suratman and others, knew very well that those operations were resulting in serious acts of violence. They also understood that such operational cooperation was in breach of the 5 May Agreements. For that reason, once UNAMET began to deploy in June 1999, the TNI sought unsuccessfully to disguise its operational links to the militias.

429. Fourth, the TNI provided sophisticated modern weapons directly to some militiamen, and allowed others to keep and use their own weapons, contrary to the law. High-ranking officers, including Maj. Gen. Kiki Syahnakri, Maj. Gen. Adam Damiri, Col. Tono Suratman, and Lt. Col. Yayat Sudrajat knew that these weapons were being used to commit grave violations of human rights, but failed to take action against the perpetrators, or to end militia access to weapons.

430. Finally, contrary to official claims that the militias were acting on their own, and that the TNI and Police were doing their best to contain the violence, it is clear that the TNI exercised significant control over militia access to weapons. That finding reinforces the argument, made in the section on Patterns and Violations (par. 199, above), that the authorities distributed and withdrew weapons as part of a carefully calibrated effort to influence the rhythm of the violence, in accordance with broader military and political objectives.

Militias: funding and material support

431. Government officials have strenuously denied it,* but the militias in Timor-Leste received substantial financial and material backing from the Indonesian government and military authorities. Indeed, official largesse provided the essential underpinning for the entire militia operation. Ordinary militia members typically received Rp200,000 ($26.66) at the time of enlisting, and between Rp50,000 ($6.66) and Rp150,000 ($20) per month thereafter. In addition to cash payments and access to weapons, they received regular distributions of rice, vehicles, regular meals when on operation, transport, fuel, office space, communications equipment, posters, clothing, and medical supplies. The provision of such funding and material support implicates civilian and military officials in the violations of human rights that were carried out by militiamen to whom it was channelled.

'Socialisation' and militia funding

432. The official funding about which we know most flowed through the civilian government apparatus, mainly under the auspices of the pro-autonomy 'socialisation' campaign. High ranking government officials have acknowledged that government funds were made available for that campaign. Foreign Minister Alatas, for example, has said: "There was money of course for the efforts towards spreading of information . . . We agreed with the UN that there would be a socialisation period."†

* See, for example, Ali Alatas in SBS, *Dateline*, "Timor Terror Fund," 16 February 2000, transcript, p. 17.

† Cited in SBS, *Dateline*, "Timor Terror Fund," 16 February 2000, transcript, p. 23.

433. The full extent of that funding for 'socialisation' is not yet known, but Indonesian government documents uncovered to date suggest that roughly Rp3 billion ($400,000) was channelled to each of the 13 districts to support the campaign in 1999, for a total of at least Rp39 billion ($5.2 million).* Although the amount varied somewhat from one district to the next, in every case some part of that total was allocated to pay for the militias.

434. Evidence and details of official funding for the 'socialisation' campaign, and through it the militias, is found in several documents uncovered in the course of 1999 and since. The relevant documents include: (i) a letter of May 1999 from the Governor of East Timor to all Bupatis instructing them to prepare budget proposals for the use of government funds for 'socialisation' activities; (ii) budget proposals for 'socialisation' activities submitted to the Governor by the Bupatis of Manufahi and Bobonaro in May 1999; and (iii) letters from the Governor to the Bupatis of Lautém and Oecussi in May and June respectively, approving similar budget proposals.†

435. These documents clearly indicate that all Districts were instructed to submit requests for funds to cover 'socialisation' activities, that they did so, and that such requests were approved by the Governor. They also demonstrate, beyond any doubt, that some of the money allocated for 'socialisation' in such budgets was explicitly earmarked for the militias, and for a range of activities that might well have provided a cover for militia activities.

436. The clearest piece of evidence in support of these conclusions is the May 1999 letter from the Governor of Timor-Leste to all Bupatis. In it, the Governor instructs each Bupati to prepare a budget proposal, in accordance with an outline that includes expenditures for 'socialisation' and 'Pamswakarsa' (i.e. militias).‡ Later that month, the Bupatis submitted their proposals.

437. The proposals submitted to the Governor by the Bupatis of Manufahi and Bobonaro each requested roughly Rp3 billion in government funding for 'socialisation' activities in their respective districts.§ The letters from the Governor to the Bupatis of Lautém and Oecussi granted official approval for proposals requesting roughly Rp3 billion for the socialisation campaign in each district, making only minor changes to the budget in each case. "We are pleased to inform you," the Governor wrote to both

* The indictment of Wiranto and seven other senior Indonesian officials, issued by East Timor's Deputy General Prosecutor for Serious Crimes, alleges that the total figure diverted into the 'socialisation' campaign was Rp52 billion, or 60% of East Timor's Regional Development Budget. See Indictment, Wiranto et al., paragraph 28.

† See: Letter from Governor of East Timor to Bupati of Oecussi, June 1999; Letter from Governor of East Timor to Bupati of Lautém, 21 May 1999; Proposal for the socialisation of special autonomy in Manufahi, May 1999, (SCU Collection, Doc #2); and Bupati Bobonaro, "Proposal Sosialisasi Otonomi Khusus dan Luas Propinsi Timor Timur," 24 March 1999 (HRU Collection, Doc. BOB #2).

‡ A copy of the Governor's letter sent to the Bupati of Liquiçá is dated 21 May 1999 (Yayasan HAK Collection). Another copy of the letter, addressed to all Bupatis, is signed but undated. See: Governor of Timor-Leste, letter to all Bupatis concerning "Proposal," May 1999. (SCU Collection, Doc #A).

§ The exact amounts requested were Rp3.162 billion for Bobonaro, and Rp3.0 billion for Manufahi. See: Bupati Bobonaro, "Proposal Sosialisasi Otonomi Khusus dan Luas Propinsi Timor Timur," 24 March 1999 (HRU Collection, Doc. BOB #2); and Bupati Manufahi, Proposal for the socialisation of special autonomy in Manufahi, May 1999 (SCU Collection, Doc #2).

Bupatis, "that in principle your proposal and funds totaling Rp3,000,000,000, have been approved."[*]

438. The budget proposals and the Governor's letters of approval spelled out clearly how the government money was to be spent. As much as 20% of the total was to be allocated for payments to key government and military officials at the District level, collectively referred to as Kodal (Komando dan Pengendalian, Command and Control).[†] According to the Manufahi budget proposal, Kodal payments would include: Rp100 million ($13,333) for the Bupati, Rp50 million ($6,666) for the Dandim, Rp50 million ($6,666) for the Kapolres, Rp30 million ($4,000) for the TNI Sector Commander, Rp25 million ($3,333) for the Territorial Battalion Commander, Rp25 million ($3,333) for the Commander of the Kopassus Task Force Tribuana, Rp20 million ($2,666) for each of the four Sub-District Heads in the District and Rp10 million ($1,333) for each of the 29 Village Heads.[‡]

439. According to the Manufahi proposal, these 'Kodal' expenditures were intended to cover ". . . expenses associated with the substance of the autonomy plan and other needs linked to socialisation activities." That vague formulation ensured that Kodal allocations could easily be used, among other purposes, to finance and supply militia groups. Although it is difficult to confirm, one former official in the Bobonaro District government (Benjamin Barreto) has alleged that the Dandim there received some Rp800 million ($106,666), and that he used it to pay bounty for the murder of pro-independence people: "For each person you killed you got 3 million Rupiah ($400). That was the District Military Commander's plan."[§]

440. Large portions of the budgets approved by the Governor were also set aside for such amorphous categories as 'socialisation' (20%), 'community assistance' (30%), 'mobilisation' (15%), and 'infrastructure development' (5%).[¶] These broad categories provided ample leeway for funds to be siphoned off by officials and used as they wished. According to the Manufahi proposal, for example, Rp.356 million ($47,466) in 'Socialisation Task Force' funds were "intended to support the work of 150 members of the Socialisation Task Force, including provision of clothing, food, training and salaries." The Bobonaro proposal also referred to a 'Socialisation Task Force' to which

* See: Letter from Governor of Timor-Leste to Bupati of Oecussi, June 1999; Letter from Governor of Timor-Leste to Bupati of Lautém, 21 May 1999 (SCU Collection, Doc #2).

† The figure of 20% for Kodal was stipulated in the revised budgets outlined in the Governor's letters to the Bupatis of Oecussi and Lautém (SCU Collection, Doc #2).

‡ Bupati Manufahi, Proposal for the socialisation of special autonomy in Manufahi, May 1999 (SCU Collection, Doc #2). The Bobonaro proposal allocated Rp510 million for Kodal payments, with a roughly similar breakdown. See: Bupati Bobonaro, "Proposal Sosialisasi Otonomi Khusus dan Luas Propinsi Timor Timur," 24 March 1999 (HRU Collection, Doc. BOB #2).

§ Cited in SBS, *Dateline*, "Timor Terror Fund," 16 February 2000, transcript, p. 31.

¶ The categories and percentages cited here are from the revised budgets contained in the Governor's letters of approval to the Bupati of Lautém and the Bupati of Oecussi (SCU Collection, Doc #2).

it allocated Rp150 million ($20,000).* The precise composition of these 'Socialisation Task Forces' was not specified in either proposal, but judging from the actual conduct of the 'socialisation' campaigns in Manufahi and Bobonaro and elsewhere, it included militia leaders and members. In a similar fashion, some part of the allocations for 'community assistance,' 'mobilisation,' and 'infrastructure development' were almost certainly channelled to the militias.

441. In addition to such indirect appropriations, all of the socialisation budget proposals and the Governor's approvals explicitly allocated funds for militia and para-military organisations. In his May letter of instruction to all Bupatis, and his letters of approval to the Bupatis of Lautém and Oecussi, for example, the Governor ear-marked 5% of the total budget in each District for Pam Swakarsa, the official term for militia groups.†

442. Additional funds were provided to militia groups under various other categories. Under the rubric 'assistance to organisations,' for instance, Manufahi proposed the disbursement of funds to various pro-autonomy groups and militias. As the proposal explained:

> "In educating the public about autonomy, the role of community organisations is very important. In order to boost the capacity of local organisations, such as BRTT, FPDK, Klibur and ABLAI, funding will be provided to each of these groups."‡

443. The first three of these groups were each to receive Rp25 million ($3,333), while ABLAI, the principal armed militia group in the District, was allocated Rp50 million ($6,666). These funds were in addition to the 5% of the total Manufahi budget allocated for Pam Swakarsa.§

444. The Bobonaro proposal also requested funds for pro-autonomy organisations and militias. Under the category 'infrastructure development' the proposal allocated Rp90 million ($12,000) for the FPDK, the BRTT, and the paramilitary militia group Halilintar. In a separate category, it allocated Rp.1 billion, or roughly one third of the entire socialisation budget, to the District's Pam Swakarsa (i.e. militias). That amount, the proposal clarified, would cover the cost of "wages," "food," and "communications equipment" for the militia groups.¶

445. In addition to this evidence that district administrations requested funding for the militias, and that these funds were approved by the Governor, there is evidence

* See: Bupati Bobonaro, "Proposal Sosialisasi Otonomi Khusus dan Luas Propinsi Timor Timur," 24 March 1999 (HRU Collection, Doc. BOB #2).

† See: Letter from Governor of Timor-Leste to Bupati of Oecussi, June 1999; Letter from Governor of East Timor to Bupati of Lautém, 21 May 1999 (SCU Collection, Doc #2).

‡ Bupati Manufahi, Proposal for the socialisation of special autonomy in Manufahi, May 1999 (SCU Collection, Doc #2).

§ Ibid.

¶ Bupati Bobonaro, "Proposal Sosialisasi Otonomi Khusus dan Luas Propinsi Timor Timur," 24 March 1999 (HRU Collection, Doc. BOB #2).

that funds and other supplies were actually distributed to the militias. Documents from the militia group Aitarak, for example, provide details of the payments made to militia members in the District of Dili. A document from June 1999, signed by Aitarak Commander Eurico Guterres, indicates that ordinary militia members each received 10 kg of rice and Rp150,000 ($20) per month, while members who were civil servants received 10 kg of rice and Rp50,000 ($6.66) on top of their normal salary. The document lists 1,355 ordinary members, 107 members who were civil servants, and 60 'advisors,' and indicates that the total amounts disbursed for the month of June 1999 were 15,220 kg of rice and Rp22,760,000 ($3,034.66) in wages.[*]

Sources of government funding

446. Government documents and the testimony of former civil servants provide important information about the sources of government funding to the militias and pro-autonomy groups. They show that funds were diverted, with official approval, from the budget lines of various government departments (including Education and Culture, Public Works, and Transmigration) to the 'socialisation' budget from which the militias were paid. They also confirm allegations that some part of the 'socialisation' budget came directly from Jakarta under the auspices of a development plan funded through the Office of the President.

447. Some of the key pieces of evidence come from the District of Bobonaro, and include: (i) a document from the Bobonaro District Budget Office, concerning the Regional and District Development Program;[†] (ii) a ledger from the Bobonaro District Budget Office, dated 5 July 1999;[‡] and (iii) a letter from the Bupati of Bobonaro to the Governor requesting permission to divert funds from other budget lines for use in the 'socialisation' campaign.[§] Together, these documents confirm that funding for the militias, and for the 'socialisation' campaign more generally, was diverted from normal government budgets, and that some if not all of it came directly from Jakarta.

448. The first of these documents, which refers to Bobonaro's 'Regional and District Development Program,' indicates that the total budget for that project was Rp3.162 billion – exactly the amount of the proposed socialisation budget submitted by the Bupati to the Governor in late May 1999. This exact match all but confirms that the appropriation for the 'socialisation' campaign was approved and funded under the name of the 'Regional and District Development Program,' and that the 'socialisation' campaign and this 'development' program were one and the same thing.

* Similarly, an internal Aitarak document shows that the group had a wage budget of Rp356,340,000 ($47,512) of which it had expended Rp221,104,000 ($29,480) as of 23 August 1999. See: Komando Pasukan Aitarak, memorandum from Treasurer to Eurico Guterres, 24 August 1999 (SCU Collection, Doc #79).

† 1Kabupaten Daerah Tingkat II Bobonaro, "DIPDA [Daftar Isian Proyek Daerah] Proyek Bantuan Pembangunan Daerah Tingkat II Tahun Anggaran 1999/2000" (HRU Collection, Doc. BOB #3).

‡ Kabupaten Daerah Tingkat II Bobonaro, "Laporan: Keadaan Kas Bendahara Per 30 Juni 1999," Maliana, 5 July 1999 (HRU Collection, Doc. BOB #4).

§ Bupati Bobonaro to Governor of Timor-Leste.Secret Letter No. 195/UM/VII/1999, 27 July 1999 (HRU Collection, Doc. BOB #5).

449. That conclusion is confirmed by the second key document, the ledger from the Bobonaro District Budget Office dated 5 July 1999 that provides a detailed breakdown of the 'Regional and District Development Program' budget. The items listed in the ledger are precisely the same as those listed in the Bupati's 'socialisation'proposal. The document confirms, moreover, that roughly two thirds of the total project budget (Rp3.162 billion or $421,600) had been received and disbursed by 30 June 1999, while roughly one third was still being awaited by the District.*

450. The third document, a letter from the Bupati of Bobonaro to the Governor, dated 27 July 1999, provides important information about other sources of funding for the 'socialisation' campaign in Bobonaro, and insight into the accounting mechanisms that might have been used in other districts. In this letter, the Bupati explained to the Governor that the District was short of funds to pay for the 'socialisation' campaign, and specifically requested permission to divert some Rp2.5 billion ($333,333) from the District Offices of the Department of Education and Culture and the Department of Public Works into the 'socialisation' campaign.† The language of the Bupati's request is straightforward:

> "In that connection, I am requesting that funds already allocated for various projects under the 1999/2000 budget, be diverted for activities related to the socialisation of autonomy."‡

451. An attachment to the letter clarifies that the money to be diverted from the Department of Education and Culture had originally been allocated for building and repairing elementary schools in the District.

452. Bobonaro was hardly alone, however, in diverting funds from other budget lines to pay for the 'socialisation' campaign. Indeed, the documentary evidence makes it clear that the diversion of funds for socialisation was ordered by the Governor, with the full knowledge of the central government. In a May 1999 letter sent to all provincial Heads of Department (Kakanwil) in Timor-Leste, and copied to key ministers in Jakarta, the Governor explicitly instructed that between 10% and 20% of all departmental budgets should be diverted to fund the socialisation campaign.§ The key passage of the letter reads as follows:

> "With this in mind, all available resources in the province should be mobilised in an optimal fashion to ensure the success of the autonomy

* Kabupaten Daerah Tingkat II Bobonaro, "Laporan: Keadaan Kas Bendahara Per 30 Juni 1999," Maliana, 5 July 1999 (HRU Collection, Doc. BOB #4).

† The precise amounts the Bupati wished to have diverted were: Rp850,790,000 ($113,438) from the Department of Education and Culture and Rp1,165,000,000 ($155,333) from the Department of Public Works. Bupati Bobonaro to Governor of Timor-Leste. Secret Letter No. 195/UM/VII/1999, July 27, 1999 (HRU Collection, Doc. BOB #5).

‡ Ibid.

§ The Governor's letter was copied to several key officials including: the Armed Forces Commander, the Minister of Foreign Affairs, and the Minster of Finance (Yayasan HAK Collection).

option. All departments are therefore asked to contribute between 10% and 20% of their 1999/2000 budgetary allocations for the socialisation of autonomy."*

453. Testifying before an Indonesian court in June 2002, the East Timor Provincial Secretary, Rajakarina Brahmana, confirmed that between 10% and 20% of the provincial government budget had indeed been diverted to the pro-autonomy socialisation campaign, including the militias.†

454. There is also good evidence that much of the roughly Rp3 billion made available to each District administration in 1999 was drawn from a World Bank-mandated 'Social Safety Net' welfare project (Proyek Dukungan Jaringan Pengamanan Sosial – JPS). The clearest evidence to that effect is the May 1999 letter from the Governor to all Bupatis, noted earlier, in which he instructed them to prepare socialisation budget proposals. That letter referred explicitly to the 'Social Safety Net' project as the source from which funds would be drawn:

> "Further to my letter Number: 915/712/II.BIPRAM/V/1999 of 5 May 1999 concerning the implementation of the Regional and District Development Program, Social Safety Net Project (JPS) in each District, you are hereby requested to prepare a draft outline for the use of these funds, in accordance with the following proposal."‡

455. A number of other documents similarly indicate that 'Social Safety Net' funds were used for the socialisation campaign. One of the 'socialisation' budget proposals (from Manufahi), and both of the Governor's letters of budgetary approval, refer explicitly to that 'Social Safety Net' as the project from which 'socialisation' funds will be drawn.§

456. Testimonial evidence supports the claim that 'Social Safety Net' funds were diverted to pay for the 'socialisation' campaign. In November 1999, a former civil servant told the International Commission of Inquiry on East Timor of a meeting in Lautém at which it had been explained that the funding for socialisation in that District would come from monies originally allocated for 'welfare activities' – very likely 'Social Safety Net' funds. In the words of the Commission:

> "A former government official testified that at an official meeting on 5 May 1999 the question of use of funds allocated for welfare activity to meet the cost of securing support for autonomy had been discussed. It

* Letter from Governor of Timor-Leste to all Provincial Heads of Department (Kakanwil) in Timor-Leste, dated May 1999 (Yayasan HAK Collection).

† "Funding for East Timor Militias Came From State," *Jakarta Post*, 14 June 2002.

‡ Governor of Timor-Leste to all Bupatis. Circular Letter concerning "Proposal," May 1999. (SCU Collection, Doc #A).

§ Letter from Governor of Timor-Leste to Bupati of Oecussi, June 1999; Letter from Governor of Timor-Leste to Bupati of Lautém, 21 May 1999; Proposal for the socialisation of special autonomy in Manufahi, May 1999 (SCU Collection, Doc #2).

> had been decided to spend 3.5 million Rupiah for the distribution of rice and other gifts to the people, with a view to manipulating the vote in favour of autonomy."*

457. Significantly, the documents show that these funds were not diverted in a clandestine fashion, but in apparent accordance with established bureaucratic procedures.† In his letters of approval to the Bupatis of Lautém and Oecussi, for example, the Governor explained that the 'Control Team' of the 'Social Safety Net' project had vetted and approved both proposals. In his letter to the Bupati of Lautém, dated 21 May 1999, the Governor wrote:

> "I have the pleasure to inform you that the proposal has been studied by the Control Team of the Social Safety Net project . . . administered by the provincial government, and that in principle your proposal . . . has been approved."‡

458. This documentary and testimonial evidence might appear to suggest that the funding of the 'socialisation' campaign, and of the militias, was organised exclusively at the District and Provincial level, and that the parties ultimately responsible were the Governor and the 13 Bupatis. Yet the reality is that, given the highly centralised structure of the Indonesian bureaucracy, these funding arrangements could not have been made without the approval of government officials in Jakarta. On those grounds alone, it is reasonable to conclude that funding for the militias was done with the approval of central government authorities.

459. There is also substantial evidence that central government bodies – including several Ministries, the military intelligence agency, BAIS (before April 1999, BIA), and even the Office of the President – were directly involved in diverting funds to the militias, usually under the auspices of the 'socialisation' campaign. The testimony of former pro-Indonesian leaders and East Timorese government officials suggests that substantial funding was provided, or authorised, among others, by the Ministry of Transmigration, the Ministry of Information, and the Ministry of Foreign Affairs. That evidence places responsibility even more squarely with central government officials.

460. One former pro-Indonesian figure, Tomás Gonçalves, has claimed that in early 1999 he met several high ranking TNI officers to discuss the provision of funds and weapons to pro-autonomy groups. The officers he met reportedly included the Regional Military Commander for Kodam IX, Maj. Gen. Adam Damiri; the Assistant for Operations to

* United Nations, Office of the High Commissioner for Human Rights, "Report of the International Commission of Inquiry on the Question of East Timor," 31 January 2000, paragraph 63.

† A related allegation regarding the use of 'Social Safety Net' funds has been difficult to confirm. An Australian documentary has claimed that the 'Department of Political Affairs'(sic) [possibly referring to the Coordinating Ministry for Political and Security Affairs] brokered a loan to the Timor-Leste office of the Department of Finance, with an agreement that the loan would be repaid when the 'Social Safety Net' money came through. See SBS, *Dateline*, "Timor Terror Fund," 16 February 2000, transcript, pp. 25.

‡ Letter from Governor of Timor-Leste to Bupati of Lautém, 21 May 1999 (SCU Collection, Doc #2).

the Army Chief of Staff (and later Martial Law Commander), Maj. Gen. Kiki Syahnakri; the Minister of Transmigration, Lt. Gen. (ret.) Hendropriyono, and the Minister of Information, Maj. Gen. (ret.) Yunus Yosfiah. "The point they made," Gonçalves said, "was that if we continue[d] to defend the red and white flag, they were ready to provide any funding and all sorts of guns and all the troops here could help us."[*]

461. According to Gonçalves, the Minster of Transmigration, Lt. Gen. (ret.) Hendropriyono, was especially enthusiastic, and instructed the Head of the Transmigration Department for Timor-Leste to "devote the whole department budget for the use of the militias."[†] The Minister of Information, Maj. Gen. (ret.) Yunus Yosfiah, was also keen on the militias, according to Gonçalves, and offered to introduce the pro-autonomy leaders to key people in Jakarta in order to obtain government support: "In his conversation on preparing the militia he even called [the Danrem, Col.] Tono Suratman a coward because he was taking too long to act. We should act now because we're ready to support you with guns or anything else."[‡]

462. A former official of the Timor-Leste office of the Department of Finance has stated that money was also made available to pro-autonomy groups by the Ministry of Foreign Affairs. At least Rp9 billion ($1.2 million), he has said, was given to the FPDK in early 1999. In view of the evidence detailed below that the FPDK channelled funds and supplies to militia groups, that testimony implicates the Foreign Ministry in the financial backing of the militias. In fact, a second installment of funds to the FPDK was reportedly stopped when the Ministry discovered how the first tranche had been used.[§]

463. Perhaps most significantly, there is documentary evidence that funding for 'socialisation,' and therefore also for the militias, came directly from the Office of the President. The evidence lies in two of the documents from Bobonaro already discussed. The first of those documents, which refers to the 'Regional and District Development Program' for Bobonaro, specified that the source of the money for the project, and thus for the socialisation budget, was 'INPRES DATI II.' INPRES means 'Instruksi Presiden' or Presidential Instruction, and DATI II, means Daerah Tingkat II, or District.[¶]

464. What this signifies is that the Rp3.162 billion ($421,600) allocated for Bobonaro's 'socialisation' campaign, including the money allocated for militias, came directly from Jakarta, under the authority of the Office of the President. It is very likely that the 'socialisation' budgets in other Districts came from the same source. If that is the case, it means that responsibility for funding the militias in 1999 extends to the Office of the President.

* Cited in SBS, *Dateline*, "Timor Terror Fund," 16 February 2000, transcript, pp. 18-19.

† SBS, *Dateline*, "Timor Terror Fund," 16 February 2000, transcript, p. 19. For a similar allegation, see "Timor Coup Planned," The Age, 22 June 1999.

‡ Cited in SBS, *Dateline*, "Timor Terror Fund," 16 February 2000, transcript, p. 21.

§ SBS, *Dateline*, "Timor Terror Fund," 16 February 2000, transcript, p. 22.

¶ Kabupaten Daerah Tingkat II Bobonaro, "DIPDA [Daftar Isian Proyek Daerah] Proyek Bantuan Pembangunan Daerah Tingkat II Tahun Anggaran 1999/2000" (HRU Collection, Doc. BOB #3).

TNI funding and material support

465. In addition to the substantial resources that flowed directly from, and through, the civilian government apparatus, some funding for 'socialisation' – and therefore also for the militias – came from, or was distributed through, military channels. The TNI also provided ample material and logistical support to the militias in the form of equipment, clothing, transport, lodging, medical supplies, and weapons. The full extent of military involvement in such funding and material support is not yet known, but the testimony of former TNI officers, and recently discovered documents, show conclusively that it took place, and that it was officially sanctioned.

466. A document from Ermera, for example, shows clearly the military's official involvement in the distribution of funds and supplies to the militias. The document is a letter from the Dandim of Ermera to the Bupati, dated April 1999, in which he requests Rp104 million ($13,866) to cover the Rp200,000 ($26.66) monthly salaries of the newly recruited Pam Swakarsa (i.e. militias) in the District. The Dandim also requests 6,405 kg of rice for distribution to the new militia members.[*] As authority for these requests, the Dandim refers explicitly to a 23 April 1999 order from the Governor and the Danrem calling for the creation of Pam Swakarsa.

467. This document confirms that, while 'socialisation' funding was formally channelled through the office of the Bupati, in some instances funding for the militias also flowed through the TNI hierarchy. That evidence is consistent with information from TNI and militia sources obtained by international observers in 1999. The Dandim in Baucau, for example, told officials of the Carter Center in July 1999 that the militias in his area were organised, trained, and supplied by the TNI. Likewise, militia members in Baucau told the Carter Center that they went to the Kodim in Baucau each month to collect their pay.[†]

468. The TNI also supported 'socialisation' and the militias by channelling its own funds back to the civilian government. That process is revealed in a letter dated 23 June 1999, from the Dandim of Dili, Lt. Col. Endar Priyanto, to the Bupati. The letter explains that the Dandim was contributing Rp50 million ($6,666) to the Bupati as "support for Kodal," as agreed at a meeting regarding preparations for the Popular Consultation. The money, it further explains, was intended to help "in the creation of conditions that are conducive, peaceful and orderly" in the District of Dili.[‡]

469. Although still limited, there is growing evidence that some of the funding and material support for the militias originated from military sources in Jakarta, including the military intelligence agency BIA (renamed BAIS in April 1999).

* Only the newly recruited members, of whom there were then 175 in Ermera, would receive Rp200,000/month ($26.66). The rate for old members, of whom there were 136, was set at Rp125,000/month ($16.66). Letter from Lt. Col. Muhamad Nur, District Military Commander 1637/Ermera, to the Bupati of Ermera, "Permohonan Uang Saku PAM Swakarsa," dated June, 1999. A copy of this document is in the author's possession.

† Personal communication with the Carter Center, 26 July 1999.

‡ Dandim 1627/Dili (Lt. Col. Endar Priyanto) to Bupati Dili. Letter No.B/415/VI/1999, 23 June 1999 (Yayasan HAK Collection, Doc #32).

470. An Australian DSD intercept of 9 August 1999 reportedly revealed that Brig. Gen. Arifuddin, 'Director A' of BIA/BAIS, had arranged for the production of several thousand pro-autonomy flags and T-shirts to be distributed to militias and others in Timor-Leste.* That evidence confirmed that the military, and especially military intelligence, was directly involved in providing material support to pro-autonomy groups, including the militias. It may be significant, too, that until January 1999, BIA/BAIS had been headed by Maj. Gen. Zacky Anwar Makarim. Given Makarim's own key role in orchestrating military and militia strategy in Timor-Leste in 1999, it would not be unreasonable to see his hand in these BIA/BAIS militia support operations.

471. Further indications of TNI and BIA/BAIS support for the militias emerged in 2000, when a number of Army officers were accused of producing and distributing millions of dollars of counterfeit money. One of those implicated was Brig. Gen. Soemaryono, a planning officer under Army Chief of Staff, Gen. Subagyo Hadisiswoyo.† According to reports, he had helped to organise the counterfeit scheme in order to fund Timor-Leste's militias. Other testimony in the case suggested that the operation had been run by the military intelligence agency, BIA/BAIS, on orders from Gen. Wiranto. After testifying in the case in late 2000, a retired intelligence officer reportedly said that the head of BIA/BAIS, Lt. Gen. Tyasno Sudarto, had told him "that General Wiranto had picked BIA to run the counterfeit money operation to fund the militias."‡

472. There is some evidence, too, that Gen. Wiranto may have authorised the diversion of real state funds in order to pay for the pro-autonomy campaign. During a court hearing on a corruption case in late 2001, the Head of the National Logistics Agency (Bulog), Rahardi Ramelan, said that he had taken Rp10 billion from Bulog's funds and 'loaned' it to Gen. Wiranto. He said he was told that the funds were to be used to pay for the pro-autonomy groups in Timor-Leste.§

473. Finally, there is evidence that other senior military officers promised to deliver substantial funds to militia groups. The indictment of Gen. Wiranto and seven others, issued by Timor-Leste's Deputy General Prosecutor for Serious Crimes alleges, for example, that at a meeting in Dili in November 1998, the Regional Military Commander, Maj.Gen. Adam Damiri offered to give Eurico Guterres Rp50 million to start the work of forming militia groups.¶

* "Silence Over Crimes Against Humanity," *Sydney Morning Herald*, 14 March 2002.

† See "Retired General Faces 4-year Term," *Indonesian Observer*, 28 November 2000; "Two ex-Army Colonels Nabbed Over Fake Money," *Jakarta Post*, 3 July 2000.

‡ "Two Ex-soldiers Jailed for Counterfeiting," *Jakarta Post*, 22 September 2000; "Alleged Counterfeiter Claims Army Used Him to Finance Timor Militia," *AFP*, 13 September 2000.

§ "Wiranto Akui Dana Rp 10 M. Untuk Jajak Pendapat Timtim," *Detikcom*, 31 October 2001; and "Soal Dana Bulog Rp 54 milyar: Rahardi – Diserahkan Kepada Akbar Tandjung dan Wiranto," *Kompas*, 10 October 2001.

¶ "During this meeting with pro-Indonesian leaders," the indictment reads "Damiri praised future militia leader Eurico Guterres as being a young man eager to fight for integration and said that he was willing to give Guterres fifty million rupiah to begin his work." Indictment of Wiranto et al, February 2003, paragraph 13.

474. The TNI also had a number of formally established budget lines that were tapped for pro-autonomy purposes in 1999. One of these was the 'Operation Elections-'99 Security Task Force Fund' (Dana Satuan Ops Pam Pemilu '99). Though its name suggested it was to be used for activities related to the June 1999 Indonesian elections, it was also used for activities related to the Popular Consultation in Timor-Leste. When the Regional Military Commander, Maj. Gen. Adam Damiri, ordered a delegation of several Kodam IX officers to go to Timor-Leste in early June 1999 to check on plans for the elections and the Popular Consultation, he specified that this fund should be used.[*] It is very likely that the same fund – and others about which we do not yet know – were used for other purposes related to the Popular Consultation.

475. Military involvement in funding and supplying the militias took other forms as well, both formal and informal. It is self-evident that the TNI paid for the weapons and other military gear that they distributed to the militias. Some militia units – such as Halilintar in Bobonaro, and Rajawali and Saka in Baucau – were especially well equipped, and could be seen sporting full or near-complete combat gear (fatigues, boots, etc.). But virtually all militia groups were equipped with, or had access to, a range of expensive materials, including sophisticated radio communications equipment normally used only by military and police authorities.

476. Military and police authorities in Timor-Leste also made informal financial and in-kind 'contributions' to militia groups. In a report to the Commander of Aitarak Company B, dated 2 August 1999, a local militia commander provided a list of the contributions that had been secured from various official agencies and businesses in support of festivities to be held at his militia post in Dili. The list contained 14 names with signatures, and the amount contributed by each. The offices and officials on the list included the key civilian, police and military figures in the city: the Office of the Mayor of Dili, the Dili Chief of Police, and Kodim Dili.[†]

477. Finally, military authorities could and did exert their authority over other government agencies to ensure that funds and supplies were directed to militia groups even where there was no formal budgetary provision for such expenditures. A March 1999 letter from a Kopassus officer to the head of the Baucau District health office, offers insight into the process.[‡] The letter requests medical supplies for the explicit purpose of 'mobilising' the population and 'improving the morale' of local militia members and supporters. After mentioning the militia groups Saka, Sera and Alfa, and referring to some 600 family members and "supporters of the operation," the letter requests medical supplies in order to facilitate "the mobilisation of the local population

* Panglima Kodam IX/Udayana (Maj. Gen. Adam Damiri). "Surat Perintah No. Sprin/654/V/1999," 31 May 1999 (Yayasan HAK Collection, Doc #27).

† Komandan Peleton IV, Pos III, Aitarak (Nicolau P.Lobato) to Komandan Kompi B Aitarak. Report No. 03/ Pos III/ATK/IV/ 1999, concerning "Laporan hasil dukungan," 2 August 1999 (SCU Collection, Doc #219).

‡ The letter is from the head of the health unit of 'Field Unit-A' of Kopassus' 'Task Force Tribuana-VIII.' See: Komandan Satuan Lapangan-A, Satuan Tugas Tribuana VIII, to Kepala Dinas Kesehatan Tingkat-II, Kab. Baucau, "Permohonan Dukungan Obat Bulanan Pos Dan Kes Satlap-A," March 1999 (Yayasan HAK Collection, Doc #14).

and to improve the morale of militia members and sympathisers."[*] The letter leaves little doubt that the TNI, and in particular Kopassus, exerted its considerable authority to direct material support to the militias.

FPDK as funding channel

478. In addition to the money and resources that flowed through civilian government and military channels, support was provided to the militias through a variety of indirect means. Much of it was channelled through the FPDK, one of the two pro-autonomy organisations set up in early 1999. Indeed, there is reason to believe that, whatever else it did, the FPDK served a covert purpose – as a conduit for the dis-bursement of government and military funds and materials to the militias. There is reason to believe that the BRTT also served as a mechanism of support, and perhaps a conduit of funds, for the militias.

479. Some of the evidence for these claims is circumstantial. For example, by his own account, in early 1999 the FPDK leader, Basilio Araújo, went to Jakarta to ask government and military officials for money and weapons. Interviewed by an Australian journalist at the time, he said that he was quite sure that his request would be positively received.[†] On its own, that does not prove much. However, together with the testimony that the Foreign Ministry provided FPDK with Rp9 billion ($1.2 million), and documentary evidence that the group soon had access to substantial amounts of money and supplies, which it distributed to the militias, it points the finger of responsibility clearly toward officials in Jakarta.

480. Some of the clearest evidence that the FPDK distributed money and supplies to the militias comes from Covalima District. A document prepared by the FPDK district office in Covalima, for example, lists the names of 143 members of the Laksaur militia group (Company 2/Tilomar), each of whom had received Rp800,000 from the FPDK between April and July 1999.[‡] A second document from the same FPDK office lists the names of 16 civil servants, also members of Laksaur, who had each received Rp400,000 from the FPDK in the same four-month period.[§]

481. Documents from Dili point to a similar patronage relationship between FPDK and the militia group, Aitarak. In a letter to the provincial head of the FPDK, dated 18 August 1999, Aitarak leader Eurico Guterres requests Rp117,000,000 to cover the cost of meals for 600 Aitarak members who would be staying at Aitarak head-quarters during the 13-day campaign period. Guterres wrote: "I request the General Chairman of the Governing Council of the FPDK to release operational funds to pay the cost of food to support Aitarak Troop Command member activities." The matter-of-fact tone

* Ibid.

† ABC, *Four Corners*, "License to Kill," 15 March 1999, transcript, p. 6.

‡ See: Ketua FPDK-Covalima (Alberto de Neri), "Daftar: Nama Satuan Tugas Laksaur Merah Putih Kompi-2 Tilomar Yang Menerima Bantuan Biaya Dari FPDK Kabupaten Covalima Bulan April s/d Juli 1999," [August] 1999 (SCU Collection, Doc #182).

§ "Nama Satuan Tugas Laksaur Merah Putih Kompi 2 Tilomar Yang Menerima Bantuan Biaya Dari FPDK Kabupaten Covalima Bulan April s/d Juli 1999 Khusus Untuk Pegawai Negeri Sipil." (SCU Collection, Doc #182).

of this letter, and the fact that it requests the "release of operational funds," strongly suggest that a budget line already existed within the FPDK for such purposes, and that requests from militias were a routine occurrence.*

482. Another letter to the provincial head of the FPDK, dated 21 August 1999, confirms that suspicion. In that letter, Guterres requested 120 "additional" pro-autonomy T-shirts, 70 of them for Aitarak members "who have not already received one" and 50 for people in the village of Motael, Dili. The language in the letter – and specifically the word 'additional' – leaves no doubt that the FPDK had already provided T-shirts to Aitarak members on previous occasions. Moreover, in referring to 70 militia members who had not yet received a shirt, the letter implicitly but clearly indicates that Aitarak's other members – who numbered about 1,500 – had already received shirts from FPDK.†

483. The letter of 21 August takes on even greater significance when it is viewed alongside the evidence already noted that Brig. Gen. Arifuddin, Director A of the military intelligence agency, BAIS, had arranged for the manufacture of some 5,000 pro-autonomy T-shirts in 1999. That evidence could well indicate that the FPDK was a conduit for the disbursement of funds and material from BAIS itself, or from high-ranking TNI officers, like Maj. Gen. Zacky Anwar Makarim, with close ties to the agency.

Militia budgets

484. Some of the evidence pointing to official funding of the militias is in the form of requests and budget proposals submitted to civilian and military authorities by militia groups. On their own, such requests and proposals do not necessarily prove that official support was forthcoming. However, viewed in the context of the pattern of official funding already described – and noting the routine tone and language that is common to these requests – they offer further support for the claim that the militias received official funding and logistical support. They also provide a sense of the range and character of the funding and other material support that may have been provided.

485. It is noteworthy that many of these requests were addressed to the TNI, and especially the Korem and Kodim commanders. In a letter to the Dandim of Dili, dated 16 August 1999, the Aitarak leader, Eurico Guterres requested that the TNI pay the wages of 76 Aitarak members who had not yet received payment through the normal channels. Only 1,445 of Aitarak's 1,521 members had received their wages, he complained, and the Mayor of Dili had said there was no money left to pay them. In addition to confirming that the militias were normally paid through the civilian

* See: Komandan, Komando Pasukan Aitarak, Sektor B (Eurico Guterres) to Ketua Umum DPP FPDK Timor Timur, concerning "Mohon Dukungan Dana," 18 August 1999 (SCU Collection, Doc #47).

† The relevant passage reads: "Accordingly, I hereby request the General Chairman of the Governing Council of the FPDK to provide 120 additional Pro-autonomy T-shirts . . . including 70 for Aitarak members who have not already received one, and 50 for people in the village of Motael." See: Komandan, Komando Pasukan Aitarak, Sektor B (Eurico Guterres) to Ketua Umum DPP FPDK Timor Timur. Letter No. 57/Mk-AT/VIII/1999, concerning "Mohon Dukungan Baju Kaos Otonomi," 21 August 1999 (SCU Collection, Doc #156).

administrative apparatus, the letter reveals that the TNI was regarded as a funding source of last resort for the militias.*

486. Other documents suggest that militia leaders were accustomed to having the TNI pick up the tab for their routine operating expenses. In a letter to the head of the state electricity agency in Dili, dated 12 August 1999, Eurico Guterres explained in a matter-of-fact tone that the unpaid electric bills for two houses in Dili should be forwarded to the Korem, because the houses in question were being used as Aitarak posts. We do not have proof that the Korem actually paid these bills, but the tone of the letter – and the fact that it was copied to senior officials including the Governor – strongly suggests that it was a routine matter for the TNI to pick up such expenses.†

487. Militia leaders made similar requests for logistical support from civilian government officials. In late April 1999, for example, the commander of Aitarak Company A and a militia post commander in the village of Vila Verde, Dili, wrote to the head of the Timor-Leste office of the Ministry of Education and Culture requesting office space and a vehicle in order to carry out their pro-autonomy activities. The militia leaders helpfully suggested that the vehicle they received should be seized from a civil servant who, they said, had been using it for pro-independence activities.‡

488. Another example of such a request for support came in a letter of 10 August 1999, from Eurico Guterres to the Mayor of Dili. In the letter, Guterres requested Rp60 million ($8,000) to cover fuel expenses for Aitarak personnel using 50 vehicles and 100 motorcycles during the campaign period. Like the others mentioned here, this appeared to be a routine request for the 'release' of funds, language that again suggested that there was a budget line already available for such expenditures. §

489. By far the largest requests for aid so far discovered are two budget proposals prepared by Aitarak, and signed by Eurico Guterres. One was submitted to the Governor of Timor-Leste on 18 May 1999, and the other to the Governor of East Nusa Tenggara (NTT), the neighboring Indonesian province, on 30 June. The proposal to the Governor of Timor-Leste requested a total of Rp477,490,000 ($63,665), to cover a wide range of needs, including: four vehicles, twenty motorbikes, funds for 'socialisation,' two computers, four typewriters, five cupboards, five desks, five fans, two computer desks, and so on. The proposal submitted to the Governor of NTT, for a total of Rp1,009,990,000 ($134,665), included a similar list, but added to it: salaries for

* See: Komandan, Komando Pasukan Aitarak, Sektor B (Eurico Guterres) to Dandim 1627/Dili. Report No. 148 SL/MK¬AT/VIII/1999, 16 August 1999 (SCU Collection, Doc #26).

† See: Komandan, Komando Pasukan Aitarak, Sektor B (Eurico Guterres) to Kepala PLN Wilayah IX Cabang Dili Tim-Tim. Letter No. 147/SP/MK-AT/VIII/1999, 12 August 1999 (SCU Collection, Doc #83).

‡ See: Danki Kompi AAitarak, Danpos Aitarak Desa Vila Verde, and Komandan Aitarak, Sector B (Eurico Guterres) to Kakanwil Depdikbud. Letter No. /PVV/AT/IV/1999, concerning "Permohonan Dukungan Sarana Untuk Pos Aitarak Desa Vila Verde," 26 April 1999 (SCU Collection, Doc #170).

§ See: Komandan, Komando Pasukan Aitarak, Sektor B (Eurico Guterres) to Wali KotaAdministratif Dili. Letter No. 142/ MK-AT/VIII/1999, concerning "Mohon Dukungan Biaya Bahan Bakar Kendaraan," 10 August 1999 (SCU Collection, Doc #172).

1,522 Aitarak members, as well as the cost of telephone, water, electricity, transport, and 'miscellaneous' items.*

490. On their own, these large budget proposals do not prove that official funding was forthcoming. However, like the many smaller requests already described, they do tell us that Guterres, and perhaps other militia leaders, had reason to expect that he would get something from government authorities. Moreover, in view of the fact that Aitarak did eventually acquire vehicles, motorcycles, office space, office equipment, and wages for some 1,500 members, it is not unreasonable to conclude that at least some of these requests did lead to funding from official sources.

491. The evidence presented in this chapter leaves little room for doubt that Indonesian civilian and military authorities, up to and including the Office of the President, provided the essential financial and material underpinning for the militias, both directly and indirectly under the auspices of the 'socialisation' campaign. More specifically, the evidence points to the following conclusions.

492. First, much of the official funding – an estimated Rp39 billion or US$ 5.2 million – was channelled through the civilian government bureaucracy in Timor-Leste, with the explicit approval of the Governor and the Bupatis. Some, perhaps most, of those funds were drawn or diverted from existing government budgets and pro-grams, including a World Bank-mandated 'Social Safety Net' project, and the Provincial budgets for Education and Culture, and Public Works. Given the highly centralised structure of the Indonesian bureaucracy, these arrangements could not have been made without the approval of central government officials in Jakarta.

493. Second, there is evidence that several Indonesian government ministries and bodies - including the Ministry of Transmigration, the Ministry of Information, the Ministry of Foreign Affairs, and the military intelligence agency, BAIS – provided enthusiastic support, and funding, for 'socialisation,' including the militias. There is documentary evidence, moreover, that at least some part of the money used to support the militias in Timor-Leste came directly from Jakarta under the guise of a development program funded through the Office of the President.

494. Third, documentary and testimonial evidence show that some funding for the militias was also channelled, directly and indirectly, through the TNI. In some districts militia members received their monthly wages and rice allotments at the Kodim office. The TNI also provided material support in the form of voluntary 'contributions' to militia groups, by exerting its authority to divert supplies to the militia from other government agencies, and by supplying the militias with weapons, combat gear, clothing, radio equipment, medical supplies, transportation and other logistical assistance.

495. Finally, additional funding and supplies were channelled through the pro-autonomy group, the FPDK. In some districts, such as Covalima, the FPDK paid the

* See: Komandan, Komando Pasukan Aitarak, Sektor B (Eurico Guterres) to Governor of East Timor. Letter No. 16/SP/ AT/V/1999, 18 May 1999 (SCU Collection, Doc #38); and Wakil Panglima, Komando Pasukan Pejuang Integrasi (Eurico Guterres) to Governor of Nusa Tenggara Timur. Letter No. 55/SP/MK-AT/ VI/1999, 30 June 1999 (SCU Collection, Doc #39).

monthly wages of local militias. Elsewhere, it provided the militias with T-shirts, flags, and other pro-autonomy paraphernalia. There is evidence to suggest, moreover, that the FPDK served as a covert channel for the distribution of funds and supplies to the militias from various central government agencies, including the Foreign Ministry and the main military intelligence agency, BAIS.

District summaries

496. The examination of the broad patterns of violence in 1999, and of the relationships that underlay them, can create a misleading sense of the uniformity of the situation across the country. This chapter aims to correct that imbalance, and to provide a more nuanced and complex picture of the events of 1999, by examining the human rights situation in 1999 in each of Timor-Leste's 13 administrative districts: Aileu, Ainaro, Baucau, Bobonaro, Covalima, Dili, Ermera, Manufahi, Manatuto, Lautém, Liquiçá, Oecussi, and Viqueque.

497. Each district summary consists of two main sections. The first describes the principal militia groups that operated in the district in 1999, and examines the relationship between those groups and the key military, police and civilian authorities in the district. The second section provides an overview of major human rights events and developments in the district in 1999, highlighting both general themes and specific incidents of violence. While they add complexity to the picture of events in 1999, these summaries also illustrate very clearly the general patterns and relationships discussed in the early part of this report.

498. Aileu (Kodim 1632)

- Dandim: Maj. Maman Rachman
- Bupati: Col. (ret.) Suprapto Tarman
- Kapolres: Lt. Col. (Pol.) Drs. Hermanu, SH
- Militias: AHI
- No. killed: 28

499. Compared to some other districts, Aileu suffered relatively low levels of political violence in 1999.* Twenty-eight people were killed during the year, the vast majority in one Sub-District (Aileu Kota). On the other hand, the district suffered levels of physical destruction comparable to other districts, and several thousands of people were forced to flee their homes, taking refuge in the mountains or in West Timor. The main perpetrators of the violence in Aileu were TNI soldiers and, to a lesser extent,

* Unless otherwise noted, this account is based on UNTAET, DHRO Aileu, "A Profile of Human Rights Violations in Aileu District During 1999," December 2001.

members of the local militia, AHI. Members of the Police Mobile Brigade were also directly responsible for some acts of violence.

Militias and authorities

500. The main militia group in the district, AHI, was formally established in April 1999, and it had an estimated strength of approximately 260 members. Like many of the ostensibly new militia groups that emerged at this time in Timor-Leste, AHI was formed on the basis of pre-existing militia and paramilitary organisations. The most important of these in Aileu was Gadapaksi, a quasi-military youth group established in 1995. At the time of AHI's formation, all existing members of those older groups were effectively folded into the new one. Highlighting the continuity, AHI's leaders in 1999 reportedly included the former commanders of the old groups.*

501. Formally, AHI had the support of the leading civilian authorities, including the Bupati, Col. (ret.) Suprapto Tarman and local government officials.† It was allocated office space in Aileu town, and in each of the Sub-Districts. The District authorities also provided AHI with two vehicles, which were used by its key leaders, and like militias everywhere it received funding and rice through the Bupati's office.

502. Despite these signs of official support, the backing of the authorities was not nearly as solid as it was in some other districts. At least some government authorities were evidently ambivalent about the militias. The Dandim, Maj. Maman Rahman, does not appear to have been a strong militia supporter, and the record of the Bupati, Col. Suprapto Tarman, was mixed. Although he threatened grave violence against pro-independence figures in August, and adopted an extremely bellicose posture in the post-ballot period, he was evidently not a quick convert to the idea of a militia force. In fact, he did not authorise the formation of AHI until April, and then evidently only to keep other militias – notably the Dili-based Aitarak – from operating in his district. That ambivalence would appear to have limited AHI's strength, and it may therefore help to explain the relatively small number of killings in the district.

503. Certain aspects of AHI's leadership and composition probably contributed to the same outcome. For example, AHI's commander Tomás Mendonça was said to be reluctant to distribute weapons to militia members. An ex-civil servant and former head of the District legislature, Mendonça was not as aggressive or as inclined to use violence as leaders of militias in other districts. AHI's behavior was probably also constrained by the fact that Aileu was a major CNRT and Falintil base area. In fact, by some accounts CNRT and Falintil members had managed to infiltrate AHI units, and at least one of AHI's commanders (the second-in-command, Julio Oscar Galucho) was said to be a clandestine agent of Falintil.

504. AHI did, however, benefit from the support of some regular TNI officers, including the Kodim Chief of Staff, Capt. Solapidin Dolok Seribu. In certain areas TNI officers and soldiers were directly involved in mobilising and coordinating militia activities.

* They included Horacio de Araújo, a former Gadapaksi leader, who was AHI's third in command.

† Col. Tarman had previously served as Dandim in Manufahi, and as Chief-of-Staff at Korem 164/WD.

The Commander for the Sub-District of Aileu, Sgt. Maj. Alex Cocoleu, was a strong militia supporter. In the Sub-District of Laulara, AHI was unofficially coordinated by a Babinsa, Pte. José Aleixo; while in Seloi Kraik, it was coordinated by TNI officer, Sgt. Pedro Araújo.

505. AHI's strongest base of support in Aileu was arguably from the Kopassus unit stationed there, and from the Dili-based militia group, Aitarak, itself a Kopassus creation. Aitarak had actually begun to operate in the Laulara Sub-District of Aileu in early 1999, apparently prompting the Bupati to accept Kopassus calls for the formation of a local group. Aitarak was also instrumental in setting up AHI, and Aitarak members came to Aileu periodically in 1999 to check up on AHI's operations.

Major human rights events

506. Perhaps owing to AHI's weakness, and the relative strength of Falintil and CNRT in the district, there were no killings reported through the entire pre-ballot period. However, these months were not completely free of violence. There were frequent reports of arrest, beating and torture of suspected CNRT and Falintil members. Sometimes these beatings took place at AHI premises, but just as often they occurred at Kodim heaquarters or in one or another Koramil. Some instances of sexual harassment and sexual violence, especially against women with CNRT sympathies, were also reported.

507. As it was throughout the territory, polling day was relatively peaceful in Aileu, and the calm continued at least until 3 or 4 September. With the announcement of the result, however, the situation changed dramatically. According to some accounts, the violence began that day with the systematic killing of livestock. TNI soldiers began the slaughter, using high-powered weapons, and then gave guns to militiamen to continue the task. From there, the violence escalated quickly.

508. TNI soldiers and Police frequently played a direct role in the violence. TNI officers reportedly ordered militia leader Tomás Mendonça to organise the burning of buildings in Aileu town. UNAMET Civpol officers reported that Indonesian Police had stood idly by while militias had burned down the CNRT office in Aileu town. And on 8 September, Capt. Seribu and Sgt. Maj. Cocoleu called some 20 TNI soldiers together at the Kodim. Once they had gathered, Sgt. Maj. Cocoleu reportedly told them to go out and burn and kill.

509. Between 4 and 14 September, at least 15 people were killed in the district. Eleven of the 15 were killed in the Sub-District of Aileu Kota, and four were killed in the Sub-District of Laulara. Apparently, none were killed in the Sub-Districts of Lequidoe and Remexio. The available information on the reported killings points again to the direct role of the security forces. TNI or Police officers were directly involved in at least 8 of the 15 killings, and they were the sole perpetrators in at least five. On 9 September, for example, Domingos Maukinta was shot and killed near Hohulu village, in Aileu Kota, by a TNI Sergeant, while on operation with several militiamen. The murder took place in the course of a joint TNI-militia campaign of burning and forcible evacuation directed by TNI Sgt. Maj. Alex Cocoleu.

510. As in other districts, the post-ballot period was also marked by massive destruction of property, intimidation, and forced evacuation. In that regard as well, the leading role of the TNI and Police was conspicuous. The burning of Aileu town began on 5 September, and was both deliberate and systematic. TNI soldiers and militiamen arrived at villages with 5-litre cans of petrol or kerosene, which they sprayed on the buildings before lighting them on fire. Villages in the vicinity of Aileu town were burned one-by-one on successive days.

511. Against this background, TNI and AHI militiamen began to round up thousands of villagers and transport them, or exhort them to walk, to Aileu town. As in a number of other districts, those living closest to the main roads were most likely to be rounded up. After waiting in Aileu for several days, on 14 September those who had been rounded up were moved from Aileu to Dili. A few days later, they were loaded on to trucks and transported from Dili to Atambua in West Timor.

512. Ainaro (Kodim 1633)

- Dandim: Lt. Col. Paulus Gatot Rudianto
- Bupati: Evaristo Doutel Sarmento
- Kapolres: Maj. (Pol.) Drs. Rizali, SH
- Militias: Mahidi, Laksaur
- No. killed: 34

513. The District of Ainaro suffered significantly higher levels of violence and destruction than Aileu.* At least 34 people were killed during the year, virtually all of them known or alleged supporters of independence. More than half of these killings (18) occurred in the Sub-District of Ainaro. An estimated 13,000 people were forcibly relocated in the post-ballot period, and some 3,700 buildings were burned or destroyed. Members of the TNI and the local militia group, Mahidi, were responsible for the vast majority of human rights violations in the district, including murder, attempted murder, torture and ill-treatment, intimidation, forcible relocation, and destruction of shelter and property.

Militias and authorities

514. The main militia group in Ainaro district was Mahidi (Mati Hidup Integrasi dengan Indonesia– Live or Die for Integration with Indonesia). Mahidi was formally established at a ceremony in Cassa in December, 1998.† The inauguration ceremony was reportedly attended by a number of government officials, including the national pro-autonomy figure Francisco Lopes da Cruz. The principal organisers, however,

* Unless otherwise noted, this account is based on: UNTAET, DHRO-Ainaro, "Report on Human Rights-Violations in 1999, Ainaro District," May 2001.

† Sources differ on the precise date of the ceremony. Most witnesses say it took place on 17 December, but others say 31 December 1999. A detailed, hand-written memo from July 1999 states that Mahidi was first established in Cassa on 31 December (SCU Collection, Doc #268).

were said to be elements of the Kopassus-led intelligence unit, SGI.* At the time of the inauguration, that group was referred to as 'Halilintar 612' and 'Battalion 612' suggesting a link with the TNI in neighbouring Bobonaro.

515. Over the next few months, Mahidi branches were established in each of Ainaro's sub-districts and villages. By mid-1999, Mahidi had an estimated strength of at least 1,000 men, divided into a military-type structure of Company, Platoon and Cell.† There were four main Companies (A, B, C and D) plus a headquarters company and a women's company.

516. Mahidi was under the overall command of Cancio Lopes de Carvalho.‡ His younger brother, Nemesio de Carvalho, was Deputy commander based in Cassa, and had responsibility for operations in the southern part of the district. A second Deputy Commander, Daniel Pereira, based in Manutassi, was responsible for operations in the north.

517. Like many of the militias that appeared in 1999, Mahidi had deep historical roots, and long established links with the Indonesian military. Its antecedents dated at least to 1991, when a militia organisation called the 'Volunteers' Organisation' (Organisasi Sukarelawan) was formed in the district. The leader of that group was none other than Cancio Carvalho, the Mahidi Commander. Like Mahidi, moreover, the 'Volunteers' Organisation' base area was the village of Cassa, in Ainaro Sub-District. Along with Manutassi, Cassa had also been one of the key strongholds of the pro-Indonesian Apodeti party in 1975-76. In the mid-1990s, the future leaders and members of Mahidi took part in a military training program run by the SGI in Aileu.

518. These strong ties to the military were very much in evidence in 1999. TNI officers demonstrated their support for Mahidi by attending its inaugural meetings, and by conducting joint meetings to 'socialise' the autonomy option. Among those who attended such meetings was the District Military Commander, Lt. Col. Paulus Gatot Rudianto.

519. The TNI was also instrumental in training Mahidi, and in planning and executing its operations. One training session, conducted by Kodim officers, was directly observed by UNAMET officials in June 1999. Militia training is also reported to have been conducted in the district by Kopassus officers attached to Combat Sector B. The TNI was also the main source of supply of weapons to Mahidi. A former Hansip member told UN investigators that, starting in late December 1998, weapons were supplied to Mahidi commanders, who then distributed them to the Sub-Districts (See

* They included Lt. Col. Nyus Rahasia, a Kopassus officer – and Deputy Commander of TNI Sector B – who also trained militias in Manatuto in May and June 1999 (See District Summary: Manatuto).

† In April 1999, some reports estimated Mahidi's strength at 2,000 members with 500 weapons, but local NGOs said the real figures were closer to 1,000 members and 37 firearms. UNTAET Peace Keeping Force, *Militia Handbook*, Dili, 5 April 2001.

‡ "In the wake of the Santa Cruz massacre, [Cancio Carvalho] collaborated with the SGI (Military Intelligence) in their hunt for the pro-independence activists. Since 1996, he has been living in Kupang where, until the fall of Soeharto, he worked at the Ministry of Justice." UNTAET, *Militia Handbook*.

Chapter 7). Finally, UNAMET officials and others routinely observed TNI and Mahidi members conducting joint patrols.

520. Mahidi also had the support of the Indonesian Police, or at the very least, they were able to operate without fear of Police interference. As in the rest of Timor-Leste, the Police in Ainaro were conspicuously unwilling to intervene to prevent or stop unlawful actions by the militias, or to investigate them when they were reported. In fact, confirming what had long been suspected, one former Police officer in Ainaro told UN investigators that Police had been given instructions to protect and assist the pro-autonomy groups, and to turn a blind eye to crimes against supporters of independence.

521. Of course, there were exceptions. A number of East Timorese Police officers were themselves supporters of independence, and did what they could to limit or prevent militia violence. But the consequences of such efforts could be fatal. On 6 September 1999, for example, a Police officer in the Sub-Village of Hatu-fae, in Maubisse Sub-District, was shot and killed after he tried to prevent militias from looting and burning the village. Fearing a similar fate, several Police with pro-independence sympathies fled to the hills or to West Timor as the violence descended.

522. In addition to the support it received from the TNI and the Police, Mahidi had the effective backing of key members of the civilian government apparatus, and of the two main pro-autonomy groups, the FPDK and BRTT. In fact, the leaderships of these different groups overlapped so significantly that they arguably constituted a single, tightly-knit entity.

523. The Sub-District Heads of Ainaro and Hatobuilico, for example, were at the same time coordinators of Mahidi in their areas. The two Mahidi deputy commanders, Nemesio de Carvalho and Daniel Pereira, were simultaneously leaders of the FPDK, which had official government backing. The two men, moreover, were respectively President and Deputy President of the District legislature. Finally, the leader of the BRTT in the District was the Bupati, Evaristo Doutel Sarmento.

Major human rights events

524. As in much of Timor-Leste, serious violations of human rights occurred through 1999, but with greatest intensity and frequency in the pre-UNAMET and post-ballot periods. All of the 34 recorded murders occurred in these periods. These periods also witnessed a surge in cases of kidnapping, beating, intimidation, forced dislocation, sexual violence, and destruction of property. The worst of the violence was concentrated in two Sub-Districts – Ainaro and Maubisse – but all Districts suffered serious violations and destruction.

525. The pre-UNAMET period was characterised by a climate of fear and intimidation. At least five people, all of them supporters of independence, were killed during this period. Two of those killed, in the same incident on 3 January 1999 were evidently targeted because they had protested against the formation of the Mahidi militia in Cassa. Three others were deliberately killed after being detained by TNI soldiers and Mahidi members and badly beaten.

526. As in the rest of the country, there were fewer serious human rights incidents during the UNAMET period, but beatings, kidnappings, and intimidation by militia and TNI continued. The main targets of these actions included CNRT leaders, student activists associated with the DSMPTT, and UNAMET staff. On 5 August, for example, Mahidi militias attacked a meeting in Ainaro town organised by the DSMPTT, injuring a UNAMET Civpol. Police failed to intervene, and refused to investigate the assault on the grounds that UNAMET should not have attended the meeting. Later in August, during the period of campaigning, a Mahidi group burned the CNRT headquarters to the ground.

527. Ballot day was more tense in Ainaro than in many other districts. In addition to widespread intimidation, and brandishing of firearms, by TNI and militia, there was an unsuccessful attempt to kill a CNRT figure in Cassa.

528. As in the rest of the territory, however, the worst of the violence and destruction began after the ballot, and took on a special intensity after the announcement of the result on 4 September. The pattern was virtually identical in every Sub-District. Joint teams of TNI and Mahidi moved systematically from village to village, first ordering residents to leave, before looting and then burning all houses and buildings. Most were ordered to go to Ainaro town, from where they were transported by truck to West Timor. In all, an estimated 13,000 were forcibly relocated in this way.

529. The process of dislocation and destruction was accompanied by serious human rights violations, and most notably, by selective or targeted killings. Most of those violations were committed by joint teams of TNI and Mahidi militia. In a handful of cases, mainly in Hato Udo Sub-District, members of the ABLAI militia from neighbouring Manufahi, were also involved.

530. In a number of instances, the killings were committed while the victims were in TNI custody. In one such case, on 6 September, in Aituto-Rina Sub-Village, in Hatubuilico Sub-District, two men were beaten and then killed while detained at the TNI compound. The men had been among a larger group captured by TNI soldiers and militias on 5 September, and detained at a nearby TNI post. The following morning, pro-independence supporters were separated from the others before being beaten severely and killed.

531. As in the case above, those targeted were mainly known supporters of independence, but the victims also included members of their families. On September 10, for example, a two-year-old girl was shot in the head and killed at her home in Sebagalau Sub-Village, by militiamen attempting to murder her father.

532. The worst single case of violence in the District was the massacre at Maununu village, on 23 September. Mahidi and the TNI had left Ainaro on 21 September, but two days later, a force of about sixty armed men returned to Maununu. In a carefully coordinated and executed military-style operation, the armed men – which may have included TNI soldiers – killed at least 11 people, tried to kill 5 more, burned as many as 165 buildings, and forcibly evacuated roughly 75 villagers.

533. Baucau (Kodim 1628)

- Dandim: Lt. Col. Hisar Richard Hutajulu
- Bupati: Virgilio Marçal
- Kapolres: Lt. Col. (Pol.) Drs. Sodak C. Marpaung
- Militias: Saka, Sera, Forum Komunikasi Partisan (FKP)
- No. killed: 43

534. The District of Baucau, the location of Timor-Leste's second largest city, suffered significant violence and destruction in 1999.* At least 43 people were killed during the year, about half of them in the post-ballot period. As in other districts, there was widespread physical destruction in the aftermath of the vote, and an estimated 5,000 people were forced to flee their homes. Nevertheless, given the size and political importance of the district, the violence in Baucau was relatively limited.

535. The vast majority of those killed were supporters of independence, while five were TNI soldiers or supporters of autonomy. The main perpetrators of the violence were the local militia group, Saka, and various TNI units, including Rajawali, and Battalion 745. Other militia groups, including Sera and the Forum Komunikasi Partisan (FKP) also played a role.

Militias and authorities

536. The main militia group in the district was Saka (a.k.a. Team Saka and Team Pusaka). Most of its members had access to weapons, sophisticated communications equipment, and other military gear. Originally formed during the Indonesian army's 'Operasi Kikis' in 1983, Saka had long-established ties with the TNI. An officer at Kodim Baucau, Sgt. António Monis, was directly responsible for Saka liaison and operations.

537. The Saka commander, Joanico Cesario Belo, was a Kopassus officer. A protégé of the notorious Kopassus officer and Suharto's son-in-law, Prabowo Subianto, Belo carried a card that bore the Kopassus emblem and identified him as 'Commander of Special Company Pusaka' (Dan Ki Sus Pusaka).† Commander of Saka since 1996, Cesario was also the overall militia commander for the eastern region (PPI, Sector A), with responsibility for Makikit and 59/57 Junior in Viqueque, Team Alfa in Lautém, Moruk in Manatuto, and both Saka and Sera in Baucau.

538. Although it was the largest and the most active militia in the district, and was indeed responsible for many killings and other acts of violence, Saka was generally less aggressive than militia groups such as BMP in Liquiçá and Aitarak in Dili. One reason seems to have been the lukewarm support it received from the Bupati, Virgilo Marçal (a native of Baucau and well-regarded in the District), and from the Dandim, Lt. Col. Richard Hutadjulu.

* Unless otherwise noted, this account is based on: UNTAET, DHRO-Baucau, "Baucau 1999 Report" [n.d.].

† A copy of Cesario's business card is in the author's possession.

539. Formally, these officials backed Saka. As in other districts, funding flowed to the group from the Bupati's office and through the Kodim. At the same time, both the Bupati and the Dandim expressed to UNAMET their apprehension about the militias, and their desire to ensure a peaceful outcome to the Popular Consultation. Their posture may have been influenced by the views of the Bishop of Baucau, Basilio do Nascimento, a widely respected and influential figure in Baucau, and indeed in the country.

540. There was also ambivalence within Saka itself. Some Saka members, it seems, were sympathetic to independence, and secretly assisted Falintil by passing on money and food they received as militias. Even the Commander, Joanico Cesario Belo, appeared to lack conviction. In the pre-ballot period, his public pronouncements were seldom as bellicose as those of Eurico Guterres, Cancio Carvalho, and other militia leaders. And in the post-ballot period, he reportedly assisted many pro-independence people to flee Dili to Baucau, possibly saving many lives.

541. A second militia group in Baucau was Team Sera. Commanded by Agostino Freitas Boavida (a.k.a. Sera Malik), Team Sera also dated back to the 1980s, and had close ties to the TNI. However, it was much smaller and less active than Saka.

542. The last of the militia groups in Baucau, Forum Komunikasi Partisan (FKP), was not formed until July-August 1999. The name alluded to the first ever militia group created by the TNI in 1975-76, the so-called 'Partisan,' and some of its members were said to be former members of that older group. The FKP was set up on the initiative of the Kodim Baucau Chief of Staff, Capt. Karel Polla, despite efforts by local authorities and UNAMET officials to prevent it. The circumstances of its creation clearly indicate that the FKP was a TNI project designed to augment or replace the existing militia groups that were deemed to be insufficiently active.

543. The controversy over the formation of the FKP – as reported by UNAMET in 1999 –provided further insight into the reasons for the relatively low level of violence in the district. It confirmed, for example, that the Bupati, Virgilio Marçal, the Dandim, Lt. Col. Richard Hutadjulu were far less supportive of militia violence than many of their colleagues in other districts. It also confirmed the Bishop's strong opposition to TNI support for the militias, and his willingness to intervene with Indonesian authorities to limit their activities.

544. All three men expressed to UNAMET their concern that Capt. Polla's efforts would give rise to violence, and they supported efforts to have him removed from the district. All parties expressed relief and satisfaction in mid-July when word was received that Polla had been reassigned. Then, when he reappeared in the District on 2 August, the Bishop reportedly commented that he must have the support of one or more Generals in Jakarta. Immediately after Capt. Polla's return, FKP recruitment efforts resumed, and by the second week in August, units of the new militia existed in all Sub-Districts. Commanded by José Manuel do Reis (a.k.a. José Bife), the FKP brought together a mixed bag of ex-Partisans, civil servants, as well as former members of Saka and Sera. Together with Saka, and with the TNI, they were principally responsible for the human rights violations that occurred in the post-ballot period.

Major human rights events

545. As in many other districts, the most serious violence in Baucau occurred in the pre-UNAMET and post-ballot periods. Virtually all of the killings in 1999 occurred between January and May, or in September, 1999. The UNAMET period was marked by systematic intimidation, including overt threats of future violence, beatings etc., but apparently no killings.

546. Many of the serious human rights violations committed in the pre-UNAMET period, including several killings, were perpetrated by TNI and Kopassus soldiers. A number of these killings appeared to be acts of revenge for Falintil or Clandestine attacks. One such case occurred in the area of Uaibeana and nearby Burburaca on 17 March 1999. Apparently in retaliation for the killing of a TNI soldier that month, five young men were detained by the TNI and killed. The bodies of three of the five were later discovered in a shallow grave at Triloka, near the Baucau airport. The bodies of the other two victims had not been located as of early 2003.

547. Baucau District was calm on polling day, and for the first few days of September. On 3 September, however, militias began to appear on the streets of Baucau town, some of them carrying and firing automatic weapons. On the evenings of 4,5 and 6 September men on motorbikes drove around the town firing their weapons into the air. Others circled or drove past the UNAMET and Civpol houses, throwing rocks, smashing the windows of vehicles, and firing guns.

548. On 7 September, the UNAMET office in Baucau town came under attack. The attack lasted for about an hour, during which time live gunfire rounds entered the building at chest height. MLOs outside reported that shots were being fired by Indonesian Police, possibly Brimob. About two hours after the attack began, a TNI unit appeared on the scene. Later that day, UNAMET evacuated to Dili by helicopter.

549. The worst of the violence then began in earnest, and it continued until the end of September. Over the next three weeks, six people were killed in the Sub-District of Baucau; five in Venilale; four in Laga; three in Quelicai; two in Vemasse; and one in Baguia. A number of these killings were committed by TNI forces, including several by the 745 Battalion as it passed through Baucau on its way from Lospalos to Dili in late September. (See Case Study: Battalion 745 Rampage, par. 981).

550. In addition to these 21 killings, militia and TNI units carried out acts of violence in much of the district, burning or destroying houses, government buildings, livestock, and food supplies. Some areas suffered relatively minor damage, including Baucau town and the Sub-District of Venilale. Other areas suffered major destruction, most notably the Sub-Districts of Quelicai, a center of militia activity, and Laga.

551. In Quelicai, on 7 September, Saka militiamen tried unsuccessfully to arrest a number of CNRT leaders. The following day, 8 September, militiamen and TNI soldiers joined forces to burn down the CNRT office, and all the houses and buildings along the main road. On 9 September, TNI soldiers in Laga together with Saka and Sera militias forced people together at the TNI headquarters for transportation, by boat, to West Timor.

552. In the course of September, at least 5,000 people, and possibly many more, fled their homes either as a result of direct intimidation by militia and TNI forces, or because of a generalised fear of violence. Interfet forces arrived in Baucau at the end of September, and the violence subsided shortly thereafter.

553. Bobonaro (Kodim 1636)

- Dandim: Lt. Col. Burhanuddin Siagian
- Bupati: Guilherme dos Santos
- Kapolres: Maj. (Pol.) Drs. Budi Susilo
- Militias: Halilintar, Dadurus Merah Putih, Firmi Merah Putih, Saka Loromonu, ARMUI Merah Putih, Guntur Merah Putih, Hametin Merah Putih, Harimau Merah Putih, Kaer Metin Merah Putih
- No. killed: 229

554. The District of Bobonaro was a major centre of pro-autonomy violence in 1999.[*] At least 229 people, and possibly as many as 300, were killed during the year. Many others suffered beating, torture, forcible relocation, and property destruction. By one estimate, 8,612 houses were burned, and a further 4,382 were otherwise rendered uninhabitable. Gender-crimes, including rape and sexual slavery, were also commonly reported.

555. The vast majority of the victims were supporters of independence, though an estimated 20 pro-autonomy supporters or TNI soldiers were among the dead. The perpetrators of the violence were generally members of one of the militia groups operating in the district, but also included TNI soldiers and Police. These groups were almost invariably led or directed by members of TNI intelligence units.

Militias and authorities

556. Bobonaro boasted an unusually well-developed network of militia and paramilitary groups in 1999.[†] At least nine different groups existed in late 1998 and early 1999, and all of them had the full support of military and civilian authorities.

557. The principal group was the elite paramilitary unit, Halilintar (Lightning/Thunderbolt), formally led by the supreme militia commander João Tavares. First established at the time of the Indonesian invasion in 1975, Halilintar was dormant for several years and was then resurrected in the mid-1990s. Although the unit's total membership in 1999 was only about 120 men, it operated throughout the

* Unless otherwise noted, this account is based on: UNTAET, DHRO-Bobonaro, "Bobonaro District 1999 Report," September 2002; Deputy General Prosecutor for Serious Crimes, Indictment against Lt. Col. Burhanuddin Siagian et al., 3 February 2003; and General Prosecutor of the Democratic Republic of East Timor, Indictment against Lt. Sutrisno et al., June 2002.

† Peter Bartu, who served as UNAMET's Political Affairs Officer in Bobonaro, writes that "the militia structure in Bobonaro district was the most developed in terms of organisation and funding." Bartu, "The Militia, the Military, and the People of Bobonaro," in Tanter, Selden and Shalom, eds., *Bitter Flowers, Sweet Flowers: East Timor, Indonesia, and the World Community*, Rowman & Littlefield, 2001, p. 78.

district and beyond, and had the full backing of the TNI leadership.* An elite unit, its members received Rp300,000 per month, as well as uniforms and firearms. They were also trusted to join SGI and regular TNI units on combat and counter-insurgency operations.

558. Beneath Halilintar were several militia units of varying size, most of them formed in early 1999. At least one group was established in each of Bobonaro's six Sub-Districts, and some Sub-Districts had two. Among the most active, and most frequently involved in serious acts of violence, was the DMP (Dadurus Merah Putih – Red and White Typhoon) based in Maliana Sub-District. Led by a serving TNI officer, Sgt. Domingos dos Santos, the group played a central role in the attack on UNAMET headquarters in Maliana in late June 1999, the murder of two UNAMET staff on 2 September, and the mass killings at the Maliana Police station on 8 September.

559. As in other districts, much of the militia violence in Bobonaro was coordinated by, and carried out with the acquiescence of, District military and civilian authorities. The key officials in Bobonaro were: the District Military Commander (Dandim), Lt. Col. Burhanuddin Siagian; the Head of military intelligence in the District, Lt. Sutrisno; and the Bupati, Guilherme dos Santos. In addition, the leadership of each of the Sub-District level militia groups was leavened with, and in some cases dominated by, active and retired TNI officers.† These men were assisted in their work by a number of local pro-autonomy figures, including the militia commander, João Tavares; the FPDK deputy chief, Natalino Monteiro; the BRTT leader, Francisco Soares; and the Head of the District legislature, Jorge Tavares.

Table 1: Pro-Indonesian militia groups in Bobonaro district

Militia name	Sub-district
Halilintar	Maliana, Atabae
Dadurus Merah Putih	Maliana
Firmi	Balibó
Saka Loromunu	
ARMUI Merah Putih	Atabae
Guntur Merah Putih	Cailaco
Hametin Merah Putih	Bobonaro

* On Halilintar's links to the TNI, Bartu writes: "Certainly it had a close relationship with Satgas Intel (Satuan Tugas Intelijen, SGI), the Kopassus intelligence unit that oversaw its reestablishment, tended to its logistic needs, and provided bodyguards to Tavares and training for its senior cadre." Bartu, *The Militia*, p. 80.

† Bartu writes: "The TNI was heavily involved in all aspects of militia activity in Bobonaro district aimed at ensuring a pro-autonomy vote in the Popular Consultation. At the higher levels the sub-district militia leaders were coordinated and directed by the dandim and his intelligence chief from the kodim and from the bupati's office. At the sub-district level the militia was either directly commanded by TNI personnel or directly supported by koramil staff. At the village level the militia worked hand in hand with military posts and babinsas." Bartu, *The Militia*, p. 88.

Militia name	Sub-district
Harimau Merah Putih	
Kaer Metin Merah Putih	Lolotoe

560. Official support for the militias took a variety of forms, including mobilisation, training, the provision of weapons and logistical support, and funding. Evidence of official financing of the militias, and other pro-autonomy groups, is especially rich in Bobonaro. Documents leaked from the District administration in 1999 reveal, for example, that the Bupati requested some Rp3 billion from the Provincial Governor for 'socialisation' activities, and that roughly 35% of that amount was designated for militia groups under various guises. Those documents also indicate that, when finances began to run low in July 1999, the Bupati requested approval from the Governor to divert funds from other budget lines – including education and public works – to cover the costs of the 'socialisation' campaign. These documents are analysed in detail in pars. 431-495.

561. As in other districts, Indonesian Police authorities claimed to be powerless in the face of strong military and government support for the militias. One senior official reportedly described the problem to UNAMET as follows: "If we arrest a militiaman, Dili and Jakarta will tell us to let them go. If we shoot one of them, then we know they will attack our district headquarters."* Whether it was due to their powerlessness, or because of their active support for the pro-autonomy cause, the Police played a supporting role through their failure to intervene to prevent acts of violence, or to take action against those known to have carried out killings and other violations of human rights.

Major human rights events

562. As in some other districts, violence against pro-independence individuals and villages began even before President Habibie's announcement of late January 1999. Nevertheless, it was not until March 1999 that anti-independence violence became systematic and widespread in Bobonaro. In that month, TNI and SGI units carried out several raids on suspected CNRT meetings, and on villages deemed sympathetic to Falintil, in the course of which several people were killed.

563. On 19 March, for example, TNI soldiers and Halilintar members, fully armed and wearing 'Ninja' masks, raided what they thought was a clandestine pro-independence meeting in the village of Moleana in Maliana Sub-District, killing four people, including two children.† A few days later, on 22 March, soldiers severely beat a prominent CNRT leader in public and dragged him through town to the local TNI headquarters. The victim, José Andrade da Cruz, was eventually released but his public beating, and the raids on CNRT meetings, had generated widespread fear among supporters of independence. As a consequence, hundreds of people fled their homes for the relative

* Cited in Bartu, *The Militia*, p. 75.

† 16 UNTAET, DHRO-Bobonaro, "Background Information Concerning the 19 March Attack," 20 March 2001.

safety of Dili, or nearby churches. The forcible displacement of the population, and the IDP problem that would continue for the rest of the year, had begun.

564. The situation worsened in April with the inauguration of new militia groups and their mobilisation in the context of the government's 'socialisation' campaign. Just days after the official launch of the campaign, TNI soldiers operating jointly with Halilintar and militia units embarked on one of the most concentrated campaigns of extra-judicial killing in many years. It began with the execution of seven people in a single day in the Sub-District of Cailaco. Witnesses have testified that the executions were ordered by the District Military Commander, Lt. Col. Burhanuddin Siagian, and the District Head of Military Intelligence, Lt. Sutrisno. Over the next two weeks, as many as 20 more people were murdered in the Sub-District. The operation followed the ambush and killing of the District finance chief and pro-autonomy figure, Manuel Gama, on 12 April.[*] (See Case Study: The Cailaco Killings, par. 787).

565. The killings sparked a new wave of internal displacement in Cailaco, as villagers fled to the mountains, or to nearby towns and villages. More than 4,000 people were moved from four villages to rough camps in the Sub-District capital, where they were placed under the 'protection' of militia groups and told they would not be able to return home until after the consultation.[†] Elsewhere in the district, the homes of two prominent CNRT leaders were burned and looted, and the men were forced to take refuge in the Maliana Police station.

566. In May, the focus of TNI and militia operations shifted to the Sub-District of Lolotoe, which like Cailaco was considered a pro-independence stronghold. Over the course of several days in late May, TNI forces together with members of the Kaer Metin Merah Putih (KMP) militia conducted sweeping operations in which hundreds of suspected supporters of independence and CNRT leaders were rounded up. Many of those detained were badly beaten, and some were tortured or mutilated by their captors in an effort to extract confessions about their links to Falintil. Several instances of rape and sexual slavery by TNI and militiamen were also reported in the context of the raids (See Case Study: Arbitrary Detention and Rape in Lolotoe, par. 826).

567. On 1 June, CNRT leaders who had been in protective custody since April were compelled to sign a declaration officially 'dissolving' the CNRT, at a large pro-autonomy rally in Maliana. The declaration was later cited by the pro-autonomy side to prove that the CNRT had ceded its right to campaign for the Popular Consultation. In the face of such tactics, and threats of violence, the CNRT chose not to campaign publicly.

568. As in other districts, the level of killing declined with the deployment of UNAMET and other international observers in June. However, UNAMET's presence did not bring an end to the other activities of pro-autonomy groups or the depradations of the militias. In fact, UNAMET and its local employees became targets of militia

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* It is unclear who killed Manuel Gama. Some observers have concluded that it was probably a Falintil unit. On the other hand, Bartu says: "The weight of evidence suggests that Gama was killed by a combined Halilintar/SGI/TNI team, as a pretext for a district-wide crackdown against pro-independence supporters." Bartu, *The Militia*, p. 82.

† Bartu, *The Militia*, p. 83.

violence during this period. On 29 June, for example, a gang of militiamen attacked the newly opened UNAMET headquarters in Maliana, seriously injuring several people and causing extensive property damage. A UNAMET investigation into the attack concluded that it had been organised by senior TNI officers in the district, and that the Police response to the attack had been wholly inadequate. (See Case Study: Attack on UNAMET Maliana, par. 835).

569. International protests over that attack, and another against a humanitarian convoy in Liquiçá a few days later, resulted in a temporary improvement in the security situation. Before long, however, armed militias were once more roaming freely throughout the district, threatening supporters of independence and UNAMET staff. To make matters worse, it was clear that they had the full support not only of the Dandim, Lt. Col. Siagian, but also of the Bupati, Guilherme dos Santos. As the ballot approached, both men adopted an increasingly antagonistic attitude toward UNAMET. In mid-July, Guilherme dos Santos threatened to kill Australian UNAMET personnel,[*] and on at least two occasions Lt. Col. Siagian personally told UNAMET local staff members that they would be killed after the Popular Consultation.[†]

570. These tensions came to a head toward the end of the registration period, in early August. Insisting that the registration process was unfair to the pro-autonomy side, the Bupati threatened that UNAMET staff would be detained if a single resident of the district were unable to register. In comments to journalists at about this time, dos Santos seemed also to be threatening UNAMET staff with acts of violence. The immediate crisis was averted through a face-to-face meeting between the Bupati and UNAMET's Head of Mission, Ian Martin, on 3 August, and an extension of the registration deadline.

571. However, the official antagonism toward UNAMET, and overt threats against supporters of independence, continued, and degenerated into serious violence in the final days before the ballot. On 18 August, a young pro-independence activist was hauled off a bus in Maliana town by DMP militia, and hacked to death. On 27 August, militias and Indonesian Police attacked residents in the village of Memo, in the Sub-District of Maliana, killing at least two people, and destroying some twenty houses.

572. In late August, UNAMET's Political Affairs Office reported to UN headquarters in New York that, barring some dramatic turn of events, or the deployment of armed peacekeepers, there would be massive violence in the District of Bobonaro after the vote.[‡] That view was widely shared by the residents of Bobonaro, many of whom fled to the mountains, or other places of sanctuary, within hours of casting their ballots.

573. By 2 September, the widely predicted violence had begun, and when UNAMET evacuated all international staff on 3 September, it escalated further. Backed and coordinated by TNI and Police forces, militiamen then began a systematic campaign of

* "Mayor threatens to kill Aussies," *Sydney Morning Herald*, 17 July 1999.

† Bartu, *The Militia*, p. 88.

‡ UNAMET, Political Affairs Office, "Weekly Sitrep #7 (16 August – 22 August)." Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

violence in towns and villages throughout the district. Thousands of houses were looted and burned, and tens of thousands of people were loaded onto trucks and transported to West Timor.

574. The total number killed in the district in September 1999 is believed to be at least 111, and some estimates range as a high as 200. Given the strong possibility that as many as 40 bodies were thrown into the sea during this period, however, it is unlikely that the precise number of dead, or their final resting places, will ever be known.

575. As in other districts, pro-independence leaders and supporters were specifically targeted in the post-ballot violence in Bobonaro. So too were UNAMET local staff members. Among the first victims after August 30 were two members of the UNAMET staff in Maliana, Ruben B. Soares and Domingos Pereira, who were killed in front of their homes on 2 September. Their assailants included the chief of military intelligence for the District, Lt. Sutrisno, and a TNI intelligence officer, Assis Fontes, who doubled as a DMP militia commander in Maliana town.* With Lt. Sutrisno and Fontes observing, several militiamen dragged Ruben B. Soares from his house before stabbing him repeatedly and smashing his head with a rock. At about the same time the TNI intelligence officer, Asiz Fontes, shot Domingos Pereira and militiamen stabbed him repeatedly. Both men died from their wounds. Lt. Sutrisno and Asiz Fontes were accused, together with eight other men, of individual criminal responsibility for the murders.†

576. In addition to these and dozens of other deliberate killings of individuals or small groups, Bobonaro witnessed a number of mass killings in September 1999. The most gruesome, and also the most revealing of the links between the militias and the military and Police authorities, was the massacre of refugees at the Maliana Police Station, where an estimated 6,000 people had take refuge in the days after the ballot.

577. At about 5.30pm on 8 September, while Police stood guard, a joint team of armed militiamen and TNI soldiers wearing 'Ninja' masks assaulted the station, and killed as many as 14 refugees with machetes and knives. The dead included a number of prominent CNRT figures who were evidently specifically targeted for execution. Thirteen people who managed to escape the carnage at the Police station were tracked down and executed by TNI and militia forces the next day in the village of Mulau. On 10 September, two Police officers were killed for their alleged pro-independence leanings, and their bodies dumped down a well at the Police station. (See Case Study: Maliana Police Station Massacre, par. 923).

578. The key perpetrators of the post-ballot violence in Bobonaro were members of the district's many militia groups. But, to an even greater degree than in the pre-ballot period, in September the militias had the active backing of the TNI, and the acquiescence or full backing of the Police and civilian authorities. Coordinating the violence at the district level were a number of familiar figures: Lt. Col. Burhanuddin. Siagian who had ostensibly been removed as Dandim in mid-August; Lt. Sutrisno, the

* See Bartu, *The Militia*, p. 88.

† General Prosecutor of the Democratic Republic of East Timor, Indictment against Lt. Sutrisno et al. June 2002.

chief of military intelligence for the District; Guilherme dos Santos, the Bupati; and João Tavares, the overall commander of the militia forces. As of early 2003, none of these men had been detained or tried.

579. Covalima (Kodim 1635)

- Dandim: Lt. Col. Achmad Mas Agus; Lt. Col. Lilik Koeshardianto
- Bupati: Col. Herman Sediyono
- Kapolres: Lt. Col. (Pol.) Gatot Subiaktoro
- Militias: Laksaur, Mahidi
- No. killed: 190

580. The District of Covalima was the scene of widespread human rights violations both before and after the ballot in 1999.* At least 190 people, and possibly more, were killed during the year, and several thousands were forcibly displaced. Numerous cases of beating, torture and intimidation were reported throughout the year, as well as several instances of sexual violence.

Militias and authorities

581. The main militia group in Covalima was Laksaur (a.k.a. Laksaur Merah Putih). The militia group based in the neighbouring Distict of Ainaro, known as Mahidi, also operated in parts of Covalima District, and had a branch in the Sub-District of Zumalai. On at least one occasion, in late June 1999, members of the Dili-based militia group, Aitarak, were also reported to be operating in the District.†

582. Laksaur was set up in January 1999, and formally inaugurated in mid-April. By mid-1999, it was one of the largest militia groups in Timor-Leste, with an estimated strength of between 600 and 1,000 men. As in other districts, Laksaur grew out of earlier paramilitary organisations, and its leadership was closely linked with the military and civilian authorities. Covalima had had a strong 'Partisan' militia group in 1975, and for several years thereafter; and those earlier allegiances were important in the 1999 militia recruitment. The group was formally led by Olivio Mendonça Moruk, a former official in the District administration and a member of the FPDK.‡

583. As in the case of militias in other districts, Laksaur received funding from official sources, and had the strong support of a range of military and civilian officials in Covalima. Formal funding for Laksaur came from the Governor's office through the

* Unless otherwise noted, this account is based on UNTAET, DHRO-Covalima, "Covalima District: 1999 Report," December 2001; and Deputy General Prosecutor for Serious Crimes, Indictment against Col. Herman Sediyono et al. 7 April 2003, Dili.

† Four truckloads of Aitarak militiamen, some of them armed, appeared in the town of Suai on 28 June 1999. Following UNAMET inquiries, the District Chief of Police confirmed that the militias in question were Aitarak. See UNAMET, Political Affairs Office-Covalima, "Report 7/99," 30 June 1999.

‡ Moruk was killed in West Timor, shortly after Indonesia's Attorney General released a list of suspects on 31 August 2001. There was speculation at the time that he was killed to prevent him from testifying in any future trial, and revealing the role of TNI and civilian authorities. Other sources say that he was killed in a private dispute.

office of the Bupati. Additional funds and supplies of rice were made available from the unused salaries and allotments of government officials with pro-independence leanings who went into hiding in early 1999. In some sub-districts, moreover, Laksaur salarieswere paid out by the pro-autonomy group, FPDK.*

584. Among the most ardent backers of Laksaur was the Dandim of Covalima, Lt. Col. Achmad Mas Agus. Indeed, Agus was so closely involved with Laksaur that he was the subject of explicit complaints by UNAMET, as a result of which he was briefly replaced as Dandim in late August 1999.† His replacement, Lt. Col. Lilik Koeshardianto (a.k.a. Lilik Kushadiyanto) was not significantly different in his approach toward the militias. Another stalwart Laksaur supporter was the Bupati of Covalima, Col. Herman Sediyono, a Catholic from East Java who had spent much of his career in Timor-Leste.‡ Other key backers included the Danramil of Suai, Lt. Sugito, the Kodim Chief of Staff, Capt. Achmad Syamsuddin, and the District Chief of Police, Lt. Col. (Pol) Gatot Subiaktoro.

Major human rights events

585. Serious human rights violations were reported in Covalima throughout 1999, with peaks of violence in the pre-UNAMET and post-ballot periods. The vast majority were killed after 30 August.

586. The first of the killings in the district occurred on 22 January, and several other murders followed over the next week. By the end of January at least five people, all of them alleged supporters of independence or their relatives, had been killed. Three of them, including a pregnant woman and a boy aged 15, had been killed in a single incident on 25 January at Galitas village, in Zumalai.

587. An eyewitness to the killings at Galitas told investigators that about a dozen armed Mahidi militiamen arrived in the village in three vehicles at about 9.00pm on the night of 25 January 1999. Some residents tried to hide in nearby bushes, but the militias found Olandino Pereira (60), his pregnant daughter, Angelica de Jesus (18), and her brother, Luís Pereira (15). The three were reportedly shot and then hacked with machetes. According to one account, so far unconfirmed, the assailants cut off the older man's head (or a part of it) and took it with them to Mahidi headquarters in Cassa, Ainaro.

588. In April and May, Laksaur militias launched another major campaign of violence and terror against villagers perceived to be supporters of independence.§ In the wake of

* The details of FPDK funding to Laksaur are discussed above (par. 431 ff).

† Testifying before the Ad Hoc Tribunal in Jakarta in June 2002, the Commander of Kodam IX, Maj. Gen. Adam Damiri said: "It was UNAMET who made Jakarta replace Suai military commander Lt. Col. Achmad Mas Agus for no clear reason, so I appointed Lilik [Koeshardianto] to fill the post." *Jakarta Post*, 20 June 2002. There remains some uncertainty about the precise date of Lt. Col. Agus' removal and reinstatement. Most sources concur, however, that he was replaced by Lt. Col. Koeshardianto from 29 August to 7 September 1999.

‡ One source suggests that Sediyono was a career Kopassus officer, but provides no details. See "Col. Herman Sediyono," *Masters of Terror*, http://yayasanhak.minihub.org/mot/booktoc.htm.

§ For details of the attacks in April and May 1999, see Deputy General Prosecutor for Serious Crimes, Indictment against Col. Herman Sediyono et al. 7 April 2003, Dili, pp. 17-33.

these attacks, which resulted in numerous killings, residents from the targeted villages began to flee to the town of Suai, where they took refuge in the Ave Maria Church. On 12 April, Laksaur militias overtly threatened CNRT members in Suai town, leading CNRT leaders there to close their office and go into hiding.

589. UNAMET's arrival in the district in June 1999 led to a marked reduction in the most egregious human rights violations. Only one person was reported killed between 1 June and 30 August 1999, and some who had gone into hiding in April were able to return to their homes. Nevertheless, the Laksaur militia continued to roam freely throughout the district, intimidating and beating real or alleged supporters of independence. As a consequence, the vast majority of IDPs were reluctant to return to their homes, some were unable to register for the referendum, and the CNRT was effectively unable to campaign.

590. By August, several thousand people had gathered in the Suai church, and it had become a focus of pro-autonomy hostility in the district. On 19 August, the Bupati, Col. (ret.) Herman Sediyono, declared that the refugees would not be permitted to remain in the church, and he ordered that both water and food supplies be cut. Notwithstanding strong protests from UNAMET and a visiting U.S. Congressional delegation, and a promise from Maj. Gen. Zacky Anwar Makarim to rectify the matter, the blockade was maintained for several days, before the Bupati finally relented. But official hostility to those in the church did not abate.

591. On 29 August, the last day before the ballot, pro-autonomy and pro-independence leaders and members came together in Suai town for a reconciliation mass, a public ceremony, and the issuing of a joint declaration. Some present seem to have had a genuine desire for reconciliation, but that was not enough to prevent the massive violence in the post-ballot period.* In fact, a militia leader from Suai, Rui Lopes, later told journalists that, on the same day, he had taken part in a meeting with the Bupati and the Dandim at which orders were given to burn down Covalima, and to drive the population to West Timor.†

592. As in most other districts, the violence began in earnest after the announcement of the result of the referendum. On 4 and 5 September, the burning began – in the villages of Debos, Tabaco, Leogore, and Kampung Baru in Suai – and thereafter spread to the rest of the district. Forced to flee their homes by the violence, as many as 20,000 people were assembled at three school grounds, and in military and police compounds in Suai town, before being transported accross the border. By 20 September, all Indonesian authorities, including the Police, had also evacuated the district to West Timor. From that point until the deployment of Interfet troops on 6 October the district was thoroughly looted by militias, some of whom had left for West Timor and later returned.

* Jim Fox writes: "At the point in the mass when members of the congregation wish each other 'peace,' the front of the church erupted in an outpouring of emotions as members of the two factions left their seats and embraced each other." James J. Fox, "Ceremonies of Reconciliation as Prelude to Violence in Suai, East Timor." [unpublished manuscript, n.d.]

† "Indonesia/East Timor: Forced Expulsions to West Timor and the Refugee Crisis," *Human Rights Watch*, Vol. 11, No. 7.

593. All told, more than 170 people are believed to have been killed in the post-ballot period. Four people were killed in the village of Matai on 9 September; at least 14 were killed at Lactos and nearby Raihun, by a joint TNI-militia team on 12 September; and three others were killed at Kamenasa on 24 and 25 September.*

594. The worst single incident of violence, however, was the massacre at the church in Suai on 6 September. At least 40 people, but possibly as many as 200, were killed when Laksaur and Mahidi militias, backed by TNI and Brimob troops, stormed the church compound. Of the 40 whose identities had been established by early 2003, three were Catholic priests, ten were minors (under 18 years), and several were women or girls (See Case Study: Suai Church Massacre, par. 903).

595. Dili (Kodim 1627)

- Dandim: Lt. Col. Endar Priyanto; Lt. Col. Soedjarwo
- Bupati: Domingos Soares
- Kapolres: Lt. Col. (Pol.) Drs. Hulman Gultom
- Militias: Aitarak
- No. killed: 192

596. The District of Dili was a major centre of political violence in 1999.† As many as 192 people were murdered during the year. The victims included at least 13 people killed in a single day on 17 April, another 15 killed or disappeared during an attack on the Dili Diocese office on 5 September, and a Dutch journalist killed by TNI soldiers on 21 September. Many others were threatened, beaten, tortured, or seriously wounded in attempted killings. In addition, an estimated 7,165 buildings were burned or destroyed, while tens of thousands of people were forced to flee their homes as violence erupted in the aftermath of the 30 August vote.‡ The perpetrators of these human rights violations included members of the TNI, the Indonesian Police and Mobile Brigades, and militiamen.

Militias and authorities

597. The principal militia group in Dili district was Aitarak (Thorn), led by Eurico Guterres, who was also Deputy Commander of the overall militia force, the PPI. Based in the capital city of Dili, with links to key provincial and district officials, Aitarak was widely regarded as the most powerful and well-connected militia group in the country. It was also among the most violent and, with some 1,500 members, probably the largest. Aitarak was especially active in the vicinity of Hera, the site of a polytechnic college, and strategically located along the main road running east from the town of Dili. The

* For detail on these and other crimes committed in the post-ballot period, see Deputy General Prosecutor for Serious Crimes, Indictment against Col. Herman Sediyono et al. 7 April 2003, Dili, pp. 35-57.

† Unless otherwise noted, this account is based on: UNTAET, DHRO-Dili, "Key Cases of HRVs/Abuses in Dili District," September 2002.

‡ The estimate of buildings burned is from the "Survey of Population Movements and Refugees in Dili District," prepared by the 'Dili District Returns Committee' in August 2000.

Aitarak unit there, led by the Hera Village Head Mateus de Carvalho, was responsible for numerous grave violations of human rights, including the murder of two college students in May 1999 (See Case Study: The Killing of Two Students at Hera, par. 820).

598. Although based in Dili, armed Aitarak units operated in other districts as well. At one time or another in 1999, there were reports of Aitarak units based or operating in the Districts of Viqueque, Aileu, Liquiçá, Covalima, Ermera, and Oecussi.*

599. Internal Aitarak documents, discovered in late 1999, indicate that the group was organised on the model of an Indonesian army battalion. Beneath the 'Commander' Eurico Guterres, were a 'Deputy Commander' and four staff officers – one each for Intelligence, Operations, Personnel, and Logistics. The main force was divided into four 'Companies' (A, B, C, and D). Each Company was divided into 'Platoons', and these in turn were each comprised of several 'Teams'.

600. Aitarak was formed in early 1999 but like most other militia groups, its roots can be traced back to much earlier paramilitary formations. As described in Chapter 6, Aitarak grew directly out of a pro-Indonesian 'youth' organisation, Gadapaksi (Garda Muda Penegak Integrasi), established in July 1995. Aitarak's commander, Eurico Guterres, had been the leader of Gadapaksi until early 1999. Like Gadapaksi, Aitarak had close ties to military intelligence, and in particular to the Kopassus Intelligence Task Force, commonly known as SGI.

601. Official support for Aitarak was scarcely disguised, at least in the pre-UNAMET period. During the first five months of 1999, senior TNI, Police, and civilian officials openly attended pro-autonomy rallies at which Aitarak groups were established or honoured. These included the large pro-autonomy rally at the Governor's office, on 17 April 1999, that immediately preceded the violent rampage through Dili by Aitarak and other militias, in which 13 people were killed. Two days later the Bupati of Dili, Domingos Soares, appointed the Aitarak Commander, Eurico Guterres, as head of the district's new community defence body, the Pam Swakarsa.

602. Secret documents and communications intercepts indicate that a wide range of TNI and civilian officials regarded Aitarak as an ally, and were closely involved in coordinating its activities. According to these documents, and other evidence, the key officials involved included: the Korem Commander (until mid-August), Col. Tono Suratman; the Korem Assistant for Intelligence, Lt. Col. Bambang Wisnumurty; the Commander of Sector A during the period of Martial Law, Col. Gerhan Lantara; the District Military Commander, Lt. Col. Endar Priyanto, and his successor, Lt. Col. Soedjarwo; the District Chief of Police, Lt. Col. (Pol.) Drs. Hulman Gultom; the Governor of Timor-Leste, Abílio Osório Soares; the Bupati of Dili, Domingos Soares, and the Mayor of the city of Dili, Mateus Maia.

603. As in other districts, the authorities in Dili conspicuously failed to take action against the militias, even when they had flagrantly broken the law. As a resident of Dili

* A document dated 22 August 1999 lists 62 Aitarak members in a village in Ermera's Atsabe Sub-District. See: "Daftar Nama-Nama Dari Markas Besar Komando Pasukan Aitarak Sektor B," 22 August 1999 (SCU Collection, Doc #20). A letter from an Aitarak member to Eurico Guterres, dated 30 March 1999, indicates that an Aitarak branch had already been established in Ossu, Viqueque before that date. See: Letter from Mário Pinto da Costa to Komandan [Aitarak], 30 March 1999 (SCU Collection, Doc #262).

complained to an international observer, after an execution-style killing by an Aitarak commander named Julio, in early August 1999:

> "Please, I want to emphasise how important it is that the TNI and their guns be pulled out of Timor-Leste. Men such as Julio will continue to shoot people. Maybe today, tomorrow or the day after, Julio will kill again. People are aware that he is armed, is set out to kill and yet no one does anything to prevent it from happening . . . not the army, not the police, not anyone."*

Major human rights events

604. Roughly one quarter of all victims in Dili District were killed before 1 June, while most of the others were killed in the three weeks immediately after the ballot. One explanation for the high concentration of killing in the pre-UNAMET period is that the town of Dili became a place of refuge for people fleeing the mounting militia violence in neighboring villages and districts. Several thousand such refugees, who came to Dili in a search for shelter and safety, in fact became the targets of militia violence.

605. Among the most notorious incidents in the district, and indeed in the whole territory, was the 17 April attack on scores of people who had taken refuge in the home of a prominent pro-independence figure, Manuel Carrascalão. The attack, by Aitarak and BMP militiamen, backed by TNI and Police, left at least 12 people dead, including Carrascalão's teenage son, Manuelito. (See Case Study: Carrascalão House Massacre, par. 803). In the aftermath of the attack, most of the CNRT leadership went into hiding; some CNRT leaders were placed in protective police custody, along with some 100 other supporters of independence.

606. There were many other victims of political violence before and after the 17 April killings. At least three supporters of independence were killed in February and March – and in all three cases, the perpetrators reportedly included members of the TNI and/or Indonesian Police. The victims included: Benedito de Jesus, who was killed by shots fired from within a Mobile Brigade post on 14 February; Joaquim de Jesus who was shot dead on 24 February by several men carrying automatic weapons wearing TNI uniforms; and João Texeira, who was tortured (with lit cigarettes), killed, and beheaded on 11 March by a group allegedly led by a TNI intelligence officer.

607. More pro-independence figures were targeted and killed in late April and May 1999. They included: several people killed in Hera in late April;† a man named Eugenio António Fatima, killed by militias on 9 May; nine people killed by Aitarak and TNI forces in the villages of Quintal Kiik and Quintal Boot on 10 May; and two students at

* Carter Center, "Killing of Pro-Independence Supporter by Aitarak Militia Leader," unpublished report, Dili, 1 August 1999.

† According to a resident of Hera who wrote to UNAMET in July 1999, the dead included: a man named Luís Dias Soares, tortured and killed by militias and soldiers on 20 April; two more pro-independence youths killed on 24 April and allegedly buried in front of the TNI post in Hera; a man named Bastian and another named Thomas killed on 25 April and reportedly buried at the Protestant Church in Akanunu-Hera. Letter from Carlos Gabriel Pinto to UNAMET, 5 July 1999.

the Hera Polytechnical Institute killed after being detained and beaten by TNI forces on 20 May (See Case Study: The Killing of Two Students at Hera, par. 820).

608. As in other districts, the rate of killings declined significantly after the arrival and deployment of UNAMET in early June. No killings at all were reported in June, three were reported in July, and two more in the first three weeks of August.* Those statistics, however, do not capture the whole story. For while killings declined, other kinds of human rights violations continued. Scarcely a day passed without reports of militiamen threatening, beating, or burning down the house of a suspected supporter of independence. The CNRT office remained under constant threat of attack, and most CNRT leaders were in hiding. By contrast, armed militiamen roamed the towns and villages of Dili with impunity, erecting roadblocks, checking papers, extorting tolls, burning houses, firing their weapons and so on – all without a hand being raised by the Indonesian Police or the TNI.

609. Any illusion that the violence was under control in Dili – or that the security forces were committed to containing it – was completely dispelled on 26 August, the last day of campaigning by the pro-Indonesian side. For several hours, militias fired weapons, burned houses, and attacked supporters of independence. By the end of the day, at least eight people had been killed, two journalists had been shot and wounded, the CNRT office had been ransacked, and several houses had been burned down.

610. Internal UNAMET reports on the day's events catalogued, and expressed serious concern about, the utter failure of the Indonesian Police to prevent the violence by pro-Indonesian militias, to intervene once it had begun, or to detain or arrest those known to be responsible. One such report noted that the events of the day "highlighted the total inadequacy of the response provided by the Indonesian Police."† Among the many examples cited in the report, the militia attack on the CNRT headquarters stands out:

> "At 15:55 hours, the situation near the CNRT office was volatile. Two truckloads of Brimob were deployed outside the CNRT. Despite this heavy Police presence, a vehicle drove east along 'Jalan 15 October' [name of street], with the occupants continuously discharging gunfire. As the offending vehicle approached the Polri road block, the Brimob members moved to allow the vehicle to pass through their lines. The vehicle continued along 'Jalan 15 October' and stopped less than 100 metres from the Polri officers. The occupants of the vehicle disembarked and were seen to fire at unknown targets over the course of several minutes. The offenders then got back into the vehicle, turned around and drove the wrong way back down the one way street, through the Polri officers and continued out of sight. At no stage did the Polri or

* José Soares was reported killed on 25 July by unidentified men who shot him from a passing vehicle near Fatu-Ahi. Angelino Amaral (a.k.a. Sabino) was shot dead early on the morning of 1 August, just outside UNAMET's district headquarters in Dili. The perpetrators in the second case were identified as Julio do Amaral, an Aitarak Platoon commander, and Zokin, a member of the Mahidi militia from Maubisse. Carter Center, "Killing of Pro-Independence Supporter by Aitarak Militia leader," unpublished report, Dili, 1 August 1999.

† UNAMET, "Report on the Incidents in Central Dili: 26 of August 1999," Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

Brimob officers attempt to stop the vehicle, or prevent the occupants from discharging numerous and indiscriminate fire. . . There were at least 20 Brimob deployed at the road-block in full riot gear carrying semi-automatic assault rifles. They clearly out-numbered the offenders in the vehicle but took no action against them."*

611. One of the many victims of the day's violence was Bernardino Agusto Guterres (a.k.a. Bernardino da Costa), a university student shot in the back and the neck, and killed by Mobile Brigade troops in the Kuluhun area of Dili. Various eyewitnesses testified that Bernardino had been remonstrating with the Police to stop militias from attacking when he was shot. A photograph of his dead body appeared on the cover of Time magazine in December 1999. In a sworn statement to the independent Electoral Commission that oversaw the ballot process, one eyewitness described the incident:

> "The crowd shouted to the police to stop the militias who were shooting. One of them . . . remonstrated with the police, directing their attention to the militias. A policeman who was not wearing a beret like his comrades . . . told [the youth] that he could shoot him because he was exciting the people. [The youth] turned and ran. The policeman thereupon shot him at a range of about three paces. I subsequently saw a gunshot wound in the middle of his back and one behind the neck. He died there. When the ambulance attendants lifted the body I saw a large gaping wound to the throat.†

612. The situation deteriorated even more dramatically in the days and weeks after the ballot. As in the rest of the territory, militia groups began an orchestrated campaign of violence. Real and alleged supporters of independence were threatened, beaten and sometimes killed; houses were burned, and property was looted or destroyed. As in other districts, too, the TNI and Police either acquiesced in this violence or helped to carry it out. The imposition of Martial Law, on 7 September, made no appreciable difference. By some accounts, in fact, the violence grew steadily worse after that date.

613. Fearing for their lives, thousands of residents sought refuge in the nearby hills, or in a variety of places that were considered to be safe havens within the city. Tens of thousands, however, were soon rounded up by joint teams of militia, TNI, and Police and transported to West Timor.‡ Some were sent by ship from the port of Dili, but the majority were grouped at Police and TNI stations and then transported by truck.

* UNAMET, "Report on the Incidents in Central Dili: 26 of August 1999," Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

† Electoral Commission, E. Timor Popular Consultation, "Statement Minuted on Friday, 27August 1999."

‡ A secret telegram from the Dili District Military Commander to the Danrem, dated [7] September 1999, reported that 17,620 people were then at different sites in the city, awaiting evacuation. The breakdown by site was given as follows: Koramil East Dili (120), Koramil West Dili (1,000), Museum (3,000), Regional and District Police headquarters (6,000), Dili harbour (3,000), Koramil Metinaro (1,000), and Kodim Dili (3,500). See: Dan Sat Gas Pam Dili to Danrem 164/WD and others. Secret Telegram STR/–/1999, [7] September 1999 (Yayasan HAK Collection, Doc #44).

614. Within days of the vote, most UNAMET staff were relocated from the outlying offices to the main headquarters in Dili. There they were joined by some 1,500 East Timorese refugees, and the small handful of international observers and journalists who had not already left the territory. For roughly ten days (4-14 September) the UN compound was effectively under siege. Militias threatened violence against those inside, while continuing to burn and loot the city. Eventually, on the early morning of 14 September, all those remaining in the compound – including the refugees – were safely evacuated to Darwin, Australia.

615. But the violence continued. In the space of just three weeks, scores of people were killed in the district. The victims included: a young boy named Marcelino hacked to death and then burned by a group of militiamen on 1 September; as many as 15 people killed or disappeared when militias attacked and burned the Dili Diocese office (Câmara Eclesiástica) on 5 September; a man named Thomas Americo, reportedly tortured and then killed by Aitarak members on 7 September; and an elderly German priest, Carolus Albrecht, shot in his own home by soldiers on 11 September. One of several witnesses to the killing of the young boy Marcelino, gave the following account:

> "The Militia were in the street with a 16 year old boy. His name was Marcelino, but I don't know his last name . . . There were 10 or 20 Militia trying to chop Marcelino's head off. They were chopping at his neck but he didn't die right away. We say that was because it wasn't time for him to die. All of the Militia had knives. The knives were so long. There was lots of blood. It was like killing a cow. . . .Because Marcelino didn't die immediately, the Militia took some kerosene out of the [nearby] deli. The Militia then set [the] deli on fire and then they tipped kerosene on Marcelino's body. The Militia then threw Marcelino on that fire. . . The Indonesian police were behind the Militia, further down the road. They were watching what the Militia were doing. They could see them. They were there the whole time from when the Militia chopped at Marcelino and threw him on the fire."*

616. Among the most widely reported cases of post-ballot violence in Dili was the 6 September attack on the compound of Bishop Carlos Filipe Ximenes Belo, where some 5,000 people had taken refuge after the vote. At least one person was killed in the attack and several were injured, including at least one child. However, the attack on the Bishop's compound was less notable for the number killed than for the fact that it was one of four almost identical assaults launched on places of refuge in Dili in the space of 24 hours. These coordinated attacks, which together left at least 17 people dead, typified the methods deployed jointly by the militias, Police, and TNI throughout the territory to force residents to flee to West Timor (See Case Study: Forcible Relocation and Murder of Refugees in Dili, par. 887).

617. While TNI and Police facilitated, and very likely coordinated, these attacks by militia forces, there were other instances in which TNI forces were directly responsible

* Deposition by Isabel da Conceição, recorded and compiled in Australia, 11 November 1999.

for committing serious human rights violations. One such case was the murder of the Dutch journalist Sander Thoenes on 21 September 1999. There is compelling evidence that Thoenes was killed by members of the TNI's Battalion 745, which had only just reached Dili from its base camp in Lautém District. According to that evidence, Sander Thoenes was killed by a shot in the back. However, his body was badly mutilated; one ear and part of his cheek were cut off with near surgical precision (See Case Study: Battalion 745 Rampage, par. 981).

618. Ermera (Kodim 1637)

- Dandim: Lt. Col. Muhamad Nur
- Bupati: Constantino Soares
- Kapolres: Lt.Col. (Pol.) Ery T.B. Gultom
- Militias: Darah Integrasi, Darah Merah, Naga Merah, Team Pancasila, Aitarak
- No. killed: 82

619. The District of Ermera was the site of very serious human rights violations in 1999.* At least 82 people were killed during the year. The vast majority of the dead were real or alleged supporters of independence and their families, including a mother and five of her small children. The victims also included 11 pro-autonomy supporters said to have been killed by Falintil. Internal displacement of the population began as early as February 1999, and some 17,000 people were forcibly relocated from their homes in September. Several instances of rape and other forms of sexual violence were also reported during the year.

620. As in other districts, the worst of the violence in Ermera occurred in the pre-UNAMET and post-ballot periods. Unlike most others, however, the perpetrators of the violence in Ermera, particularly in the pre-UNAMET phase, were just as often TNI soldiers as militiamen. That pattern seemed to stem from early difficulties with the recruitment of militia forces in the district.

Militias and authorities

621. A number of different militia groups operated in Ermera in 1999, including Darah Integrasi, Team Pancasila, and Aitarak. Of these the largest was Darah Integrasi, with a few hundred members. It operated in three of the five Sub-Districts (Ermera, Letefoho and Hatolia) both independently and through two subsidiary groups, Darah Merah† and Naga Merah. These latter groups were based in Ermera and Hatolia Sub-Districts

* Unless otherwise noted, this account is based on: UNTAET, DHRO-Ermera, "Report on Human Rights Violations During 1999: Ermera District," [March, 2000]; and Helene van Klinken, "Taking the Risk, Paying the Price: East Timorese Vote in Ermera," in Tanter, Selden and Shalom, eds. *Bitter Flowers, Sweet Flowers: East Timor, Indonesia, and the World Community*, Rowman & Littlefield, 2001, pp. 91-107. Helene van Klinken was the UNAMET Political Affairs Officer posted in Ermera in 1999.

† The leader of Darah Merah was Lafaek Saburai, the author of the 'Operation Clean Sweep' letter of March 1999, discussed above (par. 272). Although much was made of that letter, and he was said to have been a bodyguard of Prabowo Subianto, Lafaek Saburai did not emerge as a major player in 1999.

respectively. The militia group known as Team Pancasila, was based in the Sub-District of Atsabe in the southernmost part of the District, while Aitarak operated in the Sub-Districts of Railako and Atsabe.*

622. As in virtually every district, these militia groups had historical and institutional roots dating at least to the early years of the Indonesian invasion. With the assistance of a number of key figures, such as Tomás Gonçalves, the Indonesians had established an early militia force, known as 'Partisan,' at the time of the 1975 in-vasion. In the mid-1990s, Partisan forces received regular military training from the TNI. Together with the Wanra and Kamra groups that had been established in the 1980s, they formed an essential element in the TNI's counter-insurgency strategy.

623. These older units – Partisan, Wanra, and Kamra – remained in place through 1999, and were armed and deployed by the TNI to carry out intelligence and security operations. Partisan members were observed in 1999 wearing TNI uniforms and carrying standard issue automatic (SKS) weapons; and they continued to receive wages of Rp75,000 and some rice every month. The total Partisan strength in 1999 was estimated at 130 men.

624. Partisan and Wanra groups also provided the foundation upon which new militia groups were mobilized in early 1999. Partisan and Wanra leaders became the leaders of the new militias, and many members followed. The Wanra commander for Ermera, Miguel Babo, became the commander of Darah Integrasi, and a long-time Partisan leader, António dos Santos, became the group's Deputy, and *de facto*, Commander.

625. All of these groups – Partisan, Wanra, and the new militias – were closely linked to the authorities and particularly to the SGI. António dos Santos, the Deputy Commander of Darah Integrasi, was said to be the leader of an SGI group and simultaneously Village Head in Letefoho. He was also the main conduit for the distribution of wages and rice to militia members; he reportedly came to Hatolia every month in 1999 to distribute Rp100,000 and several kg of rice to militia members. The two main Partisan commanders in Gleno in 1999 were Capt. Abas and Sgt. Heru, both TNI officers attached to SGI. Finally, there is evidence that the Commander of the SGI post in Atsabe Sub-District (SGI Post Kresna 12 Atsabe) was intimately involved in coordinating Aitarak militia groups there.†

626. The militias also received political, financial, and logistical support from the regular TNI command. A document from Ermera, discussed in Chapter 8, shows clearly the military's official involvement in the distribution of funds and supplies to the militias. The document is a letter from the Dandim of Ermera, Lt. Col. Muhamad Nur, to the Bupati, dated April 1999, in which he requests Rp104 million ($13,866) to

* A document dated 22 August 1999 lists 62 Aitarak members in the village of Atudame, in Atsabe Sub-District. See: "Daftar Nama-Nama Dari Markas Besar Komando Pasukan Aitarak Sektor B," 22 August 1999 (SCU Collection, Doc #20).

† The Commander of that SGI, Amran Odhe, was one of the co-signatories of a list of 62 Aitarak members in Atudame village, in Atsabe Sub-District. The list of names was also signed by the Danramil for Atsabe, Lt. M. Roni, and the Kapolsek, Sgt. Maj. I Ketut Suriana. See: "Daftar Nama-Nama Dari Markas Besar Komando Pasukan Aitarak Sektor B," 22 August 1999 (SCU Collection, Doc #20).

cover the Rp200,000 ($26.66) monthly salaries of the newly recruited Pam Swakarsa (i.e. militias) in the District. In the letter Lt. Col. Nur also requests 6,405 kg of rice for distribution to the new militia members.*

627. The Police in Ermera were somewhat less helpful to the militias than they were in some other districts, at least in the first four or five months of 1999. One of the reasons, it appeared, was that the Chief of Police for the district, Lt. Col. Ery T.B. Gultom was sympathetic to the independence cause and used his authority to protect and assist CNRT members in danger.

628. The Police position changed, however, in May 1999 when Lt. Col. Gultom was transferred, and Brimob forces were deployed to the district. Although there were individual Police officers who acted bravely to save lives, as a rule after May the Police played a more passive role, which gave the militias greater freedom of manoeuvre. Eyewitnesses to the 30 August murder of two UNAMET local staff members at Boboe Leten, for example, noted that armed Brimob forces were in a position to prevent and stop the assault, but did nothing. On the same day, shortly after a UNAMET convoy had come under fire from militias, the Brimob officer in charge told UNAMET electoral staff and Civpols in Atsabe: "We saved you today: Tomorrow we do not know."

629. As in some other districts the pro-autonomy organisation, FPDK, also played a significant role in supporting the militias, primarily by serving as a conduit for official (and perhaps unofficial) funds. Such funds were channeled through the FPDK Security Chief who, conveniently, was the Deputy Commander of the Darah Integrasi, António dos Santos.

630. In contrast to several other Districts, most notably neighbouring Bobonaro and Liquiçá, the militias in Ermera did not have the strong backing of the Bupati, Constantino Soares. On the contrary, Soares frequently lent his assistance to CNRT and Clandestine Front members who were in danger. And while he was formally the chair of the district office of the BRTT, he did little more than was required of him by way of supporting the pro-autonomy cause and militia groups. His position, together with the existence of a strong CNRT and clandestine network in the district, helps to explain the slow growth of the militias in Ermera. It also suggests why Soares continued to be well regarded in the district even after the referendum.

Major human rights events

631. The early months of 1999 in Ermera were marked by the influx of thousands of IDPs from neighbouring districts. A campaign of threats and intimidation by militias in Liquiçá District, for example, prompted thousands to flee to Hatolia Sub-District for safety in January and February 1999. Others fled from neighboring Bobonaro District and from different parts of Ermera itself. By June, when UNAMET arrived, the number of IDPs in the district was estimated at 3,000-4,000.

* Only the newly recruited members, of whom there were 175 in Ermera, would receive Rp200,000/month ($26.66). The rate for old members, of whom there were 136, was set at Rp125,000/month ($16.66). Letter from Lt. Col. Muhamad Nur, District Military Commander1637/Ermera, to the Bupati of Ermera, "Permohonan Uang Saku PAM Swakarsa," June 1999. A copy of this document is in the author's possession.

632. Tensions mounted in February 1999 when TNI and pro-autonomy leaders reported that eleven militiamen – possibly Mahidi from neighboring Ainaro – had been detained in Ermera, transferred to Falintil custody in Hatolia Sub-District, and then killed. The bodies were reportedly discovered in Fatubessi, in May 1999, and a CNRT member was said to have been tried for his role in the abduction. Further details of the alleged killings were difficult to confirm, and Falintil denied involvement, but the reported killings provided added stimulus to pro-autonomy activities, and to the mobilisation of new militia groups. So too did the reported detention of six militiamen by Falintil for about one week in early April.

633. Finally, in early April 1999, the killing of independence supporters began, setting in motion a two-month campaign of intimidation and terror against supporters of independence that left at least 20 people dead. In contrast to the pattern in many other districts, many of these killings were not committed by militiamen but by TNI units – including Kodim and combat troops – acting alone or in concert with militia forces. Moreover, the circumstances in which this wave of killings began strongly suggested that it was part of a campaign coordinated by the TNI.

634. On 9 April 1999, the Dandim Lt. Col. Muhamad Nur met leaders of Darah Integrasi, FPDK and BRTT in the district capital, Gleno. The following day, 10 April, TNI and militiamen together burned down the CNRT headquarters in Gleno, and killed a well-known CNRT supporter and local parliamentarian, António Lima. Further killings followed over the next few weeks, including four people killed in the village of Talimoro in two days. The violence continued unabated through May 1999. Three people were killed by TNI forces in Poerema village, Hatolia Sub-District, on 10 May. Six more were killed by a combined TNI/militia force in the village of Atara, Atsabe Sub-District, on 16 May.

635. With the arrival of UNAMET in the district in June, the overt physical violence subsided, but the atmosphere of intimidation remained, and grew steadily worse as the ballot date drew near. Villagers and humanitarian workers who sought to assist IDPs in the district were a special focus of hostility by pro-autonomy groups. So too were student activists who arrived in the district in July to carry out voter edu-cation and, in reality, to campaign for independence. To an extent seen in only a handful of other districts, UNAMET local staff members were also major targets of anger and intimidation by militia and TNI forces.

636. Within hours of the ballot, this pattern of intimidation erupted again in overt violence. Between 30 August and 22 September, at least 67 people were killed in the district. Of those, at least five were UNAMET local staff members. In addition to those killed, roughly 17,000 people fled or were forcibly displaced from their homes in this period, as a result of a systematic campaign of terror and violence. The homes of those who had left, as well as most public buildings, were looted and burned.

637. As in other districts, the post-ballot campaign of violence in Ermera was conducted jointly by the TNI, Police, and militias. As in other districts, too, the evacuation and destruction was concentrated in certain areas – notably those closest to major roads

leading to West Timor. Hardest hit was the Sub-District of Atsabe, from which some 50% of the population was forcibly evacuated. Areas further from the main roads, and with a sizeable Falintil presence, such as parts of Hatolia, were much less seriously affected.

638. The first victims of the post-ballot violence, in Ermera and in the country as a whole, were two UNAMET local staff members. João Lopes and Orlando Gomes were beaten and stabbed to death as they carried ballot boxes from the polling station at Boboe Leten to the UNAMET vehicles. A third local staff member, Alvaro Lopes, was seriously wounded in the same attack, and left for dead, but survived. Later investigations revealed that the attack was carried out with the prior knowledge of the Sub-District military commander for Atsabe, and that TNI and Brimob forces were at the scene but had done nothing to stop the attack. (See Case Study: The Murder of UNAMET Local Staff in Boboe Leten, par. 871).

639. The attack at Boboe Leten was not an isolated incident. In the hours and days after the ballot, militias threatened and attacked UNAMET staff and installations throughout the district. As a result, all UNAMET staff were called back to the regional headquarters in Gleno. Even there, however, their safety could not be guaranteed, as militiamen wandered the streets firing their weapons, setting fire to buildings and pulling suspected independence supporters from their vehicles at road-blocks.

640. In a number of instances, notably at Boboe Leten, armed militias accompanied by TNI and Police prevented UNAMET staff from leaving their polling stations, or sought to keep them from taking the ballot boxes with them. On 31 August, militias threw stones and fired weapons at the UNAMET helicopter that had landed at Gleno to retrieve the ballot boxes for the district. Police did not act to prevent the attack. In fact, an MLO reported seeing a policeman handing a weapon to a militiaman at the scene shortly before the attack.

641. In the face of the mounting violence, UNAMET staff evacuated to the relative safety of Dili. With UNAMET's departure, the situation in Ermera deteriorated further, and the targeted killings began in earnest. One of those singled out was Ana Xavier da Conceição Lemos. An active member of the pro-independence women's organisation, OMT, she had served as a UNAMET queue-controller on polling day. With the assistance of a Brimob officer, she had made her way to Gleno shortly after the close of balloting. Later that night, she was accosted and beaten in her home by a TNI officer, Sgt. Melky and several other men. She eventually made it to UNAMET headquarters in Gleno and she accompanied the UNAMET convoy to Dili. A few days later, however, she returned to Gleno to see that her children were safe. Upon her return she was detained first at the Kodim, and then handed over to militiamen, who raped and killed her (See Case Study: Rape and Murder of Ana Lemos, par. 964).

642. These were only some of the better-known examples of the terrible violence that gripped Ermera in September. Less well known is the case of Georgina Imaculada Tilman Ribeiro, who was killed together with five of her children (ages 2 to 12), after she had fled to the apparent safety of West Timor. Like Ana Lemos, Georgina Tilman

was a member of the OMT (Organização da Mulher Timor – Organisation of Timorese Women), and her husband was an active member of the Clandestine Front. Having made it to the other side of the border, on 18 September she and her children crossed back into Timor-Leste with men who said they had been sent by her husband. All six of them subsequently disappeared. Georgina's remains, and those of her five children, were discovered in February 2000, rudely buried in a dry creek bed, in Kampung Mahir about 13 km from the town of Atabae in Maliana district. Among the suspected perpetrators of this crime was Sgt. Melky, the TNI officer also accused of raping and killing Ana Lemos.

643. Lautém (Kodim 1629)

- Dandim: Lt. Col. Sudrajat A.S.
- Bupati: Edmundo da Conceição Silva
- Kapolres: Lt. Col. (Pol.) Drs. Irsan Wijaya
- Militias: Team Alfa
- No. killed: 53

644. Lautém suffered serious human rights violations in 1999, the vast majority of them in the post-ballot period.* At least 53 people were killed during the year, and of that number 51 died during a three week period in September. In that same period, an estimated 6,000 people fled to West Timor, and thousands of others to the hills, in the face of mounting violence and destruction.

Militias and authorities

645. The main perpetrators of human rights violations in Lautém district were members of the local militia group, Team Alfa, and soldiers from various TNI units, notably Kopassus and Battalion 745, which had its headquarters in Lospalos. Team Alfa had especially close ties to Kopassus, and operated under its command. Battalion 745 was less well connected to Team Alfa, and more often committed human rights violations independently.

646. Team Alfa had been set up by Kopassus in the mid-1980s, to infiltrate the clandestine movement and to assist in combat operations. That institutional tie remained in 1999. Team Alfa operated out of the Kopassus headquarters in Laurara in Lospalos town, and shared logistical support and transportation with Kopassus personnel. Team Alfa was directly controlled by the Kopassus officer Sgt. Syaful Anwar and by the Kopassus commander for Lautém District, Lt. Rahman (a.k.a. Rahmat) Zulkarnaen.

647. The direct link between Team Alfa and Kopassus was confirmed by a former Team Alfa leader, Jony Marques, during his trial in 2001. Testifying under oath, Marques said

* Unless otherwise noted, this account is based on UNTAET, DHRO-Lautém, "Lautém District Events of 1999 Report," March, 2002; Dili District Court, Special Panel for Special Crimes, "Judgement" in the case of Jony Marques et al., 11 December 2001; and General Prosecutor of the Democratic Republic of East Timor, Indictment against Edmundo da Conceição Silva et al. 15 November 2002.

he had been trained by Kopassus, and that he had been invited in 1993 to take part in military training with Australian forces in Bandung, Indonesia, under the guise of being a TNI soldier.* He also told the court that, in 1999, Team Alfa reported to the Kopassus headquarters in Lospalos: "As a Team Alfa member," he said, "I had to go there."†

648. Team Alfa also had the strong backing of the Bupati of Lautém, Edmundo da Conceição Silva. The Bupati's support was unsurprising given his own close tie with Kopassus, of which he was an honorary member. As in other districts, the funding for the militia was channelled first through the Bupati's office, but then passed on to other agencies, including the TNI, for distribution to the militias. The Bupati was also the General Chairman of the BRTT, and its members provided security at his residence. There are unconfirmed allegations that the Bupati distributed 117 guns to militias and/or the BRTT in early 1999.

649. Operating independently from Kopassus, and sometimes in conflict with it, was Battalion 745, based in Fuiloro village. Members of Battalion 745 were directly involved in widespread violations of human rights in 1999, including house burning, intimidation, beatings, and at least 21 arbitrary killings. Many of those killings were committed as the Battalion withdrew from Lautém to Dili and on to West Timor in late September. Most notoriously, members of the Battalion were responsible for the murder in Dili of Dutch journalist Sander Thoenes on 21 September 1999 (See Case Study: Battalion 745 Rampage, par. 981).

650. Established in 1976, Battalion 745 was one of two so-called 'organic' combat battalions in Timor-Leste. A substantial proportion of its soldiers were East Timorese, while most of its commanding officers were Indonesian. In the lead-up to the 1999 referendum, there were indications that some of the East Timorese soldiers were sympathetic to independence. The unit's commanders therefore took measures to ensure that those soldiers were not included in military operations, and were kept out of the loop with regard to planning. In the post-ballot period, some of those soldiers were targeted and killed. At the same time, the Battalion cooperated with Team Alfa members, even permitting them to review the Battalion's lists of displaced persons to check for possible supporters of independence.

651. Other military units and officers in the district were also involved in violence, though somewhat less conspicuously. The Kodim headquarters, under the command of Lt. Col. Sudrajat, was reportedly used as a site for the detention and beating of suspected supporters of independence. Witnesses, including the militia leader Jony Marques, have testified under oath at trial that a number of people were tortured and killed there, and that their bodies were discovered nearby.‡ Two 'non-organic' combat battalions, Battalion 621 and Battalion 623, based temporarily in Lautém, appear less frequently in testimonies of violence.

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* In the same testimony, Marques said he had received military training from Kopassus as far back as 1986. Dili District Court, "Judgement," Jony Marques et al., p. 55.

† Dili District Court, "Judgement," Jony Marques et al., p. 53.

‡ Dili District Court, "Judgement," Jony Marques et al.

Major human rights events

652. Apart from two killings in April 1999, there were relatively few serious human rights incidents in the pre-UNAMET and UNAMET periods.* However, as in other districts, there was a great deal of intimidation in connection with the government's pro-autonomy 'socialisation' campaign.

633. Public 'socialisation' meetings were commonly addressed by TNI officers, the Bupati and by BRTT and militia leaders. In the course of these meetings the speakers, some of whom carried weapons, issued threats. A common threat was: "UNAMET will leave on 30 August 1999 and then we will kill you." UNAMET staff, both international and local, were also subjected to threats and intimidation, including pelting with rocks.

654. The most conspicuous incident of violence in the pre-ballot period was the murder of the Liurai of Lautém, Verissimo Dias Quintas, on 27 August 1999. Having portrayed himself to Indonesians as a supporter of Indonesian rule, he seems nevertheless to have been a secret supporter of independence. In early August, he allowed the CNRT to establish their district office in his residential compound. That decision seems to have made him a particular target of the pro-autonomy camp.

655. Reports at the time strongly suggested official complicity in the murder. Indonesian Police established a roadblock prior to the incident, and neither Police nor TNI troops nearby moved to halt the attack once it was underway. Kopassus forces reportedly provided transport for the attackers. As in virtually every killing in 1999, Indonesian Police conducted only perfunctory investigations, and brought no charges against the alleged perpetrators.

656. Later investigations into Quintas' murder confirmed that the assailants had included members of the BRTT and the Team Alfa militia group. They also demonstrated that the attackers had been directed and assisted by Kopassus, Police, and civilian authorities. An indictment issued by Timor-Leste's Deputy General Prosecutor for Serious Crimes in November 2002 explicitly implicated the Kopassus commander for Lautém, Lt. Rahman Zulkarnaen, Kopassus officer Sgt. Syaful Anwar, the Bupati, Edmundo da Conceição da Silva, as well as members of Team Alfa and the BRTT.†

657. Ballot day was tense in Lautém, and armed militias moved freely about the district. As in the rest of the territory, however, there were no serious acts of violence during balloting. While tensions continued to rise in the immediate post-ballot period, and the church in Lospalos was burned on 5 September, the violence did not begin in earnest until after UNAMET and other international observers left the district on 7 September.

* One important exception was the torture and murder of Evaristo Lopes in April 1999. Witnesses, including militia leader Jony Marques, have testified that Lopes' was tortured and executed while in custody, and under the direct supervision of local Kopassus officer, Sgt. Syaful Anwar. See Dili District Court, "Judgement," Jony Marques et al., pp. 53-57.

† General Prosecutor of the Democratic Republic of East Timor, Indictment against Edmundo da Conceição Silva et al. 15 November 2002.

658. Over the next three weeks more than 50 people were killed by Team Alfa and TNI soldiers. The killings occurred almost entirely in the Sub-Districts of Lospalos and Muro. No killings were reported in the Sub-Districts of Iliomar, Tutuala, and Luro, although these latter areas were extensively burned. Virtually all of the victims were well-known supporters of independence.

659. The worst single incident in the post-ballot period occurred on 25 September, near Verokoco village, on the main road from Lautém to Baucau. There, Team Alfa members ambushed and executed a group of five clergy and four lay people.* The victims included a nun who was hacked with a machete as she knelt praying by the roadside, then thrown into a river and shot dead.† Although the immediate perpetrators were members of Team Alfa, the local Kopassus officer, Sgt. Syaful Anwar, was also implicated in the massacre (See Case Study: Murder of Lospalos Clergy, par. 1002).

660. Members of Battalion 745, including the Battalion commander, Maj. Jacob Sarosa, and a Platoon commander, Lt. Camilo dos Santos, were also directly implicated in serious human rights violations in the post-ballot period, including as many as 21 extrajudicial executions. Several of those killings took place in the immediate vicinity of the Battalion's compound (e.g. in Asalaino, Home Baru and Motolari). The bodies of some of the dead were found in wells inside the compound.

661. On 20 September, after most of the battalion had left by ship for Indonesia, some 120 soldiers and officers, including Maj. Sarosa and Lt. Camilo, formed a convoy and prepared to depart for Dili and onward to West Timor. Before leaving, Lt. Camilo reportedly briefed the soldiers. An East Timorese officer who was there, later told UN investigators that Lt. Camilo had told the soldiers: "If you find anything on the way ... just shoot it."‡ That order, the witness said, was issued within earshot of the Battalion Commander, Maj. Sarosa. The same day TNI soldiers beat and then killed three men near a rice warehouse in Lautém. Maj. Sarosa and Lt. Camilo were reportedly at the scene, but did not intervene. The next day, the convoy moved out of Lautém toward West Timor, leaving a path of killing and destruction in its wake. By the time it reached Dili, two days later, at least 13 more people had been killed by members of the Battalion (See Case Study: Battalion 745 Rampage, par. 981).

662. In addition to killing, in the post-ballot period members of Team Alfa, Kopassus, and Battalion 745 conducted a systematic campaign to destroy the infrastructure of the territory, and to deport a large part of the population. Although there was some variation in the extent of destruction – with the Sub-District of Luro being worst hit – most buildings in the district, including government buildings, shops and private homes, were burned or destroyed. Livestock was killed and communications systems

* See Dili District Court, "Judgement," Jony Marques et al.

† The deceased were identified in trial proceedings as: Sister Erminia Cazzaniga, Sister Celeste de Carvalho, Brother Jacinto Xavier, Brother Fernando dos Santos, Brother Fernando da Conceição, Agus Muliawan, Cristovão Rudi Barreto, Titi Sandora Lopes, and Izinho Freitas Amaral. See Dili District Court, "Judgement," Jony Marques et al.

‡ Cited in Cameron W. Barr, "A Brutal Exit: Battalion 745," Part 3 of 4, *Christian Science Monitor*, 16 March 2000.

were disabled. In the face of this destruction and violence, many people fled to the hills and some 6,000 went to West Timor.

663. Liquiçá (Kodim 1638)

- Dandim: Lt. Col. Asep Kuswadi
- Bupati: Leoneto Martins
- Kapolres: Lt. Col. (Pol.) Adios Salova; Maj. (Pol.) Drs. Joko Irianto
- Militias: Besi Merah Putih (BMP), Pana
- No. killed: 183

664. The District of Liquiçá was a notorious centre of militia and TNI violence in 1999.* As many as 183 civilians were reportedly killed there during the year, the vast majority of them leaders or supporters of independence, and their relatives. In addition, some 20,000 residents were forced to flee their homes, both before the vote and afterward, in the face of systematic intimidation and violence.

Militias and authorities

665. The main militia group in the district was the BMP (Besi Merah Putih – Red and White Iron).† First formed in January 1999 in the Sub-District of Maubara, the BMP soon established command posts ('pos komando') throughout the district. By June 1999, it had an estimated strength of 600 men. Most were armed with so-called 'traditional' weapons, such as machetes and knives, but some carried firearms including high-powered automatic weapons of the sort used by the TNI.

666. Like the Aitarak militia in Dili, the BMP did not confine its operations to one district. With the evident approval of district and provincial authorities it took part in serious acts of violence in Dili, including the attack on the home of Manuel Carrascalão in April that left at least 12 people dead. Members of the BMP also traveled as far as Oecussi, where they are reported to have operated alongside the Sakunar militia in September 1999.

667. Although nominally led by Manuel Sousa, the BMP was created, trained, and coordinated by the highest-ranking military and civilian authorities in the district and the province. The group was formed in late 1998 following a meeting called by the Bupati, Leoneto Martins. An honorary member of Kopassus, Martins remained one of the BMP's principal backers throughout 1999. Before becoming Bupati in 1995, Martins had served as Sub-District Head in Maubara, which was also the location of his home village. It was probably not a coincidence that the first BMP posts were established in that sub-district, and that it remained the group's main base area through 1999.

* Unless otherwise noted, this account is based on the following sources: UNTAET, UNMO-Liquiçá, "History of Liquiçá District Through 1999," December 1999; UNTAET, DHRO-Liquiçá, "Narrative Report on Events in Liquiçá District During 1999"; and UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., Dili, [n.d.].

† A much smaller group, called Pana, was formed in the village of Vatuboro, the home village of Bupati, Leoneto Martins.

668. The BMP, like other militias, also had the solid backing of the TNI and Kopassus at the district level. In fact, the BMP grew directly out of an earlier group, Gadapaksi, established, funded, and trained by Kopassus beginning in 1995. With the formation of the BMP in early 1999, many of the roughly 200 members of Gadapaksi in Liquiçá simply moved into the new group. Likewise, TNI and Kopassus backing continued, albeit under a new name and with renewed vigour.

669. TNI and Kopassus backing for the BMP in 1999 took a variety of forms, including public expressions of support, the provision of military training, the conduct of joint operations, and official inaction in the face of unlawful militia conduct. As discussed previously (par. 431, above), internal TNI documents demonstrate that the provision of militia training and guidance were a routine matter, carried out with the full knowledge of TNI commanders. One such document, from the Liquiçá Kodim, reveals that the Sub-Regional Military Commander, Col. Tono Suratman visited Maubara on 16 April 1999, to address and give 'guidance' to a group of 500 BMP militias at the Koramil headquarters there.*

670. TNI officers also routinely conducted joint military operations with the BMP, or acquiesced in their operations. As described below, several high-ranking TNI officers, including Kopassus personnel, were on the scene when BMP militias massacred as many as 60 refugees at the church in Liquiçá in April 1999. Although such joint operations were more common in the pre-UNAMET period, they continued in some form throughout the rest of the year. A UNTAET report from 14 December 1999 describes the situation in late June 1999:

> "At this stage the militia clearly had the run of the town. Large groups of men, armed with machetes and home-made weapons were a common sight throughout the district. It was not uncommon to come across groups of militia, accompanied by TNI, moving through villages and burning houses in broad daylight."†

671. In addition to providing training and operational support, TNI officers were effectively integrated into the BMP's leadership and command structure. The most notorious BMP commander was the TNI Sgt. Tome Diogo. A local man who had served in the TNI for many years, Sgt. Diogo had a fearsome reputation in the district, and was an intelligence officer.‡ The Sub-District Military Commander (Danramil) for Maubara, the center of BMP operations, was a Kopassus officer, Sgt. Maj. Carlos Amaral.§

* See: Perwira Seksi Intelijen Kodim 1638 to Kepala Seksi Intelijen Korem 164/WD, Dan Sektor B, and others, "Laporan Harian Seksi Intelijen Dim 1638/Lqs Periode tgl. 16 s/d 17 April 1999," 18 April 1999 (Yayasan HAK Collection, Doc #11).

† UNTAET, UNMO-Liquiçá, "History of Liquiçá District Through 1999," December 1999.

‡ According to a list prepared by UNTAET Civpol, Sgt. Tome Diogo was one of 27 intelligence officers at the Liquiçá Kodim. See UNTAET, "Roster of Troops: Kodim 1638 Liquiçá," Liquiçá, [n.d.]

§ According to a list prepared by UNTAET Civpol, there were seven Kopassus SGI members in Maubara alone. See UNTAET, "Roster of Troops: Kopassus SGI Maubara," Liquiçá, [n.d.]

672. The importance of the link between the TNI and the militias was also evident in the geographical distribution of the main BMP command posts in the district. One of the first posts was established in Vatuboro village, where Battalion 143 was based.* Three more BMP command posts were set up in the villages of Vaviquinia, Dato, and Fatumasi, where three more Sub-District Military Commands were located. A fifth post was created in Maumeta village, in Bazartete Sub-District, which was also the location of a Kopassus base.†

673. Finally, the BMP had at least the tacit support of district Police authorities. As in other Districts, the Police in Liquiçá routinely turned a blind eye to militia activities including serious acts of violence. In some cases, such as the Liquiçá church massacre, Police officers and troops played a more directly supportive role. The most conspicuous police ally of the BMP was Lt. Col. (Pol.) Adios Salosa, who was Liquiçá Chief of Police until July 1999. His successor, Maj. (Pol.) Joko Irianto, played a somewhat less active role in support of the militia.

674. In sum, the key authorities involved in organising and supporting the BMP included, at a minimum the Bupati of Liquiçá, Leoneto Martins; the Commander of the Kopassus 'Satgas Tribuana,' Lt. Col. Yayat Sudrajat; the District Military Commander, Lt. Col. Asep Kuswandi; the Kodim Chief of Staff, Capt. Purwanto; the Kodim intelligence officer, Sgt. Tome Diogo; the Maubara Sub-District Mili¬tary Commander, Sgt. Maj. Carlos Amaral; and the District Chief of Police, Lt. Col. Adios Salosa.

Major human rights events

675. Serious acts of violence – including beating, house burning, and murder – began in Liquiçá as early as January 1999, forcing thousands of residents to flee their homes. Villages deemed to be sympathetic to Falintil bore the brunt of these attacks. The village of Guiço in Maubara Sub-District, for example, was attacked on four separate occasions in January and February. The perpetrators of those attacks included BMP militiamen and soldiers of Battalions 143 and 144 based in nearby Caicassa and Vatuboro.

676. The violence escalated further in early April, as a result of which thousands more fled to the mountains or to the Catholic church in Liquiçá town. By some estimates there were now as many as 6,000 internally displaced people in the district, in a total population of only 50,000. A large number of IDPs gathered in the vicinity of Loes, in Maubara Sub-District, an area with a strong Falintil presence, and therefore considered relatively safe. Nevertheless, the people there remained vulnerable to attack, and lacked access to sufficient food, housing, and medical care.

677. Against this background, BMP militias and TNI soldiers began a concerted campaign of violence against the IDPs. The campaign, which reached its peak in early April 1999, revealed the intimate links between the BMP and both military and civilian authorities.

* The BMP camp commander at Vatuboro and his brother were often seen in the Battalion 143 compound, and rice was delivered to the local BMP from the Battalion 143 camp.

† Kopassus had additional posts in Dato (in the official residence of a government official), in Maumete, and in Lunturi.

678. One of the victims of this wave of violence, Ilidio dos Santos, was killed by militiamen near the Liquiçá Sub-District Military Command on 5 April 1999.* Dos Santos had sought refuge there but rather than finding protection, he was confronted by six militiamen who announced their intention to kill him. He attempted to flee but was soon captured, and killed with a machete. TNI and SGI officers at the Koramil post reportedly made no attempt to stop his assailants.

679. Another victim, Fernando da Costa, was arrested on 5 April, and killed in TNI custody two days later.† Da Costa, a CNRT supporter, was detained in Liquiçá town by a group of TNI, BMP militiamen and Police who had been moving house to house in search of known CNRT leaders. Outside his house, he was badly beaten by TNI soldiers. He was then taken to the Liquiçá District Police Station, where he was detained for two days, during which time he reportedly suffered further beatings by a TNI soldier. On 7 April, he was taken from his cell to the Liquiçá Sub-District Military Command (Koramil) by TNI soldiers. From there he was transported to the Maubara Sub-District Military Command, accompanied by TNI Sgt. Tome Diogo and BMP leader, Zacarias Alves. Shortly after arriving there, he was stabbed repeatedly and killed.

680. The violent events of early April culminated in the massacre of as many as 60 people in Liquiçá church on 6 April 1999. Those killed had taken refuge in the church in the face of the escalating militia violence. Although the attack was carried out mainly by BMP militiamen, eyewitnesses have testified that TNI (including Kopassus) and Brimob troops backed up the militias and fired their weapons during the attack. Those involved were said to include soldiers from Kopassus 'Satgas Tribuana;' Battalion 143; the Liquiçá District Military Command (Kodim); the Maubara Sub-District Military Command (Koramil); and the Police Mobile Brigades (Brimob).

681. Several eyewitnesses have testified that senior TNI officers and civilian officials were in the immediate vicinity at the time of the attack. They included: the Dandim, Lt. Col. Asep Kuswandi; the Commander of the Kopassus unit Satgas Tribuana, Lt. Col. Yayat Sudrajat; the Bupati, Leoneto Martins; and the Chief of Police, Lt. Col. (Pol.) Adios Salosa. Those authorities took no effective measures to prevent the attack, to stop it once it had begun, to investigate the incident, or to bring the suspected perpetrators to justice. Indeed, there was circumstantial evidence that these authorities had prior knowledge of, and may even have planned, the attack (See Case Study: Liquiçá Church Massacre, par. 768).

682. In the days and weeks after the massacre, the attacks on independence supporters spread throughout Liquiçá. At least six more people were killed in different parts of the district in April, and houses were burned and looted. In the face of the mounting violence, thousands more residents fled to the forest around Loes, Hatuquesi, and Dare. Some also went to Dili, and environs, bringing the total estimated number of people dislocated from their homes in the district to more than 10,000. In Dili, some 150 IDPs took refuge in the home of the respected pro-independence figure Manuel Carrascalão. Less than two weeks later, on 17 April, the IDPs in that house were also

* See UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., paragraphs 94-95.

† See UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., paragraphs 80-84.

attacked by militias and TNI, and at least 12 were killed (See Case Study: Carrascalão House Massacre, par. 803).

683. Overt violence diminished somewhat with the deployment of UNAMET to the district in late June, but systematic intimidation continued and BMP militias, often bearing arms, continued to roam freely about the district. The main difference was that the targets of militia and TNI intimidation now included UNAMET staff and humanitarian workers. Local UNAMET staff in particular were repeatedly threatened, and on occasion assaulted, by BMP militiamen. There were also several incidents in which militiamen pointed weapons at UN vehicles and personnel as they drove by in trucks and minibuses. No action was taken against the perpetrators, indicating that their behaviour was officially condoned.

684. The complicity of TNI and Police officials in the pattern of intimidation and violence was highlighted by an attack on a humanitarian convoy on 4 July. The convoy, which was accompanied by UNAMET's Humanitarian Affairs Officer and escorted by UNAMET MLOs, had stopped in Liquiçá town after delivering food and medicine to IDPs in the vicinity of Loes. Shortly after the convoy stopped, it was attacked by about a dozen BMP militiamen, swinging machetes and firing home-made guns. One person was seriously injured in the attack and the vehicles were badly damaged. Indonesian Police and TNI in the immediate vicinity did nothing to stop the attack. Their inaction contributed to UNAMET's decision to conduct an emergency evacuation of all personnel later the same day. Suspicions of official complicity were confirmed by later events, most notably by the wholly inadequate Police investigation of the incident (See Case Study: Attack on Humanitarian Convoy, par. 852).

685. The intimidation and low-level violence intensified during the campaign period in August and continued until ballot day. On 8 August, a UNAMET employee named Mariano da Costa was detained and beaten by BMP militiamen who suspected him of being a CNRT member. On the order of TNI Sgt. Tome Diogo and BMP commander Zacharia Alves, he was driven away, and never seen again. Militiamen later reported that Mariano da Costa had been stabbed to death.* Also in August, a group of six CNRT activists was arrested by Police and militia as they entered Liquiçá. They were beaten and held in custody for six days 'for their own protection.'

686. The violence and intimidation made it virtually impossible for the CNRT to campaign openly. It also inhibited the return of IDPs to their home villages. Despite these problems, and a legitimate fear of further violence, voter turn-out on 30 August was high; a special polling centre established near one of the main IDP concentrations ensured that most IDPs were able to cast a vote.

687. As in other districts, polling day was relatively quiet. However, tension mounted in the days after the vote and, with the announcement of the result on 4 September, a systematic campaign of violence began. Within hours of the announcement, houses in Liquiçá town started to burn, automatic weapons fire could be heard, and armed militias began to roam freely around the towns and villages. Over the next three

* See UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., paragraphs 141-146.

weeks, thousands of people were placed on trucks and driven across the border, and an unknown number were killed. An UNTAET report from December 1999, noted that 77 bodies had already been recovered in the district, and that another 61 inquiries were still under investigation.* By early 2003, the number of reported killings in the district had reached 183.

688. The dead included three men, all suspected supporters of the CNRT, who were detained by TNI soldiers and BMP militiamen in Metagou village on 3 September. The three men were severely beaten and then killed the following day, 4 September, immediately after the results of the ballot were announced.† Other victims included three men, all suspected CNRT members, who were deliberately killed on 7 September in the village of Buka Mera by a combined team of TNI soldiers and BMP militiamen.‡ In each case, the soldiers and militiamen went to the homes of the victims and asked for them by name before killing them.

689. The operation to forcibly relocate the population reportedly began in Fatumasi village, in Bazartete Sub-District. People were taken from their homes to the church compound in Liquiçá and the beach in Dato. From there, they were loaded onto several vessels bound for West Timor. After the forcible evacuation of its residents, Fatumasi was burned to the ground. The same process was then repeated in Mataulun, Ipelu, and Liquiçá town. A similar pattern of forcible evacuation and destruction was observed in Maubara Sub-District, except that the bulk of the population there was loaded onto trucks and transported overland. Highland villages were less seriously affected, perhaps because access was difficult, and perhaps because the militia and TNI were reluctant to venture into areas traditionally controlled by Falintil forces.

690. All told, an estimated 20,000 people were forcibly relocated from their homes in Liquiçá and up to 80% of the buildings were destroyed or damaged.§ In every known instance, the relocation operation and destruction were carried out jointly by TNI soldiers, Police, and BMP militias, assisted in some cases by Aitarak members sent from Dili. In short, the general pattern of post-ballot violence in Liquiçá provided strong evidence that the campaign was conducted with the knowledge and approval of Police and TNI authorities.

691. One particularly revealing incident was the armed attack on UNAMET staff as they attempted to evacuate Liquiçá town on 4 September. As the convoy left the UN compound, it came under sustained weapons fire from several attackers, including some who were identified as Indonesian Police and TNI officers. Each of the six vehicles

* UNTAET, UNMO-Liquiçá, "History of Liquiçá District Through 1999," December 1999.

† The three killed in Metagou were: Jacinto dos Santos, Pedro Alves, and Francisco da Silva. See UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., paragraphs 148-157.

‡ The three killed in Buka Mera were: Paulo Gonçalves, Guilhermo Alves, and Clementino Gonçalves. See UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., paragraphs 158-166.

§ These are approximate figures. UNTAET's DHRO-Liquiçá estimated that 25,000 were displaced, while an UNTAET report of December 1999 said that roughly one third of the population (i.e. c.18,000) were forced to flee.

was hit an average of 15 times, with single and automatic shots. One Civpol officer, Earl Candler, was gravely wounded in the attack, receiving two rounds in the stomach and one under the arm. At the Liquiçá District Police station, in the immediate aftermath of the attack, militia leaders were seen together with TNI liaison officers and Police. The militia leaders, moreover, were holding two-way radios and were judged to be coordinating militia activity. As the UN helicopter came in to evacuate the wounded Civpol officer, the Police, and TNI officers present also allowed militiamen to fire their weapons at it.

692. The BMP militia and TNI began to leave Liquiçá on about 20 September. By the time Interfet forces arrived there on 28 September, there were only a handful of militiamen remaining, and they departed the same day.

693. Manatuto (Kodim 1631)

- Dandim: Lt. Col. Sulastiyo; Lt. Col. Gerson Ponto
- Bupati: Vidal Doutel Sarmento
- Kapolres: Lt. Col. (Pol.) Drs. Johan A. Sumampow
- Militias: Morok, Mahadomi
- No. killed: 32

694. At least 32 people, and probably more, were arbitrarily executed in Manatuto in 1999.* As in other districts, most of the victims were real or alleged supporters of independence, and most were killed in April-May, or in the immediate aftermath of the 30 August ballot. In the pre-UNAMET period, the main perpetrators of serious human rights violations were TNI soldiers, while in the post-ballot period, militia members played an equally prominent role. The district also suffered extensive property destruction, looting and forcible evacuation in the post-ballot period.

Militias and authorities

695. The two principal militia groups in Manatuto were Morok and Mahadomi (Manatuto Hadomi Otonomi – Manatuto Loves Autonomy). Morok was the older of the two, having been established several years earlier. Based in the central-western Sub-Districts of Laclubar and Soibada, Morok was led in early 1999 by TNI officer Filomeno Lopes da Cruz. With his murder in mid-April, allegedly by Falintil forces, the field leadership of Morok passed to Domingos Metan.† Mahadomi was a newer group, created in early 1999 as part of the government's plan to 'socialise' the autonomy

* Unless otherwise noted, this account is based on the following sources: UNAMET, Civpol Manatuto, "Regional Report," 21 September 1999; UNTAET, DHRO-Manatuto, "Report of the District Human Rights Officer for Manatuto covering the period 11-28 September 2000"; UNTAET, Manatuto District Civpol, "History of Manatuto District 1999," 26 October 2000; and João Soares Reis Pequinho, "Situasi keamanan di Manatuto kota berubah drastis dari keadaan yang aman ke keadaan yang menyeramkan," Dili, 16 October 2002.

† Other sources say that the leader of Morok was Thomas de Aquino Kalla. See "Lt. Col. Sulastiyo," in *Masters of Terror*, http://yayasanhak.minihub.org/mot/booktoc.htm

option. Based in the Sub-District of Manatuto, Mahadomi's main field commanders were Aleixo de Carvalho and Filomeno Barreto.

696. Despite differences in age and base of operations, Morok and Mahadomi worked closely together in 1999. In fact, according to some observers, the two groups were formally amalgamated as a single unit, under the name Mahadomi in May 1999.

697. The principal backer of the militias in the Manatuto district, and formally their overall commander, was the Bupati, Vidal Doutel Sarmento. Witnesses who attended official meetings with him in 1999 said that he frequently remarked that, if the autonomy option did not win, Manatuto would burn. Although a civilian official, the Bupati was known to have close ties with the TNI and particularly with Kopassus. Indeed, like a number of senior East Timorese government officials, he had been designated an honorary Kopassus officer. As tensions rose in the aftermath of the vote, Sarmento is reported to have donned his Kopassus officer's uniform.

698. Mahadomi and Morok also had the backing of virtually the entire military and civilian apparatus at the district and provincial level. That backing was openly expressed in a series of official ceremonies for the inauguration of the militias, and the disbanding of the CNRT, that took place throughout the district in May 1999.

699. One such ceremony, held in Manatuto town on 8 May 1999 was led by the Bupati, and attended by the District Military Commander, Lt. Col. Sulastiyo, the Sub-Regional Military Commander, Col. Tono Suratman, and a variety of pro-autonomy figures from Baucau, Dili and Lautém. The keynote speaker at the ceremony was Indonesia's Ambassador at large for Timor-Leste, Francisco Lopes da Cruz, who happened also to be the brother of the recently killed militia leader, Filomeno Lopes da Cruz. A secret military intelligence report, dated 12 May 1999, reporting on the event, claimed that some 5,000 local people attended.[*]

700. A similar ceremony was held in the Sub-District of Laclubar on 17 May. According to a situation report from the Military Intelligence staff of the Manatuto Kodim to the Korem Head of Intelligence, that ceremony was attended by the District Military Commander, by officers and soldiers of Infantry Battalion 301/PKS, and Brimob troops.[†]

701. In addition to such public displays of official support, the militias in Manatuto also had practical backing from TNI officers and soldiers. The public face of TNI support for the militias was the District Military Commander, Lt. Col. Sulastiyo. With his transfer in July or August 1999, that role was assumed by his successor, Lt Col. Gerson Ponto.[‡] By most accounts, however, Lt. Col. Ponto was not a strong supporter of the militias, and indeed may have helped to limit militia violence during his brief tenure.

* Kodim 1631/Manatuto, Perwira Seksi Intelijen to Kasi Intel Korem 164/WD and others. Secret Daily Situation Report, 12 May 1999 (Yayasan HAK Collection, Doc #23).

† Kodim/1631 Manatuto, Perwira Seksi Intelijen to Kasi Intel Korem 164/WD and others. Secret Daily Situation Report, 20 May 1999 (Yayasan HAK Collection, Doc #24).

‡ According to some sources, Lt. Col. Sulastiyo was replaced in July 1999 by Lt. Col. Gerson Ponto (a.k.a. Lexi Herson Ponto). Other sources suggest that Sulastiyo remained as Dandim until mid-August 1999.

702. In any case, the District Commanders were not acting alone. Testimony from a former TNI member in Manatuto indicates that officers and soldiers associated with Kopassus and military intelligence played a crucial role in the mobilisation and training of the militias there. A central Kopassus figure in the district was Lt. Col. Nyus Rahasia, the Deputy Commander of Combat Sector B, who was reportedly in Manatuto from mid-May to mid-June coordinating military-style training for militias.

703. At least four other Kopassus officers remained in the district, training and operating with militias in Manatuto in 1999. Three of these officers – identified only as Wayan, Ipon, and Agus – reportedly delivered weapons to the Bupati's residence on 4 September 1999. Those weapons were subsequently distributed to Mahadomi militia members and used in committing serious human rights violations, including arbitrary killings in the ensuing weeks.

704. The claim that Kopassus and intelligence officers played a central role in Manatuto is supported by documentary evidence. A crucial piece of evidence comes from the military intelligence report of 20 May mentioned above. Prepared by a Military Intelligence officer at the Kodim for the Korem Head of Intelligence, Maj. Bambang Wisnumurty, and copied to the Commander of Kopassus Satgas Tribuana, the report states explicitly that on 17 May 1999 two senior TNI officers had given "guidance" to militiamen at the Morok militia base in Manatuto. Although not mentioned by name, the two officers in question were described as the "Commander of Sector A" and the "Commander of Sub-Sector Manatuto." The Commander of Sector A was Col. Sunarko, and the Commander of Sub-Sector Manatuto was probably Lt. Col. Nyus Rahasia.

705. These men, both Kopassus officers, were among the highest ranking and most powerful TNI officers in the territory. The fact that their actions were reported routinely, and without censure, in an intelligence report to the Korem Head of Intelligence, indicates that they were not considered 'rogue elements' and that their actions were in fact consistent with established TNI norms and procedures.

Major human rights events

706. The first victim to fall in Manatuto District in 1999 was not a pro-independence figure but the Morok militia leader, Filomeno Lopes da Cruz. He was shot and killed in mid-April, allegedly by Falintil forces, in Seur Tulan village, Laclubar Sub-District. In the following days, at least three pro-independence activists were killed by TNI troops, and a village was burned, in apparent retaliation for his murder.

707. Among those killed were Marcelino Soares and Mateus. The two were reportedly killed on the night of 24 April by Rajawali troops and soldiers of the Koramil Laclubar in the vicinity of Orlalan village. According to witnesses, the two men were decapitated, and their heads were placed atop their makeshift graves. The same night, Rajawali and Koramil troops reportedly burned the neighbouring village of Manelima, and killed a young man named Manuel Almeida, also in retaliation for the death of the militia leader Filomeno Lopes da Cruz. Manuel Almeida had been the driver for the Catholic priest in Soibada, Father Julio, but TNI soldiers evidently suspected him of involvement in Filomeno's murder.

708. At least one more killing and a number of instances of serious ill-treatment or torture were reported in mid-May. This time the chief perpetrators were Morok and Mahadomi militia members, though they were clearly acting with the acquiescence of the highest civilian and military authorities. On 13 May, for example, militiamen seized two men (João da Costa and Paulino Soares) and took them to the Bupati's residence, which also served as a militia headquarters and detention centre.* The two men, who were suspected of supplying food to Falintil, were held for two weeks and severely beaten before the Catholic Church and the Red Cross intervened and secured their release.

709. Militia harassment and intimidation continued through the UNAMET period. In mid-August, militiamen and TNI soldiers roamed through the town of Manatuto tearing down CNRT posters. On 19 August, again assisted by soldiers, militias destroyed the CNRT office. UNAMET officials lodged formal protests with the Bupati and other officials over their support for the militias, and about the patently unfair political climate in the district. Those protests appeared to keep the most extreme forms of violence in check, but they did not change the underlying relationship between the authorities and the militias.

710. With the announcement of the vote on 4 September, and the departure of UNAMET staff a few days later, the stage was set for open violence to resume. Over the next two weeks, at least 18 people were killed, thousands of people were forcibly displaced from their homes, and much of the physical infrastructure in the district was destroyed.†

711. Efforts by the Catholic Church and by leaders on both sides went some way toward delaying the violence, thereby giving the population an opportunity to flee to safety. In the days immediately after the result was announced, for example, pro-independence and pro-autonomy leaders seemed to reach an agreement to avoid acts of violence. According to one account, there was even an agreement to disband the militia, in exchange for a promise that Falintil would not attack.

712. There were key figures, however, who chose to ignore those agreements. One was the Bupati, Vidal Doutel Sarmento, who refused to allow the militia to be disbanded, and played a critical role in distributing weapons to them after 4 September. As noted above, those weapons were reportedly brought to Sarmento's house by Kopassus officers on 4 September, and then distributed to Mahadomi militia members.

713. On 6 September, the burning began in the town of Manatuto. According to residents watching from the hills behind the town, the first buildings targeted appeared to be the homes of known CNRT leaders, such as the First Deputy Secretary for Manatuto, Boaventura Soares. Within a few days, virtually every structure in the town had been

* One account of these events suggests that the two men were handed over to SGI.

† The severity of the dislocation varied among Sub-Districts. In the Sub-District of Manatuto, virtually the entire population fled or was displaced. In Laclubar, roughly half fled, while in Soibada very few were forced from their homes. Personal communication with former UNAMET Manatuto staff, João Pequinho, October 2002.

burned or otherwise destroyed. As in the rest of the country, TNI soldiers played an active role in organising and carrying out the burning. On 7 September, UNAMET MLOs in Manatuto directly witnessed TNI soldiers spraying buildings with petrol and then lighting them on fire.

714. The killings followed soon after. Among those killed was Abílio Amaral, a university student and independence supporter who had worked with the District administration. Amaral was reportedly killed at or near a TNI base in the village of Ailili in Manatuto Sub-District, some time after being detained by soldiers on 10 September. Two witnesses who saw him at the TNI base some time after 10 September, said his face was severely bruised and swollen, apparently as a result of being beaten. On 4 October 1999 another witness saw a dead body lying behind the TNI base camp, and believed that it was the body of Abílio Amaral.[*] In September 2000, UNTAET Civpol officers reportedly discovered one grave, and possibly more, behind a TNI barracks in the same vicinity.[†]

715. Another victim of the post-ballot violence was António (Pinto) Soares, a member of a clandestine youth group, shot and killed by soldiers of Kodim Manatuto on 11 September. Immediately after the announcement of the ballot result, Soares had fled to the hills outside Manatuto with his wife and small child. Early on the morning of 11 September, he had returned to the town with a group of clandestine youth to find food for those hiding in the hills. Returning later that day Soares and two others (João Pequinho and Marito Lay), all carrying large sacks of rice, were ambushed from behind by three soldiers of Kodim Manatuto. António Soares was felled with a single bullet to his head.[‡]

716. Manatuto also suffered the wrath of members of TNI Battalion 745, as they headed in convoy from their base in Lautém toward Dili on 20-21 September. (See Case Study: Battalion 745 Rampage, par. 981). In the first weeks of September members of the Battalion killed at least 21 people. Several of those killings took place near the village of Laleia, in the District of Manatuto.

717. The dead included three men, apparently unarmed, who were killed in the course of an assault on the eastern side of Laleia bridge, and one man, an alleged Falintil fighter, who was stabbed and shot by soldiers who then cut off one of his ears. Three other people, including one woman, were reportedly detained near Laleia, beaten then handed over to soldiers of the Manatuto Kodim. They were not seen again and it is thought that they were killed.[§]

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* UNTAET, Manatuto District Civpol, "History of Manatuto District 1999," 26 October 2000.

† UNTAET, DHRO-Manatuto, "Report of the District Human Rights Officer for Manatuto covering the period 11-28 September 2000."

‡ João Soares Reis Pequinho, "Situasi keamanan di Manatuto kota berubah drastis dari keadaan yang aman ke keadaan yang menyeramkan," Dili, 16 October 2002.

§ UNTAET, SCU, "Synopsis in Respect to TNI 745 Battalion and the Murder of Sander Thoenes," 9 September 2001.

718. Manufahi (Kodim 1634)

- Dandim: Maj. Drs. H.M. Sinaga
- Bupati: Nazario José Tilman de Andrade
- Kapolres: Lt. Col. (Pol.) Drs. Abdul Rachim
- Militias: ABLAI
- No. killed: 27

719. Manufahi suffered somewhat less than many other districts in 1999, but the violations of human rights there were still significant.* At least 27 people were killed during the year, thousands were forcibly relocated to West Timor, and there was major destruction of property.

Militias and authorities

720. The perpetrators of the violence in Manufahi were predominantly members of the local militia group, ABLAI, formed in March 1999. However, TNI forces were directly responsible for at least three killings and they were indirectly involved in other grave violations of human rights. Most of those killed were known supporters of independence, but two were pro-autonomy militiamen. All but three of the known killings happened in Same Sub-District, so much of the District was not subject to the most severe forms of violence.

721. Serious violence was reported in Manufahi as early as November 1998, some time before it began in the rest of the territory. The trouble began in Alas Sub-District when Falintil fighters killed seven TNI soldiers in a two-week period. In an operation that foreshadowed the violence of 1999, TNI forces (including elements of Battalion 744, Kodim, and Koramils) joined militia forces and auxiliaries in launching a major retaliation campaign against the alleged perpetrators, and on the communities deemed to be supporting them. In the course of the initial operation, roughly two dozen people were arrested, nine were beaten or tortured, two were beaten to death, and about 1,000 residents were displaced. In the following weeks, a further 13 people are believed to have been killed, all of them known members of the Resistance.

722. The groups that joined the TNI in the November 1998 operation were the forerunners of ABLAI, the militia formed in early 1999. Many of ABLAI's key leaders had been members of Gadapaksi, formed in 1995, or of army auxiliary units that had been in existence for many years. These auxiliaries were known colloquially as the 'Three-Week Army' (Tentara Tiga Minggu), a reference to the fact that its members had undergone a three-week training course led by Kopassus at the Battalion 744 base in Aileu in 1995.

723. Like other militias in the country, ABLAI had close links with Indonesian military and civilian authorities. The upper echelon of the ABLAI leadership had long-

* Unless otherwise noted, this account is based on the following sources: UNTAET, DHRO-Manufahi, "Manufahi," June, 2002; UNTAET, DHRO-Manufahi, "Manufahi Human Rights EventsTimeline," February 2001; and UNTAET, DHRO-Manufahi, "The Situation in Turiscai," February 2001.

established ties with Kopassus and other TNI units and officers. The overall ABLAI Commander, Nazario Corte Real, for example, had worked for Kopassus for years, and had undergone 'Three-Week Army' training in 1995. ABLAI's second-in-command, Francisco Capella Ferrão, had worked with the TNI even longer, by some accounts since the late 1970s.

724. In 1999, the key link between ABLAI and Kopassus was said to be a militiaman (possibly a Kopassus officer) named Nelson de Araújo. Apart from his involvement in numerous acts of violence in 1999, de Araújo was accused of involvement in the killing of a Nepali peacekeeper in Suai in August 2000.* A key figure on the TNI side was the Sub-District Military Commander (Danramil) in Alas, Antonio Pereira.

725. ABLAI also had links with militias in other parts of the country, and through them with other military officials. The ABLAI inauguration ceremony held in March 1999, in Same, was addressed by the notorious Aitarak (and ex-Gadapaksi) leader Eurico Guterres well known to have close ties to the military leadership.

726. ABLAI also had the active support of some local civilian authorities, including Mattius da Silva, the Village Head of Taitudak, and Baltazar Doutel Sarmento, the Village Head of Mahaquidan, both in Alas Sub-District. But the link between ABLAI and the authorities was not a seamless one. In particular, there were signs of a rift between the Bupati, Nazario José Tilman de Andrade on the one hand, and the ABLAI leadership on the other.

727. Despite working for the Indonesians, de Andrade was considered to be a moderate, or even pro-independence, and opposed to the militia's use of violence. By some accounts, ABLAI commanders wanted to kill him and the BRTT head Jaime da Costa; and it is almost certain that the head of the FPDK hid a Fretilin leader, thereby saving his life. Whatever the reasons for the rift, it seems to have imposed some limits on ABLAI's strength and freedom of operation. That may help to explain why the violence in 1999 was relatively less serious in Manufahi than in some other districts. The interventions of other local officials, such as the Sub-District Head of Same, Filomeno Tilman, may also have helped to limit the violence.

Major human rights events

728. The violence in Manufahi occurred in two distinct waves, and in different parts of the district. The first wave, in April 1999, was in the Orema area. The second, in September, was concentrated in the Datino and Betano areas.

729. The first serious violations in the district, in 1999, came on 21 February when three men disappeared after being taken to a TNI post near the market in the town of Same. Tension mounted in March, especially after Eurico Guterres visited the area on 11 March. From that point on, militiamen as well as TNI officers and some civilian

* As of March 2003, Serious Crimes investigators had found little evidence to support these allegations, and had released Nelson de Araújo from custody. However, the failure to find evidence may have been related to the fact that investigations in the Manufahi District, to that date, had been extremely limited.

officials frequently addressed community meetings, and issued threats and warnings against voting for independence. A threat commonly voiced throughout the run-up to the vote was that if the vote favours independence "blood will flow from west to east."

730. On 10 April, a student leader was detained by ABLAI members and badly beaten.* About one week later, two ABLAI militiamen from Orema were killed while in Dili. The precise circumstances of their deaths are unclear, but militia leaders in Manufahi accused the pro-independence side of killing them. Their bodies were returned to Same by the TNI and buried at the TNI cemetery in mid-April.

731. The killings and burial occurred just days before Eurico Guterres addressed a large pro-autonomy crowd in front of the Governor's office in Dili, and urged the crowd to take action against supporters of independence. Guterres' speech, on 17 April, was followed not only by a violent militia rampage in Dili, but by an escalation of militia violence in Manufahi District. The homes of most pro-independence figures in the district were burned. Terrified, many residents fled to the church in Same, to the hills or to the relative safety of Dili.

732. At least five people were killed in the course of this wave of violence (17-25 April). Residents of Orema, the main area of the militia activity, also reported that ABLAI members forced them under threat of violence to hand over pigs, horses, and women. One man was reportedly killed when his daughter refused to go with the militiamen. After killing him, the militias took the woman against her will. She subsequently reported that she had been forced to serve as a militia slave, and that she had been raped by militiamen.

733. The second major wave of violence in Manufahi began on the day of the ballot, 30 August, and continued for roughly three weeks. During this period, at least 15 people were killed, and thousands were forcibly displaced. The violence began with the torture, murder, and decapitation of two men on 30 August. The severed heads of the two men were displayed in public, with the evident intention of terrorising others into leaving for West Timor.

734. That tactic, together with the systematic burning of houses and public buildings by militia, Police, and TNI forces (including Battalion 301), drove many villagers to flee their homes. The pattern varied slightly from one area to the next, but one pattern common throughout the district was that the worst destruction, and the greatest number of displacements, occurred along the main roads linking the district to the border. The most remote villages in the district were spared major destruction, either because the militia could not be bothered to go there, or because they were Falintil strongholds.

735. The violence ended with one final killing spree. Near Betano, just before their departure from Manufahi, ABLAI militia killed up to ten people in a single day, 24 September. By the time Interfet forces arrived, the militias had left, as had the TNI, the Police, and most civilian authorities.

* By some accounts he was hacked with machetes.

736. Oecussi (Kodim 1639)

- Dandim: Lt. Col. Kamiso Miran; Lt. Col. Bambang Sungesti
- Bupati: Filomeno Mesquita da Costa
- Kapolres: Lt. Col. (Pol.) Drs. Wilmar Marpaung
- Militias: Sakunar
- No. killed: 170

737. The District of Oecussi suffered among the most serious human rights violations of any district in East Timor in 1999.* At least 170 people were killed during the year, the vast majority of them in the weeks after the ballot. As in other districts, thousands of people fled their homes during this period in the face of systematic intimidation and violence.

Militias and authorities

738. The district's main militia force, Sakunar (Scorpion), was created and strongly supported by TNI, Police, and civilian authorities. It was formed in April 1999 with the full backing of the Governor of Timor-Leste, Abílio Osório Soares, the Bupati of Dili, Domingos Soares, and the two principal militia commanders for Timor-Leste, João Tavares and Eurico Guterres.

739. From the time of its formation, moreover, it received the full political and financial backing of the Bupati of Oecussi, Filomeno Misquito da Costa, the Kapolres, Lt. Col. (Pol.) Drs. Wilmar Marpaung and, most importantly, the Dandim (until August 1999), Lt. Col. Kamiso Miran and his successor, Lt. Col. Bambang Sungesti.† All of these officials attended a ceremony on 1 May 1999 at which Sakunar was formally inaugurated, and at which supporters of independence were publicly threatened and beaten by militiamen.

740. Sakunar's links with officialdom did not stop there. Testifying before a Jakarta court in April 2000, a former Sakunar leader said he had received weapons from two senior Kopassus officers, whom he identified as 'Bambang' and 'Tatang.'‡ Although the court did not seek to clarify the officers' identity, it is likely that they were Maj. Bambang Wisnumurty, the Korem Head of Intelligence, and Col. Tatang Zaenuddin, Commander of Combat Sector B. Both men were involved in mobilising and coordinating militias elsewhere in Timor-Leste.

741. Moreover, the principal organisers and leaders of Sakunar, and the key instigators of the post-ballot violence, were themselves active military and Police officers and civil

* Unless otherwise noted, this account is based on the following sources: UNTAET, DHRO-Oecussi, "Report on Human Rights Violations During 1999: Oecussi District," November 2001; UNTAET, General Prosecutor, Indictment of Simão Lopes et al. (Case No. OE-12-99-SC), Dili, September 2001.

† Lt. Col. Sungesti replaced Lt. Col. Miran on 9 August 1999.

‡ The militia leader was Laurentino Moko. Karen Polglaze, "Timor militia leader back in court," *AAP*, 10 April 2000.

servants. They included the Danramil of Passabe, Anton(io) Sabraca; the Babinsa and militia trainer in Passabe village, Sgt. Andre Ulan; the civil servant and overall Sakunar commander, Simão Lopes; the Head of Passabe Village and Police officer, Gabriel Kolo; and the Head of Cunha Village, Laurentino Soares (a.k.a. Moko).

742. This web of official linkages, and overlapping memberships between the militias and state agencies, allowed Sakunar to operate with impunity, and ensured that its members had the operational and logistical means to commit systematic violations of human rights.

Major human rights events

743. At least 12 people, and possibly more, were killed in Oecussi in the pre-ballot period, and numerous instances of physical assault, intimidation, and property destruction were reported. As in other districts, CNRT leaders and activists were subjected to acts of intimidation and violence by pro-autonomy forces, and they numbered among the dead.* Compared to some other districts, however, Oecussi was not a major centre of military or militia activity in the pre-UNAMET and UNAMET periods.

744. That situation changed dramatically in the final days before the ballot and in the immediate post-ballot period, especially after the departure of UNAMET personnel and other international observers in early September 1999. Over the next several weeks more than 150 civilians were murdered, some in very gruesome fashion, bringing the total number killed in the District in 1999 to at least 170. In addition, thousands of people fled their homes in the face of systematic intimidation and violence.

745. The so-called Passabe massacre of September 1999 was among the most systematic of all the acts of violence committed in the post-ballot period in Timor-Leste. In the course of three days, from 8 to 10 September, at least 82 people were killed. All of the victims were residents of four villages in the Sub-District of Oesilo, in the southeastern part of the district. At least another 12 people were killed en masse in the village of Maquelab, on the north coast, in October. Virtually all of the targeted villages were known as pro-independence strongholds, and the victims were over-whelmingly independence leaders or supporters (See Case Study: The Passabe and Maquelab Massacres, par. 947).

746. The very large numbers of victims and the systematic nature of the killings at Passabe and Maquelab would appear to be attributable to three main factors. First, as already noted, the militia force was strongly supported by all military, police, and civilian authorities in the district.

747. A second factor was the early departure of UNAMET and other international personnel, and the relatively late arrival of the multinational force. As in other districts, UNAMET personnel came under threat in the early days of September, leading to a

* At a public ceremony in early May, CNRT leaders were forced to 'voluntarily' dissolve their organisation, and to renounce their support for independence.

decision to evacuate to Dili. That left Oecussi entirely without international observers, a situation in which TNI, Police, and Sakunar militias were free to act with complete impunity. Interfet troops began to arrive in Dili as early as 20 September and deployed to other districts in the following days, but they did not reach Oecussi until 22 October, by which time scores of civilians had already been killed.

748. A third and related factor was Oecussi's proximity to Indonesian territory, and its geographical isolation from the rest of Timor-Leste. As an enclave surrounded to the east, west, and south by Indonesian West Timor, and bounded by the sea to the north, Oecussi was essentially cut off from the rest of Timor-Leste. Its geographical position meant that TNI and militia forces could move with relative ease across the border into Indonesia, as they did in the course of the so-called Passabe massacre.

749. Viqueque (Kodim 1630)

- Dandim: Lt. Col. Djoko Sukarsono; Lt. Col. Gustaf Heru
- Bupati: Martinho Fernandes
- Kapolres: Lt. Col. (Pol.) Drs. Abdul Rahman
- Militias: Makikit, 59/75 Junior
- No. killed: 8-30

750. The District of Viqueque experienced a lower incidence of serious human rights violations than most other districts, but it did not escape the violence entirely.* At least 8 people, but possibly as many as 30, were killed during the year, and an estimated 10,000 were forcibly displaced from their homes. In a reversal of the pattern elsewhere in the country, most of the killing in Viqueque occurred before the ballot. Physical destruction varied widely within the district. In some areas, 90% of all buildings were destroyed, while in other areas there was almost no destruction at all.

Militias and authorities

751. The two main militia groups in Viqueque were Makikit (Eagle) and 59/75 Junior. Compared to militia groups in the western districts, neither was especially strong. In three of the five Sub-Districts – Ossu, Uato Lari and Uato Carabau – they were virtually absent. By one estimate there were fewer than 100 militiamen in the entire district in mid-1999.

752. The relative weakness of the militias in Viqueque may have been related to the strong Falintil presence there, and the reluctance of Sub-District and Village Heads, as well as ordinary citizens, to take part in them. One of Falintil's four cantonment sites was in Uai Mori on the Viqueque border, and several sub-districts were considered

* Unless otherwise noted, this account is based on the following sources: UNTAET, DHRO-Viqueque, "Human Rights Violations: Viqueque District," [n.d.]; and UNAMET, MLO-Viqueque, "Outline of Pro-Integration Militias in Viqueque Area," 6 August 1999, reprinted in UNTAET, Political Affairs Office, Briefing Book, Dili, November 1999.

to be Falintil strongholds. There were also indications that some TNI officers in the District – with the notable exception of Kopassus and Military Intelligence officers – provided only limited support to the militias, and that both the TNI and the Police had been infiltrated by supporters of independence.* The second Dandim, Lt. Col. Gustaf Heru, adopted a notably moderate posture in the post-ballot period.

753. Makikit was especially active in the Sub-District of Lacluta, where it was based. In August, for example, it conducted operations against IDPs attempting to return to their homes in the area. The militia group 59/75 Junior – which took its name from the year of an abortive anti-Portuguese uprising in the district (1959), and the year of Indonesia's invasion of Timor-Leste (1975) – was based in Beobe village, in the town of Viqueque. Although active in the pre-UNAMET period, for most of the UNAMET period it kept a low profile. In mid-August it became more aggressive, intimidating local residents, and attacking recently opened CNRT and DSMPTT offices in Viqueque town.

754. By all accounts, Viqueque's militias were strongly supported by the Bupati, Martinho Fernandes, who was said to be a former associate of Prabowo Subianto, and an honorary member of Kopassus. Indeed, Fernandes told an international observer delegation in 1999 that he considered the militias to be a legitimate element of the pro-autonomy effort, despite the fact that they were armed. As in other districts, funding for the militias was channeled through the Bupati's office.

755. The militias also received training and logistical support from the TNI, and especially Kopassus. According to UNAMET MLOs posted in the district, a small number of Kopassus soldiers operated with each militia unit, serving an essential command and control function, and allowing coordination among militia sub-units and with other militias. Kopassus elements were also reported to have routinely conducted training sessions with 59/75 Junior militias at the militia base in Beobe village, Viqueque town. An MLO report of 5 August 1999 concluded that "59/75 Junior are an instrument of political repression backed and probably controlled by Kopassus."†

756. Several TNI officers within the territorial command structure, especially those in Kodim Intelligence, were also directly involved in coordinating militia activities. The most prominent and high ranking among them included: the Kodim Intelligence Chief, Lt. Yusuf Tandi; three Kodim Intelligence staff officers, Sgt. Andreas Prawin, Sgt. Abdul Mansyur, and Sgt. Gabriel Tahu; and the Danramil in Lacluta, Sgt. Maj. Nicodemus Y. Y., who had served for seven years with Kopassus before becoming Danramil.

757. In addition to official funding and training, there is strong evidence that militias in Viqueque received weapons from Indonesian military authorities. UNAMET MLOs observed militias in Viqueque carrying a variety of modern firearms, including SP-1 self-loading rifles, and handguns. The Bupati admitted to international observers

* Until some time in August, the Dandim was Lt. Col. Djoko Soekarsono (a.k.a. Joko Suharsoyo). He was replaced by Lt. Col. Gustaf Heru.

† UNAMET, MLO-Viqueque, "Outline of Pro-Integration Militias in Viqueque Area," 6 August 1999. Aitarak was reported to have assisted with militia training in the Dilor area, and MLOs believed that it probably did so as a front organisation for Kopassus/SGI.

(IFET) that 59/75 Junior had weapons. A former member of the 59/75 Junior militia told investigators that two of the Kodim Intelligence officers named above (Sgt. Gabriel Tahu and Sgt. Andreas Prawin) had arranged for 12 cases of weapons to be delivered to the militias in Beobe on March 8, 1999. Another witness claimed that 60 weapons had been stored at the Koramil headquarters in Dilor, and had been distributed at night by the Danramil, Sgt. Maj. Nicodemus Y.Y.

758. Finally, the militias in Viqueque had the tacit support of Battalion 406, the combat battalion stationed in the district. While there was little direct evidence of a link between Battalion 406 and the militias, in early August UNAMET MLOs concluded that the unit had probably formed a 'friendly' relationship with them. At the very least, the report concluded, "it is inconceivable that the CO 406 BTT Lt. Col. Sonny does not at least have visibility of 59/75 Junior activities given his high profile in local affairs."*

Major human rights events

759. There were a limited number of human rights incidents in Viqueque in the first few months of 1999, but they became more frequent and more serious with the start of militia recruitment in March. On 20 March, after gathering at the TNI post in Dilor, in Lacluta Sub-District, newly recruited militias attacked people in surrounding villages, beating and threatening alleged supporters of independence. Roughly 160 people were briefly detained at the Koramil in Dilor by TNI and Makikit militia, and an estimated 500 people from the area fled their homes in fear, taking refuge some 20 km away. The violence escalated further in April, as militiamen carried out campaigns of intimidation against alleged pro-independence figures in Lacluta and Viqueque Sub-Districts. In one incident in Viqueque Sub-District, on 18 April, members of 57/75 Junior kidnapped 18 youths whom they suspected of supporting Falintil.

760. The worst of the violence, however, occurred in May. According to a former militia member, at least 14 people were killed by militias in two separate incidents, on 2 and 13 May, and their bodies buried in the Beobe cemetery, in Viqueque town. UN investigators later found as many as 18 gravesites in that cemetery, which they believed to contain the bodies of those killed in May 1999. Examination of their remains revealed that some had been killed in a distinctive, and especially gruesome, way – an animal bone had been driven through the roof of their mouth into their brain.

761. On 30 May, 13 men from Lacluta were detained on allegations of supporting Falintil, then beaten with lengths of pipe and sticks. The beatings were reportedly carried out in the Koramil headquarters, under the supervision of the Danramil of Lacluta, Sgt. Maj. Nicodemus Y.Y.

762. Militia activities subsided significantly with the deployment of UNAMET and international observers in June, and there was relative calm for most of the next three months. The most serious exception to that rule came on 10-11 August in the town of Viqueque. On 10 August, the Student Solidarity Council of Timor-Leste (DSMPTT) formally opened an office in the town. Later that evening, a group of militiamen arrived

* UNAMET, MLO-Viqueque, "Outline of Pro-Integration Militias in Viqueque Area," 6 August 1999.

at the office on motorbikes and trucks and began to fire shots into the building; as many as 14 bullet holes were later found in the ceiling. On the same day, two student members of the CNRT were accused of stealing a motorcycle and detained by the TNI.

763. The following day, 11 August, the offices of both the CNRT and the DSMPTT were attacked by armed militias. TNI and Police officials failed to intervene. In fact, witnesses reported seeing several TNI soldiers walking with three militiamen in the vicinity of the DSMPTT office. Later the same day a group of armed militiamen, backed by TNI soldiers, took up positions across the river from a group of students. The militiamen (and possibly the soldiers) opened fire, killing one student. Two more young people were killed later that day by militias, and three were wounded.*

764. As a result of these events, most DSMPTT and CNRT members fled the town of Viqueque; many residents in nearby villages also fled their homes. The next two weeks saw a further increase in militia intimidation in certain sub-districts, with threats of dire consequences should the pro-autonomy side lose. By one estimate, the campaign of terror prompted the displacement of as many as 1,700 people before the end of August.

765. Despite these threats, and the serious attacks of mid-August, the post-ballot period in Viqueque was unusually free of violence, with only two people reported killed. That unique situation may be attributable to the relative weakness of the militias in the district, and the strength of Falintil. The moderate position taken by the new Dandim, Lt. Col. Gustaf Heru, may also have been a factor. In a meeting held before the announcement of the result, Lt. Col. Heru is reported to have called on both sides to respect the outcome of the ballot, and not to resort to violence. He is also said to have made some effort to prevent violence in the post-ballot period. Nevertheless, militia and TNI forces did carry out acts of destruction in some areas, and as many as 10,000 residents fled the district in fear.

Case studies: major human rights incidents

766. The terrible reality of the violence in 1999 is almost impossible to grasp. In a report issued shortly after visiting Timor-Leste in late 1999, the International Commission of Inquiry on East Timor noted that its members had been “confronted with testimonies surpassing their imagination.”† This section aims to provide some limited sense of that reality, by recounting in some detail fifteen major human rights incidents from 1999.

767. Some of the cases examined here – such as the Liquiçá Church massacre and the Suai Church massacre – are relatively well known, and have been the focus of legal

* The three dead were identified as: Rogério Soares (a.k.a. Rogério Amaral), Carlos Sarmento, and Mariano Soares Pinto (a.k.a. Mariano Gusmão).

† United Nations, Office of the High Commissioner for Human Rights, “Report of the International Commission of Inquiry on East Timor to the Secretary General,” January 2000, paragraph 34.

proceedings. Others are somewhat less well-known, at least outside of Timor-Leste. They are included here because they are part of the fabric of violence and suffering and, like the better-known cases, they provide valuable insights into the general patterns of violence and responsibility discussed elsewhere in this report.

Liquiçá church massacre (6 April 1999)

768. One of the earliest and most shocking incidents of violence in 1999 was the massacre of as many as 60 refugees at the Catholic church in the town of Liquiçá on 6 April.* The attack also provides some of the most powerful evidence of the intimate links between militias and military and civilian authorities.

769. The Liquiçá Church massacre occurred against the backdrop of escalating militia violence in the district. In the days before the massacre, members of the BMP, together with TNI soldiers and Police had assaulted and arrested a number of known CNRT leaders in the Sub-Districts of Liquiçá and Maubara, where the BMP was based. In the course of those attacks, on 4 and 5 April, dozens of houses were burned and several civilians were killed.

770. Terrified by the mounting violence, residents of Liquiçá and Maubara began to seek refuge in places they considered safe, including the Catholic church compound. The sound of automatic weapons fire for about an hour in the afternoon of 5 April, followed by the arrival of hundreds of BMP militiamen, added urgency to their flight. By late afternoon, an estimated 2,000 people, many of them women and small children, had taken refuge in the church compound. Some were in the church itself while others were in the residence of the local priest, Pastor Rafael dos Santos, adjacent to the church.

771. Outside, BMP militiamen and TNI soldiers roamed the streets of Liquiçá, in search of pro-independence leaders and youths. Some militiamen and soldiers gathered outside the church and fired their weapons menacingly in the air. Terrified to return to their homes, the refugees stayed in the church overnight.

772. Early the following morning, 6 April, BMP militiamen armed with machetes, knives, spears, and an assortment of firearms gathered outside the church. Also present at the scene were TNI troops from the Liquiçá Kodim, the Maubara Koramil, the Kopasssus 'Satgas Tribuana,' and Battalion 143. Throughout the morning the BMP militiamen, and some soldiers, taunted and threatened the IDPs, calling on them to 'surrender.' According to the parish priest, Pastor Rafael, BMP members threatened the IDPs that two more militia groups (Mahidi and Halilintar) would be joining them at 10.00 am, at which point they would all attack the church. In addition to such threats, some militiamen hurled rocks, causing injury and damaging vehicles in the yard. Some also fired their home-made guns in the air. The TNI troops did not intervene in any way.

* Unless otherwise noted, this account is based on the following sources: KPP-HAM, "Report of the Indonesian Commission on Human Rights Violations in East Timor," (internal), Jakarta, January, 2000; Deposition of Pastor Rafael dos Santos, recorded and compiled in Sydney,Australia on 27-28 October 1999; UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., Dili, [n.d.]; and Polda Timor Timur, Direktorat Reserse, "Laporan Penanganan Kasus Liquisa," (No. R/355/IV/1999/Ditserse) Dili, 15 April 1999.

773. Roughly 15 Police officers from Polres Liquiçá and one platoon of Mobile Brigades (Brimob) from Dili were also deployed to the scene, ostensibly to protect the IDPs. However, in the hours before the attack the Police were seen chatting amicably with the armed militia members, who now numbered in the hundreds. Like the TNI, the Police and Brimob troops made no effort to detain or disarm the militiamen, or to prevent them from threatening those inside the church.

774. Rather than seeking to disband the militias, Police officers at the scene requested that Pastor Rafael surrender two pro-independence leaders – the Village Head of Dato, Jacinto da Costa Pereira,* and one other man. Pastor Rafael explained that one of the men was not there, and he refused to hand Jacinto da Costa Pereira to the Police because he feared that he would be killed. He also denied suggestions, made by the Brimob officers and the militias, that Jacinto da Costa Pereira had brought a weapon with him into the church.

775. Inaction by the Police and the TNI in the face of mounting militia violence was hardly surprising. A substantial body of evidence points to the conclusion that the massing of the militias in Liquiçá, and the attack on the refugees, were part of a well-organised plan, set in motion by high-ranking civilian and military officials. As events unfolded, the Dandim, Lt. Col. Asep Kuswandi and the Bupati, Leoneto Martins, met frequently with key TNI, Kopassus, Police, and BMP commanders.

776. At one such briefing, led by the Dandim on the morning of 6 April, TNI soldiers were reportedly forewarned of an imminent militia attack on the IDPs, but were given no orders to prevent it, or to protect those in the compound. In another meeting on the same day, the Bupati and the BMP Commander, Manuel de Sousa, reportedly told militia leaders that they must prepare to attack the church and be ready to kill any IDPs who tried to escape.

777. A final meeting at the Liquiçá Kodim, held just before the attack, was attended by the most important civilian and military leaders in the district and the province. They included: the Deputy Danrem for Timor-Leste, Col. Mudjiono; the Commander of the Kopassus Satgas Tribuana VIII, Lt. Col. Yayat Sudrajat; the Liquiçá Dandim, Lt. Col. Asep Kuswandi; the Bupati, Leoneto Martins; and the District Chief of Police, Lt. Col. Adios Salosa.

778. Shortly after that meeting ended, between 12 noon and 1.00 pm, a shot rang out in the vicinity of the church.† Brimob troops and BMP militias started to fire their weapons in the direction of the compound, and the attack began. The militias took the lead, but TNI and Brimob forces were close behind.‡ Most eyewitnesses concur that some TNI

* The KPP-HAM report gives his name as Jacinto da Costa Conceição.

† According to one source, the shot was fired in the direction of Brimob troops by a TNI Babinsa from Fatumasi, as a deliberate provocation intended to trigger the assault.

‡ Allegations of direct involvement by TNI troops in the assault at Liquiçá may find further confirmation in a memorandum to General Wiranto, from the Chief of Staff for Kodam IX, Brig. Gen. Mahidin Simbolon. In that memo, reportedly submitted as evidence in one of the ad hoc trials in Jakarta, Simbolon is said to have confirmed that Kopassus and Kodim troops backed the pro-autonomy forces and fired their weapons in the course of the incident. See *Suara Timor Lorosae*, 11 September 2002.

and Brimob troops stood by and allowed the militias to attack, while others actively joined in.

779. The indictment issued in this case by the UNTAET General Prosecutor states that "TNI members went on shooting into the crowd indiscriminately killing several people."* Pastor Rafael dos Santos, the Liquiçá parish priest, gave this account of the opening moments of the massacre:

> "... I heard shooting by the Besi Merah Putih (BMP) and Brimob group in front of the Parish house. They were firing into the air. After this the Besi Merah Putih and Kodim members entered and surrounded the community in the Church complex. They started to shoot everyone. Men whom they found outside the Parish house were hacked down . . . The militia members were accompanied by Kodim troops and the Brimob elements. They entered the residence of the church and they started to kill people with machetes and shoot people in the house. At the time there were still women, children and men in the complex. They started to kill the men first because they were closer to the door. The men had pushed the women and children to the back."†

780. Brimob troops assisted in the attack by throwing tear gas into the parish house, forcing the refugees to come out. As they ran from the church, they were hacked with machetes and knives, or shot. Pastor Rafael's account continues:

> "I saw the Brimob members break the parish house window and throw tear gas repeatedly into the Parish house until those who were sheltering inside ran out because they could not stand their eyes hurting. As the community ran out of the Parish house the Militia started to kill the men, but they did not kill the women and children. The children and women were allowed to leave the complex, whereas the men were hacked down."‡

781. When most of the refugees had left the church and the parish house, BMP members, Police, and TNI soldiers, including TNI Sgt. Tome Diogo, came in looking for stragglers. Those they found were killed. Pastor Rafael described the scene:

> "After we came out of the Parish house the Besi Merah Putih and Polres members and the Kodim members went from room to room in the Parish house destroying things, seeking and killing people. A number of young community leaders of the Liquiçá pro-independents [sic] had tried to hide in the roof of the house. The militia pulled down the roof

* UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., Dili, [n.d.], paragraph 112.

† Deposition of Pastor Rafael dos Santos, recorded and compiled in Sydney, Australia on 27-28 October 1999, p. 8.

‡ Deposition of Pastor Rafael dos Santos, p. 8.

of the Parish house. They pulled the young people down and executed them."[*]

782. Pastor Rafael's account, and specifically his claim that soldiers and police joined in the attack, has been confirmed by other witnesses. Testifying in the Jakarta trial of Lt. Col. Asep Kuswandi, Lt. Col. (Pol.) Adios Salosa, and Leoneto Martins, in July 2002, a survivor of the massacre said he had seen uniformed soldiers and Police fire shots into the church compound: "The shots were all directed towards the church," he said, and those firing were "not only police but also soldiers."[†]

783. The official Police report on the Liquiçá Church massacre claimed that only five people were killed in the attack.[‡] Independent investigations suggest that the true figure is at least 30, and possibly as many 60 killed.[§] The exact number of victims is not known, however, because the bodies of the dead were taken away and disposed of shortly after the massacre. In statements to investigators, witnesses have indicated that dozens of bodies were taken in trucks by TNI soldiers and militiamen and dumped or buried in various locations.

784. One witness has testified, for example, that he and six other men received an order from the Danramil and the Sub-District Head of Maubara (Sgt. Maj. Carlos Amaral and José Afat respectively) to assist in burying five of the bodies.[¶] According to his statement, the bodies were brought to Maubara in a truck by officers of Kodim Liquiçá on the evening of 6 April, and buried later the same night, near the home of a member of Koramil Maubara.[**] That account is consistent with a separate report that a truck containing five bodies was driven from Koramil Maubara to a BMP post on the road between Liquiçá and Maubara, and that militiamen at the post were then ordered to dig graves about 200 meters away and bury the corpses.[††]

* Deposition of Pastor Rafael dos Santos, p. 9.

† António Conceição Santos, cited in *AFP*, "Survivor Says Soldiers, Police Fired Shots at Refugee-filled Timor Church," 17 July 2002. Another witness, testifying in the Jakarta trial of Timor-Leste Chief of Police, Col. Timbul Silaen, told the court, "I saw the soldiers entering the church and they were armed." Emilio Barreto, cited in *Reuters*," Indonesian Soldiers Stormed Timor Church: Witness," 31 May 2002.

‡ The report was prepared by the Timor-Leste Regional Police (Polda) Research Directorate, and submitted to national police headquarters on 15 April 1999. The report is: Polda Timor Timur, Direktorat Reserse, "Laporan Penanganan Kasus Liquisa," (No. R/355/IV/1999/Ditserse) Dili, 15 April 1999.

§ An UNTAET report from December indicated that Civpol held a list of 61 people allegedly killed in the incident, and noted that "it is generally accepted that the total is probably somewhere around the 50-60 mark." See UNTAET, UNMO-Liquiçá, "History of Liquiçá District Through 1999," December, 1999, p. 3. In its January 2000 report, Indonesia's KPP-HAM concluded more cautiously that "at least 30 people" had been killed. An indictment issued by the UNTAET General Prosecutor said that "more than a hundred people were killed or injured" in this incident. Pastor Rafael believed that more than 100 may have died.

¶ Cited in KPP-HAM, "Report of the Indonesian Commission on Human Rights Violations in East Timor," (internal), Jakarta, January 2000, p. 17.

** The officers who allegedly brought the bodies to Maubara were Sgt. Tome Diogo and Sgt. Jacob. KPP-HAM, "Report of the Indonesian Commission on Human Rights Violations in East Timor," (internal), Jakarta, January 2000, p.17.

†† It is also consistent with testimony that TNI Sgt. Tome Diogo drove a truck containing five bodies to the hospital in Liquiçá on the evening of 6 April 1999, before driving it away again, with the bodies still in it. See UNTAET, General Prosecutor, Indictment against Leoneto Martins et al., Dili [n.d.], paragraph 120.

785. Another witness, a former BMP militia member, told Indonesia's Human Rights Commission that he had been ordered by a TNI officer to bring a military truck to transport 15 corpses from Liquiçá to Masin Lake, a marshy body of water just off the road between Liquiçá and Maubara. After dumping the bodies, the witness said, he was ordered to return with the truck to Koramil Maubara.[*] Indonesia's Human Rights Commission also found that some corpses had been thrown into the sea in the Sub-District of Maubara, using as many as seven trucks and four jeeps.[†]

786. The systematic disposal of corpses described in these testimonies is markedly similar to the pattern of corpse disposal that followed the massacres at Suai Church on 6 September, and at the Maliana Police Station on 8 September. Together with the substantial evidence of TNI and Police involvement in the massacre itself, the presence of key officials at the scene of the crime, and the responsibility of those officials for creating and coordinating the BMP, this evidence makes it a virtual certainty that the Liquiçá Church massacre was planned by high-ranking TNI and civilian authorities.

Cailaco Killings (12 April 1999)

787. Some of the most notorious violations of human rights in 1999 occurred in the District of Bobonaro, where at least 229 civilians were killed in political violence, and many others suffered torture (including rape), beatings, destruction of property, and forcible relocation. All but a handful of the victims were supporters of independence. The perpetrators were generally members of one of the several militia groups operating in the district, but in many cases, the principal perpetrators were TNI soldiers and officers.

788. One of the clearest examples of this general pattern occurred in the Sub-District of Cailaco on 12 April 1999.[‡] In two separate incidents on the same day, TNI soldiers and militiamen rounded up and deliberately executed seven people. The dead have been identified as: Carlito Mau Leto (32), Domingos Resi Mau (29), João Evangelista Lima Vidal (40), Paulino Soares (34), José Pau Lelo (37), António Soares (45), and Manuel Maulelo Araújo.

789. According to an indictment filed by Timor-Leste's Deputy General Prosecutor for Serious Crimes[§] these seven killings were committed with the knowledge and acquiescence of several senior military and civilian officials, including: the District Military Commander (Dandim), Lt. Col. Burhanuddin Siagian; the District Head of Military Intelligence (Kasi Intel), Lt. Sutrisno; the Bupati, Guilherme dos Santos; the militia commander, João Tavares; and the District head of the FPDK, Jorge Tavares. The indictment also names Lt. Sutrisno as one of the direct perpetrators of the seven murders.

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* KPP-HAM, "Report of the Indonesian Commission on Human Rights Violations in East Timor," (internal), Jakarta, January 2000, p.18.

† KPP-HAM, "Report of the Indonesian Commission on Human Rights Violations in East Timor," (internal), Jakarta, January 2000.

‡ Unless otherwise noted, this account is based on UNTAET, DHRO-Bobonaro, "Bobonaro District 1999 report," September 2002.

§ The indictment was filed on 3 February 2003.

790. By some accounts, the Cailaco killings were an act of official retaliation for the murder of a local pro-autonomy figure, Manuel Gama, and at least one TNI soldier, in an ambush near Poegoa village, Cailaco Sub-District, early on the morning of 12 April. Gama, who was Finance Head of the District administration and had recently been named deputy leader of the FPDK in Maliana, was driving from Cailaco to Maliana with an escort of TNI soldiers when the attack occurred. He and one of the TNI soldiers were both shot and killed at close range, while a second TNI soldier reportedly survived the ambush.

791. As of early 2003, the identity of Manuel Gama's killers had not been established. Some residents claimed that the attack was carried out by a member of the Halilintar militia, as a deliberate pretext for the crackdown on pro-independence supporters that was to follow. Others believe that the ambush and killings were the work of Falintil fighters, who had been operating in the area in preceding months. Whoever the perpetrators were, the attack did indeed set in motion a campaign of retribution in which local residents were detained, beaten, forcibly relocated and killed by TNI soldiers and Halilintar militiamen.

792. After learning of Manuel Gama's death, the commander of the SGI post at Marco, Mahalan Agus Salim, ordered TNI and Halilintar militiamen to track down those responsible.* Teams of soldiers and militiamen then fanned out to villages in the immediate vicinity, looking for suspects.† In the course of this initial sweep some 30 residents, including women and children, were detained and forcibly marched to the Sub-District Military Command (Koramil) headquarters at Marco. The women and children were held separately for up to four days, before being released. Several of the detained men – including Carlito Mau Leto and Domingos Resi Mau who would later be killed – were badly beaten while in detention. The beatings reportedly began after orders were received from the Kodim in Maliana and from militia commander João Tavares.‡ In the words of the indictment issued by the Deputy General Prosecutor for Serious Crimes:

> "The detainees were told to lie on the floor and the TNI and militia-men present hit them with their fists and boots. They were also beaten with rifle butts while being questioned about the murder of Manuel Gama."§

793. A number of the detainees were released, but some remained in custody in Marco. Two others – Carlito Mau Leto and Domingos Resi Mau – were taken to the site of Manuel Gama's murder, near the village of Poegoa. TNI soldiers and militiamen had already brought three other villagers to that spot, and had begun to beat and interrogate

* Timor-Leste, Deputy General Prosecutor for Serious Crimes, Cailaco Indictment, paragraph 44.

† The Cailaco indictment characterises the operation as follows: "On 12 April 1999, TNI and Halilintar militia members attacked the civilian population of the Sub-District of Cailaco perceived to be supporters of independence. This attack was an integral part of the ongoing campaign of violence against the civilian population of East Timor." Cailaco Indictment, paragraph 42.

‡ Cailaco Indictment, paragraphs 46-50.

§ Cailaco Indictment, paragraph 51.

them about the killing of Manuel Gama.* The soldiers and militiamen at the site were under the authority of TNI Lt. Sutrisno, the District Military head of intelligence. Lt. Sutrisno was present when soldiers and militiamen beat the detainees. According to witnesses, he also kicked one of the detainees in the face and the body as he lay on the ground, with his hands tied.†

794. Having received word of Manuel Gama's death, senior TNI and civilian figures in Maliana gathered at the office of the Bupati to plan their response. Those present included: the Dandim, Lt. Col. Burhanuddin Siagian, the Bupati, Guilherme dos Santos, the militia commander, João Tavares, and the district FPDK leader, Jorge Tavares. According to the Serious Crimes indictment, the men discussed plans to kill CNRT members and pro-independence civil servants.‡

795. After the meeting, the group travelled in a convoy to the site near Poegoa village where Manuel Gama had been killed, and where at least five men were being held by TNI soldiers and militiamen. There, according to witnesses, three of the men who had earlier been beaten were shot dead by TNI soldiers. The circumstances of their killing leave no doubt that the men were deliberately executed while in custody, and strongly suggest the direct responsibility of senior TNI officers and the militia commander, João Tavares.

796. Shortly after they arrived at the site the militia commander, João Tavares, reportedly walked up to one of the detainees and said: "These are the people that receive money from the government, and they feed the Falintil. These people we have to kill."§ Following this order, several TNI soldiers dragged three of the detainees – Carlito Mau Leto, Domingos Resi Mau, and João Evangelista Lima Vidal – to the top of a nearby hill. They were followed by Lt. Sutrisno, who was carrying a 5.56 calibre rifle. A few minutes later several gunshots were heard coming from the place where the detainees had been taken. Witnesses said that the gunshots sounded like those of a 5.56 caliber rifle. The three men were not seen alive again.¶

797. From the site of the killings, a convoy of officials, soldiers, and militiamen returned to Marco, where residents and civil servants had been ordered to gather at the home of Manuel Gama. There, according to witnesses, Lt. Col. Burhanuddin Siagian directly threatened district civil servants, indicating that if they were independence supporters they would suffer the same fate as the three men just killed in Poegoa. Then, Lt. Sutrisno gave the order to arrest four men, all of them known independence supporters: Paulino Soares, José Pau Lelo, António Soares, and Manuel Maulelo Araújo.

798. The four men were singled out of the crowd and led away to the SGI compound next to the Koramil. Later that afternoon, 12 April, they were shot dead by TNI soldiers

* Cailaco Indictment, paragraphs 57-59.

† Cailaco Indictment, paragraph 66.

‡ Cailaco Indictment, paragraph 73.

§ Cailaco Indictment, paragraph 78.

¶ Cailaco Indictment, paragraphs 79-81.

and Halilintar militiamen. As in the case of the three killed earlier in Poegoa, there is little doubt that the four were killed in custody, and that their murders were ordered by senior TNI officers, including Lt. Col. Burhanuddin Siagian and Lt. Sutrisno.

799. Some time after the four men were taken to the Koramil, Lt. Col. Siagian, João Tavares and Jorge Tavares went there and talked with Lt. Sutrisno.* After their conversation, TNI soldiers and Halilintar militiamen were instructed to seal off the area, and Lt. Sutrisno gave the order for the four detainees to be taken outside. Once outside, the detainees were told to run. Paulino Soares, the youngest of the four, started to do so and was immediately shot and killed. The other three men were then killed by shots fired by TNI soldiers and militiamen surrounding the compound. The bodies of the four men were gathered in a single pile and guarded by TNI soldiers.†

800. Lt. Sutrisno has been identified as one of the direct perpetrators of all four of the killings. Lt. Col Burhanuddin Siagian, João Tavares, and Jorge Tavares were present and took no action to stop the killings.‡

801. As of early 2003, the bodies of the seven victims of the Cailaco killings had not been found. Relatives believe that the bodies were taken by militiamen and soldiers to a beach at Atabae, early in the morning hours of 13 April, and dumped at sea. The site of their probable disposal is marked by a stone monument and some clothes discovered on the beach on the morning after the killings, and believed to be those of the deceased. In early 2000, several fishermen told UN Civpol investigators that on the morning after the killings they had discovered that their boats, which had been left on the beach overnight, were spattered with blood and that they had been moved. One fisherman claimed that, earlier that morning, he had seen several men, whom he described as militia, pushing a dump truck that had got stuck in the sand.§

802. The seven murders on 12 April 1999 marked the start of a systematic campaign of officially sanctioned violence against villagers in the Cailaco Sub-District who were believed to be supporters of independence (See District Summary: Bobonaro). Over the next two weeks, soldiers and armed militiamen conducted joint patrols in which they burned and looted houses, detained and beat hundreds of villagers, raped an unknown number of women and girls, and killed as many as 20 people. No action was ever taken by Indonesian authorities against those alleged or known to have carried out these acts.

Carrascalão House Massacre (17 April 1999)

803. At least 12 people were killed in Dili on 17 April 1999 when militiamen and TNI soldiers attacked the home of a prominent citizen, Manuel Carrascalão.¶ The dead were

* Cailaco Indictment, paragraph 90.

† Cailaco Indictment, paragraph 97.

‡ Cailaco Indictment, paragraphs 92-96.

§ See memoranda from UNTAET DHRO-Bobonaro to SCU-Bobonaro, 16 January 2001 and 27 April 2001.

¶ Unless otherwise noted this account is based on UNTAET, DHRO-Dili, *Key Cases of HRVs/Abuses in Dili District*, September 2002; and UNTAET, DHRO-Dili, "Dili Chronology," Dili, 2002.

among some 150 people who had sought refuge there from mounting militia violence elsewhere in the territory. The attack highlights the close cooperation between the militias and military and civilian authorities in committing acts of violence in 1999. It also offers evidence of the direct involvement of TNI soldiers in the violation of human rights, and of the complicity of high-ranking TNI officers in those acts.

804. The attack took place in the early afternoon, shortly after a large pro-autonomy rally in front of the Governor's office. Attended by some 5,000 people, including key government officials and as many as 1,645 militiamen,* the rally marked the formal inauguration of the militia group Aitarak, under the leadership of Eurico Guterres. In his keynote address, Guterres openly incited those present to 'cleanse' and kill supporters of independence and 'traitors,' and in particular members of the Carrascalão family. According to one account of the event, Guterres urged them to "conduct a cleansing of all those who have betrayed integration. Capture and kill them if you need to."†

805. A secret TNI report on the events of 17 April provided a fuller account of Guterres' remarks. According to that document, Guterres said:

> "Aitarak forces are going to carry out a cleansing operation (operasi sisir) against civil servants who have used official facilities while being traitors to the integration struggle. Aitarak forces are going to crush (memberantas) anyone – be they government officials, community leaders or businessmen – who has assisted the anti-integration camp. Aitarak forces will not hesitate to kill (menghabisi) Mário Viegas Carrascalão and his circle, who have been traitors."‡

806. The rally ended at about 11.15 am with a volley of gunfire from some two dozen militiamen. Immediately thereafter, the militias and others began a mass procession through the streets of Dili.§ The procession quickly degenerated into a violent rampage, in which the homes, vehicles, and offices of alleged supporters of independence were attacked and destroyed. Among the first targets of the violence was the office of Timor-Leste's only newspaper, the *Suara Timor Timur*. Although it was owned by a supporter of integration, the militias were evidently angry with the paper's reporting on the Liquiçá Church massacre of 6 April. For that reason, a group of the Liquiçá-based militia, BMP, attacked the office, threatening local staff and foreign journalists, and destroying much of the equipment. Elsewhere in the city, militias burned or destroyed houses, shops and vehicles.¶

* The number of militiamen is taken from a secret TNI report on the events of 17 April 1999. See: Dan Sat Gas Pam Dili to Dan Rem Up. Kasi, Intel Rem 164/WD, and others. Secret Telegram No. STR/200/1999, 17 (18?) April 1999 (Yayasan HAK Collection, Doc #16).

† Cited in Amnesty International, *East Timor: Seize the Moment*, ASA 21/49/99, 21 June 1999, p. 20.

‡ Dan Sat Gas Pam Dili to Dan Rem, Up. Kasi Intel Rem 164/WD, and others. Secret Telegram No. STR/200/1999, 17 (18?) April, 1999 (Yayasan HAK Collection, Doc #16). Mário Viegas Carrascalão is Manuel Carrascalão's brother and a former Governor of Timor-Leste.The reference in this document to Mário rather than Manuel may be an error, or it may reflect Guterres' view that Mário Viegas Carrascalão was also a traitor.

§ The exact route of the procession is detailed in the secret TNI report of 17 (18?) April 1999 (Yayasan HAK Collection, Doc #16).

¶ The secret TNI report on these events noted the destruction of seven houses or shops, four vehicles, and one motorcycle (Yayasan HAK Collection, Doc #16).

807. The rampage through Dili culminated in the attack on the home of Manuel Carrascalão. Carrascalão's home was targeted, in part, because the pro-integration side considered him a traitor. Once a supporter of integration with Indonesia, and the brother of a former Governor of Timor-Leste, in recent years Manuel Carrascalão had become more critical of the Indonesian authorities, and had formed a moderate pro-independence organisation called the Movement for the Reconciliation and Unification of the People of Timor-Leste (Gerakan Rekonsiliasi dan Persatuan Rakyat Timor Timur – GRPRTT).

808. Carrascalão's home was also targeted because he had offered it as a place of refuge for people who had fled from mounting violence in Turiscai, Maubara, Liquiçá, and Alas. In the weeks after refugees had begun to take shelter there, he had received numerous threats. Carrascalão later told Amnesty International he believed those threats had been "prompted by the fact that many of the people he was sheltering were witnesses to human rights violations elsewhere in Timor-Leste."*

809. Sometime early in the afternoon of 17 April, a group of Aitarak and BMP militiamen began to gather outside the Carrascalão house. Some came on foot, while others arrived in large trucks. One of the trucks was used to break down a large iron gate in front of the house. With the gate down, militiamen rushed into the house compound and, after smashing the windows, into the house itself. The militiamen were carrying an assortment of homemade and automatic weapons and reportedly shouting threats, including "Kill Manuel Carrascalão!"†

810. Inside the house, Manuel Carrascalão's teenage son, Manuelito, tried to prevent the militias from attacking the refugees. Shortly thereafter, he was stabbed and shot to death. Others were killed or severely injured by militias wielding machetes and knives. One militiaman, Armando dos Santos, was accused of stabbing a man named Antónino to death in the course of the attack. The prosecution alleged that dos Santos' knife had bent in the midst of the stabbing and that he had stopped to straighten his knife before finishing the job.‡ Some of the refugees tried to climb over the fence to escape but could not because the house was surrounded by armed men. Testifying in the Jakarta trial of Dili District Military Commander, Lt. Col. Endar Priyanto, in late 2002, one survivor said: "I tried to jump the fence and run but some men came after me and I was wounded by a machete slash on my back."§

811. The attack finally ended with the arrival of a Police Mobile Brigade unit. Roughly 50 survivors of the massacre were then taken to the Dili Police headquarters (Polres), where they remained in 'protective' custody for some time. They were joined there by Manuel Carrascalão, his daughter Christina, and the outspoken CNRT figure Leandro

* Amnesty International, *East Timor: Seize the Moment*, ASA 21/49/99, 21 June 1999.

† Testimony of Victor dos Santos, cited in "Saksi Kasus HAM TL Mengaku Lihat TNI Tembak Pengungsi," *Suara Timor Lorosae*, 27 September 2002.

‡ Armando dos Santos was indicted by the Deputy General Prosecutor for Serious Crimes on charges of crimes against humanity on 5 June 2001. He was found guilty of the murder of a refugee by a decision of the court on 9 September 2002. He was sentenced to 20 years imprisonment for this and two other murders.

§ Testimony of Florindo de Jesus, cited in "Indonesian Soldiers Among Attackers in 1999 Dili Incident: Witness," *AFP*, 8 October 2002. The TNI document of 17 (18?) April 1999 lists Florindo de Jesus as one of five people "seriously wounded" in the attack (Yayasan HAK Collection, Doc #16).

Isaac.[*] Some of the wounded were loaded into ambulances, but even then they were not safe. One survivor testified that the ambulance in which he was riding stopped in front of the Aitarak headquarters, where militias rocked it shouting "Just kill them! Just kill them!"[†]

812. The exact number of people killed in the attack is not known. The secret military report cited earlier said that five people had been seriously wounded and 13 people killed – 12 of them at the Carrascalão house and one elsewhere in the city. Human rights organisations have put the total figure slightly higher, while others (including Manuel Carrascalão himself) have suggested that the figure might be as high as 60.[‡] Nor is it known where the bodies were disposed. One witness reported seeing bodies loaded onto a large unmarked truck shortly after the attack, and driven away to an unknown destination.[§] In late 1999, a different witness told the International Commission of Inquiry on East Timor that eleven bodies had been driven by truck to a lake near Maubara, in Liquiçá District, where they were dumped.[¶]

813. As in many other cases of serious militia violence in 1999, Indonesian military and Police authorities sought to portray the attack and the killings as a 'clash' between pro-integration and pro-independence groups. But there was no evidence that the refugees in the house had engaged in any violence. By contrast, there was substantial evidence of direct TNI involvement in the attack, and also of culpable acquiescence in the violence by high ranking TNI and Police authorities.

814. A number of people who survived the attack have testified that TNI soldiers in plainclothes were among the attackers. One witness, a student from Maubara named Florindo de Jesus, testified in court: "I am certain that the TNI launched the attack because I recognised several people among the attackers as being TNI members from Maubara."[**] Asked for more detail, he gave the names of six soldiers, all of them posted in Maubara Sub-District. One of those, he said, was his own uncle. Another witness, Victor dos Santos, told investigators in July 2000 that behind the militias dressed in black t-shirts and red and white bandanas he had seen dozens of well-built men with

* Police said 96 were in police protective custody, of whom 46 were survivors of the Carrascalão massacre. See Amnesty International, ASA 21/31/99.

† Testimony of Victor dos Santos, cited in "Saksi Mengaku," *Suara Timor Lorosae*, 27 September 2002.

‡ Those reported dead included: Adelino dos Santos (18), Afonso Ribeiro (25), Alberto dos Santos (30), Eduardo dos Santos (25), Januario Pereira (40), João da Silva (25), Manuel Gama Intan Carrascalão (16 or 18), Marlito Correira, Rafael dos Santos (25), Raul dos Santos (30). Another man, Manuel Pinto (50 or 67) was reportedly killed at the Becora bus terminal (or Terminal Camea) on the same day. From UNTAET, DHRO-Dili, "Dili Chronology," Dili, 2002, p. 2. The killing of Manuel Pinto is confirmed in the TNI report of 17 (18?) April, which describes him as a retired civil servant who had worked in the Baucau Kodim (Yayasan HAK Collection, Doc #16).

§ Testimony of Florindo dos Santos, cited in "Saksi Mengaku," *Suara Timor Lorosae*, 27 September 2002.

¶ According to the indictment in this case issued by Deputy General Prosecutor for Serious Crimes, the bodies of 11 victims from Liquiçá were taken by TNI truck to Leboke, Liquiçá, on 19 April for burial. See Carrascalão Indictment. There is an uncorroborated report that 30 bodies were found in a well near the Carrascalão home in late September 1999. See UNTAET, DHRO-Dili, "Key Cases of HRVs/Abuses in Dili District," Dili, September 2002.

** Florindo de Jesus testimony cited in "Indonesian Soldiers Among Attackers in 1999 Dili Incident: Witness," *AFP*, 8 October 2002.

short haircuts: "I know them as TNI soldiers from the Koramil in Maubara."* Testifying in the Jakarta trial of Dili District Police Chief, Lt. Col. Hulman Gultom, in mid-2002, Manuel Carrascalão said that TNI soldiers out of uniform had joined in the attack.†

815. High-ranking TNI and Police officers also facilitated the killings through their failure to intervene in the mounting violence until it was too late. The pre-massacre rally was attended by some of the most senior government officials in the territory, including the provincial Governor, the Bupati of Dili, and the Timor-Leste military commander, Col. Tono Suratman. Video footage obtained by UN investigators, moreover, shows Col. Suratman standing on the first floor balcony of the Governor's office, together with Maj. Gen. Kiki Syahnakri (Assistant for Operations to the Army Chief of Staff), and four other senior military officers.‡

816. None of those officials expressed any public opposition to, or concern about, Guterres' remarks or about the presence of armed militias. Nor did any military or Police authority seek to disarm the several hundred militia men who paraded around Dili in defiance of legal restrictions on carrying firearms. The secret military report on the events of 17 April, cited above, provided a thorough account of Guterres' remarks, and of the destruction and killing that followed, but revealed no concern nor any intention to take action. The report concluded simply that the matter would be handled by the Dili District Police.§

817. Most damning is the evidence of willful inaction on the part of the commanding TNI officer for Timor-Leste, Col. Tono Suratman. When Manuel Carrascalão went to Suratman's home early in the afternoon of 17 April to request urgently that he intervene to stop the imminent attack on the refugees, Suratman flatly refused to do so.¶ Suratman's refusal has been confirmed by the then Irish Foreign Minister, David Andrews, and the pro-autonomy figure, Basilio Araújo, both of whom were with Suratman at the time.**

818. In view of his political sympathies, Basilio Araújo's account is especially telling. Testifying before a Jakarta court in August 2002, he said that the TNI did nothing whatsoever to prevent the attack on the Carrascalão house. Asked to comment on the claim that Suratman had in fact insisted on helping Carrascalão, he told the court: "I didn't see that Pak Danrem [Suratman] insisted on helping him. I didn't see it."†† Also revealing were the remarks of the presiding Indonesian judge in the Jakarta trial of

* Victor dos Santos testimony, cited in "Saksi Kasus HAM TL ," *Suara Timor Lorosae*, 27 September 2002. The TNI document of 17 (18?) April 1999, lists dos Santos as one of the five "seriously wounded" in the attack (Yayasan HAK Collection, Doc #16).

† Carrascalão's testimony is cited in *AFP*, 7 August 1999.

‡ The video footage is held by the Serious Crimes Unit in Dili. According to unconfirmed accounts, the other officers included: Maj. Gen. Zacky Anwar Makarim and Maj.Gen. Adam Damiri.

§ Dan Sat Gas Pam Dili to Dan Rem, Up. Kasi Intel Rem 164/WD and others. Secret Telegram No. STR/200/1999, 17 (18?) April 1999 (Yayasan HAK Collection, Doc #16).

¶ According to one account of that meeting, Suratman told Carrascalão "We can't do anything – we are neutral. You didn't want to play our game." Cited in Dili DHRO 1999 report, 15 September 2002.

** See Ian Martin, *Self-Determination in East Timor*, p. 27.

†† Cited in *Jakarta Post*, 9 August 2002.

Eurico Guterres, in November 2002. The judge said: "Tono [Suratman] ignored a report from Manuel that his house would be attacked by pro-Jakarta militiamen. He did not take any action until the incident occurred."[*]

819. Police authorities also share responsibility for the killings at the Carrascalão home, both through their failure to intervene effectively to prevent them, and through their wholly inadequate, and perhaps deliberately misleading, investigation work. Police investigators reportedly urged witnesses to say that the violence had been provoked by a shot fired from within the Carrascalão home.[†] It is worth noting that the Police had advanced precisely the same 'provocation' scenario in the case of the Liquiçá Church massacre, and they did it once again in early July when militias attacked a humanitarian convoy (See Case Study: Attack on Humanitarian Convoy). In all three cases, the claim of provocation was patently false, and seemed designed primarily to divert attention away from the real culprits.

The killing of two students at Hera (20 May 1999)

820. Young people and students were among those deliberately targeted by the militias and the Indonesian security forces. Members of pro-independence organisations, such as the Student Solidarity Council of Timor-Leste (Dewan Solidaritas Mahasiswa dan Pelajar Timor Timur – DSMPTT), were especially vulnerable, and many of their members were threatened, beaten, and killed.

821. Of the incidents in which students were targeted, among the most notorious was the detention and killing of two young men, Augustino de Carvalho (24) and Estevão Xavier Pereira (20), in Hera on 20 May 1999.[‡] The Hera Polytechnical Institute, where they studied, had been the focus of joint TNI and militia operations for some time, in part because many students there belonged to the pro-independence DSMPTT.

822. On 10 May, TNI and Aitarak militiamen arrested roughly 100 students and residents of Hera, just east of Dili, and took them for questioning at the Regional Police headquarters (Polda) in Dili. Most were subsequently released, but that was not the end of the story. After the round-up, the Polytechnic was occupied by some 50 soldiers of a Timor-Leste-based TNI paramilitary force known as Rajawali.[§]

823. On 20 May, the two students who were killed returned to the campus at Hera, with seven others, to collect their belongings. On the way back to their vehicle, they were detained for questioning by TNI soldiers.[¶] A woman who lived nearby and witnessed the questioning gave the following account of their encounter with the soldiers:

* Cited in *Sydney Morning Herald*, story by Hamish McDonald, 30 November 2002.

† Testimony of Florindo dos Santos, cited in "Saksi Mengaku," *Suara Timor Lorosae*, 27 September 2002.

‡ Unless otherwise noted, this account is based on the Dili DHRO report, "Key Cases of HRVs/Abuses in Dili District," September 2002.

§ Testimony of an East Timorese woman [name withheld], recorded and compiled in Australia by the "East Timor Documentation Project," 3 December 1999.

¶ According the Amnesty International, the soldiers were members of Rajawali and Battalion 744 units. AI Doc. ASA 21/43/99.

> "I could see from my yard that the students were across the road near the security room with the military. The military were emptying the students' bags of their contents onto the ground. [The two students] were also on the ground and the soldiers were kicking and hitting them badly. I watched this for about ten minutes. I then went inside and took my daughter with me as I did not want to be seen watching this take place. I was also very scared and I was crying. . .*

824. After being questioned and searched, the two students (Carvalho and Pereira) were taken away. In response to inquiries into their whereabouts by a local human rights organisation, Yayasan HAK, the authorities said that the two men had escaped from custody. However, there was reason to believe that they had in fact been beaten and killed. The story of the witness just cited, continued:

> "At about 3pm I was still worried about [the two students] and I wanted to find out what was happening to them. I went across to the Polytechnic pretending that I needed to do some laundry. This is where we normally got our water from. I was able to see inside the security room. There were about 25 soldiers in there and also [the two students], who were tied up with their hands behind their back in a corner on the floor. They had something in their mouths which prevented them from yelling out. There were two or four soldiers taking turns hitting them repeatedly with the large stick taken from the tree in my yard. . . At about 9 pm, when the light in my house was still on, one of the soldiers again came to my house and told me that I should not be awake. I then turned off the light and pretended to go to sleep. Soon after that I heard two shooting sounds seconds apart coming from across the road in the direction of the security room. The shots sounded very close by. About five minutes later I also heard a car drive off very fast from outside the same area. In my heart I knew that those gunshot sounds meant that the students had been killed."†

825. In an exhumation, performed on 30 August 2000, investigators found what were believed to be the bodies of the two men, buried together with their hands tied.

Arbitrary detention and rape in Lolotoe (May-June 1999)

826. The victims of serious human rights violations in 1999 included many ordinary villagers living in areas considered to be pro-independence strongholds. In such areas, TNI units and militias conducted joint sweeping operations that led to a wide range of abuses, including arbitrary detention, murder, and rape.

* Testimony of an East Timorese woman [name withheld], recorded and compiled in Australia by the "East Timor Documentation Project," 3 December 1999.

† Testimony of an East Timorese woman [name withheld], recorded and compiled in Australia by the "East Timor Documentation Project," 3 December 1999.

827. An operation of this kind was conducted in the Sub-District of Lolotoe, Bobonaro District in late May 1999. Over the course of several days, TNI forces together with members of the Kaer Metin Merah Putih (KMP) militia rounded up hundreds of suspected supporters of independence and CNRT leaders. Many of those detained were badly beaten, and some were tortured or mutilated by their captors in an effort to extract confessions about their links to Falintil. Several instances of rape and sexual slavery by TNI and militiamen were also reported in the context of the raids.

828. The victims of the Lolotoe operation included a CNRT leader from Guda village, Mário Gonçalves. He was detained on 24 May, and tortured by a large group of KMP militia, in the presence of the Village Head. An indictment for crimes against humanity filed by the General Prosecutor of UNTAET in May 2001, described his ordeal as follows:

> "When Mário Gonçalves came out of the church he was beaten by the KMP militia members whilst being dragged to the field outside the CNRT office. At the field, Sabino Gouveia Leite [the Village Head], José Cardoso Ferreira alias Mouzinho [the KMP deputy commander] and João Franca da Silva alias Jhoni Franca [the KMP commander] ordered members of the KMP militia to beat Mário Gonçalves in turns. Approximately thirty-seven KMP militia members beat Mário Gonçalves. João Franca da Silva alias Jhoni Franca also attacked Mário Gonçalves with a machete, cutting him on his right arm and stabbing him in the left shoulder.
>
> "Sabino Gouveia Leite incited José Cardoso Fereira alias Mouzinho and João Franca da Silva alias Jhoni Franca to cut off Mário Gonçalves' ear. . . His ear was thrown on the ground and Sabino Gouveia Leite and João Franca da Silva alias Jhoni Franca forced Mário Gonçalves to eat it. Mário Gonçalves feared for his life and did as he was ordered by eating his right ear."*

829. Dozens of those detained in the sweep were also held without charge at the Lolotoe Sub-District Military Command (Koramil) until some time in July 1999. Testimony and documentation of their arbitrary detention, and of their eventual release, highlight the close and routine cooperation between the militias and both military and civilian authorities in the commission of human rights violations in Bobonaro.

830. A document confirming the return of six people to Guda village on 8 July is especially revealing. The document explains that the six people listed had been held for 'guidance' since 22 May, that they were now being returned to their village "in a safe and healthy condition," but that they might be called for further questioning at some time in the future. The document is co-signed by the Lolotoe Sub-District military commander, Lt. Bambang Indra, the Guda Village Head, Sabino Gouveia Leite, and the Commander

* UNTAET, General Prosecutor, Indictment of João Franca da Silva et al. (Case No: BO-06.1-99-SC), 25 May 2001.

of the KMP, José Cardoso Ferreira (alias Mouzhino).* These three men were all indicted in 2001 for crimes against humanity committed in 1999.

831. Military officers and militia members also conspired to abduct and to rape women in the context of the Lolotoe operations. In one notorious case, three men abducted and repeatedly raped three young women whom they alleged had been assisting Falintil. Two of the rapists named by the victims were familiar figures: the Sub-District Military Commander, Lt. Bambang Indra, and the KMP militia commander, José Cardoso Ferreira (alias Mouzhino). The third man was a TNI intelligence officer, Francisco Noronha.

832. The rapes in question took place over several days at the end of June 1999 in a hotel in the town of Atambua, in West Timor. According to one of the women, the TNI intelligence officer Noronha and the militia leader Fereira told them that if they refused to have intercourse with the three of them, they would be killed, and their bodies thrown into the ocean. Two of the men (Lt. Indra and Fereira) were carrying automatic weapons, and at least one was equipped with contraceptive technology.

833. One of the victims later described her ordeal. She said that Francisco Noronha came into her room and gave her an injection in the buttock, telling her that it was to prevent her from getting pregnant. According to her account, Noronha then told the woman that he had heard that her name was on a list of people working for Falintil and that she must therefore service him. Then he pushed her down on the bed and raped her.

834. After two nights of repeated rape, and four more days in detention, the women were eventually brought to the Sub-District Military Command in Lolotoe. There, one of the three rapists, Lt. Bambang Indra, in his capacity as Sub-District commander, prepared a letter granting them permission to return to their homes.

Attack on UNAMET Maliana (29 June 1999)

835. At about 10.00 am on 29 June 1999, a group of roughly 100 members of the local militia group, Dadurus Merah Putih (DMP), converged rapidly on the UNAMET compound in the town of Maliana, Bobonaro District, and attacked it with stones. The available evidence indicates clearly that the incident was orchestrated by District military officers, and that it was directed against the UN compound and those who took refuge there.†

836. Early on the morning of 29 June, some 30 pro-independence supporters had gathered at the front gate of the UNAMET headquarters to report assaults by militia

* See: "Surat Pengembalian," 8 July 1999 (HRU Collection, Doc. BOB #9). Fereira's name appears in this document as "José Mauzino Cardoso," but it is clear that this is the same man as José Cardoso Fereira (alias Mouzhino) named in the indictment.

† Unless otherwise noted, this account is based on the report prepared by UNAMET shortly after the event, and submitted to Indonesian Government authorities. UNAMET, Political Affairs Office, "Report on 29 June Incident in Maliana," 5 July 1999. Reprinted in UNTAET, Political Affairs Office, *Briefing Book on Political and Human Rights in East Timor*, Dili, November 1999.

members against their friends and families the previous night. By 10.00 am the crowd outside the compound and in the large field across the street was estimated to number at least 600. While most of the crowd were believed to be casual bystanders, a distinct group of roughly 100 people wearing red and white scarves, some of them carrying machetes, were identified as members of the DMP. Their identity was later confirmed by a DMP leader, Paulus Fereira, in an interview with a UNAMET Political Affairs Officer.

837. Shortly before 10.00 am, members of the DMP group were observed beneath a tree at the south end of the field, close to a Sub-District Military Command post. From there, they moved quickly in the direction of the UNAMET compound, rocks in hand. Film footage shows that, as they reached the road, the militia members broke into a run and began to throw stones in the direction of the UNAMET building. The footage also shows a man in a red jacket and baseball cap on the near side of the road, directing the group and pointing emphatically in the direction of the UNAMET building.

838. Large stones were hurled first through the windows facing the main street, and then over the high walls surrounding the compound, smashing windows on the south and east sides of the building. Rocks continued to rain into the compound for 10 to 15 minutes. The shouts of the attackers continued for some time after the rock-throwing had subsided, and militia members were observed in the large field directly opposite the UNAMET compound for several hours thereafter.

839. As many as twelve people were injured in the incident, including one UN Volunteer, and several of the estimated 26 local people who had fled into the compound when the attack began. The injuries sustained included concussion, a compound fracture, laceration, and severe bruising; and at least two local people were rendered temporarily unconscious as a result of severe blows to the head. The hail of stones also resulted in property damage, both to the UN building itself and to UN vehicles.

840. The response of the Police to this incident was seriously inadequate and suggested either an unwillingness, or an inability, to take effective action against the militia even though they had clearly committed a crime. In the face of strong international pressure, Police did arrest and charge five militiamen for their alleged role in the attack. However, the cases were not vigorously pursued and, after receiving brief suspended sentences, the accused were all released.

841. The weakness of the Police response could not reasonably be attributed to a lack of advance information about the possibility of an attack. In the days before the incident, UNAMET personnel and others had relayed to Police authorities several reported threats against UN facilities and personnel. On 28 June, UN Civpol officers conveyed a credible report that a militia attack against UNAMET was planned for the morning of 29 June.

842. Despite such advance reports, there were no more than six ordinary policemen on duty in front of the UNAMET headquarters when the attack occurred. Two of these six may have been members of the Police auxiliary unit, known as Kamra. As the assault on the compound began, one Police officer made a brief but ineffectual attempt to

intercede, but he and his colleagues soon turned and ran for cover. Film footage from inside the compound confirms that a number of Indonesian Police officers were there during and shortly after the attack. At least one of these was reported to have provided assistance to UN staff and others taking cover there.

843. In addition to the six policemen posted in front of the UNAMET office, some 24 police were said to be deployed to assist crowd control in the field across the road, while a Mobile Brigade (Brimob) contingent of roughly 20 men was reportedly deployed to guard the UN helicopter that had landed there at about 9.30 am that morning. None of these forces, however, took any action to prevent the violence and intimidation, which was allowed to continue unimpeded for some 15 to 20 minutes. About 20 Mobile Brigade (Brimob) Police finally arrived on the scene after the violence had subsided.

844. The inadequacy of the Police response was especially troubling in view of the proximity of the UNAMET headquarters to various Police stations in Maliana and the relative speed with which the incident was reported to them. The District Police headquarters (Polres) was only about 500 metres from the UNAMET office, and there was a Police post (Polsek) about 150 metres away. In addition, there was a Sub-District Military Command (Koramil) about 100 metres from the UNAMET office. An emergency call was placed from UNAMET to the Police switchboard within a minute of the start of the attack, and a journalist personally alerted authorities at the Polres a few minutes later.

845. Just as troubling as the slow response were the actions of the Police once they finally arrived on the scene. Despite clear evidence that a crime had been committed, neither the regular Police nor the Brimob made any arrests. Indeed, as noted above, militia members were seen and heard in the immediate vicinity of the UNAMET compound for several hours after the attack. For several days thereafter, the DMP appeared free to operate, and to commit acts of intimidation and violence, with impunity.

846. A series of developments on the day and night prior to the incident, and elements of the attack itself, confirmed the alleged links between the militia group, Dadurus Merah Putih, and TNI officers in Maliana. Those links, described in detail below, help to explain why the Police were unwilling or unable to restrain the militia group.

847. On 28 June, the day before the incident, a full meeting of the DMP militia was reportedly convened at 7.30 am at the sports building across the playing field from the UNAMET office. Present at the meeting, according to reports, were the Maliana District Military Commander (Dandim), Lt. Col. Burhanuddin Siagian; the Head of Military Intelligence (Pasi Intel), First Lt. Sutrisno; the DMP commander, Domingos dos Santos; and two other DMP leaders, Mau Buti and Julião Gomes. The last three named were active or retired TNI officers or soldiers.

848. At the meeting the Dandim, Lt. Col. Siagian, reportedly briefed the DMP about their duties with respect to the Popular Consultation and the arrival of UNAMET. Witnesses reported that Siagian stressed the following points: that the Popular Consultation was not necessary in Bobonaro District; that nobody should be allowed to approach the UNAMET office; that the local UNAMET staff should be scared off and replaced by DMP members; and that the UNAMET flag should be pulled down. A

member of the DMP who was present at the briefing testified that Lt. Col. Siagian had also told the group not to worry about any repercussions or reactions from the Police or Mobile Brigades posted to defend the UN compound because, in his reported words, "they are one of us."

849. Observations made on the morning of 29 June, and the testimony of those who were at the scene of the incident, strengthen beyond reasonable doubt the probability of a link between the local military authorities and the militia, and their joint responsibility for the attack.

850. At least two local eyewitnesses reported observing the Head of Military Intelligence, First Lt. Sutrisno, and the District Military Commander, Lt. Col. Siagian, at the scene of the incident in plainclothes, and they concur that they made no effort to prevent the attack, or to stop it once it had commenced. When the UNAMET Political Officer arrived at the scene roughly 15 minutes after the incident began, he encountered Lt. Col. Siagian who, in turn, introduced him to three DMP commanders, saying that they wished to explain their actions to UNAMET. Local witnesses also reported the names of several active and retired TNI members who were among the militia group itself at the time of the incident, all of them dressed in civilian attire. Finally, it is noteworthy that, at the conclusion of the attack, members of the militia assumed a military-style formation and marched toward the local military post, about 100 metres from the UNAMET compound.

851. Taken together, this evidence suggests very clearly that the militia group responsible for the 29 June attack, the DMP, was controlled by TNI officers in Maliana, and more specifically by the District Military Commander, Lt Col Burhanuddin Siagian, and Chief of Intelligence, First Lt. Sutrisno. In view of this finding, it is difficult to escape the conclusion that the attack, and the inadequacy of official efforts to prevent and stop it, were part of an effort by these authorities to impede or disrupt the work of the United Nations.

Attack on humanitarian convoy (4 July 1999)

852. At about 4.00 pm on Sunday, 4 July, a convoy of vehicles returning from a successful humanitarian mission to assist internally displaced persons (IDPs), was attacked by roughly 20 members of the armed militia group Besi Merah Putih (BMP) as it passed through the town of Liquiçá. One UNAMET staff member was directly targeted, many NGO personnel were assaulted, and one was hospitalised with a serious head injury. NGO and UNAMET vehicles were badly damaged.*

853. In response to the increasingly unsafe situation, it was decided to evacuate all UNAMET personnel from the Liquiçá area the same day, and a helicopter was sent from Dili for this purpose. However, the evacuation plan had to be aborted when another group of armed militias, probably BMP, attacked the helicopter with stones and home-

* Unless otherwise noted, this account is based on the report prepared by UNAMET shortly after the event, and submitted to Indonesian Government authorities. UNAMET, Political Affairs Office, "Report on the Liquiçá Incidents of 4 July," Dili, 12 July 1999. Reprinted in UNTAET, Political Affairs Office, *Briefing Book on Political and Human Rights in East Timor*, Dili, November 1999.

made guns. A second evacuation effort was also aborted when militias surrounded UNAMET personnel, and attempted to assault local staff members.

854. The two attacks occurred against the background of a series of threats against UN personnel in the town of Liquiçá – and just a few days after the attack on UNAMET headquarters in Maliana and militia intimidation of UN personnel in Viqueque. A number of these incidents were reported to Police authorities (Polres) in Liquiçá, as a result of which some additional Mobile Brigade personnel were posted to protect UNAMET staff. However, these provisions and prior warnings did not have any significant impact on the freedom with which the militia moved about town and engaged in acts of intimidation and violence.

855. Those in the humanitarian convoy included some 50 representatives of local NGOs, and about 20 IDPs who had been evacuated from villages along the border between Ermera and Liquiçá to receive medical attention. The group was accompanied by the UNAMET Officer for Humanitarian Affairs, and a representative of the UNHCR. About one hour before reaching Liquiçá, the convoy was joined by two UNAMET Military Liaison Officers (MLOs) who were in the area on another assignment.

856. At the time of the attack, the convoy was stationary, and many of the passengers were taking the opportunity to stretch their legs or buy refreshments at nearby shops. The Humanitarian Affairs Officer had requested the brief stop to speak with the UNAMET MLOs, who planned to leave the convoy at that point. Concerned for the safety of the IDPs, he asked the MLOs to return to the area of the humanitarian distribution to ensure that the population would not be harassed by the militia. Having finished his conversation, the officer began to walk from the MLO vehicle back up the road and around a corner toward the front of the convoy. As he rounded the corner, he witnessed the early moments of the militia attack.

857. Television footage and the eyewitness testimonies of more than a dozen people, including some BMP members and bystanders, allow the following reconstruction of the incident. About five minutes after the convoy stopped in Liquiçá, a blue-green mini-van with the word "Miramar" on the side sped down the hill from the south, and came to a sudden stop near the middle of the line of parked vehicles. As the van stopped, about 20 young men jumped out and began to approach the NGO and UNAMET staff, some shouting "kill them!" Most were carrying machetes, knives, or home-made guns. At least one member of the group was carrying an automatic weapon. Without warning or provocation the militia members began to attack, waving their machetes and knives menacingly, pointing their guns at members of the convoy, and smashing the windows of most of the vehicles. The attack continued as people tried to flee on foot and in vehicles. At least two eyewitnesses testified that armed militiamen clung to, and thrust weapons into, one of the UNAMET vehicles as it drove eastward along the main road toward Dili.

858. NGO staff took the brunt of the attack, but UNAMET personnel were also targeted. The Humanitarian Affairs Officer was threatened by three militia men who pointed their weapons directly at him at close range. Television footage also shows him trying to protect some members of the group, before he and the others turn and flee for

the safety of a vehicle. Most of the group was finally able to run or drive to the nearby Liquiçá District Police station (Polres), while about ten people fled to the local Police post (Polsek). Eventually, all members of the convoy, including UNAMET personnel, were brought to the Polres. There, the Humanitarian Affairs Officer voluntarily passed to the Police a home-made gun that had been discovered inside his vehicle.

859. Several people were injured in the attack, and most were seriously shaken. Film footage reveals that one man was kicked brutally in the head by a BMP member. The victim of that attack was Laurentino Soares, the driver of one of the NGO vehicles, who was hospitalised with severe trauma to his head. A BMP member testified that Mr. Soares was also struck in the head with a gun before being kicked. Two members of the BMP also suffered gunshot wounds during the incident. They were identified as Romaldo Corea Martins, the local BMP post commander and member of the Liquiçá Police auxiliary (Kamra), and Fernando Ramos, a BMP member and farmer. All three victims were transported to Wirahusada military hospital in Dili, where they were interviewed by UNAMET personnel on 4 July and again on 6 July. Mr. Laurentino Soares was subsequently transferred to a different medical facility. Six other people reported missing after the attack were subsequently located.

860. Shortly after the attack on the humanitarian convoy, an armed militia group launched a separate attack on UNAMET personnel who were preparing to evacuate from Liquiçá. Nobody was injured in that incident, and all personnel were eventually brought back to Dili safely, but the attack again highlighted the unwillingness or inability of the Police to intervene.

861. The decision to evacuate had been taken in response to early reports of the attack on the humanitarian convoy, and to the series of attacks on and threats against the UN over the previous two days. A helicopter was sent from Dili to a specified location on the beach near Liquiçá, and all UN staff were gathered in one house in preparation for moving to that location in convoy. While the UN staff waited, they were guarded by a contingent of Mobile Brigades (Brimob).

862. The evacuation plan had to be aborted, however, when two UN staff members, one Civpol and the Field Security Officer, were ambushed by militia members as they drove toward the beach to meet the helicopter. The militiamen carried machetes and home-made guns and brandished these at the UN personnel. Despite these threats, the two UN staff managed to drive their vehicle to the beach in time to warn the pilot and passengers of the militia's presence, and of the probability of an attack. The decision was taken to fly the helicopter to a different location in order to draw the militia away from the area. As the helicopter prepared to take off the militia arrived and began to pelt it with stones. Those present at the scene also reported that shots were fired at the helicopter.

863. After the helicopter took off, the convoy of eight UN vehicles that had been preparing for evacuation drove to the alternative evacuation site. Soon after arriving at the site, however, they were surrounded by militia members who had arrived in a truck. The militia banged on the windows of the vehicles, leveled their weapons directly at the passengers, made menacing gestures, and tried to drag at least one local staff member from a vehicle. Indonesian Police present at the scene did nothing to stop the attack.

They did not take measures against the militia members, who remained in the area making threatening gestures.

864. Eventually, the UNAMET personnel managed to drive away from the scene. As they headed toward Dili, however, they encountered a roadblock just outside the Liquiçá Police station (Polres) manned by two militiamen, one of whom was observed carrying an automatic weapon. Prevented from continuing down the road, they turned into the Liquiçá Police station, where they joined members of the humanitarian convoy who were already there. Later the same evening, both groups returned in a convoy to Dili, arriving there safely at about 10.00 pm.

865. In a related incident, two UNAMET vehicles that had been dispatched from Dili encountered a militia roadblock a few kilometres east of Liquiçá. Several militia members aimed home-made guns at the first UN vehicle carrying Indonesian Police Colonel Sitompul and Civpol Superintendant Polden. When the first vehicle went past, the militiamen then aimed their weapons at the second vehicle, containing another Civpol officer. At least one home-made gun was discharged in the direction of the UNAMET vehicles, but no damage or injuries were sustained.

866. The available evidence strongly suggests that the Indonesian Police were either complicit in the attacks of 4 July or, at a minimum, were unwilling or unable to stop them. That conclusion is reinforced by the refusal of the Police to provide a requested escort for the humanitarian convoy, by the inadequacy of the Police response once the attacks were underway, by Police behavior in the immediate aftermath of the incident, and by the nature of their subsequent investigations. An especially troubling aspect of the Police response was the energy with which they pursued the spurious allegations of NGO and UNAMET provocation, while taking no action against the militia groups who were known to have committed criminal acts. As in the case of the attack on UNAMET headquarters in Maliana, strong international pressure led to the arrest of several militiamen. However, those charged were soon released after receiving short suspended sentences.

867. Concern with the Police approach to the humanitarian convoy began to emerge a few days before the 4 July militia attack. Before heading out, the NGOs – through UNAMET – had requested a Police escort to accompany the convoy, and this appeared to be approved. Shortly before the convoy was set to depart, however, Police authorities informed UNAMET that it would not be providing an escort. The reason given was that the delivery of humanitarian assistance was not within UNAMET's mandate, although UNAMET made clear that it was requesting the escort on behalf of the NGOs organising the convoy. On the morning of Sunday, 4 July, UNAMET conveyed to the Police a further request that, in view of threatened militia attacks, the convoy should be escorted by Police on its return journey to Dili. This was agreed, but did not happen. Without question, the refusal to provide a Police escort created the conditions in which an attack could easily take place.

868. The Police also failed to respond effectively once the attack on the humanitarian convoy was underway, allowing the incident to continue without impediment, and

taking no action whatsoever to arrest those responsible. In view of the fact that the incident took place just around the corner from the local Police station (Polsek), and just minutes by car from the District Police station (Polres), the failure of Police to stop the attack, or to detain the perpetrators, was troubling.

869. Finally, Police investigations were marked by a conspicuous lack of impartiality. From the outset, Police efforts were directed toward proving allegations that the attack had been 'provoked' by people in the humanitarian convoy. Meanwhile, no effort was made to detain or investigate the militia members who had been observed attacking the convoy with weapons. Most of the evidence pointed to the conclusion that the Police investigation was being influenced by TNI authorities, without regard to proper police procedure.

870. In short, the passive attitude of the Police toward the perpetrators of the attacks, and the woeful inadequacy of their investigations, clearly suggests that the militias were under the control of, and protected by, TNI authorities over whom the Police had no effective power.

Murder of UNAMET staff members at Boboe Leten (30 August 1999)

871. Among the targets of grave human rights violations both before and after the ballot were members of UNAMET's East Timorese staff. At least 14 local staff members were killed in 1999, and many others suffered injury, death threats, and forcible deportation.*

872. Local staff members were targeted because of their real or alleged pro-independence sympathies and because of a general antipathy toward UNAMET fueled by repeated allegations by Indonesian officials of UNAMET bias and unfairness. In other words, the killings were not random acts of violence but politically motivated assassinations. In virtually every case, moreover, they were carried out with the ac-quiescence or the direct involvement of Indonesian military and Police forces.

873. The murder of two UNAMET staff members, João Lopes and Orlando Gomes, and the attempted murder of a third, Alvaro Lopes, in Ermera is one of the clearest examples of this general pattern. The three men were all UNAMET staff members working at the polling station in the village of Boboe Leten, in the Sub-District of Atsabe. They were attacked by armed militiamen while loading ballot boxes onto UNAMET vehicles at the end of polling on 30 August.†

* The UNAMET staff members known to have been killed in 1999 are: João Lopes, Ruben Barros Soares, Domingos Pereira, José Ernesto Jesus Maia, Orlando Gomes, Leonel Silva de Oliveira, Manuel de Oliveira, Mariano da Costa, Ana Lemos, Carlos Maia, Abrui da Costa, Hilario Boavida da Silva, Francisco Taek, and Paulos Kelo. It is not clear that all of those killed were targeted because they were UNAMET employees, but most were.

† An internal TNI report mistakenly states that all three men died. See: Secret telegram from Dandim Ermera (Lt. Col. Muhammad Nur) to Danrem 164/WD (Col. Noer Muis), No. TR/148/1999, 31 August 1999 (Yayasan HAK Collection, Doc #42).

874. The trouble began in the late afternoon, when a group of militiamen armed with machetes, knives, and guns arrived at the polling centre, and began to issue threats against local staff members. Eyewitnesses have testified that the militias arrived in a dark blue jeep-like vehicle (a 'Kijang'), and that they were accompanied by TNI members carrying automatic weapons.

875. UNAMET staff reported their presence by radio, and expressed concern for the security of the ballots and for their own safety. The message was relayed to the nearest polling center, in Lauana. Having established that polling had finished there, the Lauana team was directed to load their vehicles immediately and travel by Police-escorted convoy to Boboe Leten. The convoy arrived at Boboe Leten at about 5.00 pm. Two or three minutes later, the convoy leader radioed to report that militias were firing automatic weapons in the immediate vicinity of the polling station. The attack was underway.[*]

876. As militias and TNI soldiers fired their automatic weapons, a man later identified as a TNI soldier, João da Costa, entered the polling centre. There he stabbed João Lopes who was carrying a ballot box to a waiting UNAMET vehicle. The militiaman then dragged Mr. Lopes outside, where two more militiamen stabbed him in the back. UNAMET staff managed to get to Mr. Lopes and place him in the back of a UN vehicle. He was then driven to the Civpol building in Atsabe town, where Civpol officers administered emergency medical treatment for a punctured lung and severe blood loss. Despite these efforts, João Lopes died shortly after 6.00 pm.

877. Back in Boboe Leten, the militias had attacked two more poll workers. According to an internal UN report one of the two victims, Orlando Gomes, was severely beaten with a stick and then stabbed to death by militias.[†] His body was reportedly buried in a sewer. His remains were later exhumed and reburied at a site close to the Polling Centre.

878. The third man, Alvaro Lopes, was also attacked while carrying a ballot box to the UN vehicles. He was seriously wounded but survived. According to the UN report cited above, the TNI member João da Costa first grabbed Alvaro by the arm, and then stabbed him. The blade entered into the lower left side of his back and came out the front on the lower right hand side of his torso. He was then dragged to a corner and left there by militias who apparently assumed he was dead. When the militias had finally left, Alvaro's father retrieved him and took him to the mountains where he treated him with traditional medicines.

879. A UNAMET investigation undertaken the next day established that TNI officers and soldiers had been directly involved in the attack, and that others had acquiesced in it. It also revealed the clear political motivation behind the killings, and provided abundant evidence of the inadequacy of the Police and TNI response to the incident. These observations were recorded in an internal UNAMET report,

* UNAMET, HF email message from Ermera to HQBPG, 30 August 1999, Subject: "Murder of Locally Employed UNAMET Staff." Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

† UNTAET, DHRO-Ermera, "Report on Human RightsViolations During 1999: Ermera District," [March 2000], pp. 28-30.

dated 31 August, which recorded the highlights of a UNAMET investigative visit to Atsabe that day.*

880. On the matter of TNI complicity, the report noted that a Civpol officer had testified in writing that TNI members were directly involved in the attack at Boboe Leten. The report also drew attention to evidence of the acquiescence and complicity of the Sub-District Military Commander (Danramil) in the attack. Several UNAMET staff observed, for example, that the vehicle (the dark blue Kijang) being driven by the Danramil on 31 August was the same vehicle that had been used to transport the militias to the scene of the attack. According to the report, moreover, the Danramil admitted to UNAMET officials that he had known of the plan to attack UNAMET on 30 August, but had done nothing to prevent it. According to the report, the Danramil:

> "... expressed no regret at the violence of the previous night, but instead sought to justify it [on] the grounds that the 'people' had been angry at UNAMET's alleged lack of neutrality. He volunteered that he had been forewarned that there would be an attack against UNAMET personnel on August 30, and that he had told the militia not to injure any UNAMET international staff. When [UNAMET officials] asked why he had not sought to prevent the attack entirely, the Danramil said that if he had interfered, the militias might have turned against him."†

881. On the matter of the motivation behind the assault, the report confirmed that the militias were acting with political intent. It noted that, in a discussion with UNAMET officials on 31 August, "the militia leader said his people had killed Mr. Lopes because UNAMET staff had not been neutral and had 'forced' people to vote against autonomy. He also said that, for the same reasons, his men would not allow the ballot boxes or UNAMET local staff, to leave."‡

882. Finally, on the question of the official response to the incident, the UNAMET report described it as "completely inadequate," and offered the following observations of official behavior during UNAMET's visit to Atsabe on 31 August:

> "The first team, which arrived in Atsabe at about 7.00 hours, found the deceased, João Lopes, lying in the Civpol house, accompanied by his mourning family, and the house surrounded by about 50 armed militia members . . . Lengthy discussions with the local Police chief (Kapolsek) and a Police Liaison Officer from Polres Ermera, produced assurances that the militias would be dispersed and restrained, but no

* UNAMET, Political Affairs Office, "Notes on Atsabe Investigation, 31 August 1999." Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999. For a first-hand account of that visit, see Geoffrey Robinson, "The Fruitless Search for a Smoking Gun: Tracing the Origins of Violence in East Timor," in Freek Columbijn and J. Thomas Lindblad, eds. *Roots of Violence in Indonesia*, Leiden: KITLV Press, 2002, pp. 263 and 267.

† UNAMET, Political Affairs Office, "Notes on Atsabe Investigation, 31 August 1999." Reprinted in UNTAET, Political Affairs Office, *Briefing Book*, Dili, November 1999.

‡ Ibid.

> action was taken and the militias maintained their armed presence in the immediate vicinity of the Civpol house . . . In response to repeated UNAMET requests that the militias be asked to disperse he explained that he did not dare to make such a request."

883. Likewise, the report noted, the Danramil "refused to provide any guarantee that the militias would be restrained, let alone arrested."[*]

884. A high-level TNI and Police delegation from Dili and Ermera that arrived later on the afternoon of 31 August managed to convince the militias to allow the ballot boxes and local staff to leave. However, even that delegation – which included Police Col. Made Pastika from Dili, and both the Dandim and Kapolres from Ermera – was unable or unwilling to secure UNAMET access to the scene of the crime. According to the UNAMET report, "Police and military authorities . . . continued to insist that security could not be ensured, and were unwilling to exert their authority to make a visit possible."[†]

885. Later investigations and documentation have substantiated these early observations, while adding important details. Investigations have found eyewitnesses able to identify several of the attackers by name. Significantly, those named include four alleged agents of the notorious military intelligence outfit SGI and three regular members of the TNI.[‡] This evidence adds further weight to the conclusion that the TNI was directly involved in the killings.

886. A secret military report on the attack, dated 31 August and signed by the Dandim of Ermera, does not provide evidence of direct TNI involvement, but it does reveal the remarkable extent to which TNI officers accepted or perhaps shared the militia outlook and interpretation of events. The explanation offered for the murders of 30 August in the report, for example, is virtually identical to the explanation provided to UNAMET by the militia leader on 30 August. It reads: "The cheating of local UNAMET staff members angered the pro-autonomy people, leading them to attack those staff members at about 5.00 pm on 30 August."[§]

Forcible relocation and murder of refugees in Dili (5-6 September 1999)

887. Fearful of the mounting violence, in the days after the 30 August vote many of Dili's residents fled to the surrounding hills or sought out places of refuge within the city. On

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* Ibid.

† Ibid.

‡ The alleged SGI agents named are: Manuel Gonçalves, Antonino Beremau, Miguel Gonçalves, and Manuel Halimau. The three TNI members named are: João da Costa, Laurindo, and Domingos de Deus Soares. UNAMET, DHRO-Ermera, Report on 1999, pp. 29-30.

§ Secret telegram from Dandim Ermera (Lt. Col. Muhammad Nur) to Danrem 164/WD (Col. Noer Muis), No. TR/148/1999, 31 August 1999 (Yayasan HAK Collection, Doc #42).

5 and 6 September, these places of refuge were attacked by large groups of militiamen, as well as TNI and Police personnel. The compounds themselves were destroyed and burned, dozens of refugees were seriously injured, and at least 17 people were killed.*

888. Eyewitness testimony indicates that these attacks were not a random assault by marauding militiamen intent on revenge, but a carefully orchestrated operation intended to terrorise refugees and to force their removal to West Timor. In that sense, the attacks stand as a clear example of the methods employed by security forces and militias throughout the territory to bring about the forcible relocation of some 400,000 people in the days and weeks after the ballot.

889. The first of the attacks was on the Dili Diocese, where some 300 people had sought refuge in previous days. At about noon on 5 September, as many as 50 armed Aitarak militiamen began to assault the refugees there, and to destroy and set fire to the buildings in the compound. The attack continued until the late afternoon. A large number of TNI and Police personnel were present at the scene throughout this time, but took no action to prevent the attack, or to stop it once it was underway. In fact, some TNI and Police joined in the attack.

890. The assault proceeded in two stages. First, all of the refugees were forced from the compound and across the road to Dili harbour. Next, the men were separated from the women and children, and subjected to further interrogation and beatings. Those believed to be students, UNAMET staff or CNRT members were singled out for especially harsh treatment. The precise number of casualties is not known. However, investigators have established the identities of more than 20 people subjected to inhumane acts during the attack, and at least 15 people who were killed or disappeared.

891. As the attack on the Dili Diocese began, some of Indonesia's most senior military, police, and civilian officials were meeting at the home of the Timor-Leste military commander, Col. Noer Muis, about two kilometres away.†According to an aide to Bishop Belo, Manuel Abrantes, who attended and took notes at that meeting, Bishop Belo explicitly asked General Wiranto to instruct the TNI and Police commanders in Timor-Leste to control the militias.‡ After some discussion, and clear opposition from the supreme militia commander, João Tavares, the Bishop repeated his request. This time General Wiranto replied "Yes, Bishop."§ The events of the following day, however, demonstrated either that no such order was ever issued or that an order was issued but

* Unless otherwise noted, this account is based on: East Timor, Deputy General Prosecutor for Serious Crimes, Indictment against Eurico Guterres et al., Dili, 27 February 2003.

† Senior military, police, and civilian authorities present at the 5 September meeting included: the TNI Commander, Gen. Wiranto; the Coordinating Minister for Political and Security Affairs, Lt. Gen. (ret.) Feisal Tanjung; Commander of Military Region IX, Maj. Gen. Adam Damiri; the Task Force officer, Maj. Gen. Zacky Anwar Makarim; the Assistant for Operations to the Army Chief of Staff (and soon to be Martial Law Commander) Maj. Gen. Kiki Syahnakri; the Police Commander for Timor-Leste, Col. Timbul Silaen; and the Sub-Regional Military Commander for Timor-Leste, Col. Noer Muis. Several leading pro-autonomy figures, including João Tavares and Francisco Lopes da Cruz, were also present. See, Deputy General Prosecutor for Serious Crimes, Indictment against Eurico Guterres et al., Dili, 27 February 2003.

‡ Testimony of Manuel Abrantes, recorded and compiled in Brisbane, Australia, 26 November 1999.

§ Testimony of Manuel Abrantes, p. 6.

ignored. In the course of just a few hours on the morning of 6 September, three major places of refuge in Dili were attacked by armed militiamen.

892. One target was the Canossian Convent where some 100 people and nine Sisters had sought sanctuary. Militias drove all of them from the compound, assaulting one Sister in the process, and then destroyed most of the property inside. A second target was the compound of the International Committee of the Red Cross (ICRC), where an estimated 2,000 people had gathered in the days after the vote. Firing their weapons and shouting, militiamen forced the refugees out onto the road, where suspected pro-independence activists were separated from the others before being marched away. As in the case of the Dili Diocese, Police and TNI personnel either took part in these attacks or failed to take action to prevent them.

893. The most widely reported and thoroughly documented of the three attacks of 6 September targeted an estimated 5,000 people who had sought refuge in Bishop Belo's residence. More than 15 people were seriously wounded in the attack, at least one was killed, and the Bishop's house was reduced to a smouldering ruin.

894. The attack was preceded by ominous signs of official complicity. Early on the morning of 6 September, Bishop Belo called the Timor-Leste Chief of Police, Col. Timbul Silaen, to request assistance in protecting and perhaps evacuating the refugees. Col. Silaen reportedly said he could not help, and advised the Bishop to contact the East Timor Military Commander, Col. Noer Muis. The Bishop then called Col. Muis, who also said he could not help. At about 9.00 am an unidentified Kostrad officer arrived at the residence to speak to the Bishop. The officer told the Bishop that he wished to protect him and the compound, and he invited the Bishop to call if anything happened. He then took his leave. About 15 minutes later, militias began to arrive.

895. The first group, about 20 men wearing no shirts, arrived on motorbikes. They were followed by dozens of others, riding in several jeep-like vehicles (Kijang) and yellow dump trucks. Those in the trucks were wearing red and white headbands. In all, there were more than 100 militiamen. As they gathered, the militias shouted abuse at the refugees inside, calling them "Sons of whores," and threatening "We will kill you – we know you are pro-independence!" Some reportedly shouted "Fuck your mother!" and "You can eat your own shit if you want to be independent!"*

896. The attack then unfolded in what appeared to be a coordinated fashion. The militias began by driving around the compound, which is bounded on all sides by roads. The first time around they fired pistols, automatic weapons, and home-made guns into the compound, breaking windows and apparently causing some injuries. The second time around, they hurled incendiary devices (Molotov cocktails) into the compound. Some of those devices entered the Bishop's residence, and soon the house was in flames.†

897. Meanwhile, dozens of militias armed with guns and swords entered the compound and began arresting young men while shouting for others to leave. People were

* Testimony of Manuel Abrantes, p. 8.

† Testimony of Manuel Abrantes, p. 9.

screaming and crying, and a number of people were seriously injured. Among them was a girl, aged seven, who lost her left eye when hit by a stray bullet, and a young boy who was shot in the back of the head.*

898. According to the indictment issued by the Deputy General Prosecutor for Serious Crimes, Police and TNI personnel actively participated in the attack. More specifically, the indictment states that:

> "... members of TNI and Brimob entered the compound firing automatic weapons, assaulting refugees and ordering them outside. Members of POLRI entered the compound and ordered the refugees out. One member of POLRI set Bishop Belo's house alight with a number of gerry-cans of petrol."†

899. Eventually, the refugees made their way outside to the Travessa Lecidere, a square adjacent to the Bishop's compound. Indonesian Police and TNI units, and at least one TNI officer, were present throughout this operation.‡ Manuel Abrantes, who was there, described the scene:

> *"As people were leaving the compound, units of Kostrad and the Police appeared, including the Commander of Kostrad. As we were being directed by the militia into the Travessa Lecidere, militia members said 'Don't talk, don't scream. If you scream, we'll kill you.' Guns were pointed at us by the militia, the Police and Kostrad."*§

900. In the midst of the chaos, the Bishop left the compound to speak to the Kostrad commander who had earlier offered his assistance. After some discussion with him and with Police officers, the Bishop was taken away. He was driven first to the Regional Police headquarters (Polda), before being taken by helicopter to the city of Baucau, where he joined Bishop Nascimento.

901. Meanwhile, at the compound in Dili, five or six militiamen were interrogating the assembled refugees. A militia leader, armed with a pistol and a grenade and wearing an Indonesian flag on his head, demanded to know whether the refugees were for independence or integration. The refugees shouted that they were for integration. Still brandishing his weapons, the militia leader demanded to know where the CNRT members were, mentioning two leaders (Leandro Isaac and Manuel Carrascalão)

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* The girl was Liliana Trindade.

† Deputy General Prosecutor for Serious Crimes, Indictment against Eurico Guterres et.al., Dili, 27 February 2003, p. 14.

‡ A former SGI informant, Francisco Kalbuadi, has said that he saw Maj.Gen. Sjafrie Sjamsuddin (Territorial Assistant to the Armed Forces Chief of General Staff) at the scene, in civilian dress, directing operations from outside the compound. Sjamsuddin has denied the allegation, claiming that he was at TNI headquarters in Jakarta at the time. See "Sjafrie Mengaku Berada di Mabes TNI," *Kompas*, 30 December 1999.

§ Testimony of Manuel Abrantes, p. 10.

by name. As the interrogations proceeded, additional militiamen arrived. The new militias, apparently BMP from Liquiçá, were wearing red berets and camouflage uniforms similar to those worn by Kopassus troops. *

902. At about 1.00 pm the militia commander ordered the refugees to gather their things and go to the Regional Police headquarters (Polda) on the other side of town. According to Manuel Abrantes, the militia commander threatened the refugees, saying that if they did not go to the Police station "We'll kill you and won't be responsible."† Some of the refugees managed to escape in the direction of the mountains but, fearing for their lives, a substantial number made their way to the Regional Police headquarters some three kilometres away. After a period of waiting, they were loaded onto trucks and transported to West Timor, joining some 250,000 others in exile.

Suai church massacre (6 September 1999)

903. The District of Covalima was the scene of widespread human rights violations both before and after the ballot in 1999. The worst single incident in the District, and among the worst in the country, was the massacre at the Ave Maria church in the town of Suai on September 6, 1999.‡

904. At least 40 people, but possibly as many as 200, were killed in the massacre.§ Of the 40 whose identities were known by late 2002, three were Catholic priests, ten were under the age of 18, and more than a dozen were women. The dead were among some 1,500-2,000 people who had taken refuge at the old church, in the priest's quarters adjacent to it, and in a new half-built church a few hundred metres away, because of mounting violence and intimidation by militias and security forces.

905. The key perpetrators of the Suai church massacre, and of the 1999 violence in Covalima generally, were members of the district's main militia group, Laksaur, commanded by Olivio Mendonça Moruk. Some of the perpetrators also belonged to the Ainaro-based militia group, Mahidi, led by Cancio Lopes de Carvalho. But the militias did not operate independently. As in all other districts, they were formed, trained, supplied, and directed by TNI officers. They also had the financial and political backing of the civilian administration, and the support or acquiescence of the Police and the Mobile Brigades in the district.

* Testimony of Manuel Abrantes, p. 13.

† Testimony of Manuel Abrantes, p. 12.

‡ This account is compiled from multiple sources, including: UNMISET, DHRO-Covalima, "Covalima District: 1999 Report"; Report of the Indonesian Commission on Human Rights Violations in East Timor (KPP-HAM), January 2000; James Dunn, "Crimes Against Humanity in East Timor, January to October 1999 – Their Nature and Causes," February 2001; Deputy General Prosecutor for Serious Crimes, Indictment against Col. Herman Sediyono et al., Dili, 7 April 2003; several witness statements, recorded and compiled by UN investigators in Timor-Leste between 1999 and 2002; and selected media reports of the Ad Hoc Human RightsTrials in Jakarta.

§ The KPP-HAM estimates that 50 were killed, while the local human rights organisation, Yayasan HAK, places the figure between 50 and 200. The indictment issued in this case says that "between 27 and 200 civilians were killed during the attack." See Deputy General Prosecutor for Serious Crimes, Indictment against Egidio Manek et al., Dili, 28 February 2003, p. 232.

906. The officials with most immediate responsibility for the control of the militias in Covalima, and with direct responsibility for the Suai church massacre, were the Bupati, Col. Herman Sediyono, the Dandim, Lt. Col. Lilik Koeshardianto (a.k.a. Lilik Kushadiyanto), the District Chief of Police, Lt. Col. (Pol.) Gatot Subiaktoro, and the Sub-District Military Commander for Suai, Lt. Sugito. All four men were observed, bearing arms, at the scene of the massacre, and all are alleged to have participated in the attack.*

907. Although they were not reported at the scene of the attack, two other military officers arguably share responsibility for the massacre because of their direct role in mobilising and coordinating militia activities in the district. They are the District Military Commander until late August, Lt. Col. Achmad Mas Agus, and a TNI intelligence officer, Sgt. Yus Nampun.

908. The massacre of 6 September was preceded by several months of tension and violence in the town of Suai, much of it centreing on the IDPs in the church. The IDPs had first come to the church in early 1999, following the murder of several CNRT leaders, and a series of militia attacks on villages deemed to be pro-independence strongholds. A group of about 300 IDPs had gone to the church in late June after UNAMET officials facilitated their return to Suai from their places of refuge in the mountains. Throughout this period, the militias, the Bupati, and other pro-autonomy leaders, adopted a hostile attitude toward the IDPs, and toward the priests and nuns who were providing them with sanctuary.

909. With the announcement of the result of the ballot on 4 September, militiamen and the TNI began a campaign of violence that quickly came to focus on the IDPs in the church. Laksaur militiamen began, on 4 September, threatening, beating and killing residents of Debos village, in the town Suai, and then looting and burning houses. Some residents fled to the hills, while others joined the hundreds of IDPs already sheltering at the church. At least three people were killed. On September 5, TNI forces, including the Suai Danramil, Lt. Sugito, joined the militia in burning, looting, and firing their weapons in the vicinity of the church. In the course of the day, at least one more person was shot and killed by Laksaur militiamen, and the flow of IDPs swelled.

910. Starting at about 8.00 am the following day, 6 September, Laksaur commanders had a series of meetings with TNI officers, first at the Koramil in Salele, which also served as the militia headquarters in the area, and then at the Kodim in Suai. After the meeting at the Salele Koramil, Laksaur militia members were informed that they would be attacking the Suai church that day. At about 10.00 am, Laksaur and Mahidi militiamen armed with machetes, swords and firearms began to gather around the church compound, and to threaten and taunt the IDPs inside. According to witnesses, a militia member entered the compound and told one of the priests (Father Hilario Madeira) that trucks would soon be arriving to transport the IDPs to West Timor.

* See Deputy General Prosecutor for Serious Crimes, Indictment against Col. Herman Sediyono et.al., Dili, 7 April 2003, p. 42. Herman Sediyono acknowledged in a Jakarta court that he was at the church during the massacre, but claimed that he was trying to stop the violence. See *AP*, 30 July 2002.

Later the same day, TNI soldiers and Mobile Brigade units arrived and took up positions around the church.

911. Meanwhile, Laksaur commanders and some militia members had gathered at the house of the Bupati, Herman Sediyono. They were armed with rifles, swords and machetes. At about 2.30 pm the militiamen left the Bupati's house and headed towards the church. The Bupati, wearing a TNI uniform and armed with a rifle, followed them to the church in a vehicle.

912. Inside the church, there was growing anxiety. There had been a number of warnings of a planned attack. One of these came from a militiaman who had entered the compound in the morning in search of his niece, and had urged people to leave while they could. Other warnings came by telephone. The head of the District legislature called to offer assistance in taking the IDPs to safety. Finally, around 12 noon, the priests began to urge the IDPs to pack their things and prepare to leave. Hundreds of younger men, thought to be the likely targets of an attack, did leave but as many as 1,500, many of them women and children, remained in the church.

913. Shortly after 2.30 pm the attack began. According to witnesses, two grenades were thrown and then the militia and the TNI started to fire their weapons into the church compound. The attack continued for roughly three hours. Witnesses and prosecutors say that several high-ranking officials were at the scene throughout, and participated in the attack. They included: the Bupati, Col. (ret.) Herman Sediyono; the Dandim, Lt. Col. Lilik Koeshardianto; the District Chief of Police, Lt. Col. (Pol.) Gatot Subiaktoro; and the Danramil, Lt. Sugito.*

914. The first to enter the church were scores of Laksaur and Mahidi militiamen, armed with machetes, swords, knives, and home-made firearms. Immediately behind them were a mixed group of TNI soldiers and militiamen. According to witnesses, the militias headed first toward the priests' and nuns' quarters, adjacent to the old church. As they proceeded they hacked, stabbed, and shot many people in their path. Outside the compound, witnesses said, TNI and Mobile Brigade units maintained a perimeter from which they shot at those fleeing the mayhem.

915. Several witnesses reported hearing between three and five large explosions, which they believed to be grenades, in the course of the attack. One witness, who was hiding in the priests' quarters, said that a grenade was thrown into Father Hilario's room, after which the room was raked with automatic gunfire.

916. Among the first to be killed were the three priests, Father Hilario Madeira, Father Francisco Soares, both Timorese, and Father Tarsisius Dewanto, who was Indonesian. The precise circumstances of their killing remain somewhat unclear, but the statements of witnesses indicate that they were clearly identifiable as priests at the time of their murders. In any case, all three were well known in the community, and they were killed

* Deputy General Prosecutor for Serious Crimes, Indictment against Col. Herman Sediyono et al., Dili, 28 February 2003, p. 42. The indictment also names 14 TNI personnel who took part in the killings at the church.

in or nearby the priests' quarters of the old church, making it unlikely that there was doubt about their identity.

917. Witnesses concur that Father Hilario was shot and also stabbed or hacked, by a Laksaur militiaman (Egidio Manek) as he emerged from his room in the priests' quarters. One witness stated that he saw Father Hilario's dead body lying on the floor of the sitting room in the house. Father Francisco is also said to have been stabbed and hacked to death by a Laksaur militiaman (Americo) near his quarters. According to one witness statement, shortly before being killed he implored his attackers to spare the women and children. Father Dewanto, the Indonesian priest, was reportedly killed by gunfire in or near the old church. One witness said that, as Father Dewanto was about to be killed, one of the attackers shouted "Don't kill him! He is one of us!" But the warning came too late.

918. By about 5.00 pm the killing had finally stopped. A number of survivors, some of them women, were led out of the compound by militiamen and TNI soldiers. As they walked they were told not to look around them, but they could not help seeing corpses strewn about the compound. One witness said that blood was flowing like a long stream from inside the church, across the compound and all the way to the street outside. From the church, the survivors were taken to the Kodim headquarters, and to a nearby primary school, where they were interrogated. Several of them were held for about eight days, and at least one woman is reported to have been sexually assaulted by a militiaman while in detention.[*]

919. Early the following morning, 7 September, TNI and militia leaders set about disposing of the bodies and destroying as much evidence as possible. According to one of the indictments issued in the case, those directly involved in the disposal efforts included the former Dandim, Lt. Col. Achmad Mas Agus, and the Suai Danramil, Lt. Sugito.[†] At least 27 bodies, and probably more, were placed onto trucks (the type, color and registration numbers of which are known) and driven out of town, across the border to West Timor.

920. An Indonesian Police officer based in Mettamauk, Wemasa, West Timor, told investigators that trucks loaded with bodies had stopped at his Police post at around 8.30 on the morning of 7 September.[‡]The witness said that Lt. Sugito, the Suai Danramil, had been present, and had told him that the dead were from the church at Suai. Another witness said that he had seen the bodies being buried near the shore in Alas Selatan village, in the District of Belo, West Timor, at about 9.00 am on 7 September. He stated that the burial party was led by Lt. Sugito and included three TNI soldiers and a platoon of Laksaur militiamen from Suai.

921. In late November 1999, Indonesian investigators went to the site indicated by witnesses, and discovered three mass graves. From these graves they exhumed the

* The report was made by the victim's father. He identified the militiaman as Alipi.

† Deputy General Prosecutor for Serious Crimes, Indictment against Egidio Manek et al., Dili, 7 April 2003, p. 42.

‡ The officer has been identified as Sgt. Maj (Pol) Kanakadja, Kapolsek Mettamauk, Wamesa.

remains of 27 people, including 16 men, 8 women, and three others whose gender could not be determined. Among those exhumed were the remains of a child of about 5 years, a young man whose lower limbs and pelvis were missing, and a teenage woman who was naked, and whose body had been burned.

922. In addition to those buried in West Timor, and others allegedly thrown into the sea, an undetermined number of bodies were reportedly gathered together at the Suai church and burned beyond recognition. Investigators who visited the site in late 1999 found what appeared to be charred human bones and skulls. On the basis of this information, and statements gathered from families and local officials, by late 2002 UN human rights investigators had identified 40 people thought to have died in the massacre. However, credible estimates of the total number who may have died range as high as 200.

Maliana Police Station massacre (8 September 1999)

923. Bobonaro witnessed a number of mass killings in September 1999. The systematic nature of these killings, the presence of TNI and Police officers at the scene, and the deliberate efforts to dispose of the bodies, all offered powerful evidence that the killings were pre-meditated and organised by Indonesian authorities.

924. The most notorious of the mass killings, and the most revealing of official responsibility, was the attack on refugees at the District Police headquarters in the town of Maliana on 8 September. The victims were among many hundreds of Maliana residents who had sought refuge at the Police station as the town erupted in violence after the 30 August vote. As many as 14 people, some of them children, were killed in the attack.* In addition, at least 13 people who fled the scene were killed the next day in nearby Mulau, and two more were killed at or near the Police station on 10 September. In all, at least 71 people were killed in Maliana Sub-District alone in the period 2-29 September.

925. Witness testimonies concur that the massacre at the Maliana Police station was conducted jointly by TNI soldiers of Kodim 1636 and members of the DMP militia, under the apparent supervision of TNI and SGI officers.† They also agree that Indonesian Police and Brimob forces took no action to prevent the attack, to stop it once it was underway, or to apprehend the perpetrators when it was over.

926. The TNI officers directly implicated in the attack include: the former District Military Commander, Lt. Col. Burhanuddin Siagian, and the District Head of Military Intelligence, Lt. Sutrisno. Lt. Col. Siagian had ostensibly been removed from his post in mid-August, in response to overwhelming evidence of his sponsorship of militia violence. In reality, however, he never left Maliana in the weeks after his removal.

* Higher estimates announced in the weeks and months after the massacre appear to reflect the number of people killed in the area at about this time, only some of whom were actually killed at the Police Station.

† There are unconfirmed allegations that elements of Kostrad's Linud 700, reportedly posted to Maliana in early 1999, were also involved.

Although he wore civilian attire instead of his TNI uniform, he continued to operate in a command position during that period. In the days leading up to the massacre he was repeatedly observed at the Police Station, where he took part in meetings with the Chief of Police and militia boss João Tavares.

927. The Police station massacre was preceded by several days of mounting violence in the town of Maliana, in which several people were executed, many were assaulted and threatened, and some 80% of all buildings were burned or destroyed. Residents who were unable to flee to the hills had begun to gather at the Police station immediately after the ballot.

928. One of those who did so with his family was a veteran Police officer. He later told investigators how armed militiamen and TNI soldiers had come to his village, Lahomea, spreading a message of terror:

> "All of them had surrounded the village and they announced in Bahasa Indonesia and Tetum: 'Since you are all pro-independence supporters we have to kill all of you.' We were afraid that they would return and do what they had announced, so I and my family together with our relatives began to pack our belongings and moved to Polri headquarters where we believed we would have protection."[*]

929. For a time, the refugees seemed safe at the Police station, but there were ominous signs of danger. Starting on 3 September, dozens of militiamen and TNI soldiers were observed moving freely in and out of the Police station compound, and among the refugees.[†] Between 3 and 7 September, moreover, several meetings took place at the Police station, attended by the former Dandim, Lt. Col. Burhanuddin Siagian, the Chief of Police, Major Budi Susilo, and the pro-autonomy leaders João Tavares and Natalino Monteiro.

930. On the morning of 7 September, this group had one final meeting at the Police station.[‡] After the meeting concluded, the Chief of Police and his deputy informed the IDPs that they would have to move to a single area at the rear of the compound, ostensibly to make room for Police officers and their families.[§] Prosecutors allege that the instruction was a ploy by officials to concentrate the IDPs prior to an attack, and it was in the area where they had been regrouped that the IDPs were trapped and killed when the attack began the following day.

931. In the hours before the attack, on 8 September, dozens of militiamen gathered at the Koramil. There they were divided into four groups and briefed on their mission by

* Deposition by Manuel Gomes da Silva to UNAMET, 27 October 1999.

† One witness provided a list of 38 militiamen and soldiers he had seen inside the compound during this period. Of the 38 names on the list, 12 are identified as TNI soldiers. Testimony of Luis Cairo in a joint deposition concerning the killing of Manuel Barros, 17 March 2000.

‡ Joint deposition by Vicente dos Santos, Victor dos Reis, and Luis Cairo, 17 March 2000.

§ Joint deposition by Vicente dos Santos, Victor dos Reis, and Luis Cairo, 17 March 2000.

TNI and SGI officers. Two of the groups were tasked with forming a security perimeter around the Police station. The other two were assigned to seek out and kill the pro-independence leaders sheltering in the Police station compound. Before departing for the Police station, some of the militias had their faces painted black by SGI soldiers.

932. The attack began at about 5.30 pm. Two trucks pulled up in front of the Police station, and three others stopped on a road running along side the compound.* The vehicles were filled with soldiers and militiamen, armed with machetes, knives, and swords. Many of the militiamen were dressed in black and wearing 'Ninja' type hoods or Indonesian flags to cover their faces. The TNI soldiers, most of them wearing combat trousers and black t-shirts, were carrying automatic weapons and side arms. When the vehicles stopped, the soldiers and militiamen jumped down, and took up positions in and around the compound. Some TNI soldiers sealed off the main road running in front of the Police station, while others formed a perimeter around the compound.

933. Meanwhile, dozens of militiamen and TNI soldiers entered the compound from the side entrance and ran into the area where the refugees were gathered. One witness described the initial moments of the attack:

> "I saw the militias running in all directions, chasing men and boys to kill them . . . The refugees were screaming in fear but they could not escape as militias and TNI were all around guarding the place."†

934. In panic, many refugees ran to the security post at the front entrance of the compound, but Brimob soldiers there told them to return to their tents. Not all did so, but those who did then witnessed the attack unfold.

935. Among the first victims was a 13-year-old boy, José Barros Soares, who was hacked to death by militiamen while his younger sister looked on.‡ But the violence was not as random as that scene suggested. The attackers were clearly singling out well-known pro-independence figures for execution. The victims included a number of CNRT leaders, as well as a Sub-District Head, two Village Heads, and several civil servants with pro-independence sympathies.§

936. The militias also targeted the families of such figures. According to one report, for example, the militias who killed the young boy, José Barros Soares, told his sister that

* The following account of the attack is drawn from the testimony of various eyewitnesses, including: witness "FB¬1" interviewed by UNAMET, 29 October 1999; witness "FG-1" interviewed by UNTAET, 12 November 1999; Manuel Gomes da Silva, deposed by UNAMET, 27 October 1999; and joint deposition by Vicente dos Santos, Victor dos Reis and Luis Cairo, 17 March 2000.

† UNTAET interview with witness "FG-1," 12 November 1999.

‡ A western journalist reported in 2001 that several other children – Renato Gonçalves (12), Victorino Lopes (11), and Francisco Barreto (10) – had been killed in the police station massacre. See Mark Dodd, "Widows who share a legacy of murder," *Suara Timor Lorosae*, 10 August 2001. This report would appear to be in error. Several children were killed in Maliana, along with their father, on the morning of 8 September, but they were not killed in the Police station.

§ Those reportedly killed at the Police station include: Lourenço Gomes, a high-level clandestine figure; Manuel Barros, a well-known pro-independence leader; Julio Barros, the Camat of Maliana; Domingos Pereira, the Head of Ritabou Village; and Damião, the former Head of Tapo Village.

they were killing him because they could not find his father, a known independence figure. Also singled out were members of the TNI and Police who were considered to be independence sympathisers.[*]

937. In some instances, the attackers asked for their intended victims by name. In other cases, they appear to have known exactly where in the compound to find them. One witness said that the attackers had a list of names to which they referred as they made their way through the compound.

> "I was cooking and suddenly the militias came in cars and people started running from one side to the other. Then when people calmed down they divided into sections and entered the tents seeking people on lists to kill."[†]

938. Among those targeted in this way was the prominent Maliana pro-independence figure Manuel Barros, who had taken refuge at the Police station with his family on 2 September. At least four people witnessed his killing, including one man who was just a few feet away when it happened.

939. According to the testimony of that man, shortly after the attack on the compound began, three militiamen walked straight up to Manuel Barros and began to speak to him in an aggressive manner. First they ordered him to stand, then to sit, and then to extend his hand. As he extended his hand, one of the three militiamen lunged forward and stabbed him in the chest with a knife. Manuel Barros immediately fell to the ground and died soon thereafter. His body was then dragged away by the three militiamen.[‡]

940. Many witnesses have said that they saw the Police Chief, Major Budi Susilo, inside the compound as the killings took place, and several witnesses have testified that they saw the District Head of Military Intelligence, Lt. Sutrisno, on a motorbike near the Koramil on the evening of 8 September. At least one witness claims to have seen both Lt. Col. Siagian and Lt. Sutrisno in the immediate vicinity of the Police station: "When I walked out of the compound", the witness told a journalist, "I saw the chief of the Kodim [Siagian] there, with the Intel chief, Lt. Sutrisno. They were waiting for something near the Kijang pick-ups."[§]

941. The attack continued until about 9.00 pm and the disposal of the bodies began shortly thereafter. As in other cases of mass killing in 1999, the process of disposal was methodical, and supervised by TNI officers, indicating that it had been planned in advance by the authorities. It was also clearly intended to conceal the evidence of a crime.

* They included Domingos P. Gonçalves, a TNI soldier. Filomeno Guterres, a Police officer, was killed at or near the station on 10 September 1999. UNTAET interview with witness "FG-1," 12 November 1999.

† Interview with Teresinha de Jesus Calao, by Jill Jolliffe, 16 November 1999.

‡ Testimony of Victor dos Reis, in joint deposition, 17 March 2000. Also see interview of Duarte Barros, by Jill Jolliffe, 11 November 1999.

§ Interview with Duarte Barros, by Jill Jolliffe, 17 November 1999. Another witness said she had seen the former Dandim, Lt. Col. Siagian, and the Kodim Head of Intelligence, Lt. Sutrisno, inside the compound at the time of the killings. Interview with Teresinha da Jesus Calao, by Jill Jolliffe, 16 November 1999.

942. The electricity to the area was cut, and the corpses were loaded onto two or more trucks under the cover of darkness. According to a man who was ordered to assist in loading the bodies onto the trucks, a TNI officer kept track of the identities and the number of dead.* The trucks were then driven out of town to Batugade, a pro-autonomy stronghold near the Indonesian border. The TNI had made arrangements with local militia leaders Rubén Tavares (João Tavares' nephew) and Rubén Gonçalves to receive the corpses and dispose of them. According to prosecutors, the militiamen filled large rice sacks with sand and attached them to the bodies. Weighted down by the sand-filled sacks, the bodies were then taken out to sea on fishing boats, and dumped overboard.

943. The systematic and planned character of the crime at the Maliana Police station is also suggested by further killings of a similar nature that took place in the two days immediately afterward. At least 13 people who managed to flee the attack on the Police station were hunted down and killed with knives and machetes on 9 September at the Mulau lagoon outside Maliana town. One day later, on 10 September, two Timorese policemen were killed in a similar fashion, for their suspected pro-independence leanings.†

944. Like the victims at the Maliana Police station, those killed on 9 and 10 September included prominent leaders and alleged supporters of independence.‡ And like them, their bodies were disposed of in an apparent attempt to hide the crime. The remains of two of those killed at Mulau were later found on the beach at Batugade, some 50 kilometres from the scene of their murder.§

945. In large part because of the deliberate efforts to hide the bodies, the precise number of people killed at the Maliana Police station on 8 September, and over the next two days, has been difficult to determine. According to prosecutors, at least 14 people were killed in the Police station on 8 September. Together with the 13 believed killed at Mulau on 9 September, and two others killed on 10 September, the total from those two days is at least 29 dead. For the District of Bobonaro as a whole, the total number killed in September 1999 is at least 111, and some estimates range as a high as 200. Given the strong possibility that as many as 40 bodies were thrown into the sea, however, it is unlikely that the precise number of dead, or their final resting places, will ever be known.

946. The Maliana Police station massacre is significant not only because of the numbers who died there, but because it so clearly highlights the close operational relationship between the militias, the TNI, and the Police. It therefore points clearly to official responsibility for gross human rights violations amounting to crimes against humanity.

* Interview of witness "FB-1" by UNAMET, 29 October 1999.

† The two policemen killed were Filomeno Guterres, and Martino Lopes Amaral. Their bodies were discovered in a deep well inside the Maliana Police station, and exhumed by Interfet on 11 November 1999.

‡ Those killed at Mulau on 9 September included: Carlos Maia, Lamberto Benevides, Manuel Magalhães de Oliveira, Paulo da Silva, Lucas da Costa, Agostino Marques, Albino Marques, Domingos Titi Mau, and Vicente Lobato.

§ The two found at Batugade were Carlos Maia and Lamberto Benevides. Memo from UNTAET District Human Rights Officer, Bobonaro, to Serious Crimes Unit, 3 October 2000.

The Passabe and Maquelab massacres (September–October 1999)

947. Compared to some other districts, the District of Oecussi was not a major center of military or militia activity for much of 1999. That situation changed dramatically in the post-ballot period, especially after the departure of UNAMET personnel and other international observers in early September 1999. Over the next several weeks more than 150 civilians were murdered, some in very gruesome fashion, bringing the total number killed in the District in 1999 to at least 170.*

948. The worst of the violence in the district, and probably in the country as a whole, took place near the villages of Passabe and Maquelab. There, roughly 100 people were deliberately killed in what have become known as the Passabe and Maquelab massacres. Eighty-two of the victims were residents of four villages in the Sub-District of Oesilo, in the southeastern part of Oecussi; they were killed en masse near Passabe on 8-10 September. At least 12 more people were deliberately killed in the village of Maquelab, on the north coast on 20 October, just two days before Interfet forces arrived in the district. Virtually all of the targeted villages were known as pro-independence strongholds, and the victims were overwhelmingly independence leaders or supporters.

949. The sequence of events known as the Passabe massacre began early in the morning of 8 September. At about 6.00 am some 200 Sakunar militiamen, accompanied by members of the TNI's 745 Battalion, attacked the villages of Tumin, Quebesilo, Nonquican, and Nibin, in the Sub-District of Oesilo, near the border with Indonesia. The attacks were launched simultaneously from three different directions, suggesting a significant measure of coordination and planning.

950. Indeed, the attacks were preceded by a number of meetings between Sakunar leaders and TNI officers. At one meeting on 7 September, held at a TNI post in Padimau and attended by about 30 people, Sakunar Commander Simão Lopes outlined the plan to attack the villages. A second meeting took place the following morning, 8 September, at the home of the Passabe Village Head (and Sakunar leader), Gabriel Kolo. At that meeting, particular villages were identified as targets, after which militias set out on foot, accompanied by at least four TNI soldiers.

951. Further evidence of planning, and of the coordinating role of the TNI, lies in the fact that some residents of the targeted villages had received advance warning of the attacks from relatives living in the Indonesian town of Imbate just across the border. Evidently, the militia and TNI had established an operational base at Imbate, which was intended to serve as a gathering station after the initial 8 September attack.

952. Many residents heeded the advance warnings and fled to the mountains before the attack. Those who remained behind were subjected to a coordinated assault by militiamen and soldiers armed with a combination of automatic and home-made

* Unless otherwise noted, this account is based on the report of UNTAET, DHRO-Oecussi, "Report on Human Rights Violations During 1999: Oecussi District," November 2001; and UNTAET, General Prosecutor, Indictment of Simão Lopes et al., Dili, September 2001.

firearms, as well as machetes, knives, and spears. At least 18 people were killed in this initial attack and another five suffered serious injury.* A number of houses were looted and burned.

953. After the killings, surviving members of the targeted communities were rounded up by Sakunar militiamen and forced across the border to the Indonesian town of Imbate. There they were subjected to a process of screening and sorting that again suggested a measure of advance planning, and a clear intention to target particular categories of the population. Over the course of two days, on September 8 and 9, all of those brought to Imbate were made to register at the Sub-District office, and divided into groups according to age, level of education, and village of origin.

954. Late in the afternoon of 9 September, a group of some 80 young men with better than average education, from the villages of Quebesilo and Tumin, were separated from the rest. At around 6.00 pm they were bound together in pairs, with their hands tied behind their backs. Surrounded by a large number of militiamen, including TNI officers Lt. Col. Sabraca and Sgt. Andre Ulan, and Police officer Gabriel Kolo, they were force-marched out of Imbate. With the TNI, Police, and militiamen threatening and beating them, they walked along the border to the village of Sungkaen, where they crossed the river into Timor-Leste, and then descended along the riverbank toward the village of Passabe.

955. Not far from Passabe, at a place called Nifu Panef, the men were ordered to stop and line up along the river-bed. The distance from the head of the line to the tail was some hundreds of meters. There, at about 1.00 am, on 10 September, a signal was given and the militia and TNI soldiers began to hack the young men to death with machetes and swords. Some of the attackers also used firearms.

956. At about 6.00 am the following morning, still on 10 September, about 100 men from Passabe village were instructed by militiamen to gather tools suitable for road repair work. They were then taken to the site of the killings and ordered to bury the bodies where they had fallen. The villagers were told they would be killed if they revealed any information about what they had seen.

957. Evidence of the attack was later gathered from seven men who had managed to escape and run into the bush. Most had sustained life-threatening injuries from machetes and knives, and some had serious gunshot wounds. Photographs taken by investigators a few months after the events illustrated the severity of the wounds. Investigators examined the massacre site in 2000, and found at least 47 sets of human remains. Nine of the remains had no skull, suggesting that the victims may have been decapitated by their attackers. The investigators also found binding material with the remains, confirming the testimony of survivors that they had been bound by their captors.

958. The murders took place in the middle of the night, and the scene was lit only with a few kerosene lamps, making it difficult for the survivors to identify all of those involved

* For the names of those known to have been killed, see UNTAET, General Prosecutor, Indictment of Simão Lopes et al.

in the killings. However, the key instigators and perpetrators of the massacre are known to have included: the Danramil of Passabe, Lt. Antonio Sabraca, the Babinsa (TNI officer) of Passabe village, Sgt. Andre Ulan; Police officer and Head of Passabe village, Gabriel Kolo; and the Head of Cunha Village, Laurentino Soares (a.k.a. Moko).

959. The second massacre of the post-ballot period in Oecussi took place in the vicinity of Maquelab on 20 October 1999. Once again, the main perpetrators were Sakunar militiamen, and the victims were known or alleged supporters of independence. Two local UNAMET employees were also among the dead.

960. Until this massacre, the people of Maquelab had largely been spared the campaign of terror. Their good fortune had been due largely to the efforts of their former Village Head who, despite having been replaced by a pro-autonomy figure, had managed to convince the local militia group not to use violence. The massacre of 20 October, however, was beyond his capacity to control. The militiamen in question were not local men, but part of a large mobile group engaging in a systematic cleansing operation. On the day they reached Maquelab, the militia group had already killed two people in Bokos village and one more in Sai Laut.

961. The trouble in Maquelab began in the early afternoon of 20 October, as the armed militiamen, riding in eight trucks, arrived in the area and started searching for people who had fled to the mountains. Upon finding a large group, the militiamen announced that they had come to take them back to the village so that they could then travel safely to West Timor. The militiamen then rounded up about 300 people and marched them back to the village. On the way, some of the men were beaten. At about 2.00 pm two CNRT leaders were pulled out from the group, and taken behind the Maquelab market where they were killed.

962. About thirty minutes later, the Deputy Commander of Sakunar, Laurentino Soares (a.k.a. Moko) arrived at the scene and ordered the group of villagers to sit down. He then selected four men and ordered them to stand. As the rest of the group watched in horror, he raised his gun and shot the four men. The victims were: the CNRT chief of security and UNAMET local staff member, Francisco Taek; another UNAMET local staff member, Paulos Kelo; a pro-independence student, Mateus Ton; and a CNRT leader, Augustinho Sufa.

963. Immediately after these executions, and evidently on command, the Sakunar militiamen set about burning all of the houses and buildings in Maquelab, without exception. In the course of the afternoon they also killed another six, and possibly seven, people in the village, before moving out to West Timor. Interfet forces arrived in the district two days later.

Rape and Murder of Ana Lemos (13 September 1999)

964. The victims of human rights violations in 1999 included women and girls. Like men, they were targeted because of their membership in pro-independence organisations. They were also singled out because of the political activities of their husbands or male relatives, a practice of Indonesian security forces that long pre-dated the events of

1999. Women and girls were subjected to many of the same kinds of violence as men, including beating, torture, killing and forcible relocation. In addition, however, they suffered a disproportionate number of sexually-related crimes, such as molestation and rape.

965. The fate of many East Timorese women in 1999 was epitomized by the experience of Ana Xavier da Conceição Lemos, a pro-independence activist and mother of three from Ermera District. She was beaten, raped, and killed by militiamen and TNI soldiers in early September 1999.*

966. Ana Lemos was a well-known member of the OMT, a prominent pro-independence women's organisation. When the possibility arose in 1999, she campaigned vigorously for independence, openly criticising Indonesian rule at political gatherings. Her two brothers were also involved in pro-independence organisations, one in the CNRT and the other as a member of Falintil.

967. As a result of these pro-independence activities and associations, Ana Lemos was subjected to repeated threats, and physical violence, by pro-Indonesian militias. In April 1999, for example, her house was surrounded, and its windows smashed, by members of the Darah Integrasi militia, who also stole some Rp400,000 from the premises. The threats abated somewhat with the arrival of UNAMET officials in the district in June, but they never stopped entirely. In fact, throughout that period, Ana Lemos reported to UNAMET officials that she feared for her life. Her fears proved to be well-founded.

968. On ballot day, Ms. Lemos worked as a queue controller at a voting station in Poetete, in Ermera Sub-District. At the close of polling, local militias threatened to attack, so most CNRT people decided to flee to the Falintil cantonment in the nearby mountains. Ana Lemos decided instead to return to Gleno, where her children were. With the assistance of a sympathetic member of the Police Mobile Brigade, she made her way, together with two students, back to her home in Gleno by about 8.00pm that evening, 30 August.

969. Some time around midnight a TNI officer whom she knew, Sgt. Melky, arrived at her home together with several other men thought to be militia members. Two shots were fired and windows and lamps in the house were smashed. Ana and the two students initially hid under their beds, but the men pointed guns at them, so they came out. The three were then subjected to interrogation, in the course of which they were beaten.

970. Sgt. Melky, who led the interrogation, was angry with Ana Lemos. He said that he had protected her when the militias had attacked Gleno on 10 April, but that she had nevertheless persisted with her pro-independence activities. He threatened that, if she reported this encounter to UNAMET, he would get her and her three children after the UN had gone. He hit Ana several times, pulled her hair and knocked her down.

* Unless otherwise noted, this account is based on the following sources: UNTAET, DHRO-Ermera, "Report on Human Rights Violations During 1999: Ermera District" [March, 2000]; and Helene van Klinken, "Taking the Risk, Paying the Price: East Timorese Vote in Ermera," in Tanter, Selden and Shalom, eds., *Bitter Flowers, Sweet Flowers: East Timor, Indonesia, and the World Community*. Rowman & Littlefield, 2001, pp. 91-107. Helene van Klinken was the UNAMET Political Affairs Officer posted in Ermera in 1999.

Meanwhile, the militiamen ransacked the house looking for money and other items, which they took, claiming they were Indonesian property. The telephone lines to the house were cut.

971. After the men finally left, Ana and the two students hid in the garden of a Balinese temple not far from her home. Early the following morning, 31 August, she called the Mobile Brigade officer who had helped the day before, and he took the three of them to his house, and then to the UNAMET headquarters in Gleno. Even there, however, their safety was far from guaranteed. Militiamen had already begun to congregate menacingly in the vicinity of the office, effectively preventing UN staff from leaving the premises. Outside, militias were roaming the streets, setting fire to buildings and firing their weapons.

972. In view of the deteriorating security conditions, UNAMET officials decided to relocate all but a small group of staff to Dili. For several hours, they negotiated with Police, TNI, and militia leaders to permit their safe evacuation from the compound. Militiamen insisted that local staff members, and other East Timorese, should not be permitted to leave, while UNAMET was equally insistent that they should be. Eventually, an agreement was reached and a convoy of vehicles was loaded and set to depart. Even at this stage, however, armed militiamen and security forces were inspecting all the vehicles for known pro-independence figures.

973. In one of the vehicles, driven by UNAMET's Humanitarian Affairs Officer, Patrick Burgess, was Ana Lemos, squeezed between two international staff members, her face covered with a scarf. As the militias made their way from one vehicle to the next, the sympathetic Mobile Brigade officer stood beside that vehicle, chatting with Mr. Burgess. In doing so, he effectively prevented the militias from discovering Ana Lemos there, and ensured that she was able to make her way safely to Dili with UNAMET.

974. The convoy arrived at UNAMET headquarters in Dili later that evening. Ms. Lemos stayed in Dili for several days, moving to a new location every few days. Eventually, after an attack on the Don Bosco School where she was then staying, she fled to the Regional Police headquarters (Polda). While there, she reportedly met her ex-husband, the father of her three children. The two reportedly argued about the children, who were still in Gleno. Shortly thereafter, Ana Lemos set out on foot for Gleno.

975. Just outside of Gleno, she was reportedly picked up by a TNI officer, and driven to the Kodim where she was questioned. From the Kodim, she was reportedly moved to the office of the Darah Merah militia in Gleno. It is not known how long she was held there, nor exactly what transpired in that time, but when she returned to her mother's house on 11 September she was covered in bruises, and she told her mother that she had been beaten. She told a close friend, Aliança Gonçalves, that while held at the Kodim the previous day she had been raped by Sgt. Melky. According to Aliança, Ana Lemos said Sgt. Melky had threatened her with a pistol and told her that he would kill her if she did not cooperate.

976. On the evening of 11 September, a large party was held at the local primary school in Gleno, at which a cow was killed and eaten. According to one of Ms. Lemos' brothers,

the CNRT member Flaviano Lemos, a militia member at the party said to others: "Let's just kill the woman who likes to play politics." The same evening, Ana Lemos gave her mother some money and some rice, and told her she thought they would kill her.

977. At about 9.00 am on 13 September, she was taken from her home by an unidentified militiaman. Her mother asked to go along but she was not allowed. That was the last time Ana Lemos was seen alive. Two days later, 15 September, her mother and her three children were taken to Atambua. A militiaman told her mother that she need not bother waiting for Ana as she would never come back.

978. On 5 November, the clothes Ana Lemos was wearing when she was last seen, were found about 4 kilometers along the road to Aileu. Not far from the clothes, the remains of a female body were also found. On the request of family members, in March 2000 the body was exhumed. Forensic examination established that it was most likely the body of Ana Lemos.

979. The chief suspects in the abduction and killing of Ana Lemos are: Zeca Pereira, the leader of the Darah Merah militia in Gleno; Lucas, leader of the Naga Merah militia in Hatolia; and Hilario, a TNI soldier. As the account above makes clear, TNI Sgt. Melky was directly responsible for an assault on Ana Lemos on 31 August, and he is strongly suspected of involvement in her abduction, rape, and murder.

980. Ana Lemos is now considered a hero in the District of Ermera. The primary school in the town of Gleno is dedicated to her memory, and her remains are buried under a monument built in the same town to commemorate East Timor's independence day in May 2002.

The Battalion 745 rampage (20–21 September 1999)

981. Very few foreigners were victims of human rights violations in 1999. One tragic exception was the Dutch journalist Sander Robert Thoenes, killed by TNI soldiers on 21 September in Dili. Thoenes' murder was only the final act in a campaign of deliberate killing and destruction carried out by elements of TNI's Battalion 745 as it withdrew from its base in Fuiloro village, in Lautém in September. When the rampage was finally over, members of the battalion had killed at least 21 people, and burned or destroyed dozens of houses.

982. There were strong indications that the violence was planned and directed by TNI officers. Shortly before the announcement of the ballot result, a Platoon Commander in Battalion 745, Lt. Camilo dos Santos, reportedly told his troops that if the vote favored independence, their job would be to destroy houses and livestock, and kill CNRT supporters. Those orders evidently originated with the Commander of Battalion 745, Maj. Jacob Sarosa. According to the criminal indictment filed against Maj. Sarosa by Timor-Leste's General Prosecutor:

> "At 7.00 am on 30 August 1999, the day of the Popular Consultation, Major Jacob Djoko Sarosa ordered the East Timorese soldiers to line up. He addressed the soldiers. Showing them an Indonesian flag and

a CNRT flag he said whoever was going to vote for CNRT would be killed."*

983. With those orders evidently still in effect, on 17 September, Battalion 745 moved from its base in Fuiloro to the village of Lautém on the north coast. From there, the bulk of the battalion boarded troop ships bound for Indonesia, but roughly 120 members and their families, and another 20 soldiers from the local Kodim, remained behind to perform convoy duty. The convoy consisted of some 40 motorcycles and more than 60 assorted vehicles, including at least one TNI truck mounted with a 12.7 mm gun. All soldiers in the convoy were armed with automatic weapons, and many were wearing red and white bandanas. They were led by the Commander of Battalion 745, Maj. Sarosa.

984. By that stage TNI units, including Battalion 745, had already committed a string of serious human rights violations in Lautém. These included the killing of at least ten people between 8 and 13 September (See District Summary: Lautém).† However, the concerted campaign of TNI violence really began in earnest on 20 September with the killing of three men near a rice warehouse in the town of Lautém. The charred remains of three bodies were discovered at a gravesite near the warehouse two years later. Several witnesses have testified that the three men – Amílcar Barros, João Gomes, and Agusto Venancio Soares – were detained, beaten, shot, and then burned by TNI soldiers, including members of Battalion 745.‡ They have also stated that the Commander of Battalion 745, Maj. Sarosa and Platoon Commander, Lt. dos Santos, were present at the attack but took no action to prevent or stop it.§

985. Later that day, 20 September, the Battalion 745 convoy began to move from Lautém to the village of Laga in Baucau District. After camping at Laga for the night, members of the Battalion destroyed and burned their lodgings, and several houses in the village, before heading off.

986. As they moved westward, on 21 September, members of Battalion 745 reportedly killed two young men whom they encountered riding a motorcycle along the main road from Baucau. Witnesses have said that the two men – Egas da Silva and Abreu da Costa – were stopped near the village of Buile, in the Sub-District of Laga, and then shot by soldiers as they tried to flee. According to the indictment filed by Timor-Leste's General Prosecutor, Abreu da Costa was shot in the right leg and through the right eye, and Egas da Silva was shot in the stomach, neck and chest.¶ A relative of the two men later told a journalist, "I constantly dream about them."**

987. Later the same day, members of Battalion 745 killed at least four more people, including two women, as they passed through the villages of Buruma and Caibada, just

* General Prosecutor of the Democratic Republic of Timor Leste [East Timor], Indictment of Maj. Jacob Djoko Sarosa and Lt. Camilo dos Santos, Dili, 6 November 2002, paragraph 10.

† Indictment of Maj. Jacob Djoko Sarosa et al., paragraphs 12-40.

‡ Soldiers from Battalion 621 were also said to have taken part in these killings.

§ UNTAET, SCU, "Synopsis in Respect to TNI 745 Battalion and the Murder of Sander Thoenes," 9 September 2001.

¶ Indictment of Maj. Sarosa et al., paragraph 65.

** Cited in Cameron W. Barr, "A Brutal Exit: Battalion 745" Part 1 of 4, Christian Science Monitor, 13 March 2000.

east of Baucau town. The four victims – Victor Belo, Carlos da Costa Ribeiro, Elisita da Silva, and Lucinda da Silva – were killed as soldiers conducted raids of the villages, and fired indiscriminately at civilians as they ran for safety. According to family members and friends, Victor Belo was shot by two soldiers at the end of the convoy after returning to lock the door on his house; Carlos da Costa Ribeiro was shot in the head inside his home; Lucinda da Silva was shot in the chest while running away from the soldiers; and Elisita da Silva died after being shot in both her legs.*

988. Elisita da Silva's father gave the following account of the assault:

> "When I saw the TNI convoy they were already firing their weapons into the bushes. There was single and automatic gunfire and they also fired grenade launchers into the bushes. I also saw TNI soldiers on foot searching houses and the bush-land for people. So we (Jacinta, Elisita, Cezarina and Zelia) hid behind a big rock, which was next to our house. A few moments later, two TNI soldiers detained me . . . After the soldiers released me I went straight to the back of my house and I saw that my daughter Elisita had been shot in both legs. Her legs were broken and there was a lot of blood. She was still alive and she told me she was in a lot of pain."†

989. Battalion 745 soldiers committed several more killings near the village of Laleia, in the District of Manatuto, west of Baucau. The dead included three men, apparently unarmed, who were killed in the course of an assault on the eastern side of Laleia bridge, and one man, an alleged Falintil fighter, who was stabbed and shot by soldiers who then cut off one of his ears. Three other people, including one woman, were reportedly detained near Laleia, beaten then handed over to soldiers of the Manatuto Kodim. They were not seen again and it is thought that they were killed.‡ Some of the victims were executed while in custody, and reportedly under orders from TNI officers.§

990. More violence, including at least three more killings, followed as the Battalion 745 convoy rolled into Dili in the late afternoon on 21 September. Travelling along Becora Road at about 4.30 pm a British journalist, Jon Swain, and an American photographer, Chip Hires, encountered the convoy. The journalists, accompanied by an interpreter, Anacleto da Silva, were travelling in an old blue taxi, driven by a local man, Sancho Ramos da Ressuriçao.¶

991. According to a number of witnesses, soldiers from the convoy stopped and surrounded the taxi, and started hurling abuse and tugging at the doors. One soldier struck the driver in the head with the butt of his rifle, "causing his right eye to come out from its socket."** The interpreter, Anacleto da Silva, was reportedly forced from the

* Cameron W. Barr, "A Brutal Exit: Battalion 745" Part 3 of 4, Christian Science Monitor, 16 March 2000.

† Recorded in UNTAET, SCU, "Synopsis in Respect to TNI 745 Battalion," 9 September 2001.

‡ UNTAET, SCU, "Synopsis in Respect to TNI 745 Battalion," 9 September 2001.

§ Ibid.

¶ Different sources give the driver's name as 'Sanjo Ramos' and Sanchos Ramos da Ressuriçao.

** Indictment of Maj. Sarosa et al., paragraph 88.

taxi and into a TNI vehicle. One witness told UN investigators he saw a man fitting Anacleto's description being beaten by Battalion 745 soldiers at the Korem in Dili later that evening. He was never seen again, and is believed to have been killed.*

992. A number of soldiers searched the taxi and seized the journalist's possessions, including cameras, rolls of film, and a bag. A soldier then shot at the taxi's tires and radiator to prevent the journalists from continuing their journey. The driver of the taxi later testified to UN investigators that Lt. Camilo dos Santos of Battalion 745 took part in the assault.†

993. Also present at the scene was the Battalion Commander, Maj. Jacob Sarosa. During the incident, he reportedly told the journalists that his soldiers were "very angry, very angry with [the] UN and you Westerners. You must understand."‡ In an interview with UN investigators in November 1999, Maj. Sarosa denied any knowledge of, or involvement in, the beating of the driver or the abduction of the interpreter.§ He did admit, however, that the taxi had been stopped and searched, the journalists' possessions seized and destroyed, and the taxi's tires shot out, on his orders.

994. Still on the afternoon of 21 September, about 400 metres down the Becora Road, soldiers of Battalion 745 killed yet another man, Manuel Andreas. The murder was witnessed by two people, one of whom gave the following testimony to investigators:

> "Later that afternoon, I think it was about 5.00 pm myself, Manuel [the deceased] and António . . . started to walk up the main road towards the bridge and river. I think António was in front, followed by me, and Manuel was behind us. As we were walking, I heard a burst of gunfire and saw straight away that António had been shot in the right arm. At the same time I saw Manuel fall to the ground and start screaming. I then saw that he had been shot in the chest. The gunfire continued and António and I ran for cover in the hills."¶

995. The final act in Battalion 745's two-day campaign of violence occurred shortly thereafter, roughly 300 metres further along the Becora Road. There, soldiers killed and mutilated the body of Dutch journalist Sander Robert Thoenes.

996. Mr. Thoenes had recently arrived in Dili to cover the arrival of Interfet for the *Financial Times* newspaper. According to witnesses, he left the Hotel Turismo at about 5.00 pm on 21 September, riding on the back of a motorcycle driven by a local man, Florindo da Conceição Araújo. As they drove down the Becora Road, they encountered several TNI soldiers on motorcycles, armed with automatic weapons. The soldiers shouted for the men to stop but, fearing for his own and his passenger's safety, the driver attempted to execute a U-turn and flee. The soldiers opened fire, and the motorcycle

* UNTAET, DHRO-Dili, "Key Cases of HRVs/Abuses in Dili District," 15 September 2002.

† UNTAET, SCU, "Synopsis in Respect to TNI 745 Battalion," 9 September 2001.

‡ UNTAET, DHRO-Dili, "Key Cases," 15 September 2002.

§ Ibid.

¶ UNTAET, SCU, "Synopsis in Respect to TNI 745 Battalion," 9 September 2001.

rolled over causing both driver and passenger to fall to the ground. The driver managed to run off, leaving Mr. Thoenes lying on the road.*

997. Witnesses said that four or five soldiers then dragged Mr. Thoenes off the road into a secluded area, where his body was found the following morning.† He had been shot in the chest, and his assailants had cut off his left ear and sliced off part of his face, apparently with surgical precision. Some of Mr. Thoenes' fingers were also missing, but it is believed that that injury occurred when the motorcycle fell to the ground.

998. According to an Australian pathologist who conducted a post-mortem examination on Thoenes's body in Darwin on 24 September 1999, the cause of death was a single gunshot to the chest. In 2001, a Dutch investigator and an Australian military policeman wrote: "It can be concluded . . . [that] Sander Thoenes was killed by a military [sic] of TNI Battalion 745 with a shot in the back."‡

999. Shortly after Mr. Thoenes' murder, the Battalion 745 convoy proceeded to the Korem headquarters in the center of Dili. There, together with Brimob and Korem units, they received a briefing from the recently appointed Korem Commander, Col. Noer Muis. According to witnesses, Col. Muis ordered the members of Battalion 745 to move out as soon as they had eaten and refueled their vehicles. He also ordered them to say nothing about their actions of the previous two days. By one account, his words were as follows:

> "You don't need to tell anyone about what you have done on your way here. Don't even tell your wives. From Dili to Kupang the way is safe, so you will not need to open fire."§

1000. Later that evening, the convoy moved out, reaching the border town of Balibó without further incident. The following day, 22 September, it proceeded to Kupang, arriving at about 10.00 pm. Some time after arriving there, Maj. Sarosa, Lt. Camilo, and Lt. James were interviewed by TNI military police. The three were subsequently detained for between one and two weeks.¶

1001. Apart from those brief detentions, as of March 2003 no member of Battalion 745 had been punished in connection with the murders and other criminal acts described here. Indonesian investigators claim to have found little evidence of TNI involvement in any of the murders, and Indonesian prosecutors elected not to bring any of these cases to trial.

* Interfet, Investigation Section, "Alleged Murder of Sander Robert Thoenes – Interim Report," Dili, 24 November 1999.

† The witnesses are cited in Cameron W. Barr, "A Brutal Exit: Battalion 745", Part 4 of 4, *Christian Science Monitor*, 17 March 2000; and in Interfet, Investigation Section, "Alleged Murder of Sander Robert Thoenes – Interim Report," Dili, 24 November 1999.

‡ Cited in Interfet, Investigation Section, "Alleged Murder of Sander Robert Thoenes – Interim Report," Dili, 24 November 1999.

§ Indictment of Maj. Sarosa et al., paragraph 104.

¶ Interfet, Investigation Section, "Alleged Murder of Sander Robert Thoenes – Interim Report," Dili, 24 November 1999.

Murder of Lospalos Clergy (25 September 1999)

1002. One of the most shocking aspects of the pro-autonomy strategy, both before and after the ballot, was the deliberate targeting of Roman Catholic clergy and places of worship. The massacres at the churches in Liquiçá and Suai, in April and September respectively, and the attack on the Bishop's residence in September seemed deliberately calculated to terrorise a population that is 80% Roman Catholic. The assaults were also motivated by a perception that the Church had supported the pro-independence position.

1003. Both of these motivations were evident in one of the most grisly incidents of violence of the post ballot period: the ambush and execution-style killing of a group of five clergy and four lay people by a gang of militiamen in Lautém on 25 September.[*] The victims included a nun who was hacked with a machete as she knelt praying by the roadside, and then thrown into a river and shot dead.[†]

1004. The trial of the perpetrators, all of them associated with the Team Alfa militia group, confirmed that the killings had been deliberate and politically motivated. The leaders of the operation knew the identities of the religious figures they killed, and considered them legitimate targets because of their alleged pro-independence sympathies. Significantly, the trial also confirmed that Team Alfa was organised by, received orders from, and had "close ties and continuous contact" with Kopassus, and in particular its local commander, Lt. Syaful Anwar.[‡]

1005. On 25 September, a Team Alfa commander, Jony Marques, and several other members of the group drove from the port of Com, in Lautém District, toward the town of Lautém. The ostensible purpose of their journey was to get rice from a warehouse near Lautém, but there was reason to believe that the actual intention was to ambush and kill the clergy. The most obvious indication that they were not in fact intending to get rice was that they drove right past the rice warehouse. In addition, at least seven of the men were armed with SKS automatic weapons, the type used by Indonesian security forces, and most were also carrying machetes and knives.

1006. About one kilometre past Lautém, the militiamen passed two young men pushing a cart along the road. The militia commander, Jony Marques, ordered his driver to stop, and the militiamen got out and chased the two men, hurling rocks and firing their weapons at them. One of the two men, José Pereira, was wounded but managed to escape.[§] The second, Izinho Freitas Amaral, was caught, tied to a tree near the side of the

* Unless otherwise noted, the following account is based on evidence and testimony recorded in: Dili District Court, Special Panel for Serious Crimes, "Judgement" in the case of Jony Marques et al., 11 December 2001.

† The deceased were identified in trial proceedings as: Sister Erminia Cazzaniga, Sister Celeste de Carvalho, Brother Jacinto Xavier, Brother Fernando dos Santos, Brother Fernando da Conceição, Agus Muliawan, Cristovão Rudi Barreto, Titi Sandora Lopes, and Izinho Freitas Amaral. See, "Judgment," Jony Marques et al., December 2001.

‡ Testimony of Jony Marques, in "Judgement," pp. 52-57 and 398.

§ For José Pereira's account of this encounter, see "Judgement," Jony Marques et al., pp. 264-265.

road, and later killed. In its findings in this case in December 2001, the Special Panel for Serious Crimes of the Dili District Court concluded that the militias had chased the two young men, and killed one of them, in order to ensure that there would be no witnesses to the crime they were about to commit.[*]

1007. Jony Marques then ordered his men to set up a roadblock by placing large stones on the road. Some militiamen were posted on a nearby hill as a lookout, and others took up positions in a ditch with their weapons aimed up the road. Some witnesses testified in court that they knew that there was a plan to ambush the clergy's vehicle. One witness recalled that after setting up the roadblock, Jony Marques had said: "Now we will wait for the Sisters who will be coming towards Baucau . . . and when they come we will kill them all."[†]

1008. At about 2.30 pm the same day, a grey four-wheel drive vehicle came into sight from the direction of Lautém heading west toward Baucau. There were eight people in the vehicle, including two nuns, three Brothers/Priests, a journalist and two other lay persons. When the vehicle stopped at the roadblock, Jony Marques and two other militiamen opened fire on it with their automatic weapons, instantly killing the driver and some of the passengers.

1009. As one of the surviving passengers tried to get out of the vehicle, a militiaman grabbed him and dragged him to the river where he was shot and killed. The same militiaman poured petrol over three other survivors and lit them on fire. One of the three ran from the car to the river, where Jony Marques and another man shot and killed him.

1010. One of the nuns, Sister Erminia, got out of the vehicle and knelt down by the roadside to pray. As she prayed, a militiaman (Horacio) slashed her with a machete. Another militiaman (Pedro da Costa) testified that he had yelled "Don't kill a Sister!" but that Jony Marques had replied "Kill them all! They are all CNRT!" A militiaman then picked up Sister Erminia and threw her in the river, before shooting her twice. At the trial, a witness testified:

> *"I noticed a nun sitting beside a [ditch]. There was a body beside the nun. I noticed the cap of the nun was on her shoulder. The nun talked to me in Tetum. I cannot remember all the words, but I remember she was saying 'Oh! God!'"*[‡]

1011. At about this time, Jony Marques ordered his men to push the clergy's vehicle into the river. Several witnesses testified that he shouted: "Come here and push the car, you mother fuckers!" The men did so, though one person was still inside the vehicle. When the person got out of the car, he was shot and killed.

* "Judgement," Jony Marques et al., pp. 403-404.

† "Judgment," Jony Marques et al., Testimony of Manuel da Costa, p. 279.

‡ "Judgement," Jony Marques et al.,Testimony of Gilberto da Costa, pp. 6-271.

1012. The attackers then turned to Izinho Freitas Amaral, the young man they had earlier tied to a tree. One militiaman cut off Izinho's ear and hacked his neck with a sword. He was then pushed into the river, where he was shot and killed. Finally, Jony Marques threw a grenade into the river, where the dead and wounded lay, to be sure that there would be no survivors.

1013. For this and other crimes committed in 1999, Jony Marques, and two other members of Team Alfa were found guilty and sentenced to 33 years and 4 months in prison. Six other militiamen received sentences ranging from 5 to 19 years. No TNI officers had been tried in connection with this crime by March 2003.

Individual and command responsibility

1014. The evidence presented in this report demonstrates conclusively that the violence in 1999 was part of a widespread and systematic attack on the civilian population, in which supporters of independence for Timor-Leste were deliberately targeted. As such, the acts in question are appropriately considered not only grave violations of human rights but also crimes against humanity.* It remains to consider who should be held responsible for those crimes.

1015. In one sense, the answer is straightforward: the responsible parties are the scores of militiamen, TNI soldiers, and Police who directly carried out the crimes. Many of these individuals have already been indicted, and some have been tried both in Timor-Leste and in Indonesia, for individual or multiple acts of murder, rape, torture, and persecution committed in 1999. However, responsibility for crimes against humanity does not stop with the immediate perpetrators. Under international law, as well as the domestic laws of both Indonesia and Timor-Leste, it extends also to those who ordered or facilitated those crimes, and to those who failed to take adequate measures to stop them or to punish the perpetrators.

1016. On those grounds, this report concludes that responsibility for crimes against humanity in 1999 extends to the highest reaches of Indonesia's military, police, and civilian leadership. More precisely, it identifies some 80 Indonesian officers and officials, at or above the rank of Lt. Colonel and Bupati, who appear to bear legal responsibility for the crimes against humanity committed in 1999 (See Table 1). Some were actively involved in committing, ordering or facilitating such crimes, and so may be said to bear 'individual criminal responsibility' for them. Others failed to stop or punish the crimes of their subordinates and so arguably bear 'command responsibility' for them.

1017. The evidence presented in this report, and discussed in this chapter, also serves as a reminder that in addressing the question of responsibility, it is necessary to look beyond the actions of individuals, to consider the impact of institutional and state norms and practices. Accordingly, this report suggests that responsibility for the crimes

* Although the case has not been made in this report, many of the acts in question might also be considered violations of international humanitarian law.

committed in 1999 also rests with the Indonesian armed forces as an institution, and with the Indonesian state.

Individual criminal responsibility

1018. The concept of individual criminal responsibility is spelled out in Article 25 of the Rome Statute of the International Criminal Court,* and in the national laws of East Timor and Indonesia. Under Article 14 of UNTAET Regulation 15/2000, which is based on Article 25 of the Rome Statute, a person is said to bear individual criminal responsibility if s/he commits, orders, solicits, induces, aids, abets or otherwise contributes to the commission, or attempted commission, of a serious crime. More precisely, Section 14.3 states that:

> ". . . a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the [serious crimes] panels if that person:
>
> (a) commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
>
> (b) orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;
>
> (c) for the purposes of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;
>
> (d) in any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. . ."

1019. Further clarification of the concept of individual criminal responsibility in international law is found in the Tadic Appeals decision (15 July 1999) at the International Criminal Tribunal for Yugoslavia (ICTY). That decision distinguishes between participation in a crime through 'aiding and abetting' and participation in furtherance of a 'common criminal purpose.'† Both kinds of participation constitute grounds for individual criminal responsibility for a crime against humanity. The main difference between the two concepts lies in the specificity of the acts described, with 'aiding and abetting' implying a greater degree of specificity than an act in furtherance of a 'common criminal purpose.' In the language of the ICTY decision:

> "The aider and abettor carries out acts specifically directed to assist, encourage or lend moral support to the perpetration of a certain specific

* The full text of the Rome Statute can be found on the website of the International Criminal Court: http://www.un.org/ law/icc/

† Tadic Appeals decision, 15 July 1999: http://www.un.org/icty/tadic/appeal/judgement/index.htm paragraphs 185¬230.

> crime (murder, extermination, rape, torture, wanton destruction of civilian property, etc.) and this support has a substantial effect upon the perpetration of the crime. By contrast, in the case of acting in pursuance of a common purpose or design, it is sufficient for the participant to perform acts that in some way are directed to the furthering of the common plan or purpose."*

1020. The Tadic Appeals decision also clarifies that such a common criminal plan, design or purpose need not have been previously arranged or formulated. "The common plan or purpose may materialize extemporaneously and be inferred from the fact that a plurality of persons acts in unison to put into effect a joint criminal enterprise."†

1021. Using these statutes as a guide, and drawing upon the evidence presented in this report, it is possible to identify by name scores of militiamen, TNI, Police, and civilian government officials as individually responsible for crimes against humanity. That list, of course, includes militiamen who directly committed acts of murder, rape, torture, and persecution against supporters of independence in the course of 1999. It also includes a number of lower-ranking members of the TNI and of the Police who directly committed or ordered such crimes. Many of these individuals have been indicted by Timor-Leste's Deputy General Prosecutor for Serious Crimes, and some have been charged and tried before Indonesia's Ad Hoc Human Rights Court.‡

1022. The vast majority of suspects formally charged with individual criminal responsibility have been the ordinary militiamen or militia leaders who 'pulled the trigger.' Some, however, have been charged with individual responsibility for aiding, abetting or otherwise contributing to the commission of such crimes. It is on those grounds that Maj. Gen. Zacky Anwar Makarim, Maj. Gen. Kiki Syahnakri, Maj. Gen. Adam Damiri, Col. Tono Suratman, Lt. Col. Yayat Sudrajat, and Governor Abílio Osório Soares were indicted by Timor-Leste's Deputy General Prosecutor for Serious Crimes, in February 2003.§ The evidence in this report strongly supports the allegations made in that indictment.

1023. In addition, however, the evidence presented here suggests that other officers and officials also bear individual criminal responsibility for crimes committed in 1999. Indeed, the language of Regulation 15/2000, and of the 1999 Tadic Appeal decision of the ICTY cited above, allows that those responsible for crimes against humanity in Timor-Leste – beyond the direct perpetrators of those crimes – may include any person who did one or more of the following:

* Ibid., paragraph 229 (iii).

† Ibid., paragraph 227 (ii).

‡ As of late May 2003, the authorities in Timor-Leste had issued 60 indictments related to the events of 1999, charging 247 individuals, most of them with crimes against humanity. See UNMISET, Serious Crimes Unit, "Serious Crimes Update V/03," Dili, 28 May 2003. Meanwhile, the Indonesian authorities had issued several indictments charging a total of 18 individuals with crimes against humanity. For further discussion of both judicial processes, see Chapter 12.

§ East Timor, Deputy General Prosecutor for Serious Crimes, Indictment of Wiranto et al., February 2003.

- helped to establish the militias and to recruit their members;
- made public statements in support of the militias;
- granted the militias legal and political recognition;
- provided militiamen with military training and guidance;
- coordinated or conducted joint combat operations with militia groups;
- provided militiamen with weapons and/or ammunition;
- provided the militias with financial and/or material support.

1024. Given the abundant evidence presented in this report on the role of Indonesian authorities in doing precisely these things, it can reasonably be argued that there are dozens of military, police, and civilian officials who bear individual criminal responsibility for crimes against humanity in Timor-Leste. The key suspects are listed in Table 1.

Managers and planners

1025. While many officials might bear individual legal responsibility for the crimes of 1999, it is nevertheless useful to distinguish between different types or degrees of culpability. Two broad categories beyond the 'trigger pullers' are suggested here: first, those who managed the militia groups in East Timor in 1999; and second, those who were responsible for devising and coordinating the overall policy that called for the mobilisation of the militias and the use of violence against civilians.

1026. In the first category, which we may call the 'managers' of violence, belong: all militia commanders, all Kopassus and Sectoral Commanders, most (but not all) District Military Commanders, some (but not all) District Chiefs of Police, the Governor, and some (but not all) District Heads.* There is little doubt that many of these 'managers' aided and abetted, and in some cases ordered, specific criminal acts. At a minimum, their participation took the form of furthering a 'common criminal purpose' that entailed the commission of crimes against humanity. Nevertheless, a strong argument can be made that they would not, and could not, have done these things in the absence of an overall policy, initiated and coordinated by higher-ranking officials – whom we may call the 'planners.'

1027. In this second category, the 'planners,' arguably belong a dozen, and possibly more, high-ranking TNI officers and Cabinet-level civilian officials. The evidence in this report suggests that the following officers and officials were very likely involved in such planning, and should at a minimum be the subject of further criminal investigations:

1. Maj. Gen. Kiki Syahnakri Assistant for Operations to the Army Chief of Staff; Martial Law Commander in Timor-Leste

* Dandim who probably do not belong in this category include those in Aileu, Baucau, Manatuto (Lt. Col. Gerson Ponto), Manufahi, and Viqueque. Kapolres who should not be considered 'managers' of violence include those in Aileu, Baucau, Ermera, Lautém, Liquiçá (Maj. Joko Irianto), Manatuto, Manufahi, and Viqueque. Likewise, the Bupatis of Baucau, Ermera, and Manufahi should arguably be excluded from the list of 'managers' of violence.

2. Maj. Gen. Sjafrie Sjamsuddin Assistant for Territorial Affairs to the Armed Forces Chief of General Staff
3. Brig. Gen. Arifuddin Director 'A' of BAIS
4. Maj. Gen. Zacky Anwar Makarim Head of BIA (to January 1999); Member, Task Force for the Implementation of the Popular Consultation in Timor-Leste
5. Maj. Gen. Adam Damiri Commander, Regional Military Command IX/ Udayana
6. Brig. Gen. Mahidin Simbolon Chief of Staff, Regional Military Command IX/ Udayana
7. Col. Tono Suratman Commander of Sub-Regional Military Command 164/ WD (to 13 August 1999)
8. Col. Noer Muis Commander, Sub-Regional Military Command 164/WD (from 13 August 1999)
9. Lt. Col. Yayat Sudrajat Commander, Satgas Tribuana-VIII (Kopassus), Timor-Leste
10. Lt. Gen. (ret.) Feisal Tanjung Coordinating Minister for Political and Security Affairs
11. Lt. Gen. (ret.) A.M. Hendropriyono Minister of Transmigration and Resettlement
12. Maj. Gen. (ret.) Yunus Yosfiah Minister of Information

1028. It is noteworthy that virtually all of the officers on this list were either deployed with Kopassus units in Timor-Leste, or shared career histories in Kopassus or military intelligence.* The pivotal role of Kopassus and intelligence officers in the 1999 violence is consistent with long-standing patterns of responsibility for grave human rights violations in Timor-Leste and Indonesia, and it suggests a serious, underlying institutional problem in the Indonesian armed forces. Accordingly, a proper assessment of the causes of the violence in 1999, and of responsibility for it, must extend beyond matters of individual criminal responsibility, and address broader patterns of command and control within the Indonesian military and state apparatus.

Command responsibility

1029. International law provides that, under certain conditions, military commanders as well as police and civilian superiors may be liable for crimes against humanity committed by their subordinates. That principle, commonly described as 'command responsibility,' is spelled out in Article 28 of the Rome Statute of the International Criminal Court.† It is also articulated in the national laws of Indonesia and Timor-Leste. Drawing from the Rome Statute, Section 16 of Timor-Leste's UNTAET Regulation 15/2000 stipulates that

* Those with Kopassus and/or intelligence positions or career histories included: Lt. Gen. Feisal Tanjung, Lt. Gen. (ret.) Hendropriyono, Maj. Gen. (ret.) Yunus Yosfiah, Maj. Gen. Sjafrie Sjamsuddin, Maj. Gen. Zacky Anwar Makarim, Brig. Gen. Arifuddin, Brig. Gen. Mahidin Simbolon, Col. Tono Suratman, Col. Noer Muis, and Lt. Col. Yayat Sudrajat.

† The full text of the Rome Statute can be found on the website of the International Criminal Court: http://www.un.org/ law/icc/

a commander or superior is responsible for the criminal acts of his/her subordinate if s/he:

> "... knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrator thereof."*

1030. It is principally on the basis of such 'command responsibility' that prosecutors both in Indonesia and in Timor-Leste have brought charges against several high-ranking TNI, Police and civilian officials. In February 2003, for example, Timor-Leste's Deputy General Prosecutor for Serious Crimes issued an indictment accusing seven TNI officers – Gen. Wiranto, Maj. Gen. Zacky Anwar Makarim, Maj. Gen. Kiki Syahnakri, Maj. Gen. Damiri, Col. Tono Suratman, Col. Noer Muis, and Lt. Col. Yayat Sudradjat – of responsibility for the crimes of their subordinates, pursuant to Section 16 of UNTAET Regulation 15/2000.

1031. The evidence provided in this report supports those allegations. At the same time, it suggests that many other military officers, as well as police and civilian officials may also bear command responsibility for the crimes committed in 1999. Some 80 officers and officials who appear to bear such responsibility are listed in Table 1. The assessment of their culpability is based on an analysis of the evidence, as it relates to the three elements necessary to prove 'command responsibility' – first, that there was a superior-subordinate relationship; second, that the superior knew or had reason to know of the crimes being committed by his subordinates; and third, that the official failed to take necessary and reasonable measures to stop those crimes, and punish the perpetrators. These three elements are discussed in turn below.

Superior-subordinate relationships

1032. Military, police and civilian lines of authority in Timor-Leste were complex, and often opaque. Formal chains of command did not always signify real or effective authority. To determine whether effective superior-subordinate relationships existed, therefore, it is necessary to look carefully at both the formal and the informal lines of authority that were operating in 1999.

1033. Under Indonesian law, the Supreme Commander of the Indonesian Armed Forces in 1999 was the President, B.J. Habibie.† Major strategic initiatives, such as the decision to hold a referendum in Timor-Leste, and the declaration of Martial Law on 7 September 1999, required his approval. An argument might be made, therefore, that ultimate command responsibility for any acts committed by members of the armed forces in Timor-Leste in 1999, or those operating under their command, rested with

* UNTAET Regulation No. 15/2000 (6 June 2000) "On the Establishment of Panels with Exclusive Jurisdiction Over Serious Criminal Offences."

† The President's position as Supreme Commander is specified in a 1983 law on security and defence, and a 1983 Presidential decree.

the President.* On the other hand, there is serious doubt that President Habibie had anything more than a theoretical control over the TNI hierarchy in 1999. Indeed, as noted elsewhere in this report, senior TNI officers evidently opposed his Timor-Leste policy and sought to subvert it. Under these circumstances, it would be difficult to argue that Habibie had effective command over his subordinates in the TNI, or over the militias.

1034. As a matter of law and in practice, effective command responsibility over TNI units in Timor-Leste rested with the Armed Forces Commander and Minister of Defense and Security, Gen. Wiranto. As Armed Forces Commander, Gen. Wiranto stood at the apex of a chain of territorial military command that passed through the Commander of Kodam IX/Udayana, Maj. Gen. Adam Damiri, and his Chief of Staff, Brig. Gen Mahidin Simbolon, to the Commanders of Korem 164/Wira Dharma, Col. Tono Suratman and Col. Noer Muis, the Korem Deputy Commander, Col. Mudjiono, and Chief of Staff, Lt. Col. Supadi, and beneath them, to the 13 Kodim Commanders, 62 Koramil Commanders, and 442 Village level Babinsas. Within this territorial chain of command, the commanding officers at each level had direct responsibility for the actions of officers and soldiers at lower levels. As might be expected, there was some variation in the effective authority of different commanders, and questions have been raised about Gen. Wiranto's authority over some of his subordinates. Broadly speaking, however, this formal chain of territorial command did reflect real superior-subordinate relationships.

1035. Most other TNI units deployed in Timor-Leste in 1999 – such as Infantry Battalions 744 and 745 that were permanently based there, and the various combat battalions that passed through on tours of duty – also operated within this chain of command. However, there were some important exceptions. The two elite combat units, Kopassus and Kostrad, were commanded directly from their headquarters in Jakarta. Thus, to the extent that crimes were committed or facilitated by Kopassus and Kostrad officers or soldiers, command responsibility arguably did not rest formally with officers in the territorial chain of command (Kodam, Korem, Kodim etc.) but with the commanding officers of those units, such as the Kopassus commander in Timor-Leste Lt. Col. Yayat Sudrajat, with their overall commanders in Jakarta, Kopassus Commander Maj. Gen. Syahrir and Kostrad Commander Lt. Gen. Djamari Chaniago, and ultimately with Gen. Wiranto. The status of units grouped within TNI Combat Sectors A and B in Timor-Leste is less clear. As Kopassus officers, however, those Sectoral commanders appear to have operated outside the normal territorial chain of command, answering instead to their Kopassus commanders.

1036. A number of senior officers at Army, Armed Forces and BIA/BAIS headquarters also appear to have exercised effective command responsibility over junior officers and troops in Timor-Leste. At Army headquarters in Jakarta the key officers included: the Army Chief of Staff, Gen. Subagyo Hadisiswoyo, and his Assistant for Operations (and later Martial Law Commander), Maj. Gen. Kiki Syahnakri. At Armed Forces

* Indeed, some of those who have been tried since 1999 (e.g. Col. Timbul Silaen and Eurico Guterres) have insisted that ultimate responsibility for the violence in Timor-Leste rests with Habibie.

headquarters, the main players were: the Armed Forces Chief of General Staff, Lt. Gen. Sugiono; his Assistant for Territorial Affairs, Maj. Gen. Sjafrie Sjamsuddin; and his Assistant for Operations, Maj. Gen. Endriartono Sutarto. Within BIA/BAIS, the central figures in 1999 were the Head, Lt. Gen. Tyasno Sudarto, Director 'A', Brig. Gen. Arifuddin, and Maj. Gen. Zacky Anwar Makarim, Head of BIA until January 1999, and thereafter senior member of the Task Force for the Implementation of the Popular Consultation in Timor-Leste.

1037. Administrative authority over the Indonesian Police rested formally with Gen. Wiranto, in his capacity as Minister of Defence and Security. However, operational command responsibility lay with the National Chief of Police, Gen. (Pol.) Roesmanhadi. Beneath him, the Police chain of command descended through the Regional Chief of Police for Timor-Leste, Col. Timbul Silaen, to the Chiefs of Police in each of the territory's 13 Districts, 62 Sub-Districts, and 442 Villages. The Police Mobile Brigades (Brimob), and other Police units specially deployed in Timor-Leste for the referendum, were under the command of the Regional Chief of Police.*

1038. As explained elsewhere in this report, the authority of Police officials was limited by the TNI. That was particularly true with respect to Police actions against TNI soldiers and militias. Police officials who attempted to stop TNI or militia violence were themselves subject to reprisals, and some were killed. Nevertheless, the National, Regional and District Chiefs of Police did exercise effective authority over their own police subordinates and, in some cases, over militia groups.†

1039. The lines of authority within the civilian government apparatus in Timor-Leste were similarly mixed. The authority of the Governor, Abílio Osório Soares, the 13 Bupatis and the hundreds of lesser civilian officials was circumscribed by the TNI. Nevertheless, the Governor and the Bupatis did exert some real control over their subordinates, and some even held positions of authority within militia groups. Thus, while the Governor and the Bupatis were hardly the most powerful figures in the structure of power, they did exercise authority over their subordinates.

1040. At the national level, several Cabinet Ministers were involved in shaping and implementing the government's Timor-Leste policy, and exercised effective authority over some pro-Indonesian groups. They included: the Minister of Transmigration and Resettlement, Lt. Gen. (ret.) Hendropriyono; the Minister of Information, Maj. Gen. (ret.) Yunus Yosfiah; and the Coordinating Minister for Political and Security Affairs, Lt. Gen. (ret.) Feisal Tanjung. Among these, Lt. Gen. Tanjung undoubtedly had the greatest authority, both formal and informal. In his capacity as Coordinating Minister, Tanjung effectively shaped and oversaw political strategy on Timor-Leste. As the Minister responsible for the Task Force for the Implementation of the Popular Consultation, he

* The only exception to this rule occurred when Brimob troops were formally seconded (in Indonesian BKO'd) to the TNI, in which case overall command responsibility shifted to a TNI officer.

† Police officials who exercised some real authority over militia groups included: the Regional Chief of Police, Col. Timbul Silaen, and the District Police Chiefs in the Districts of Ainaro, Bobonaro, Covalima, Dili, Liquiçá (Lt. Col. Adios Salova), and Oecussi.

also stood at the apex of the network of officers and officials, including Maj. Gen. Zacky Anwar Makarim, who are believed to have controlled Timor-Leste's militia groups.[*]

1041. These military, police, and civilian chains of command were in effect through most of 1999. However, they underwent two significant changes in the immediate post-ballot period. First, on 4 September 1999 the TNI assumed direct command over all security operations in Timor-Leste, relegating Police and civilian authorities to an ancillary role.[†] The new arrangement was formalised under a command structure called "Ko-ops Nusra" (Komando Operasi TNI Nusa Tenggara – TNI Operations Command, Nusa Tenggara), under the command of Maj. Gen. Damiri.[‡]

1042. The second shift came at 00.00 hours on 7 September 1999, when Martial Law was formally declared in Timor-Leste.[§] Thereafter, until late September 1999 when Martial Law was lifted, a very different chain of command was in effect. During that period all military, police, and civilian operations in the area were formally under the control of the Martial Law Commander, Maj. Gen. Kiki Syahnakri, who was accountable to Gen. Wiranto and, in theory, to President Habibie as Supreme Commander.[¶]

1043. In principle, then, it is possible to determine with some precision which officers and officials might bear overall command responsibility for the criminal acts of their subordinates at any give time in 1999. For example, responsibility for crimes committed before 4 September 1999 would rest with the TNI and, in certain cases, with Police and civilian authorities, or some combination of the three. Command responsibility for crimes committed in the period 4-7 September 1999, would rest with TNI officers in the normal chain of command, but not with Police or civilian authorities. Crimes committed after 00:00 hours on 7 September would also fall formally under the command responsibility of TNI officers and particularly the Martial Law Commander, Maj. Gen. Kiki Syahnakri.

1044. In practice, however, the determination of command responsibility during these time periods is somewhat more complicated, mainly because those in formal positions of authority did not always exercise effective command over their subordinates.

* Testifying at his own trial in Jakarta, the former Timor-Leste Chief of Police, Col. Timbul Silaen, said that Lt. Gen. Tanjung should be held accountable for the violence in 1999. "Those accountable for security affairs at the national level are Feisal Tanjung and Wiranto. I was only a field officer . . ." Cited in *Jakarta Post*, 25 April 2002.

† Gen. Wiranto has testified that the change took effect on 5 September 1999, but contemporary documents indicate that it happened on 4 September. See: Secret telegram to the Armed Forces Chief of General Staff (No. B/01/IX/1999) 4 September 1999, signed by Maj. Gen. Damiri as "Panglima, Komando Operasi TNI Nusra" (Yayasan HAK Collection, Doc #47).

‡ Testifying in the trial of Timor-Leste Police Chief, Col. Timbul Silaen, Gen. Wiranto explained that the decision had been taken at TNI headquarters because it was considered that the Police would not be able to handle the situation. See *Jakarta Post*, 9 April 2002.

§ The Presidential order imposing Martial Law is dated 6 September 1999. "Keputusan Presiden Republik Indonesia Nomor 107 Tahun 1999 tanggal 6 September 1999, tentang Keadaan Darurat Militer di Timtim."

¶ The authority of the Martial Law Commander is spelled out in an order issued by Gen. Wiranto, dated 20 September 1999. See: Menteri Pertahanan Keamanan/Panglima TNI, "Surat Keputusan Nomor Skep/821/P/IX/1999, tentang Ketentuan Penggunaan Wewenang Penguasa Darurat Militer Daerah Timor Timur" (HRU Collection, Doc. TNI #10).

1045. The problem is clearest in the case of the Martial Law Commander, Maj. Gen. Kiki Syahnakri. Although he was formally appointed commander with effect from 00.00 hours on 7 September, it would appear that he did not assume effective command until a few days later, perhaps as late as the evening of 9 September. Until that time, effective command responsibility remained with Maj. Gen. Adam Damiri in his capacity as Commander of Ko-ops Nusra. That does not mean that Syahnakri is off the hook. On the contrary, as Martial Law Commander he clearly bears command responsibility for many of the crimes committed by TNI troops, Police and militiamen after 9 September. Moreover, he arguably bears individual and command responsibility for his role in mobilising and backing the militias long before the declaration of Martial Law.

1046. A somewhat different complication affects judgements about the culpability of at least two other TNI officers: Gen. Wiranto and Col. Noer Muis. As noted elsewhere in this report, there have been suggestions that Wiranto and Muis lacked effective control over at least some of the officers and men formally under their command, especially in the immediate post-ballot period. If that was indeed the case, their culpability for crimes committed by their subordinates would be open to question. At the same time, if the acts in question are viewed as the continuation of long-standing policies that violated international law, and for which these officers shared responsibility, the case for their culpability would be considerably strengthened. Such an argument could well be made in regard to Gen. Wiranto.

1047. These cases serve as a reminder that effective command authority cannot be taken for granted, but must be proven. The same is true of blanket claims to a lack of effective authority. Such claims have been used, disingenuously, as a legal defence strategy by some TNI and Police officers charged and tried in Indonesian courts. At his own trial in July 2002, for example, Maj. Gen. Damiri reportedly rejected all of the charges against him because he "was not in the field" at the time of the crimes in question.[*] His denial of command responsibility was supported by Maj. Gen. Zacky Anwar Makarim, who testified that Damiri did not have "effective command" over troops in the field, and therefore "cannot be tried for anything done by TNI soldiers in Timor-Leste."[†]

1048. These claims are patently untrue, most obviously for the critical days in early September when Damiri was the Commander of Ko-ops Nusra, and was in fact on the ground in Timor-Leste.[‡] Moreover, they are at odds with the repeated pronouncements of Indonesian authorities in 1999 that TNI forces were well-disciplined, and that the authorities were fully in control of the security situation.[§] As the International Commission of Inquiry on Timor-Leste noted in its January 2000 report:

* *Jakarta Post*, 11 July 2002.

† *Suara Timor Lorosae*, 12 September 2002.

‡ UNAMET head, Ian Martin, met Maj. Gen. Damiri in Dili on at least two occasions during this period, on 2 and 8 September 1999. Personal communication, 4 June 2003.

§ Asked in early 1999 if he could trust all sections of the Indonesian armed forces, for example, Foreign Minister Ali Alatas replied: "Yes, our armed forces are a very disciplined lot." See ABC, *Four Corners*, "A License to Kill," 15 March 1999, transcript, p. 14.

> “Throughout [1999] the Government . . . gave repeated assurances to the United Nations and the East Timorese people that it would take measures to guarantee security and maintain law and order. At no time did the Government express its inability to do so or its intention to give up this responsibility.”*

1049. Beyond these questions of formal and effective authority, the determination of command responsibility for crimes against humanity hinges on two further criteria: whether a superior officer knew or had reason to know of the crimes in question, and whether he took necessary and reasonable measures to prevent and punish them. In the language of UNTAET Regulation 15/2000, a commander or superior can be held responsible for the criminal act of a subordinate only if he “knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrator thereof.”†

“Knew or had reason to know”

1050. Did the officers and officials in the chain of command know, or have reason to know, about the involvement of their subordinates in the widespread and systematic violence being committed in 1999? The answer is that, without doubt, key commanders had reason to know what was going on. In several specific instances, moreover, it can be proved that they had such knowledge.‡

1051. The general case that key officers and officials had reason to know of the crimes committed is made in the Deputy General Prosecutor’s February 2003 indictment of Gen. Wiranto et al. Referring specifically to Gen. Wiranto, the indictment reads:

> “211. During 1998 and 1999 WIRANTO made frequent visits to Timor-Leste. During those visits he met with East Timorese community leaders, members of the press and officials representing the international community, including Military Liaison Officers and other officials from the United Nations Mission in East Timor [UNAMET].
>
> 212. At these meetings he was repeatedly informed of acts of violence and other crimes being perpetrated by TNI and militia groups in Timor-Leste. In these meetings requests were made that he control the TNI and militia groups that were committing those crimes.”§

* United Nations, Office of the High Commissioner for Human Rights, “Report of the International Commission of Inquiry on East Timor to the Secretary General,” January 2000, paragraph 64.

† UNTAET Regulation No. 15/2000 (6 June 2000) “On the Establishment of Panels with Exclusive Jurisdiction Over Serious Criminal Offences.”

‡ Indicators suggested by the UN Committee of Experts regarding Former Yugoslavia in determining whether a superior officer must have known of crimes committed are the following: the number, type and scope of illegal acts; the time during which the illegal acts occurred; the logistics involved; the widespread occurrence of the acts; the geographical location of the acts; the speed of operations; the modus operandi of similar illegal acts; the officers and staff involved; and the location of the commander at the time.

§ Deputy General Prosecutor for Serious Crimes, Indictment of Wiranto et.al., 22 February 2003.

1052. The indictment makes similar allegations against the other accused TNI officers: Makarim, Syahnakri, Damiri, Suratman, Muis, and Sudrajat. Given the structure of military, police and civilian authority outlined in the previous section, moreover, it is reasonable to assume that knowledge of the crimes committed extended beyond these men, to include many of those occupying key command positions. That claim is substantiated by the following points of fact, all of which have been elaborated elsewhere in this report.

1053. On a regular basis between June and October 1999, senior UNAMET officials presented written and oral briefings concerning general patterns, and specific incidents, of violence to high-ranking TNI, Police and civilian government officials. These briefings frequently highlighted evidence of the close relationship between the TNI and the militias.* Briefings and complaints were also routinely conveyed to the Indonesian authorities by representatives of governments, by international organisations such as Amnesty International and Human Rights Watch, and by local non-governmental organisations, including Fokupers and Yayasan HAK. Allegations and detailed information about the violence were also abundantly available through the East Timorese, Indonesian, and international media.

1054. In addition to the information they received from such outside sources, high-ranking Indonesian officials received frequent written and oral reports about the situation in Timor-Leste through their own command hierarchy. As Gen. Wiranto reportedly told Indonesian investigators in December 1999: "Of course, I received reports regularly and I studied those reports, and at critical junctures those reports were forwarded to the President."† Although these internal reports often skirted the question of direct TNI involvement with militias, some did make it clear that there was a link, and described the violence in detail.‡

* Written briefings provided by UNAMET officials included: two dossiers of evidence on the misuse of official funds and recourse to pressure of office in support of the pro-autonomy campaign, submitted to the government on 16 June and 14 July 1999; detailed reports on the Maliana incident of 29 June, and the Liquiçá incidents of 4 July, submitted to the government in mid-July 1999; a letter dated 5 August, from UNAMET's head of mission Mr. Ian Martin to Task Force Chairman Tarmidzi conveying deep concern about a recent attack on UNAMET staff, and about possibly criminal behavior by government officials in Bobonaro; a letter dated 19 August, from Mr. Ian Martin, to Tarmidzi, and another from the Chief UNAMET MLO, Brig. Gen. Rezaq, to Maj. Gen. Zacky Anwar Makarim, outlining the involvement of named TNI officers in supporting the militias, and calling for their removal. Personal communication, Ian Martin, 4 June 2003.

† Cited in Kevin O'Rourke, *Reformasi: The Struggle for Power in Post-Soeharto Indonesia*, Sydney: Allen & Unwin, 2002, p. 352.

‡ The reports included: a secret TNI telegram from Col. Suratman, dated 28 January 1999, recounting several killings of civilians recently committed by militias (Yayasan HAK Collection, Doc #7); a secret TNI telegram, dated 18 April 1999, describing the widespread militia violence in Dili on 17 April 1999 in which 13 civilians were killed (Yayasan HAK Collection, Doc #16); a secret TNI telegram, dated 21 April 1999, from the Chief of Staff of Korem 164, concerning several cases of direct TNI involvement in unlawful killings, and mentioning in particular the discovery of two corpses in Triloca, Baucau (Yayasan HAK Collection, Doc #48); the secret 'Garnadi report,' dated 3 July 1999 which referred to militias as 'heroes of integration' (Yayasan HAK Collection, Doc #35); a secret TNI telegram, dated 31 August 1999,describing the killing of two UNAMET staff members in Boboe Leten, on 30 August 1999 (Yayasan HAK Collection, Doc #42); a letter from Gen. Wiranto to President Habibie, dated 6 September 1999, describing the widespread violence and destruction in Timor-Leste, and referring to the close emotional ties between the TNI and the militias as a factor inhibiting firm action against the latter (HRU Collection, Doc. TNI #7).

1055. In short, it is clear that many of those in positions of command responsibility, up to and including the highest authorities in the country, knew or had reason to know about the criminal violence in Timor-Leste and about the involvement of their subordinates in that violence. That conclusion strongly supports the allegations made in the indictment of Wiranto and six other TNI officers issued by Timor-Leste's Deputy General Prosecutor in February 2003. At the same time, it suggests that knowledge of the crimes committed – and possible command responsibility for them – extended beyond the seven officers named in that indictment, and included dozens of other high-ranking TNI, Police and civilian officials.

"Necessary and reasonable measures"

1056. Given that senior TNI, Police, and civilian officials in the chain of command knew, or had reason to know, about the violence, the question of command responsibility for that violence hinges on whether, in the language of UNTAET Regulation 2000/ 15, those officers took "necessary and reasonable measures to prevent such acts or to punish the perpetrator thereof." The answer is that, with rare exceptions, those in authority failed to do so.[*] Indeed, as this report has shown, TNI and Police officials consistently encouraged, or at a minimum condoned such acts, and only a handful of the perpetrators were ever detained or tried.

1057. That overriding failure substantially reinforces the case that command responsibility for the violence rests with TNI officers and, to a lesser extent, with senior civilian and Police authorities. The evidence also strongly supports the allegation in the Deputy General Prosecutor's February 2003 indictment against Wiranto et al. that:

> "During 1999 WIRANTO [and the other accused] failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes."[†]

1058. One possible explanation for the authorities' failure to stop the crimes or punish the perpetrators is that they did not have the material ability to do so. As already noted, that was arguably the case for most civilian officials in East Timor because, with some exceptions, their effective authority over the militias and TNI soldiers was heavily circumscribed by the TNI. Nevertheless, the Governor and the 13 Bupatis did have the material ability, and the responsibility, to stop and to punish crimes by their civilian subordinates. The same was true for Police officials. Their capacity to stop and punish crimes committed by TNI soldiers and militias was limited by the effective subordination

* In the words of Maj. Gen. Peter Cosgrove, Commander Interfet, in late 1999: "The evidence is that there was widespread, unchecked violence by militia groups and that has to suggest that the level of control over ordinary law and order, (and) crimes of violence that were being committed by TNI, was inadequate." Cited in ABC, *Four Corners*, 'The Vanishing'. 18 October 1999, transcript, p.10

† East Timor, Deputy General Prosecutor for Serious Crimes, Indictment of Wiranto et al., February 2003, paragraph 213.

of the Police to the TNI. Nevertheless, the Regional Chief of Police and the 13 District Chiefs of Police did have the material ability to stop and punish unlawful acts committed by their Police subordinates and, in some cases, by militia groups.

1059. Lack of material ability was not a problem for most TNI commanders. On the contrary, as shown conclusively in this report, TNI officers were able to control the timing, the geographical distribution, and the character of the violence with remarkable precision. Having mobilised the militias, and having provided them with training, weapons, financial and logistical support, TNI authorities were in a position to exercise powerful control over militia actions. Their control over TNI soldiers, with rare exceptions, was even more secure. Had senior commanders wished to stop the violence permanently, and to punish the perpetrators, they could have done so without difficulty. Indeed, in a meeting with Mr. Ian Martin on 7 July 1999, General Wiranto said that if Falintil was ready to surrender its weapons to the Indonesian Police, he could guarantee that the militias would be disarmed within two days.[*]

1060. It should be noted that some TNI officers took actions that they claimed were intended to stop or control the violence. On a number of occasions in 1999, for example, Col. Tono Suratman ordered his subordinates to exert greater control over militia groups, to withdraw weapons from them, and to halt joint TNI-militia operations.[†] In apparent response to international pressure, in mid-August 1999 Gen. Wiranto replaced the Korem commander, Col. Tono Suratman, with Col. Noer Muis, and replaced the Kodim Commanders in Bobonaro and Covalima.[‡] According to reports, both President Habibie and Gen. Wiranto periodically reprimanded TNI officers in Timor-Leste for failing to control the militias. [§]President Habibie ostensibly imposed Martial Law, on Gen. Wiranto's recommendation, as a measure to restore law and order. Finally, according to some accounts, Maj. Gen. Syahnakri and Lt. Col. Noer Muis tried, unsuccessfully, to control the violence during the period of Martial Law.

1061. Taken at face value, these initiatives suggest that some attempt was made by certain commanders – Col. Tono Suratman, Gen. Wiranto, President Habibie, Maj. Gen. Syahnakri and Col. Noer Muis – to contain the actions of the militia, to control the TNI, and to limit the violence. These claims require further discussion, both in the interest of fairness to the officials involved, and to help clarify the question of command responsibility.

1062. Some of the initiatives in question, it must be said, clearly did not constitute necessary and reasonable measures to stop crimes or punish the perpetrators. As detailed elsewhere in this report, the measures taken by Col. Suratman were arguably no more than tactical moves designed to achieve a short term political advantage, either

* The meeting took place in Jakarta. Personal communication, Ian Martin, 4 June 2003.

† For details, see Chapters 4 and 7 of this report.

‡ "Indonesia Changes Military Command in East Timor," *AFP*, 13 August 1999. It was made clear to UNAMET that these changes were part of an effort to exert central control over the military and the militias in Timor-Leste. Personal communication, Ian Martin, 20 November 2000.

§ Peristiwa, 21 July 1999.

by concealing the nature of the TNI-militia relationship from foreign delegations, or by answering mounting international pressure for some action without effectively interfering with the planned violence. Moreover, there is no evidence that Col. Suratman ever made any serious attempt to punish the perpetrators of the crimes in question.

1063. There is more debate about the other initiatives noted above, including the transfer of certain TNI officers in August 1999, the decision to impose Martial Law, and the reported efforts to control the violence during Martial Law. Some observers have suggested that these measures were nothing more than a smokescreen, intended to deceive or divert international opinion. In support of that view, it may be recalled that the moves in question were singularly ineffective and, in the case of Martial Law, seemed to coincide with a worsening of the security climate rather than its improvement. Moreover, like Col. Suratman's efforts, these other initiatives did not include the punishment of known perpetrators.

1064. Others have argued that these attempts to contain the violence were sincere, but that they failed because of strong resistance from militiamen, as well as TNI soldiers and officers. If this interpretation is correct – and that remains an open question – it would tend to limit the culpability of certain individual officers for some of the crimes committed by their subordinates. However, it would not affect the general conclusion here that senior TNI officers failed to take necessary and reasonable measures to stop crimes against humanity or to punish the perpetrators.

1065. In short, the evidence presented in this report demonstrates that most, though perhaps not all, TNI officers in the chain of command, as well as some senior Police and civilian officials, knew or had reason to know about the crimes being committed by their subordinates, and had the material ability to stop and punish those crimes, but failed to take necessary and reasonable measures to do so. Thus, not only does the evidence strongly support the allegations made in Timor-Leste's February 2003 indictment against Wiranto et al., it also suggests that command responsibility extended well beyond those named in that indictment.

1066. In the face of mounting evidence of TNI complicity in the violence, in late 1999 Indonesian Foreign Minister Alatas suggested that, beyond the militias, responsibility for the massive violence in Timor-Leste may have rested with certain 'rogue elements' within the TNI. "We have acknowledged," he said, "that there are rogue elements . . . [that] have been supportive of some of the actions of the militia."[*] The evidence in this report belies the claim that official involvement was limited to such 'rogue elements.' On the contrary it demonstrates that those responsible included many of the highest-ranking military officers and police and civilian officials in the country.

1067. From the perspective of international and national law, two sorts of responsible party can be identified. First, there are those who bear 'individual criminal responsibility' either because they directly committed the crimes in question, or because they assisted others in doing so. Second, there are those who bear 'command responsibility' because they failed to stop or punish the crimes committed by their subordinates. Based on these

* Cited in ABC, *Four Corners*, "The Vanishing," 18 October 1999, transcript, p. 10.

widely accepted legal principles, this report identifies some 80 TNI, Police and civilian government officials who may be responsible for crimes against humanity, and should therefore be the focus of further criminal investigations.

International responsibility

1068. The responsibility of Indonesian officials is only part of the story. Timor-Leste's political status was the subject of international dispute for 24 years, and the violence in 1999 took place in the context of a United Nations operation aimed at resolving that dispute. Accordingly, any discussion of responsibility for that violence must consider the role of the international community, including the United Nations and its most powerful member states.

1069. This chapter argues that, notwithstanding their eventual contribution to ending the violence, through their acts and omissions powerful members of the international community share political and moral responsibility for the crimes committed in 1999. It also argues that the United Nations bears a special responsibility to ensure that the perpetrators of the violence in Timor-Leste are brought to justice. It concludes that an international criminal tribunal for Timor-Leste should be established at the earliest opportunity, and that the United Nations Security Council and Secretary General should take the lead in doing so.

International responsibility

1070. Indonesian authorities have sought to blame UNAMET for the violence in Timor-Leste, especially in the post-ballot period. Criticism has typically focused on allegations of UNAMET bias or foul play in conducting the referendum. Testifying in the trial of former Timor-Leste Chief of Police, Col. Timbul Silaen, for example, Gen. Wiranto said: "UNAMET's failure to remain neutral during that historical moment sparked anger among East Timorese who felt they were being treated unfairly...."[*] Similar allegations have been made by many other military and government officials.[†]

1071. Some officials have also alleged that UNAMET bears responsibility for the violence because it usurped control over security in Timor-Leste from the TNI and the Police. In September 2002, Maj. Gen. Zacky Anwar Makarim testified in an Indonesian court that the TNI had been unable to maintain security because "UNAMET had to be

* Cited in "Jakarta Troops Faced 'Mission Impossible' in E.Timor: Wiranto," *Jakarta Post*, 9 April 1999.

† In December 1999, for example, Maj. Gen. Zacky Anwar Makarim told Indonesian investigators that UNAMET had supplied weapons to Falintil and that UNAMET cheating had led to the post-ballot violence. See "Persiapan Pemanggilan KPP HAM Timtim," Kompas, 9 December 1999. In 2000, Col. Noer Muis released a 'white paper' blaming UNAMET cheating for the violence. See "TNI 'White Paper ' Tells of Referendum Fraud," *Suara Timor Lorosae*, 10 October 2000.

informed of every TNI movement."* Testifying in the trial of former Gov-ernor Abílio Soares, Maj. Gen. Adam Damiri blamed UNAMET even more directly, reportedly telling the court:

> "According to the UN resolution, the security responsibility before, during and after the UN self-determination ballot lay with the UN Civilian Police . . . The TNI had been 'excluded' from such matters."†

1072. This claim was demonstrably false. The 5 May Agreements spelled out very clearly that responsibility for security rested solely with the Indonesian Police. Likewise, the oft-repeated allegations of UNAMET bias have never been substantiated. Indeed, when they were submitted to the independent Electoral Commission, that body concluded that they were without merit.

1073. Yet if the specific Indonesian allegations of UNAMET responsibility for the violence in 1999 are unconvincing, there are nevertheless grounds for arguing that the international community shares some responsibility. The chief argument in that regard is that powerful members of the international community facilitated the violence both through their long record of acquiescence toward Indonesia's violations of human rights in Timor-Leste since 1975, and through their failure to take reasonable and necessary measures to stop widely predicted violence in 1999.

1074. The United Nations, it is true, condemned Indonesia's 1975 invasion in a series of resolutions. But for much of the 24-year occupation, no concrete action was taken to force Indonesia's withdrawal from Timor-Leste or to end the widespread violations of human rights perpetrated by Indonesian forces and their proxies. On the contrary, those countries best placed to do something, like the United States and Australia, actually facilitated the occupation and the violence. Right up until 1999, the behavior of key states was characterised by a combination of overt support, inaction, and silence, the main purpose of which was evidently to maintain friendly relations with the Indonesian government and the TNI.

1075. Such behaviour, on the part of key states, is more than a regrettable historical fact. It arguably implicates those states in the human rights violations committed under the Indonesian occupation. The same may be said of the actions of certain international agencies, like the World Bank and the International Monetary Fund, and corporations that sold arms to Indonesia. At a minimum, those states, agencies, and corporations had an obligation to ensure that their activities did not contribute to the commission of human rights violations in Timor-Leste. For the most part, they failed to do so.

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* Cited in *Suara Timor Lorosae*, 12 September 2002.

† Cited in *Jakarta Post*, 13 May 2002. In a cable to UN headquarters in New York, dated 13 May 2002, UNTAET SRSG Sergio Vieira de Mello referred to Damiri's allegation as "an outrage." On a separate occasion, Maj. Gen. Damiri complained that "It was UNAMET who made Jakarta replace Suai military commander Lt. Col. Achmad Mas Agus for no clear reason, so I appointed [Lt. Col.] Liliek [Koeshadianto] to fill the post. UNAMET also prohibited the military from patrolling." Cited in *Jakarta Post*, 20 June 2002.

1076. The problem of international acquiescence and complicity was highlighted by the position taken by key powers on the issue of security for the 1999 Popular Consultation. In spite of the mounting militia violence in early 1999, and credible predictions of worse to come, the most influential states made no serious effort to ensure that there would be effective security arrangements for the referendum. Instead, the 5 May Agreements placed sole responsibility for maintaining law and order in the hands of Indonesian security forces. Even a brief glimpse at the history of the Indonesian armed forces, and its behavior in Timor-Leste, would have indicated what a dangerous approach that was.

1077. Some who were privy to the negotiations of early 1999 have maintained that strong representations for a UN force were made during the negotiations, but that these were powerfully rebuffed by Indonesian officials. The UN Secretary General's Personal Representative for Timor-Leste, Ambassador Jamsheed Marker, has written, for example, that the suggestion of a UN security presence was indignantly rejected by Indonesia's Foreign Minister Ali Alatas at a meeting in March 1999.[*] Similarly, when Australian Prime Minister John Howard raised the possibility of UN peace-keepers at a meeting with President Habibie in late April 1999, Habibie is said to have 'exploded,' rejecting categorically the deployment of foreign troops on 'Indonesian' territory.[†]

1078. Yet there is reason to doubt that the case for UN peacekeepers was made as forcefully as these participants have claimed. In a press conference in New York, in April 1999, announcing that an agreement had been reached, Indonesian Foreign Minister Ali Alatas told reporters that "throughout our discussions, UN peacekeeping forces have not been an issue that has been raised."[‡] In the same press conference, Ambassador Marker explained the decision not to push for peacekeepers, saying: "We have not found it necessary under the present circumstances to send in a peacekeeping force, to parachute a whole lot of Blue Helmets down there. We don't think the situation calls for that."[§]

1079. The feeble position adopted during the negotiations was evidently influenced by the posture of a few powerful states. Marker has noted, for example, that UN negotiators faced strong pressure from the U.S. and Australian governments not to push too hard on the security issue.[¶] Similarly, a UN official who was privy to the negotiations has written of the deep reluctance of key states to support the deployment of an in-

* Jamsheed Marker, *East Timor: a Memoir of the Negotiations for Independence*. Jefferson, N.C.: McFarland & Company, 2003, p. 139.

† This is Howard's account of the meeting, as reported in Greenlees and Garran, *Deliverance*, p. 145.

‡ United Nations, Press Release SG/SM/6966, 23 April 1999.

§ United Nations, Press Release SG/SM/6966, 23 April 1999.

¶ Marker, *East Timor*, pp. 153-154. It is worth noting that, as late as February 1999, senior U.S. State Department officials, anxious to avoid alienating the Indonesian Government, were still looking for alternatives to a direct vote in Timor-Leste. It is difficult to imagine, under those circumstances, that U.S. officials would have been pushing hard for a UN peacekeeping force.

ternational military or police force.* The regrettable result was that the argument for a UN peacekeeping force was not seriously made. As a Jakarta-based diplomat later admitted, in the course of the negotiations "everybody conceded too much."†

1080. The failure to secure adequate security arrangements had direct consequences on the ground in Timor-Leste, where the TNI and their militia proxies continued to terrorise and to kill supporters of independence. The security situation was so poor that, almost immediately after the start of the UN deployment in May 1999, the question arose about whether it was wise to proceed with the vote. UNAMET's position on that question was not a foregone conclusion. In a series of assessments written in June and July, UNAMET analysts argued that none of the security criteria spelled out in the UN Secretary General's memorandum of early May had been met, and that the referendum should therefore not go ahead.

1081. In the end that position did not prevail. It would be a mistake, however, to conclude that the UN's decision to proceed with the vote was as foolhardy as some critics have suggested. The decision stemmed partly from the fluidity of the situation on the ground, and indications that the violence might yet be brought under control. Senior UNAMET officials took the view that sustained political pressure might yet convince the Indonesian authorities to rein in the militias, and allow the ballot to proceed with only minor disruptions. The decision to proceed was also supported by the main resistance leader, Xanana Gusmão, and many other East Timorese. They pointed out that any delay would only benefit the side responsible for the violence – the same side that did not wish to see a free expression of the popular will.

1082. However, the decision to move ahead was most powerfully shaped by the political pressures emanating from the UN in New York, and from the capitals of major powers. At the political level, the UN position was constrained by the interests of the five permanent members of the Security Council – the U.S., the U.K., France, Russia, and China. It was also guided by a group of five states specially convened in New York for this purpose, the U.S., the U.K., Australia, New Zealand and Japan, informally known as the Core Group. The Permanent Five and the Core Group were anxious to move ahead with the referendum, and reluctant to do anything that might unduly upset the Indonesian government and military.‡ There was also constant pressure from the Indonesian government. It was understood that any Security Council statement or resolution that did not have the support of Indonesia would be rejected by China and Russia; and as a consequence, such initiatives were generally avoided.

1083. As it became clear that the vote would proceed, some observers took the view that an armed international peacekeeping force ought to be deployed – and that it should happen before ballot day. Among those who reached that conclusion was a

* Tamrat Samuel, "East Timor: The Path to Self-Determination," in Chandra Lekha Sriram and Karin Wermester, eds. *From Promise to Practice: Strengthening UN Capacities for the Prevention of Violent Conflict*. Boulder: Lynne Reiner, 2003, pp. 211-212 and 225.

† *Financial Times*, 7 September 1999.

‡ Members of the Security Council and key states "were also eager not to give the impression that the campaign of violence was threatening to derail the process." Tamrat Samuel, "East Timor: Path to Self-Determination," p. 213.

delegation from Canada. At the end of their visit, on 12 August 1999, the delegation's spokesman said: "Unless Indonesia is going to live up to its obligation, we believe it is critical for a peacekeeping force to be sent to the territory immediately."* A U.S. Congressional delegation made an equally emphatic statement in late August 1999.

1084. The idea of a pre-ballot deployment of peacekeepers, however, never got off the ground. The reason was simple: the idea was actively opposed by key powers in the Security Council, most notably the United States. As the *New York Times* noted in early September 1999, "... no major country on the Council urged the creation of an armed peacekeeping force. Diplomats said the U.S., in particular, remained opposed to such action."† That is not to say that the U.S. and other powers remained silent in the face of the mounting violence. There was plenty of criticism. In June, for example, the vice chief of the Australian defense force, Air Marshall Doug Riding, delivered an unusually blunt message to senior TNI officers about official support for the militias. Further criticism was voiced at a donor meeting for Indonesia in Paris in late July, and again as voting day approached in late August.‡ But peacekeepers were never seriously discussed. Instead, key states, and the UN Security Council as a body, stuck steadfastly to the position that security was the responsibility of the Indonesian authorities.

1085. When UN staff, or outside observers, asked about or urged the possible deployment of peacekeeping forces, the answer was that it would be impossible to deploy peacekeepers without Indonesian approval, or by invoking Chapter VII of the UN Charter.§ It was also said, as early as July that it would take too long – three months at least – to mobilise such a force, so that there was no point in discussing a pre-ballot deployment in any case.

1086. Significantly, when the Security Council finally lent its unanimous support to the Australian-led Multi-National Force (MNF) on 15 September 1999, its resolution (No. 1264) invoked Chapter VII of the UN Charter, and gave the MNF authority to use all necessary means to restore security. Moreover, notwithstanding the earlier claim that a force would take at least three months to deploy, the MNF was on the ground within a week of the Security Council resolution. In other words, all that had been said about the impossibility of deploying peacekeepers was not entirely true. What had prevented it from happening sooner was not an immutable 'political reality,' nor even logistical difficulties, but rather an acute lack of political will.¶

* The speaker was New Democratic Party MP, Svend Robinson. Cited in *AFP*, 12 August 1999.

† *New York Times*, 6 September 1999.

‡ For criticisms and threats at the Paris meeting, see AFP, 27 July 1999. For expressions of concern in late August, see *Australian Financial Review*, 19 August 1999.

§ 16 Article 42 of Chapter VII of the UN Charter (1945) stipulates that where other measures have proved to be inadequate, the Security Council "may take such action by air, sea or land forces as may be necessary to maintain or restore international peace and security." Some human rights advocates argued at the time that a Chapter VII resolution was not needed, since the UN had never recognised Indonesian sovereignty in Timor-Leste. That argument, however, appears not to have been taken seriously within the Security Council.

¶ Tamrat Samuel, who had responsibility for Timor-Leste and Indonesia in the UN's Department of Political Affairs from 1992 to 2000, has written that "there was virtually no desire among key states to deploy a peacekeeping force." Samuel, "East Timor: The Path to Self-Determination," p. 211.

1087. Whatever the reasons, opposition to peacekeepers prevailed in the U.S., and among its allies, at least until 10 September – almost two weeks after the militias and the TNI had begun their campaign of violence on 30 August. That is not to say that the U.S and its allies did nothing during this period.* President Clinton wrote twice to President Habibie to express his concern, and to urge that every effort be made to restore security. On 8 September, the Commander-in-Chief of U.S. forces in the Pacific, Adm. Dennis Blair, travelled to Jakarta to convey a similar message directly to Gen. Wiranto. Australian Prime Minster John Howard and senior officers of the Australian defence force were also in frequent contact with their counterparts in Jakarta.

1088. Unusual and sincere as these initiatives may have been, they were not nearly enough to effect a change in the situation on the ground in Timor-Leste. And so it was that UNAMET found itself helpless to do anything as the violence descended. It was mainly in those days, and in the two further weeks before the MNF was approved and deployed, that Timor-Leste was burned to the ground, that more than a thousand people were killed, and that roughly one half of the population was forcibly displaced.

1089. In short, a strong case can be made that political and moral, if not legal, responsibility for the violence in 1999 rests, in part, with the international community, and in particular with some of its most powerful member states. Through their actions and acquiescence, key states effectively encouraged the invasion of Timor-Leste and, together with international agencies and corporations, facilitated a historical pattern of grave human rights violations there. More directly, by failing to take effective measures to prevent the widely predicted violence in 1999, key members of the international community facilitated crimes against humanity committed by the Indonesian armed forces and the militias.

1090. Support for this argument, paradoxically, lies in the effectiveness of the actions that were eventually taken by those same states and agencies in mid-September 1999. In response to mounting public outrage, the United States and other key governments, as well as the World Bank and the International Monetary Fund, finally took steps to rein in the Indonesian Army and their militia proxies. For the first time in 24 years, these parties placed serious and concerted pressure on the Indonesian government by cutting military ties and threatening to suspend economic aid. These initiatives coincided with an unusual visit to Jakarta and Dili by a UN Security Council delegation that strongly urged the Indonesian authorities to accept international intervention. Under this unprecedented pressure, on 12 September Indonesia agreed to permit the deployment of an international armed force. That force landed about one week later and within a few weeks of its deployment, the worst of the violence had stopped.

UN responsibility: the question of justice

1091. If members of the international community share responsibility, through their silence or inaction, for the crimes against humanity perpetrated in 1999, the United

* For an account of international responses to the crisis in early September, see Greenlees and Garran, *Deliverance*, Chapter 12. Also see, Geoffrey Robinson, "If You Leave Us Here, We Will Die," in Nicolaus Mills and Kira Brunner, eds. *The New Killing Fields: Massacre and the Politics of Intervention*, New York: Basic Books, pp. 159-183.

Nations as an institution shoulders an additional burden: the responsibility to ensure that those crimes do not go unpunished.

1092. Ensuring that the perpetrators of crimes against international human rights and humanitarian law are brought to justice is, of course, a general concern of the United Nations. Yet in the case of Timor-Leste in 1999, that general principle applies with special force, for three reasons. First, the crimes against humanity committed in 1999 occurred in the context of a process overseen by the United Nations under an explicit mandate from the Security Council.[*] Second, those crimes constituted direct breaches of Security Council resolutions, and of the 5 May Agreements between Indonesia, Portugal, and the UN.[†] Third, resolutions adopted by the Security Council and by the Commission on Human Rights since September 1999 explicitly committed the United Nations to bringing the perpetrators of the crimes in question to justice.[‡] Several years have now passed since those commitments were made, and the chief perpetrators continue to walk free.

1093. The special responsibilities of the UN were highlighted by the International Commission of Inquiry on East Timor, a body established by the Secretary General in November 1999.[§] In its report, the Commission stressed that:

> "The actions violating human rights and international humanitarian law in East Timor were directed against a decision of the United Nations Security Council acting under Chapter VII of the Charter and were contrary to agreements reached by Indonesia with the United Nations to carry out that Security Council decision. Under Article 25 of the Charter, Member States agree to accept and carry out the decisions of the Security Council. The organised opposition in East Timor to the Security Council decision requires specific international attention and response. The United Nations, as an organisation, has a vested interest in participating in the entire process of investigations, establishing responsibility and punishing those responsible and in promoting reconciliation."[¶]

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* The UN arguably also had legal responsibilities under the UN Charter, in connection with its central role in the process of Timor-Leste's decolonisation.

† Moreover, under the 5 May Agreements, the UN effectively became the administering authority in East Timor after the ballot. As such it arguably had a legal obligation, similar to the obligation of a state, to bring to justice the perpetrators of crimes against humanity.

‡ UN Security Council Resolution 1272 (25 October 1999) states clearly that the Council " condemns all violence and acts in support of violence in East Timor . . . and demands that those responsible be brought to justice." UN Commission on Human Rights Resolution 1999/S-4/1 of 27 September 1999 affirms that the international community will exert every effort to ensure that those responsible for the crimes committed in Timor-Leste will be brought to justice.

§ The Commission was established in accordance with UN Human Rights Commission Resolution 1999/S-4/1 of 27 September 1999, as endorsed by the Economic and Social Council in its decision 1999/293 of 15 November 1999. The Commission was mandated to "gather and compile systematically information on possible violations of human rights and acts which might constitute breaches of international humanitarian law committed in East Timor since January 1999."

¶ United Nations, Office of the High Commissioner for Human Rights, "Report of the International Commission of Inquiry on East Timor to the Secretary-General," January 2000, paragraphs 146-147.

1094. Significantly, the Commission's view was endorsed by the Secretary-General, Kofi Annan. The Secretary-General, moreover, stressed his commitment to cooperate with and monitor progress on this matter. In his January 2000 letter to the President of the Security Council and others, introducing the Commission's report, Annan wrote:

> "As the report indicates, the actions violating human rights and international humanitarian law were directed against a decision of the Security Council and were contrary to agreements reached by Indonesia with the United Nations to carry out the decision of the Security Council. This fact reinforces the need to hold the perpetrators accountable for their actions.... I wish to assure Member states of my firm commitment to cooperate with the intergovernmental process in this important matter. I will closely monitor progress towards a credible response in accordance with international human rights principles."[*]

1095. On the question of what exactly should be done to give effect to these commitments, the Commission of Inquiry was very clear. It recommended that the UN Security Council should establish an international criminal tribunal, along the lines of those created for Rwanda and the former Yugoslavia. More specifically, the Commission of Inquiry recommended that:

> "The United Nations should establish an international human rights tribunal consisting of judges appointed by the United Nations, preferably with the participation of members from East Timor and Indonesia. The tribunal would sit in Indonesia, East Timor, and any other relevant territory to receive the complaints and to try and sentence those accused by the independent investigation body of serious violations of fundamental human rights and international humanitarian law which took place in East Timor since January 1999 regardless of the nationality of the individual or where that person was when the violations were committed."[†]

1096. The three UN Special Rapporteurs who conducted investigations in Timor-Leste in late 1999 made essentially the same recommendation.[‡] In their report of December 1999, they argued that, in keeping with accepted norms of international law, primary responsibility for investigating the crimes in Timor-Leste and bringing the perpetrators

* United Nations, Secretary-General, Identical Letters to the President of the General Assembly, the President of the Security Council and the Chairperson of the Commission on Human Rights, (UN. A/54/726,S/2000/59), 31 January 2000. Cover letter introducing the report: United Nations, Office of the High Commissioner for Human Rights, "Report of the International Commission of Inquiry on East Timor to the Secretary-General," January 2000.

† United Nations, Office of the High Commissioner for Human Rights, "Report of the International Commission of Inquiry on East Timor to the Secretary-General," January 2000, paragraph 153.

‡ 26 Pursuant to UN Human Rights Commission Resolution 1999/S-4/1 of 27 September 1999, three UN Special Rapporteurs conducted a joint mission to Timor-Leste in November 1999. The three were: The Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture, and the Special Rapporteur on violence against women, its causes and consequences. Their report, Situation of Human Rights in East Timor (UN No. A/54/ 660) was issued on 10 December 1999.

to justice lay with the Indonesian Government. Accordingly, they argued that the Indonesian authorities should be given an opportunity to conduct such investigations and prosecutions before any further action was contemplated. They noted, however, that in the event that the Indonesian authorities failed to make satisfactory progress in that work, it would be appropriate to establish an international criminal tribunal. More specifically, the UN Special Rapporteurs recommended that:

> "Unless, in a matter of months, the steps taken by the Government of Indonesia to investigate TNI involvement in the past year's atrocities bear fruit, both in the way of credible clarification of the facts and the bringing to justice of the perpetrators – both directly and by virtue of command responsibility – the Security Council should consider the establishment of an international criminal tribunal for the purpose. This should preferably be done with the consent of the Government, but such consent should not be a prerequisite. Such a tribunal should then have jurisdiction over all crimes under international law committed by any party in the Territory [of East Timor] since the departure of the colonial Power [Portugal]."[*]

1097. The Special Rapporteurs made clear, then, that the need for an international criminal tribunal was contingent upon the adequacy of measures taken by the national Indonesian authorities. It is fair to ask, then, what progress has been made in the years since that recommendation was made. The simple answer is, very little.

1098. Largely in response to demands for an international tribunal, in 2001 Indonesia established an Ad Hoc Human Rights Court to try cases arising from the events in East Timor.[†] After considerable delay, in January 2002 indictments were finally issued against 18 individuals for crimes against humanity allegedly committed in 1999. The accused included several high-ranking Indonesian TNI and Police officers, including Maj. Gen. Adam Damiri, Brig. Gen. Noer Muis, and Col. (Pol.) Timbul Silaen. Of the 18 people charged, twelve were acquitted in first instance trials, and four were later acquitted on appeal. The only two whose convictions were upheld were the former Governor of Timor-Leste, Abílio Osório Soares, and the militia leader, Eurico Guterres, both of them East Timorese. No Indonesian officers or officials were jailed, and some were actually promoted and appointed to highly sensitive command positions.[‡]

1099. This is not the place for an exhaustive analysis of the trials, or of the Ad Hoc Human Rights Court which heard them.[§] However, a few general points can be made by way of judging their effectiveness in clarifying the facts and bringing the perpetrators to justice.

* UN, Situation of Human Rights in East Timor (UN No. A/54/660) 10 December 1999, p. 14.

† The court was established by Presidential Decree No. 96/2001.

‡ For example, by the time he was brought to trial in 2002, Maj. Gen. Damiri had assumed the powerful post of Assistant for Operations to the Armed Forces Chief of General Staff. In that position he played a central role in organising the TNI military operation in Aceh that began in May 2003.

§ For a detailed analysis of the trials, see David Cohen, *Intended to Fail: The Trials Before The Ad Hoc Human Rights Court in Jakarta*. New York: International Center for Transitional Justice, 2003

1100. First, there were fatal problems with the mandate of the court. Most glaringly, the Presidential decree through which it was established limited its jurisdiction to violations that had occurred in only two months of 1999 (April and September), and in just three of Timor-Leste's thirteen districts (Dili, Liquiçá, and Covalima). That decision effectively guaranteed that a majority of crimes would never be investigated or tried, and that the widespread and systematic nature of the crimes would not be established.

1101. Second, the Attorney General decided to prosecute only four cases, thereby further limiting the likelihood of establishing that the violence was widespread and systematic. Moreover, key suspects – including many of the high-ranking officers identified in this report and in the report of Indonesia's own Human Rights Commission – were not among the defendants. Among the most glaring omissions were Gen. Wiranto, Maj. Gen. Zacky Anwar Makarim, and Maj. Gen. Kiki Syahnakri.

1102. Third, the prosecutions were poorly prepared and weakly argued. The prosecutors generally failed to take advantage of the abundant documentary and testimonial evidence available to them. Most also appeared reluctant to argue their cases vigorously, especially against high-ranking TNI officers. The prosecution's call for the acquittal of Maj. Gen. Adam Damiri in mid-2003 was a case in point.[*] In some cases, moreover, the judges appeared more diligent and energetic than the prosecutors in uncovering evidence against the accused.

1103. Finally, the conduct of the trials, and the comments of some government and judicial authorities indicated that the Ad Hoc Court was established, and the trials carried out, primarily to deflect demands for an international criminal tribunal, rather than as a genuine effort to see that justice was done.

1104. For these and other reasons, respected international human rights organisations, including Amnesty International and the International Center for Transitional Justice have characterised the process as fundamentally flawed and a travesty of justice. In early 2003, for example, Amnesty International wrote that: "The process in Indonesia has been extremely limited in scope and has, despite some convictions, to a large extent failed in the objectives of delivering truth and justice."[†] Credible national human rights organisations and bodies, both in Indonesia and in Timor-Leste, have reached very similar conclusions.[‡] So too have religious groups. In May 2003, a group of 92 religious leaders and organisations from across the United States issued a statement condemning the Indonesian trials and calling for the establishment of an international tribunal.[§]

* See "Indonesia Wants to Acquit General in Human Rights Case," *New York Times*, 8 June 2003.

† Amnesty International, *Indonesia & Timor Leste: International Responsibility for Justice*, AI Doc. ASA03/001/2003, London, April 2003, p. 1. This document also contains a useful summary of Amnesty International's principal concerns with the trial process.

‡ The National Alliance for an International Tribunal for East Timor, a coalition of some 20 non-governmental organisations in Timor-Leste, has referred to the trials as "a disgrace and a sham." Letter to UN High Commissioner for Human Rights, 13 March 2003.

§ See "An International Tribunal Must Be Established for East Timor: A Statement From U.S. Religious Leaders and Organizations," available at East Timor Action Network (ETAN) website: www.etan.org/action/action2/relig.htm

1105. Notwithstanding their interest in maintaining cordial relations with Indonesia, key governments have also been critical of the Indonesian process. In late 2002, for example, the U.S. Department of State said it was disappointed with the acquittals recently handed down by the court, and noted that the prosecutors had "consistently failed to use the resources and evidence available to them from the UN and elsewhere in documenting the East Timorese atrocities."* Similarly, in June 2003 the U.S. Ambassador to Indonesia expressed concern about the prosecutor's request for the acquittal of Maj. Gen. Damiri. "While reserving judgement until the final verdict is reached," he said, "we find it particularly disappointing that it was the prosecution that sought a not-guilty verdict in this case."†

1106. In short, it is fair to conclude that Indonesia's national judicial process has not borne fruit, either in the way of credible clarification of the facts or in bringing the perpetrators to justice.

1107. What then of the judicial process in Timor-Leste itself? Here the news is marginally better, but by no means good enough. On the positive side, some of the basic judicial machinery for investigating and prosecuting serious criminal offences, including crimes against humanity, now exists in Timor-Leste. In 2000, pursuant to UN Security Council Resolution 1272 (1999), UNTAET enacted a statute establishing Special Panels for Serious Crimes within the Dili District Court to try serious crimes, including crimes against humanity.‡ Under the same statute, the norms of international law were adopted as the basis on which such crimes would be prosecuted and tried. UNTAET also established a Serious Crimes Unit (SCU) with a mandate to investigate serious crimes that had occurred between 1 January and 25 October 1999, and to prosecute those responsible for such crimes.§

1108. After a series of false starts and delays, in 2002 these mechanisms began to achieve some notable successes. As of late May 2003, 60 indictments had been filed against a total of 247 individuals, most of whom were charged with crimes against humanity.¶ Those indictments accounted for roughly 40% of all the killings reported to have been committed in 1999. Notably, those indicted as of May 2003 included many of the high-ranking TNI officers identified as suspects in this report, including Gen. Wiranto, and seven other high-ranking officers and officials.

1109. These results, achieved in the face of significant logistical and political obstacles, are impressive. Yet, there is little reason for optimism. For one thing, as of late May 2003,

* Cited in "Lt. Col. Endar Priyanto," *Masters of Terror*, http://yayasanhak.minihub.org/mot/booktoc.htm

† U.S. Ambassador Ralph L. Boyce, cited in "Indonesia Wants to Acquit General in Human Rights Case," *New York Times*, 8 June 2003.

‡ The statute is UNTAET Regulation No. 15/2000 (6 June 2000) "On the Establishment of Panels with Exclusive Jurisdiction Over Serious Criminal Offences." The serious crimes over which these Panels have jurisdiction are: genocide, war crimes, crimes against humanity, murder, sexual offences, and torture.

§ After Timor-Leste's independence on 20 May 2002, the Serious Crimes Unit began to operate under the legal authority of the General Prosecutor of the Democratic Republic of Timor Leste (RDTL). See Serious Crimes Unit (SCU), "Serious Crimes Update V/03," 28 May 2003.

¶ SCU, "Serious Crimes Update V/03," Dili, 28 May 2003.

more than 65% of those indicted remained at large in Indonesia.* And there is virtually no chance that any of the senior officials and officers that have been indicted – that is to say, the managers and the planners of the violence – will ever be tried through Timor-Leste's judicial process. The main reason is that the Government of Indonesia has categorically refused to extradite any suspects to Timor-Leste, or even to recognise the competence of Timor-Leste's courts to try them.† Consequently, the only cases that have been tried to date, or that are likely to be tried in the future, are those of local militiamen.

1110. A related problem is that the Government of Timor-Leste has been reluctant to take responsibility for prosecuting high-ranking Indonesian officials.‡ That reluctance is understandable. A tiny, fledgling state, impoverished and decimated by long years of occupation and war, and still sharing a vulnerable border with Indonesia, it cannot reasonably be expected to take the lead in the costly and complex process of bringing to justice some of Indonesia's most powerful officials. Moreover, even if the government wished to take on this task, it would be seriously hampered by the lack of resources, capacity, and expertise in the country's new judiciary.§

1111. To make matters worse, there is uncertainty about the future of the UN-mandated Serious Crimes Unit and the Special Panels for Serious Crimes, the institutions that perform the essential work of investigation, prosecution and trial.¶ To date that work has relied heavily on UN staff and on UN and international funding. As that assistance declines, and with UNMISET's mandate set to expire in May 2005, progress on all of these fronts can be expected to slow and perhaps even to stop.**

1112. Under these circumstances, it is extremely unlikely that Timor-Leste's judicial system, whatever its other merits, will provide a satisfactory resolution to the search for justice for the crimes against humanity committed in 1999. In view of the clear failure of Indonesia's own judicial processes, that means that all available national judicial remedies for bringing the perpetrators to justice have now been exhausted. These are precisely the circumstances in which it is appropriate and necessary to prosecute such

* The actual figure was 169 of 247 indictees. See SCU, "Serious Crimes Update V/03," Dili, 28 May 2003.

† In response to the Indictment of Gen. Wiranto et al., issued in February 2003, Indonesia's Foreign Minister was quoted as saying: "[The Timor-Leste court] is not at all an international tribunal . . . they don't have international jurisdiction and for that matter legally they don't have the capacity to reach non-East Timorese." *ABC Radio*, 25 February 2003.

‡ The President Xanana Gusmão has been especially cautious in this regard. The Prime Minister Mari Alkatiri has called for the establishment of an international tribunal in a neutral third country. See, "East Timor PM Wants International Tribunal To Try Indonesian Officers," *AP*, 30 May 2003.

§ For a useful summary of the problems facing Timor-Leste's judiciary in 2003, see Judicial System Monitoring Programme (JSMP), "JSMP Background Paper on the Justice Sector," prepared for the Timor-Leste and Development Partners Meeting, June 2003. Also see, UNMISET, Press Release, "Justice Sector Consultation Meeting ends: 'Fair and efficient justice key to a democratic state," Dili, 6 June 2003.

¶ At the time of writing, the SCU was expected to complete its investigations by November 2004, and the Special Panels to complete trials by May 2005.

** These problems are spelled out in more detail in Amnesty International, *Indonesia & Timor Leste: International Responsibility for Justice*, AI Doc. ASA 03/001/2003, London, April 2003, p. 8.

crimes under a broader, universal jurisdiction. That was, moreover, the course of action recommended by the UN Special Rapporteurs and the International Commission of Inquiry on East Timor nearly four years ago.

1113. For these reasons, this report concludes that the United Nations should establish – indeed, has a solemn duty to establish – an international criminal tribunal to prosecute the crimes against humanity committed in Timor-Leste. More specifically, it urges the UN Secretary General and the Security Council to take the lead in this matter, in keeping with their stated commitment to ensure that justice will be done.

TABLE 2: SENIOR OFFICERS & OFFICIALS WHO APPEAR TO BEAR INDIVIDUAL OR COMMAND RESPONSIBILITY FOR CRIMES AGAINST HUMANITY IN TIMOR-LESTE, 1999

Military		
TNI AND ARMY HEADQUARTERS		
1	Gen. Wiranto	Commander, Armed Forces & Minister of Defence and Security
2	Gen. Subagyo Hadisiswoyo	Army Chief of Staff
3	*Maj. Gen. Kiki Syahnakri	Assistant for Operations to Army Chief of Staff & Martial Law Commander, Timor-Leste
4	Lt. Gen. Sugiono	Armed Forces Chief of the General Staff
5	*Maj. Gen. Sjafrie Sjamsuddin	Assistant for Territorial Affairs to Armed Forces Chief of the General Staff
6	Maj. Gen. Endriartono Sutarto	Assistant for Operations to Armed Forces Chief of the General Staff
7	Lt. Gen. Djamari Chaniago	Commander, Kostrad
8	Maj. Gen. Syahrir	Commander, Kopassus
9	Lt. Gen. Tyasno Sudarto	Head, BAIS (before April 1999, BIA)
10	*Brig. Gen. Arifuddin	Director A, BAIS (before April 1999, BIA)
11	*Maj. Gen. Zacky Anwar Makarim	Head, BIA (to January 1999) & Member, Task Force for the Popular Consultation
REGIONAL MILITARY COMMAND – KODAM IX/ UDAYANA		
1	*Maj. Gen. Adam Damiri	Commander, Kodam IX/Udayana
2	*Brig. Gen. Mahidin Simbolon	Chief of Staff, Kodam IX/ Udayana
SUB-REGIONAL MILITARY COMMAND – KOREM 164/WD		
1	*Col. Tono Suratman	Commander, Korem 164/WD (to 13 August 1999)
2	*Col. Noer Muis	Commander, Korem 164/WD (from 13 August 1999)
3	Col. Mudjiono	Deputy Commander, Korem 164/WD (to May/ June 1999)
4	Lt. Col. Supadi	Chief of Staff, Korem 164/WD
5	Maj. R.M. Bambang Wisnumurty	Head of Intelligence, Korem 164/WD

DISTRICT MILITARY COMMANDS – KODIM (1627-1639)		
1	Maj. Maman Rahman	Commander, Kodim 1632/Aileu
2	*Lt. Col. Paulus Gatot Rudianto	Commander, Kodim 1633/ Ainaro
3	Lt. Col. Hisar Richard Hutajulu	Commander, Kodim 1628/ Baucau
4	*Lt. Col. Burhanuddin Siagian	Commander, Kodim 1636/Bobonaro
5	*Lt. Col. Achmad Mas Agus	Commander, Kodim 1635/Covalima
6	*Lt. Col. Lilik Koeshardianto	Commander, Kodim 1635/ Covalima (from 29 August to 7 September 1999)
7	*Lt. Col. Endar Priyanto	Commander, Kodim 1627/Dili (to 9 August 1999)
8	*Lt. Col. Soedjarwo	Commander, Kodim 1627/Dili (from 9 August 1999)
9	*Lt. Col. Muhamad Nur	Commander, Kodim 1637/Ermera
10	*Lt. Col. Sudrajat A.S.	Commander, Kodim 1629/Lautém
11	*Lt. Col. Asep Kuswadi	Commander, Kodim 1638/Liquiçá
12	*Lt. Col. Sulastiyo	Commander, Kodim 1631/Manatuto
13	Lt. Col. Gerson Ponto	Commander, Kodim 1631/Manatuto
14	Maj. Drs. H.M. Sinaga	Commander, Kodim 1634/Manufahi
15	*Lt. Col. Kamiso Miran	Commander, Kodim 1639/Oecussi
16	*Lt. Col. Bambang Sungesti	Commander, Kodim 1639/Oecussi
17	Lt. Col. Djoko Sukarsono	Commander, Kodim 1630/Viqueque (to c. August 1999)
18	Lt. Col. Gustaf Heru	Commander, Kodim 1630/Viqueque (from c. August 1999)
KOPASSUS AND SECTORAL COMMANDS		
1	*Lt. Col. Yayat Sudrajat	Commander, Satgas Tribuana VIII (Kopassus)
2	*Col. Sunarko	Commander, Sector A (to 21 June 1999)
3	*Col. Irwan Kusnadi	Commander, Sector A (from 21 June 1999)
4	*Col. Tatang Zaenuddin	Commander, Sector B (to 21 July 1999)
5	*Lt. Col. Nyus Rahasia	Deputy Commander, Sector B
6	*Col. Gerhan Lantara	Martial Law Commander, Sector A (September, 1999)
COMBAT BATTALIONS		
1	*Lt. Col Yakraman Yagus	Commander, 744 Battalion
2	*Maj. Jacob Sarosa	Commander, 745 Battalion
3	C.O.	C.O. 143rd Infantry Battalion
4	C.O.	C.O. 301st Infantry Battalion
5	C.O.	C.O. 406th Infantry Battalion
6	C.O.	C.O. 621st Infantry Battalion

POLICE		
NATIONAL (POLRI) AND REGIONAL (POLDA)		
1	Gen. (Pol.) Roesmanhadi	Chief of Police, Republic of Indonesia
2	*Col. (Pol.) Timbul Silaen	Chief of Police, Timor-Leste

DISTRICT (POLRES)		
1	Lt. Col. (Pol.) Bambang Hermanu	Chief of Police, Aileu
2	*Maj (Pol.) Drs. Rizali, SH	Chief of Police, Ainaro
3	Lt. Col. (Pol.) Drs. Sodak C. Marpaung	Chief of Police, Baucau
4	*Maj. (Pol.) Drs. Budi Susilo	Chief of Police, Bobonaro
5	*Lt. Col. (Pol.) Gatot Subiaktoro	Chief of Police, Covalima
6	*Lt. Col. (Pol.) Drs. Hulman Gultom	Chief of Police, Dili
7	Lt. Col. (Pol.) Ery T.B. Gultom	Chief of Police, Ermera
8	Lt. Col. (Pol.) Drs. Irsan Wijaya	Chief of Police, Lautém
9	*Lt. Col. (Pol.) Adios Salova	Chief of Police, Liquiçá
10	Maj. (Pol.) Drs. Joko Irianto	Chief of Police, Liquiçá
11	Lt. Col. (Pol.) Drs. J. A. Sumampow	Chief of Police, Manatuto
12	Lt. Col. (Pol.) Drs. Abdul Rachim	Chief of Police, Manufahi
13	*Lt. Col. (Pol.) Drs. Wilmar Marpaung	Chief of Police, Oecussi
14	Lt. Col. (Pol.) Drs. Abdul Rahman	Chief of Police, Viqueque

CIVILIAN AUTHORITIES		
NATIONAL & PROVINCIAL		
1	*Lt. Col. (ret.) Feisal Tanjung	Coordinating Minister for Political and Security Affairs
2	*Lt. Col. (ret.) A.M. Hendropriyono	Minister of Transmigration and Resettlement
3	*Lt. Col. (ret.) Yunus Yosfiah	Minister of Information
4	*Abílio Osório Soares	Governor, Timor-Leste
DISTRICT		
1	*Col. (Purn.) Suprapto Tarman	Bupati, Aileu
2	*Evaristo Doutel Sarmento	Bupati, Ainaro
3	Virgilio Marçal	Bupati, Baucau
4	*Guilherme dos Santos	Bupati, Bobonaro
5	*Col. Herman Sediyono	Bupati, Covalima
6	*Domingos M.D. Soares	Bupati, Dili
7	Constantino Soares	Bupati, Ermera
8	*Edmundo da Conceição Silva	Bupati, Lautém
9	*Leoneto Martins	Bupati, Liquiçá
10	*Vidal Doutel Sarmento	Bupati, Manatuto
11	Nazario José Tilman de Andrade	Bupati, Manufahi
12	*Filomeno Misquito da Costa	Bupati, Oecussi
13	*Martino Fernandes	Bupati, Viqueque

Names marked with an asterisk (*) are those who appear to bear both individual and command responsibility.

TABLE 3: KEY OFFICERS & OFFICIALS IN 1999 (ALPHABETICAL)

MILITARY OFFICERS (NATIONAL)		
1	Brigadier General Arifuddin	Director A, BAIS (before April 1999, BIA)
2	Lt. General Djamari Chaniago	Commander, Kostrad (Pangkostrad)
3	General Subagyo Hadisiswoyo	Army Chief of Staff (KSAD)
4	Major General Amirul Isnaeni (deceased)	Deputy Assistant for Security to Army Chief of Staff (Waaspam KSAD) Deputy Martial Law Commander, Timor-Leste (September, 1999)
5	Lt. General Johny Lumintang	Deputy Army Chief of Staff (Wakasad)
6	Major General Zacky Anwar Makarim	Head, BIA (to January 1999) Member, Task Force for the Implementation of the Popular Consultation in Timor-Leste
7	Rear Admiral Yoost F. Mengko	Assistant for Intelligence to Armed Forces Chief of the General Staff (Asintel Kasum)
8	Brigadier General Mahidin Simbolon	Chief of Staff, Regional Military Command IX/Udayana
9	Major General Sjafrie Sjamsuddin	Assistant for Territorial Affairs to Armed Forces Chief of the General Staff (Aster Kasum)
10	Lt. General Tyasno Sudarto	Head, BAIS (before April 1999, BIA)
11	Lt. General Sugiono	Armed Forces Chief of the General Staff (Kasum)
12	Major General Endriartono Sutarto	Assistant for Operations to Armed Forces Chief of the General Staff (Asops Kasum)
13	Major General Kiki Syahnakri	Assistant for Operations to Army Chief of Staff (Asops KSAD), Martial Law Commander, Timor-Leste (September, 1999)
14	Major General Syahrir M.S.	Commander, Kopassus (Danjen Kopassus)
15	General Wiranto	Commander, Armed Forces & Minister of Defence and Security
16	Lt. Gen. Susilo Bambang Yudhoyono	Armed Forces Chief of the Territorial Staff (Kaster)

MILITARY OFFICERS (REGION IX AND TIMOR-LESTE)		
1	Lt. Colonel Achmad Mas Agus	Commander, District Military Command 1635/Covalima
2	Major General Adam R. Damiri	Commander, Regional Military Command IX/Udayana
3	Lt. Colonel Gustaf Heru	Commander, District Military Command 1630/Viqueque
4	Lt. Colonel Hisar Richard Hutajulu	Commander, District Military Command 1628/Baucau
5	Lt. Colonel Lilik Koeshardianto	Commander, District Military Command 1635/Covalima
6	Colonel Irwan Kusnadi	Commander, Sector A, Timor-Leste (after 21 June 1999)
7	Lt. Colonel Asep Kuswadi	Commander, District Military Command 1638/Liquiçá
8	Colonel Gerhan Lantara	Commander, 17th Airborne Infantry Brigade (Brigif Linud 17) Martial Law Commander, Sector A, Timor-Leste (9-27 September 1999)

9	Lt. Colonel Kamiso Miran	Commander, District Military Command 1639/Oecussi
10	Colonel Mudjiono	Deputy Commander, Sub-Regional Military Command 164/ WD (to May or June 1999)
11	Colonel Noer Muis	Commander, Sub-Regional Military Command 164/WD (from 13 August 1999)
12	Lt. Colonel Muhamad Nur	Commander, District Military Command 1637/Ermera
13	Lt. Colonel Endar Priyanto	Commander, District Military Command 1627/Dili (to 9 August 1999)
14	Lt. Colonel Nyus Rahasia (Nus Rahardja)	Deputy Commander, Sector B, Timor-Leste
15	Major Maman Rahman	Commander, District Military Command 1632/Aileu
16	Lt. Colonel Paulus Gatot Rudianto	Commander, District Military Command 1633/Ainaro
17	Lt. Colonel Hardiono Saroso	Chief of Staff, Sub-Regional Military Command 164/WD
18	Major Jacob Sarosa	Commander, 745 Battalion
19	Lt. Colonel Burhanuddin Siagian	Commander, District Military Command 1636/Bobonaro
20	Major Drs. H.M. Sinaga	Commander, District Military Command 1634/Manufahi
21	Lt. Colonel Soedjarwo	Commander, 303rd Infantry Battalion, Kostrad Commander, District Military Command 1627/Dili (from 9 August 1999)
22	Lt. Colonel Sudrajat	Commander, District Military Command 1629/Lautém
23	Lt. Colonel Yayat Sudrajat	Commander, Satgas Tribuana VIII (Kopassus), Timor-Leste Commander, Intelligence Task Force (SGI), Sub-Regional Military Command 164/WD
24	Lt. Colonel Djoko Sukarsono	Commander, District Military Command 1630/Viqueque
25	Lt. Colonel Sulastiyo	Commander, District Military Command 1631/Manatuto
26	Colonel Sunarko	Intelligence Assistant to Kopassus Commander Commander, Sector A, Timor-Leste (to 21 June 1999)
27	Lt. Colonel Bambang Sungesti	Commander, District Military Command 1639/Oecussi
28	Lt. Colonel Supadi	Chief of Staff, Sub-Regional Military Command 164/WD
29	Colonel Tono Suratman	Komandan Komando Resor Militer 164/WD (sampai 13 Agustus 1999)
30	Lt. Colonel Suwondo	Commander, Sub-Regional Military Command 164/WD (to 13 August 1999)
31	Major General Kiki Syahnakri	Assistant for Operations to the Army Chief of Staff Martial Law Commander, Timor-Leste (September, 1999)
32	Major R.M. Bambang Wisnumurty	Head of Intelligence, Sub-Regional Military Command 164/WD
33	Lt. Colonel Yakraman Yagus	Commander, 744 Battalion, Timor-Leste
34	Colonel Tatang Zaenuddin	Commander, Sector B, Timor-Leste (to 21 July 1999)

POLICE OFFICERS		
1	Lt. Colonel (Pol.) Ery T.B. Gultom	Police Chief, Ermera
2	Lt. Colonel (Pol.) Drs. Hulman Gultom	Police Chief, Dili
3	Letnan Kolonel (Pol.) Bambang Hermanu	Police Chief, Aileu
4	Major (Pol.) Drs. Joko Irianto	Police Chief, Liquiçá
5	Lt. Colonel (Pol.) Drs. Sodak C. Marpaung	Police Chief, Baucau
6	Lt. Colonel (Pol.) Drs. Wilmar Marpaung	Police Chief, Oecussi
7	Lt. Colonel (Pol.) Drs. Abdul Rachim	Police Chief, Manufahi
8	Lt. Colonel (Pol.) Drs. Abdul Rahman	Police Chief, Viqueque
9	Major (Pol.) Drs. Rizali SH	Police Chief, Ainaro
10	Lt. Colonel (Pol.) Adios Salova	Police Chief, Liquiçá
11	Colonel Timbul Silaen	Chief of Police, Timor Timur
12	Lt. Colonel (Pol.) Gatot Subiaktoro	Police Chief, Covalima
13	Lt. Colonel (Pol.) Drs. J. A. Sumampow	Police Chief, Manatuto
14	Major (Pol.) Drs. Budi Susilo	Police Chief, Bobonaro
15	Lt. Colonel (Pol.) Drs. Irsan Wijaya	Police Chief, Lautém

CIVILIAN AUTHORITIES (NATIONAL)		
1	Ali Alatas	Foreign Minister
2	Major General (ret.) H.R. Garnadi	Assistant I to the Coordinating Minister for Political and Security Affairs
3	B.J. Habibie	President
4	Lt. General (ret.) A.M. Hendropriyono	Minister of Transmigration and Resettlement
5	Brigadier General Glenny Kairupan	Member, Task Force for the Implementation of the Popular Consultation
6	Lt. General (ret.) Feisal Tanjung	Coordinating Minister for Political and Security Affairs
7	Major General Sintong Panjaitan	Military advisor to President Habibie
8	Major General (ret.) Yunus Yosfiah	Minister of Information

CIVILIAN AUTHORITIES (TIMOR-LESTE)		
1	Nazario José Tilman de Andrade	Bupati of Manufahi
2	Filomeno Misquito da Costa	Bupati of Oecussi

3	Martino Fernandes	Bupati of Viqueque
4	Leoneto Martins	Bupati of Liquiçá
5	Guilherme dos Santos	Bupati of Bobonaro
6	Evaristo Doutel Sarmento	Bupati of Ainaro
7	Vidal Doutel Sarmento	Bupati of Manatuto
8	Kolonel Herman Sediyono	Bupati of Covalima
9	Edmundo da Conceição Silva	Bupati of Lautém
10	Constantino Soares	Bupati of Ermera
11	Domingos M.D. Soares	Bupati of Dili
12	Kolonel (Purn.) Suprapto Tarman	Bupati of Aileu

TABLE 4: PRO-INDONESIAN MILITIA GROUPS IN TIMOR-LESTE, 1999

Distric	MILITIA GROUP
Aileu	AHI
Ainaro	Mahidi, Laksaur
Baucau	Team Saka, Team Sera, Forum Komunikasi Partisan (FKP)
Bobonaro	Halilintar, Dadurus Merah Putih (DMP), Firmi Merah Putih, Saka Loromonu, ARMUI Merah Putih, Guntur Merah Putih, Hametin Merah Putih, Harimau Merah Putih, Kaer Metin Merah Putih
Covalima	Laksaur, Mahidi
Dili	Aitarak
Ermera	Darah Integrasi, Darah Merah, Naga Merah, Team Pancasila, Aitarak
Lautém	Team Alfa
Liquiçá	Besi Merah Putih (BMP), Pana (merged early with BMP)
Manatuto	Morok, Mahadomi
Manufahi	ABLAI
Oecussi	Sakunar
Viqueque	Team Makikit, 59/75 Junior

CHRONOLOGY: THE UNITED NATIONS AND TIMOR-LESTE*

1960

The United Nations General Assembly adds "Timor and dependencies" to the list of non-self-governing territories. Timor-Leste is administered by Portugal as an overseas province.

1974

Following a change of Government, Portugal acknowledges the applicability of the United Nations Charter provisions regarding non-self-governing territories and the right of the colonial territories under its administration, including Timor-Leste, to self-determination, including independence.

1975

After violent clashes erupt between groups favouring independence and those favoring integration into Indonesia, Portugal withdraws and Indonesia invades Timor-Leste.

1976

Indonesia annexes Timor-Leste as its 27th province. The United Nations never recognises this integration.

1982

The UN Secretary-General begins informal consultations with the Governments of Indonesia and Portugal aimed at improving the humanitarian situation in the Territory and resolving its status.

1995

The Secretary-General initiates a process to promote a dialogue among East Timorese which provides a forum for East Timorese of all shades of political opinion to explore ideas for improving the situation.

1998

In June, Indonesia's President B.J. Habibie proposes autonomy for Timor-Leste on condition that the territory accepts integration into Indonesia. The proposal is rejected by East Timorese resistance leaders. From August to October, Secretary-General Kofi Annan and the Foreign Ministers of Indonesia and Portugal hold in-depth discussions on Indonesia's proposals for a special status based on a wide ranging autonomy for Timor-Leste.

* From the public website of the United Nations Transitional Administration in East Timor (UNTAET), 2002.

1999

27 January

President Habibie indicates in a public statement that his Government might be prepared to consider independence for Timor-Leste. Talks begin in New York between the Personal Representative of the Secretary-General, Jamsheed Marker, and the Directors-General of the Indonesian and Portuguese Foreign Ministries.

11 March

At ministerial-level tripartite talks in New York, agreement is reached on use of a direct ballot to consult Timor-Leste's people about whether they accept or reject the autonomy proposal.

21 April

Secretary-General Annan welcomes the signing of an agreement, initiated by Indonesia's national Human Rights Commission, which commits all the parties in Timor-Leste to end violence in the Territory.

5 May

The talks in New York result in a set of agreements between Indonesia and Portugal. The two Governments entrust the Secretary-General with organising and conducting a "popular consultation" in order to ascertain whether the East Timorese people accept or reject a special autonomy for Timor-Leste within the unitary Republic of Indonesia.

1 June

The newly-appointed Special Representative of the Secretary-General (SRSG) in Timor-Leste, Ian Martin, arrives in Dili, Timor-Leste.

11 June

The Security Council formally establishes UNAMET through the end of August 1999. In resolution 1246 (1999) adopted unanimously, the Council endorses the Secretary-General's proposal for a mission including up to 280 civilian police officers to advise the Indonesian Police, as well as 50 military liaison officers to maintain contact with the Indonesian Armed Forces. The Council stresses again the responsibility of the Indonesian Government in the maintenance of peace and security in Timor-Leste to ensure the integrity of the ballot and the security of international staff and observers.

18 June

At a press conference in Dili, SRSG Martin says that continuing violence has forced tens of thousands of East Timorese from their homes, creating a "serious obstacle" to preparations for the vote on the future of the Territory.

23 June

Secretary-General Annan decides to delay the Timor-Leste vote by two weeks, citing unabated violence and logistical problems. Reporting to the Security Council, the Secretary-General says that security conditions and the lack of a level playing field do not allow for the consultation process to go forward. Registration is delayed to 13 July to allow time for the deployment of UN staff throughout the Territory and to give Indonesian authorities time to address the pending security concerns.

6 July

Following attacks on UN personnel in Maliana and Liquiçá, Security Council members demand an immediate halt to the violence and intimidation carried out by militia in the territory.

16 July

Voter registration begins after a three-day delay to allow time for Indonesian authorities to resolve remaining security problems.

5 August

Voter registration closes. UNAMET has registered 451,792 potential voters among the population of over 800,000 in Timor-Leste and abroad.

9 August

Supporters and opponents of the autonomy proposal for Timor-Leste sign a code of conduct for the campaign period leading up to the ballot on 30 August.

14 August

Campaigning for the popular consultation begins.

18 August

In response to an upsurge in militia activity, SRSG Martin, Ambassador Agus Tarmidzi, Chairman of the Indonesian Task Force, and senior Indonesian police officials visit Viqueque, Suai and Maliana, where they discuss additional security measures with local police, military and administration.

19 August

East Timorese leaders from pro-independence and pro-autonomy groups agree to establish a 25-person commission to foster reconciliation and cooperation in the Territory until the results of the UN-run autonomy ballot are implemented.

20 August

Violence mars campaigning in Timor-Leste as pro-integration militia harass people attending a pro-independence rally in Suai. In Manatuto, military liaison officers serving with UNAMET are threatened by militia.

24 August

Indonesian authorities assure UNAMET that they will try to create a secure environment. Members of the Security Council express strong concern at the continuing campaign of intimidation and violence in Timor-Leste and call on the parties to fulfill their commitments to disarm and store their weapons.

26 August

SRSG Martin tells a press conference in Dili that the UN intends to proceed with the vote despite the recent spate of deadly violence. In New York, Indonesia's representative, in a meeting of the Security Council, pledges his country's commitment to ensuring that there is a safe environment, as called for in the 5 May agreements. The Security Council extends UNAMET's mandate until 30 November. In a unanimous vote, the Council adopts resolution 126 (1999), endorsing the Secretary-General's proposal to restructure the UN Mission in East Timor for the interim phase after the 30 August vote.

27 August

UNAMET facilitates an historic meeting between the pro-independence fighters of FALINTIL and the Indonesian Armed Forces (TNI) at the main FALINTIL cantonment site in Timor-Leste.

29 August

On the eve of the popular consultation, the Secretary-General issues an appeal to the people of Timor-Leste, calling on all sides to "live up to their responsibilities before history."

30 August

UNAMET announces that at least 95 per cent of registered voters cast their ballots in the popular consultation; a total of more than 430,000.

31 August

Members of the East Timorese Consultative Commission meet for the first time. The group is composed of ten members each from the pro-independence and pro-autonomy camps, as well as five members appointed by the UN Secretary-General .

1 September

Violence erupts outside the UNAMET compound in Dili as militia members attack pro-independence supporters.

2 September

Pro-integration militias, at times with the support of elements of the Indonesian security forces, launch a campaign of violence, looting and arson throughout the entire Territory.

4 September

UNAMET announces the result of the vote: 94,388 or 21.5 per cent of East Timorese voted in favor of the special autonomy proposal and 344,580 or 78.5 per cent voted against. A total of 446,953 East Timorese cast their ballots within and outside the Territory.

5 September

The Secretary-General intensifies his efforts to secure urgent action by Indonesia to bring the situation under control within a specifically limited time frame, or to secure Indonesia's agreement to urgent deployment of an international security force.

8 September

A delegation of five members of the Security Council is dispatched to Jakarta and Timor-Leste to discuss with the Government of Indonesia concrete steps for the peaceful implementation of the 5 May Agreement. In New York, Council members back the Secretary-General's view that if the security situation in Timor-Leste does not improve "within a very short period of time," they will have to consider further action to help the Indonesian Government resolve the present crisis in the Territory.

10 September

As lawlessness in the Territory increases and militia members threaten to invade the UN compound in Dili, the Secretary-General publicly urges the Indonesian Government to accept the offer of assistance from several Governments, including Australia, New Zealand, the Philippines and Malaysia, "without further delay." If the Indonesian Government refuses to do so, he tells a press conference, it cannot escape the responsibility "for what could amount, according to reports reaching us, to crimes against humanity."

12 September

As the five member delegation concludes its visit to Jakarta, the Government of Indonesia agrees to accept the offer of assistance from the international community. The Security Council authorises a multinational force (Interfet) under a unified command structure headed by Australia. The United Nations begins a large-scale emergency humanitarian relief effort. At the same time, increasing attention is paid to the voluntary repatriation of some 250,000 East Timorese from West Timor and other areas in Indonesia and the region. The Indonesian Armed Forces and police begin a draw-down in the Territory.

28 September

Indonesia and Portugal, at a meeting with the United Nations, reiterate their agreement for the transfer of authority in Timor-Leste to the United Nations. They also agree that ad hoc measures are required to fill the gap created by the early departure of the Indonesian civil authorities. UNAMET re-establishes its headquarters in Dili and immediately begins efforts to restore the mission's logistical capacity and redeploy UNAMET personnel as conditions allow.

19 October

The Indonesian People's Consultative Assembly formally recognises the result of the popular consultation.

25 October

The United Nations Security Council, by resolution 1272 (1999), establishes the United Nations Transitional Administration in East Timor (UNTAET). The Mission comprises three main components: governance and public administration; humanitarian assistance and emergency rehabilitation; and a military component with an authorized strength of up to 8,950 troops and 200 military observers.

27 October

The Consolidated Inter-Agency Appeal for East Timor, led by the World Bank, is launched in Geneva to request $199 million to meet urgent humanitarian needs through June 2000.

1 November

The last Indonesian Armed Forces (TNI) leave Timor-Leste. The end of the 24-year presence is marked by a farewell ceremony attended by members of the Indonesian Task Force on Timor-Leste, TNI, United Nations officials and Timorese resistance leader and President of the National Council of East Timorese Resistance (CNRT), Xanana Gusmão. The interagency assessment mission led by the World Bank arrives in Dili and meets at UNTAET headquarters with Xanana Gusmão and Acting SRSG Ian Martin.

2 November

Hostile militia impede UNHCR efforts in West Timor refugee camps in the Atambua area requiring police intervention.

8 November

Three United Nations Special Rapporteurs begin initial investigations on alleged human rights abuses in Timor-Leste.

15 November

The United Nations Economic and Social Council (ECOSOC) endorses an international inquiry into alleged human rights violations in Timor-Leste. The Council votes 27-10, with 11 abstentions, in support of a resolution by the United Nations Commission on Human Rights to send experts to gather information on possible violations committed in Timor-Leste since January 1999.

17 November

The newly appointed Special Representative of the Secretary-General and Transitional Administrator, Sergio Vieira de Mello, takes up duties in Timor-Leste.

17 November

Utusan Khusus Sekretaris Jenderal PBB (SRSG) dan Administrator Transisi yang baru ditunjuk Sergio Vieira de Mello mulai bertugas di Timor-Leste.

21 November

A five-member international commission of inquiry on human rights violations in Timor-Leste arrives in Dili. The commission is led by Sonia Picado.

22 November

The SRSG travels to West Timor where he and US Ambassador Richard Holbrooke witness the signing of an agreement between Interfet and the Indonesian Armed Forces designed to speed up the return of refugees from West Timor. UNHCR reports that despite continued harassment by militia, over 90,000 people have returned to Timor-Leste.

27 November

The SRSG signs the first of a series of legal instruments setting out the terms of UNTAET's administration of the territory. Regulation 1999/1 establishes the authority of the Transitional Administrator and the legal regime for the Territory.

1 December

José Ramos-Horta, the Nobel Laureate, returns to East Timor after 24 years in exile. He is accompanied by the SRSG.

2 December

The SRSG signs Regulation 1999/2 on the establishment of the National Consultative Council (NCC), a 15-member joint East Timorese-UNTAET body, through which the representatives of the people of Timor-Leste can actively participate in the decision-making process during the transition period.

3 December

UNTAET establishes, by regulation 1999/3, a Transitional Judicial Service Commission comprising five individuals, namely, three East Timorese and 2 internationals .

17 December

A United Nations donor conference held in Tokyo results in over $500 million in pledges to rebuild Timor-Leste.

20 December

UN military observers find a mass grave in the East Timorese enclave of Oecussi. Eighteen burial sites are uncovered, some containing more than one body.

2000

3 January

UNTAET formally takes control of Dili Airport. An Australian airline will begin flying three times a week to Darwin beginning 18 January.

12 January

UNTAET, Interfet and Indonesian military officials sign a Memorandum of understanding intended to improve cooperation at the border between East and West Timor.

19 January

UNTAET, acting on behalf of the Territory, signs a Memorandum of understanding extending the terms of the East Timor Gap Treaty with the Government of Australia.

21 January

The Secretary-General appoints Lieutenant General Jaime de los Santos of the Philippines as Force Commander of UNTAET's military component.

31 January

The Secretary-General submits his first report on the work of UNTAET. He says that the humanitarian disaster which resulted from the violence after the popular consultation has been the most pressing crisis facing UNTAET.

15 February

The Secretary-General begins a two-day official visit to Jakarta, his first since taking office, and meets with Indonesian officials.

17 February

The Secretary-General arrives in Timor-Leste for a two-day visit. He meets in Dili with the independence leader Xanana Gusmão, Nobel Peace Laureate Bishop Carlos Filipe Ximenes Belo, and Bishop Basilio Nascimento.

21 February

World Bank President James Wolfensohn, Xanana Gusmão, and the SRSG sign a grant agreement for the disbursement of $21.5 million over two and a half years for community empowerment and local government projects.

23 February

Interfet officially transfers its military command of the Territory to UNTAET. A $1.4 billion gas exploitation plan in the Timor Gap is approved .

28 February

UNTAET and Interfet finalise administrative arrangements for the takeover of security responsibilities.

29 February

Indonesian President Abdurrahman Wahid visits Timor-Leste. The President signs a communiqué with the SRSG, establishing, among other things, a border regime for the passage of people and goods between Timor-Leste and Indonesia, cooperation on legal matters and continued support for East Timorese students wanting to study in Indonesian universities.

3 March

A series of armed attacks against United Nations troops and East Timorese people leads UNTAET to declare western zones to be "high threat" areas.

27 March

A police training college supported by UNTAET opens in Dili.

29 March

The SRSG and the Indonesian Attorney General, Marzuki Darusman, conclude an eight-week interim agreement on the provision of mutual assistance in legal, judicial and human rights matters.

31 March

The Indonesian Government extends for three months the deadline for the return of refugees and rescinds its decision to cut off humanitarian aid to the refugees, noting that it would instead request assistance from the international community. The SRSG asks the Indonesian Defence Minister, Mahfud MD, to control any "extremists" and stop the militia incursions into Timor-Leste by Indonesian-based militia. The Defence Minister says that neither the Indonesian army nor the police are involved in supporting the militia groups in West Timor.

3 April

UNTAET, the World Bank and the United Nations Development Programme (UNDP) sign a grant agreement for $499,000 towards a project to create employment for the poorest communities in Dili.

5 April

UNTAET announces its decision to appoint East Timorese to top administrative positions within the new administration in Dili, namely as deputy district administrators and deputy heads of departments. The SRSG announces the establishment of new District Advisory Councils to allow East Timorese to voice their concerns on all key issues.

11 April

The UNTAET Force Commander and the Commander of the Indonesian army in West Timor sign a Memorandum of understanding (MOU) covering security, boundary crossing, the passage of refugees and the provision of humanitarian assistance along the border between East and West Timor. The MOU confirms the previous Memorandum of 12 January, provides that neither side will be allowed to carry weapons across the border and specifies that both parties agree to cooperate in reporting and investigating boundary incidents.

28 April

The East Timorese Postal Service begins operating.

12 May

The Dili District Court opens its first public proceeding.

19 May

Over eighty people are confirmed dead, most of them East Timorese refugees, in the intense flooding that continues to ravage West Timor. Some 21,000 people are estimated to have been displaced, 16,000 of whom are from 21 refugee camps for East Timorese in the Belu District of south-eastern West Timor.

30 May

At the opening of the Conference on the Reconstruction of East Timor held in Dili, UNTAET suggests a period of co-government between UNTAET and the East Timorese prior to a full transfer of authority.

7 June

UNTAET and the World Bank sign a $12.7 million grant to help revamp the country's health sector.

8 June

The SRSG and Xanana Gusmão meet with the Governor of West Timor to discuss how to speed up repatriation and increase trade on the island.

20 June

UNHCR and other aid organisations suspend activities in three West Timor camps near Kupang following what it describes as several serious security incidents of threats and intimidation against its staff.

21 June

UNTAET and CNRT agree on a new composition and structure for the National Consultative Council (NCC). The newly expanded NCC will have 33 members. The members will include 13 representatives from the districts, seven representatives from CNRT and three representatives from other political parties. Its other members will represent youth, women's groups and non-governmental organisations, as well as the Catholic, Protestant and Muslim communities, professional and farmers' associations, the labour movement and the business community. All members, including the chairman of the NCC will be East Timorese.

23 June

In Lisbon, the donor community pledges its continued support for the reconstruction of Timor-Leste and the new East Timorese administration, and endorses a work programme for the Territory's development through December 2000. The donors indicate their support for closing the financing gap of $16 million for the next financial year.

12 July

The NCC adopts a regulation establishing a Transitional Cabinet comprised of four East Timorese and four UNTAET representatives. The Secretary-General appoints Lieutenant-General Boonsrang Niumpradit of Thailand as Force Commander of UNTAET's military component, as of 19 July 2000. The first 50 graduates of Timor-Leste 's Police Training College officially take up their functions as police officers.

17 July

The Transitional Cabinet holds its first meeting in Dili.

24 July

A soldier from UNTAET's New Zealand contingent is killed following an exchange of gunfire with an armed group near the border with West Timor. This is the first combat-related death of a United Nations peacekeeper in Timor-Leste.

27 July

At a meeting in Indonesia between the SRSG, the UNTAET Force Commander and West Timor Commander, Major General Kiki Syahnakri, it is agreed that an ad hoc committee, comprised jointly of the Indonesian army and the UN peacekeeping force, be set up to investigate the killing of the UNTAET soldier on 24 July.

31 July

UNTAET inaugurates Timor-Leste's first diplomatic training programme in Dili.

3 August

The Security Council calls on the Government of Indonesia to cooperate closely with the United Nations to end cross-border incursions from West Timor and to disarm the militias still operating in the border area.

10 August

A soldier from UNTAET's Nepalese contingent is killed during an exchange of fire with militia in Suai, close to the border with West Timor.

23 August

A high-level Indonesian delegation briefs the SRSG on the Indonesian Government's new policy on refugees and says that the refugee camps in West Timor will be closed down within three to six months in coordination with the United Nations.

25 August

The first criminal sentence in Timor-Leste is imposed by the Dili District Court.

6 September

Three UNHCR staff are murdered in Atambua, West Timor, following an attack by armed militias on the UNHCR office.

8 September

The Security Council adopts resolution 1319 which insists "that the Government of Indonesia take immediate additional steps, in fulfillment of its responsibilities, to disarm and disband the militia immediately, restore law and order in the affected areas in West Timor, ensure safety and security in the refugee camps and for humanitarian workers, and prevent cross-border incursions into East Timor."

12 September

The East Timor Transitional Cabinet approves the establishment of a East Timor Defence Force (ETDF) with former Falintil soldiers representing the core of the 3,000 strong force.

23 October

CNRT President Xanana Gusmão is elected speaker of the East Timor National Council, a precursor of the nation's parliament.

10 November

A Security Council delegation visits East and West Timor to review the implementation of resolution 1272, which gives the UN Transitional Administration in East Timor (UNTAET) the mandate to prepare the territory for independence. In West Timor, the delegation reviews resolution 1319, in particular the need for disarming and disbanding militia groups and repatriating refugees to Timor-Leste.

15 November

The National University of Timor-Leste is opened.

1 December

The first indictments of persons suspected of committing serious crimes in Timor-Leste are presented to the Dili District Court.

11 December

The first indictment containing charges of "crimes against humanity" committed in Timor-Leste is filed .

13 December

The Timor-Leste Transitional Cabinet agrees to a proposal to establish a Commission for Reception, Truth and Reconciliation.

2001

3 January

The Indonesian Armed Forces and UN peacekeeping force agree to launch joint security operations along the border between Timor-Leste and Indonesia's East Nusa Tenggara province, in West Timor.

17 January

The East Timor Transitional Cabinet approves draft regulations establishing a defence force for Timor-Leste and providing for the registration of political parties.

31 January

By Resolution 1338 (2001), the Security Council extends the mandate of UNTAET until 31 January 2002.

1 February

At a ceremony in Aileu marking the transition of Falintil into the Timor-Leste Defence Force, Falintil Commander Taur Matan Ruak is appointed Commander-in-Chief of the Force, with the rank of Brigadier-General.

16 March

The SRSG announces that the first democratic election in Timor-Leste will be held on 30 August 2001, after signing the Regulation on the Election of a Constituent Assembly .

17 March

UNTAET begins civil registration of the East Timorese population, an important step toward organizing Timor-Leste's first Constituent Assembly elections.

4 May

The North Jakarta District Court sentences six men to between 10 and 20 months in jail for their roles in connection with the killings on 6 September 2000 of three UNHCR staff members in Atambua, West Timor. Secretary-General Kofi Annan calls the light sentences "a wholly unacceptable response."

7 May

Registration of political parties and independent candidates for the Constituent Assembly election commences.

9 June

The Timor-Leste resistance umbrella organisation CNRT is dissolved to make way for a range of political parties to participate in the upcoming election.

23 June

Civil registration ends with 778,989 East Timorese having being registered and issued temporary identity cards.

28 June

The SRSG presents the first State of the Nation address to the East Timorese National Council, giving a detailed and in-depth overview of the work and progress to date, the challenges that lie ahead, and calling again for a Pact of National Unity.

3 July

An Arrangement between the East Timor Transitional Administration and the Australian Government is approved giving Timor-Leste 90 per cent of the revenues from the oil and gas reserves in the Timor Sea.

30 August

Hundreds of thousands of East Timorese head to the polls to elect members of a Constituent Assembly, in the Territory's first democratic elections.

6 September

Fretilin is declared the winning party, with 57.3% of the vote, in Timor-Leste's Constituent Assembly elections.

20 September

24 members of the new all-East Timorese Council of Ministers of the Second Transitional Government are sworn-in before a large audience in Dili. The new Council replaces the Transitional Cabinet.

22 October

Constituent Assembly President Francisco Guterres signs a resolution adopting an assembly recommendation that UNTAET hand over sovereignty to elected Timorese government institutions on 20 May 2002.

26 October

The first East Timor Defence Force (ETDF) battalion is formally inaugurated.

31 October

The Security Council endorses Secretary-General Kofi Annan's recommendations that the United Nations continue its role in Timor-Leste after the territory's independence next year, stressing that a premature withdrawal of the international presence could have a destabilising effect in a number of crucial areas.

26 November

UNTAET begins scheduled military downsizing. The SRSG welcomes UNTAET's new Civilian Police Commissioner, Canadian Peter Miller, to Timor-Leste.

30 November

The Constituent Assembly approves the overall structure of Timor-Leste's first draft Constitution.

11 December

The first convictions of crimes against humanity are handed down by the Dili Serious Crimes Panel.

13 December

The Donor's Conference on Timor-Leste held in Oslo, Norway, ends with participating countries expressing appreciation for Timor-Leste's progress and of the need to sustain the momentum of the achievements realised thus far.

2002

31 January

The Security Council unanimously adopts resolution 1392 (2002) extending the mandate of UNTAET until 20 May 2002. The Constituent Assembly votes to transform itself into Timor-Leste 's first legislature upon final approval of the Constitution.

18 February

United Nations international prosecutors indict 17 militia and Indonesian Armed Forces members for crimes against humanity allegedly committed in 1999.

7 March

A pro-integration militia member is found guilty of murdering a United Nations peacekeeper on 24 July 2000 and sentenced to six years imprisonment by an Indonesian court.

22 March

Timor-Leste's Constituent Assembly signs into force the Territory's first Constitution.

14 April

East Timorese presidential elections are held. Francisco do Amaral and Xanana Gusmão stand as the only two candidates.

17 April

Xanana Gusmão is announced as President-elect of Timor-Leste after capturing 82.7 per cent of the vote in the presidential elections.

20 May

Timor-Leste becomes an independent nation.

Note on sources

With a few exceptions, the documents cited in this report are held in the closed files of United Nations agencies, government bodies, and non-governmental organisations. The most important collections of documents are those of: i) the Human Rights Unit of UNMISET in Dili; ii) the Serious Crimes Unit (SCU) in the Office of the General Prosecutor of Timor-Leste; and iii) the East Timorese non-governmental human rights organisation Yayasan HAK. The author was fortunate in being granted permission to examine files from all of these collections for the purposes of preparing this report. To facilitate the future retrieval of the documents cited, the provenance of each has been provided at each reference, together with a document number. Thus, documents from the files of the Human Rights Unit are listed as 'HRU Collection, Doc. #X;' those from the Serious Crimes Unit are listed as 'SCU Collection, Doc #X;'and those from Yayasan HAK are listed as 'Yayasan HAK Collection, Doc.#X."

Some sections of this report are based on work previously published by the author. The discussion of the Indonesian military in Chapter 2 draws from: "Indonesia – On a New Course?" Muthiah Alagappa, ed. *Coercion and Governance: The Declining Political Role of the Military in Asia*. Stanford: Stanford University Press, 2001, pp. 226-256. Parts of Chapter 4 and much of Chapter 5 were originally published as: "The fruitless search for a smoking gun: tracing the origins of violence in East Timor," Freek Columbijn and J. Thomas Lindblad, eds. *Roots of Violence in Indonesia*. Leiden: KITLV Press, 2002, pp. 243-276. The discussion of militia history in Chapter 6 draws substantially, though with revisions, on: "People's war: militias in East Timor and Indonesia," *South East Asia Research*, 9, 3, pp. 271-318. In Chapter 10, case studies 10.6 and 10.7 are slightly revised versions of internal reports the author prepared as a UNAMET Political Affairs Officer in 1999. Some parts of Chapter 12 are drawn from: "If You Leave Us Here, We Will Die," in Nicolaus Mills and Kira Brunner, eds. *The New Killing Fields: Massacre and the Politics of Intervention,* New York: Basic Books, pp. 159-183.

Note on the author

Geoffrey Robinson is an Associate Professor and Vice-Chair of Graduate Affairs in the Department of History at UCLA. He earned his BA at McGill University and his Ph.D at Cornell University. He is the author of *The Dark Side of Paradise: Political Violence in Bali* (Cornell University Press, 1995) and a number of scholarly articles on the history and politics of Indonesia and East Timor. From 1989-1994 he worked at the Amnesty International headquarters in London, where he directed research and authored several major reports about Indonesia, East Timor, and the Philippines. From June to November 1999, he served as a Political Affairs Officer with the United Nations Mission in East Timor (UNAMET).

Annexe 2:

Data and statistical methods

Data and statistical methods

Tables:

Graphics:

Annexe 2
Data and statistical methods

Introduction

1. Human rights incidents are complex. An eyewitness or victim may report one or many victims, who may each have suffered one or many violations. Each violation may also involve one or many perpetrators. Hence, the interactions between different persons in thousands of these types of incidents require careful empirical methods of identification and aggregation in order to facilitate valid and reliable quantitative analysis.

2. To assure the quality of its data, the Commission instituted several processes. This methodological appendix presents the data and methods from which the Commission's statistical results are derived.

3. The Appendix is divided into six main sections. Section 1 provides an outline of the relevance of empirical data analysis to the Commission's mandate. Section 2 provides detailed descriptions of the different datasets which were used in the Commission's statistical analysis. Section 3 describes the data editing, cleaning and name normalisation techniques which were applied to the data. Section 4 presents the recording accounting tabulations at different stages of the data conversion process. Section 5 presents the various de-duplication and record linkage techniques which were used to match multiple reports of the same individual victim. Section 6 documents the data processing which was used to account for multiple reports of groups of anonymous victims. Finally, section 7 presents the statistical estimation techniques which were used to derive total estimates of the magnitude and pattern of fatal violations and displacements during the Commission's reference period.

Relevance of empirical data analysis to the Commission's mandate

4. The Human Rights Data Analysis Group (HRDAG) helped the Commission to collect and analyse human rights violation data relevant to the mandate period of the

Commission, 1974-1999.* This Appendix explains how the data were organised and processed.

5. The Commission required an information management system to manage and structure the data needed to answer the issues outlined in its mandate. Specifically, the Commission's information management system had to supply information about past human rights violations which would subsequently provide:

- Descriptive statistical analyses of general patterns and trends of violations in order to describe the "nature" of human rights violations (the types of violations which were committed).[1]
- Statistical projections of total violations to establish the "extent" of human rights violations (the total number of violations which were committed).[2]
- Statistical hypothesis testing of the regularity of certain violations in order to investigate whether certain patterns of violation constituted "a systematic pattern of abuse".[3]
- Case-level analysis by basic filing and searching of the database in order to describe the "antecedents, circumstances, factors, context, motives and perspectives" that led to large-scale violations.[4]
- Structured quantitative analysis and hypothesis tests in order to investigate whether "human rights violations were the result of deliberate planning, policy or authorisation" on the part of specific parties to the conflict.[5]
- Formal explanations of the scientific and statistical methodologies employed in order to demonstrate that the Commission's findings are based on "factual and objective information and evidence collected or received by it or placed at its disposal".[6]

6. The Commission was aware that after suffering human rights violations a large proportion of victims and their families had lived in silence, fear and isolation, sometimes for more than 25 years. Therefore the Commission had to devise data collection and information management systems that would both produce reliable historical data and promote public participation in the truth-seeking process.

Data sources

7. This section sets out the characteristics of the three primary statistical databases the Commission established to undertake quantitative analysis of past human rights violations and promote reconciliation in Timor-Leste. The Human Rights Violations Database (HRVD) was a collection of narrative statements from victims, qualitative

* HRDAG is a division of Benetech Inc in Palo Alto, California, USA. HRDAG staff include statisticians, computer programmers, and record linkage experts. HRDAG team members have worked in large-scale human rights documentation and analysis projects on five continents, in more than a dozen countries over the past 20 years. HRDAG has worked with official truth commissions in Haiti, South Africa, Guatemala, Peru, Ghana and Sierra Leone; with the International Criminal Tribunal for the Former Yugoslavia; and with non-governmental human rights groups in El Salvador, Cambodia, Guatemala, Colombia, Afghanistan, Sri Lanka and Iran. For more information see http://www.hrdag.org.

reports from Amnesty International (AI) and data collected by Fokupers, a local East Timorese NGO. The Retrospective Mortality Survey (RMS) was a random-sample household survey used to measure displacement and mortality during the Commission's mandate period. The Graveyard Census Database (GCD) was a comprehensive census of public graveyards in each of the 13 districts of Timor-Leste.

8. The combined data from all three of the Commission's data streams – the HRVD, the RMS and the GCD – were used to make independent demographic estimates of the total extent, pattern and trends of and levels of responsibility for past fatal violations in Timor-Leste.

The Human Rights Violations Database (HRVD)

9. The following sections describe the three documentation projects which were conducted to form the Commission's Human Rights Violations Database. The process of transforming qualitative information from these documentation projects into statistical data is also presented. Finally, the recording accounting from the three documentation projects is presented.

The statement-taking process of the Commission

10. In February 2003, the Commission began collecting narrative statements from individuals in all 13 districts of Timor-Leste and from East Timorese people then living in West Timor. These statements were the basis of the HRVD. The Commission established offices in each of the 13 districts to implement its mandate. A total of 7,669 relevant narrative statements were collected documenting reported human rights violations. These narratives provided extensive information on both fatal and non-fatal violations during the reference period.* The statement-taking process covered all 65 sub-districts in each of the 13 districts of Timor-Leste.† In addition to the district-level statement collection, the Commission also collected 86 statements from East Timorese refugees and others living in West Timor, through the Commission's partnership with a coalition of West Timor-based NGOs.‡

11. Given that the statement-giving was entirely voluntary on the part of the deponent, and based on a convenience sample, the distribution of statements across geographic locations was not uniform. As the graph below indicates, the Commission collected

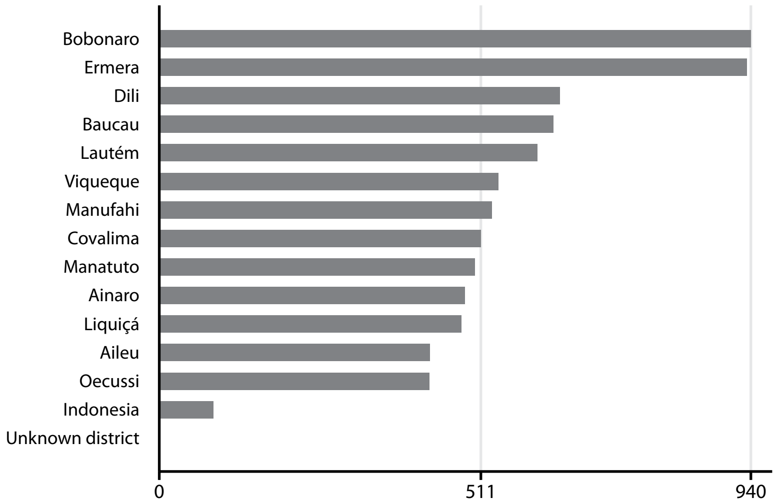
* Commission teams collected a total of 7,824 statements. Some of these (155 statements) were not entered into the HRVD because they either did not mention violations connected to the Commission's mandate, or the violations which they mentioned were not within the Commission's reference period.

† The Commission's district teams generally worked with communities according to local identification with sub-districts and villages and *aldeias*. As the Commission commenced work in early 2002, the common figure of sub-districts in Timor-Leste was 65; however, the National Statistics Office and the 2001 Timor-Leste Suco Survey report 64 sub-districts.

‡ The Coalition of NGOs comprised CIS (Center for Internally Displaced Persons Service), Truk-F, Lakmas (Lembaga Advokasi Kekerasan Masyarakat Sipil), Yabiku and Yayasan Peduli |ndonesia (YPI). Staff from these NGOs collected statements from East Timorese living in Belu, Kefamenanu, Soe and Kupang in West Timor between February and August 2003.

substantially more statements from deponents in Bobonaro and Ermera than from deponents in other districts (See section below for a detailed description of the possible factors which influenced the sampling process during the Commission's statement-taking process).

Number of statements given by district



Source: Database of narrative statements given to the CAVR

12. In order to analyse this qualitative information statistically, it was coded into a FoxPro database using the design standards of the "Who Did What To Whom" data model.[7] Although these data provide many useful insights, the Commission statement-taking process that generated them did not employ a probability-based random sample. Rather the Commission accepted statements from those willing to volunteer the information they could recall. As a result the narrative data, in isolation, cannot be assumed to be statistically representative of the overall extent and pattern of violations in Timor-Leste.

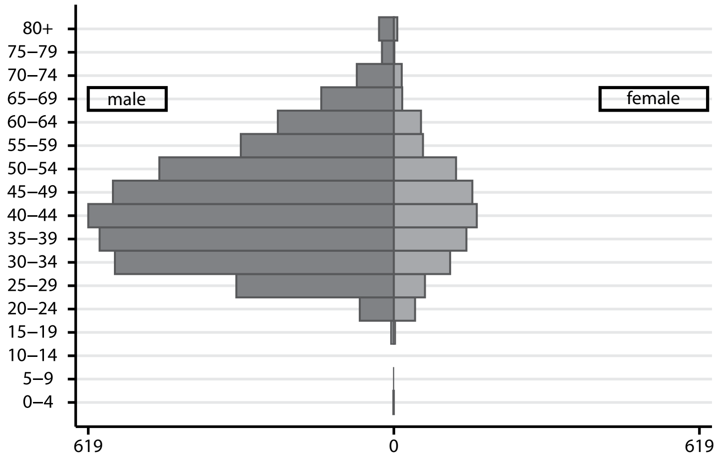
Demographic characteristics of deponents

13. Approximately 21.4% (1,642/7,669) of all deponents in the Commission statement-taking process were women. In some communities, women did not participate in the Commission's socialisation activities as they were expected to stay at home. In addition fewer women were members of formal organisations with access to information regarding the Commission's work, and some women were uncertain or shy about coming forward to give testimony.[*]

* CAVR, internal document: Evaluation Report of CAVR Statement Taking Process. CAVR Archive..

14. The Commission received statements from adults of all ages. For both males and females, the highest number of deponents were in the 40-44 age group, as indicated in the following graph.

Number of statements by age and sex of the statement-giver



Source: Database of narrative statements given to the CAVR
Catatan: 34,6% of violations data did not include the age or sex of the victim

15. Despite the substantial difference in male/female participation rates in the Commission's statement-taking process, female deponents tended to talk about violations against themselves (relative to violations against others) in roughly the same proportion as male deponents. As the following figure shows, of all the violations reported by females, 30.6% (2,939/9,605) were violations against themselves, whereas for male deponents, 35.3% (17,438/49,382) of reported violations were against themselves.

Table 1: Statements given relative to the sex of the statement-giver

Sex of deponent	Deponent same as victim	Deponent different to victim	% (Deponent same as victim)	% (Deponent different to victim)	Total
Female	2,939	6,666	30.6	69.4	9,605
Male	17,438	31,944	35.3	64.7	49,382
Not recorded	8	979	0.8	99.2	987
	20,385	39,589	34.0	66.0	59,974

16. The social, cultural and economic challenges faced by women may have limited their participation in the Commission's socialisation and statement-taking processes.

However, the Commission's statistical findings are consistent with the claim that most of the victims of killings, disappearances, torture and ill-treatment were young males. By contrast, the overwhelming majority of sexual violations documented by the Commission were suffered by female victims (see Vol. I, Part 6: Profile of Human Rights Violations).

17. Statement-takers interviewed deponents in Tetum, Indonesian or other East Timorese languages or dialects (which are oral though not commonly written languages) and then wrote the text of the interview in Tetum or Indonesian. Statement-taking forms were available in Tetum and Indonesian. Of the 7,669 statements received by the Commission and found to be within the Commission mandate, 81.7% were in Tetum, 17.0% in Indonesian, 1.2% in other East Timorese languages, and 0.1% in a language that was not specified. As the Commission's statement-taking forms were in Tetum and Indonesian, statements given in other languages were written by the statement-takers onto the official form in either Indonesian or Tetum before coding, data-entry and analysis of the narrative statements.

Potential sampling biases in the statement-taking process

18. As discussed elsewhere in this section, the voluntary nature of the Commission's statement-taking process resulted in a degree of "self-selection". This "self-selection", in turn, introduced a number of factors which affected who was able to give a statement, such as:

- People who lived in remote and mountainous areas very far from where the data were being collected (such as district towns) had less chance of being in the sample than those closer to regional towns and district capitals
- People who were socially active and/or physically agile were more likely to give statements than those who were sick, elderly, disabled or traumatised
- People who were active in the local community or closely affiliated with local village, sub-district and district officials and elders were more likely to participate in the socialisation process and statement taking because these local statement-collection efforts were often organised through local village structures and officials
- People who died before the Commission was formed did not have an opportunity to tell their stories to the Commission; therefore, events that took place in the past tended to be less frequently reported than more recent events
- People with little or no access to the media and mass communications were less likely to approach the Commission, and
- People from constituencies that were hostile to the Commission were less likely to make statements.

19. In order to address sampling biases, the Commission supplemented the statement-taking process by the collection of narrative statements from Fokupers and secondary source information from Amnesty International. Furthermore, to account for biases in measurement of displacement and fatal violations, the Commission developed its Retrospective Mortality Survey which collected structured information from a random

probability sample of households in Timor-Leste (See section below for a detailed presentation of the design of the sampling techniques and survey instruments which were used for the Retrospective Mortality Survey).

Amnesty International

20. Amnesty International reported on the East Timorese human rights situation during the Commission mandate period mostly by way of information gathering through underground networks in Timor-Leste and through its contacts within the East Timorese diaspora in Australia and Portugal.

21. The Commission received 322 reports and documents from Amnesty International, which were compiled between 1975 and 1999.*

22. Amnesty International's qualitative reports and Urgent Actions were coded and entered into the Commission's Human Rights Violations Database using the same methods and standards as were used for the statements which were collected by the Commission. The information collected from Amnesty International describes the general human rights situation in Timor-Leste, as it was observed by the international human rights community at the time.

Fokupers

23. Forum Komunikasi Untuk Perempuan Loro Sae (Communication Forum for East Timorese Women, Fokupers) a local human rights NGO, constructed a violations database after the Popular Consultation-related violence in 1999.† The Fokupers database is constructed from open-ended interviews conducted by Fokupers staff with local East Timorese women. Originally, the main purpose of the interviews was linked to the counselling work conducted by Fokupers. However, the objectives were extended to include documentation for investigation purposes by competent legal authorities, such as the UN's Serious Crimes Unit. The narrative statements were taken in the Tetum language.

24. Fokupers constructed its database to facilitate the publication of a report on violence against women. Their original database was centred on representing the biographical data of victims, the narrative events that were described, identifying the violations which occurred and perpetrators involved. In July 2004, Fokupers submitted these data to the Commission on the condition that personal identifiers of deponents, victims,

* The Commission was unable to locate the following Amnesty International Reports: ASA 21/12/83 UA 212/83 21 September, ASA 21/16/85 Disappearances, ASA 21/44/85 Unfair Trials and Possible Torture in Timor-Leste, ASA 21/22/87 Statement on ET by AI to the UN Special Committee on Decolonisation, ASA 21/23/87 ET: Releases of Political Prisoners, ASA 21/14/91 AI statement to UN Special Committee on Decolonisation - Appendix I and II, ASA 21/24/91 Timor-Leste: After the massacre – Appendix 1, As a result, the Commission's statistical analysis of violations in Timor-Leste reported by Amnesty International does not include relevant acts and incidents covered in these reports.

† Fokupers was founded in 1997 to support victims of political violence through counselling programmes and other forms of assistance to women victims of violations, including ex-political prisoners, war widows, and wives of political prisoners. Its mandate also includes promoting women's human rights among the local population, especially East Timorese women.

or family members in the database would not be identified in the Commission Final Report. Commission staff recoded the data, based on the Commission's standardised definitions and coding scheme, so that these data could be analysed in parallel with the CAVR's Human Rights Violations Database.

Coding the qualitative sources (CAVR narrative statements, Amnesty International and Fokupers)

25. Data coding is the process of transforming unstructured narrative information on violations, victims, and perpetrators into a countable set of data elements, without discarding important information or misrepresenting the collected information.

26. In October 2003, the Commission data processing team reviewed the coding and data entry process in order to identify systematic errors and inconsistencies in the coding and data entry process. At the time, 2,473 statements had been coded and entered into the Commission's database. A random sample of 15% of statements (i.e. 371 statements) in the database was taken, stratified on the district in which the statement was taken.

27. Each statement was reviewed by a coder: the coder re-coded the statement without looking at how it had been coded originally. Then the results of the two codings were compared and errors in the original coding were identified, noted and then changed. In addition, the coder would also review the database entry for this statement and identify and note any data entry errors and correct them.

28. Within the 371 reviewed statements, 416 coding errors were identified. 58% (241/416) of these errors were violation coding errors, 12% (49/416) errors associated with coding of the victim's affiliation, 10% (42/416) with the level of location specificity coded and 9% (36/416) were associated with the coding of the institutional affiliation of the perpetrator. Of the 416 coding errors identified, 70% (291/416) of these coding errors were errors of non-identification (i.e. where the act was not identified as a violation or the person or location was not identified by the coder). Another 17% (71/416) of the coding errors resulted from the coder including the act as a violation when what was described in the narrative did not met the definitions and boundary conditions of the Commission's controlled vocabulary. Finally, 13% (54/416) of the coding errors were the result of misclassification of an act into the incorrect violation category.

29. As a result of this coding review, the data processing team undertook three initiatives to minimise these errors in the future: (1) a number of revisions were made to the Commission's controlled vocabulary; (2) a training workshop in which the results of the review were presented to the coding team and extra training provided in the necessary areas; and (3) the implementation of regular group coding exercises where coders coded the same statements and reviewed the consistency of their coding decisions using both qualitative reviews and quantitative Inter-Rater Reliability (IRR) measures.*

* Inter-Rater Reliability is the extent to which two or more coders agree. Inter-Rater Reliability addresses the consistency of the implementation of a coding system.

30. The main types of revisions which were made to the Commission's controlled vocabulary were:

- A reduction in the number of violation categories to a more manageable list
- Refinement of boundary conditions for conceptually similar violation categories (such as torture and ill-treatment)
- Refocusing the controlled vocabulary to the measurement of violations only, not both the measurement of violations and the physical and psychological impact of these violations
- Simplifying the definitions of violation categories and ensuring the syntax of the definition is more consistent with the specificity of information collected in the statements (for example, technical legal terms were re-worded into common language or eliminated, as they did not fit the historical reality being measured)
- Revision to the institutional actors list; both simplification of the list and hierarchical structuring of the institutions to reflect their structural relationships with each other.

HRVD data collection results

31. The HRVD's three combined data sources produced a database with records as shown below. These records represented individual and group victims, both of which suffered fatal and non-fatal violations. The figure shows the breakdown of the number of records collected in each database. Note that these numbers represent the data totals before cleaning where invalid and duplicate records were removed from the databases.

Table 2: Recording accounting matrix for the Human Rights Violations Database

	Statement Count	Individual Count	Fatal Violations	Non-Fatal Violations
CAVR statements	7,779	38,812	6,778	31,595
Amnesty International	267	547	122	631
Fokupers	423	4,888	376	3,983
Total	**8,469**	**4,4247**	**7,276**	**36,209**

32. Groups are records of unnamed victims that identify two or more victims. Some victims suffered multiple non-fatal violations, others suffered non-fatal violations and a fatal violation, and others suffered only a fatal violation. Consequently, violation totals do not sum to the victim count.

Retrospective Mortality Survey (RMS)

33. The Commission undertook a Retrospective Mortality Survey (RMS) to provide a probability-based estimate of displacement and deaths. This survey drew a stratified random sample of households, and used a structured questionnaire to collect information about deaths in the family and displacement events during the Commission's reference period. The survey enabled statistical estimates of the extent of natural mortality, famine-related deaths, conflict-related deaths, and migration.

Statistical sampling used in the RMS

34. The RMS sample was based on a two-stage sample design. The first stage was a sample of all 2,336 *aldeias* in Timor-Leste, and the second stage was a sample of households within the selected *aldeias*.*

35. The population of households was stratified along the following variables: urban/rural, district location, and elevation.† Implicit stratification methods were used so that the list of *aldeias* was sorted by the following ranked variables: urban/city, district, and altitude, and a systematic random sample picked *aldeias* across each of the stratification variables.‡ A cumulative measure of size variable is created and a sampling interval is calculated as the number of clusters (144) divided by the total measure of size (180,015), which equals 1,250.1. A random number between 1 and 1,250.1 was generated (397.235) and the *aldeia* with a cumulative measure of size above that number was selected in the sample. 1,250.1 was added repeatedly to the initial randomly generated number and *aldeias* were selected throughout the list in the same fashion.

36. The decision to draw a fixed number of 20 households, instead of something proportional to the size of the *aldeia* or some other allocation method, is primarily one of operational considerations. Selecting a fixed number of households per *aldeia* is one way of retaining control of the overall sample size and of having an approximately uniform distribution of workload among interviewers.

37. The Commission considered the feasibility of incorporating East Timorese respondents still displaced in West Timor into the reference population.§ However,

* An *aldeia* is the smallest administrative unit in Timor-Leste. In general, an *aldeia* is a settlement of group of homes in a small local area. Usually, a *suco* (village) is made up of three or four *aldeias*, and groups of *sucos* make up a sub-district which is an administrative subset of a district. According to the 2001 Timor-Leste Suco Survey there are 13 districts, 64 sub-districts, 498 *sucos*, and 2,336 *aldeias* in Timor-Leste. The Commission's district teams generally worked across 65 areas considered by communities as sub-districts, as administrative boundaries took some time to be reorganised following the end of the occupation.

† Stratification is the process of grouping members of the population into relatively homogeneous subgroups before sampling. The strata need to be mutually exclusive such that every element in the population may be assigned to only one stratum. The strata should also be collectively exhaustive, in that no population element can be excluded. Random sampling is then applied within each stratum. Stratified random sampling often improves the representativeness of the sample by reducing sampling error.

‡ The Commission used a method known as Probability Proportional to Size (in this case "size" refers to the number of households and not population, although the two are obviously correlated), a common design in surveys of this kind.

§ Section 3.3 Regulation 10/2001 states: "The Commission may conduct all such activities that are consistent with the fulfillment of its mandate within the present Regulation."

security, operational and data quality concerns arising from conditions in West Timor made survey implementation there difficult. Therefore, the reference population that was sampled by the Commission consisted of all households within the 13 districts of Timor-Leste.

38. It was not optimal, for both statistical and operational reasons, to allow *aldeias* with fewer than 20 households to be sampled. Therefore, small *aldeias* were combined with nearby *aldeias* (which were not necessarily adjacent), before sampling took place, so that the estimated number of households in a cluster (defined as an *aldeia* or group of *aldeias*) was at least 40, to reduce the chance that a sample cluster had fewer than 20 households. In practice, due to the inaccuracy of the frame, on arriving in an *aldeia* a field team might find that it had fewer than 20 households, either because the number of households reported in the 1990 census was inaccurate, or because it had changed in the intervening years. For these reasons, the 144 sampled *aldeia* clusters actually contain 165 *aldeias*. Operationally, this means that in these clusters, interviewers had to draw a random sample of 20 households from among the combined total number of households in the cluster.

Questionnaire design and development for the Retrospective Mortality Survey

39. The RMS questionnaire was designed to fulfill the following objectives:
- To produce estimates of total mortality in Timor-Leste between 1974 and 1999, using both survey-based estimation techniques and Multiple Systems Estimation techniques, and
- To develop survey-based analyses that estimate and describe the complicated displacement movements within Timor-Leste throughout the Commission's mandate period.

40. As a result, the questionnaire was organised into the following modules:
- A household register
- A head of household displacement register
- An adult female birth history
- An adult male/female sibling history
- An adult male/female parental history
- A general human rights violation section.

41. The questionnaire* was reviewed by three human rights statisticians external to the Commission† and several subject specialists at the Commission. Through this review process, improvements were made to the layout and design of the questionnaire, and a number of terminological issues in the Indonesian and Tetum languages were identified.

* See Appendix to this Annexe for a copy of the survey questionnaire.

† Fritz Scheuren, President of the American Statistical Association, consultant to HRDAG on projects for Kosovo, Guatemala and Peru; William Seltzer, Fordham University, and Jana Asher, co-author of HRDAG reports in Kosovo, Sierra Leone and Peru.

42. A series of eight cognitive interviews were conducted during the questionnaire development phase. Cognitive interviewing explores the cognitive processes of the respondent. It seeks to identify difficulties and possible solutions to challenges faced by respondents in (i) comprehension of the question, (ii) retrieval from memory of relevant information, (iii) decision processes, and (iv) response processes.* A total of eight subjects – four in laboratory conditions and four in the field – participated in the cognitive interviewing. Significant insight was gained from the probing on respondent's date recall. In particular, cognitive processes and responses about time and date related questions indicated that often, when a respondent answered "Don't Know", they might just not know the exact date according to the Gregorian calendar. However, their responses indicated that sometimes the timing of events were easier to recall by reference to other markers of time such as other major events, or points in the agricultural or seasonal cycle.

43. From the cognitive interviewing process, we developed structured date probes which asked the respondent to narrow event-dates into a six-month window which could be defined by major events such as holidays, or environmental/physical indicators (height of corn or other crops, rainy season or dry season). The cognitive interviewing process also indicated that temporal concepts such as "beginning", "middle", and "end" were not understood by all respondents, so further narrowing of the time window was not possible.

44. During the cognitive and field test interviews, respondents often simply answered "Don't Know" or "into the mountains/forest" as the place to which they were displaced. As a result of the cognitive interviewing, a careful set of probes was created to elicit more detailed descriptions of the places where people were displaced.

45. After peer-review and the cognitive interviewing process, the finalised questionnaire was then translated and back-translated into both Indonesian and Tetum. The questionnaire was then field tested for 5 days in *aldeias* within Dili, which were not part of the sample. As a result of this field test, a few further question-sequencing, grammatical, and syntactical improvements were made.

Survey implementation and fieldwork

46. Within each sampled household, the head of household responded to both the household register (in which all residents of the household were logged) and the displacement section. An adult female was then randomly selected from the female adult population of the household to answer the adult female birth history module.

47. Before leaving each *aldeia*, all questionnaires were checked by field supervisors to identify and correct any mistakes or inconsistencies in the completed questionnaires. Two field coordinators accompanied the team of 22 survey enumerators into the field.

48. Twelve *aldeias* which had been included in the sample were not able to be visited by the enumeration team. The team was unable to conduct interviews in these 12

* Tourangeau 1984.

aldeias due to security concerns at the time. The following figure lists the 12 *aldeias* that were not enumerated.

Table 3: List of *aldeias* not enumerated in the sample

District	Sub-district	*Suco*	*Aldeia*
Aileu	Remexio	Liurai	Coto Mori
Baucau	Fatumaca	Samalari	Osso Luga
Baucau	Laga	Samalari	Soru Gua
Bobonaro	Atabae	Atabae	Heleso
Bobonaro	Bobonaro	Tapo	Tapo
Covalima	Fohorem	Datorua	Fatulidun
Lautém	Iliomar	Ailebere	Heitali
Lautém	Lospalos	Fuiluro	Kuluhun
Liquiçá	Bazartete	Fahilebo	Fatu Neso
Oecussi	Passabe	Abani	Na Nos
Viqueque	Ossu	Uaibobo	Sogau
Viqueque	Uatolari	Matahoi	Loko Loko

49. Furthermore, in some *aldeias* less than 10 households were enumerated resulting in some additional non-response. Overall, of the 1,440 households in the sampling frame, there was a 3.1% (44/1,440) non-response rate. Given the low non-response-rate, no explicit statistical imputation was performed to control for non-response in the survey.

Graveyard Census Database (GCD)

50. In order to develop baseline mortality data for Timor-Leste, the Commission undertook a census of public graveyards in the 13 districts of Timor-Leste. Through this process available information about names, dates of birth, dates of death, and religion was collected. Gravestones that lacked such information were also enumerated and their size was noted.* By collecting this information, the Commission created a *de facto* vital registration system for the East Timorese population. That is, the GCD created a baseline listing of some, perhaps even most deaths, which could be used for mortality analysis beyond this project.

GCD data collection

51. To facilitate the Commission's census of public graveyards in the country, a list of all known public graveyards in Timor-Leste was enumerated by CAVR field staff in

* The size of an unmarked gravestone can be used as a proxy indicator of whether the deceased was a child or an adult.

consultation with village-level officials at the *suco* (village) level, and where possible, the *aldeia* level. A "public graveyard" in this study was defined as a location which is reserved exclusively for burial of deceased persons. This definition includes communal burial sites which are established on public land or land owned by a religious institution. However, it excludes family graves located on private property.

52. The GCD data was collected by two separate data collection teams. The first team collected 128,751 records from 803 cemeteries, which were entered into an series of Excel spreadsheets. The first team covered portions of all 13 districts, but only Dili was covered completely. A second team went into all districts, except Dili, to finish the graveyard survey. They collected 153,057 additional records from 1,779 cemeteries. The second team used a FoxPro database for their data entry.

53. The Commission enumeration teams documented all gravestones within public graveyards – both marked and unmarked. A marked grave was defined as having a physical structure which memorialised a person's life, with legible markings in English, Indonesian, Tetum, or Portuguese.* On all enumerated marked gravestones, the following information was coded if on the gravestone: full name, date of birth and date of death. Unmarked gravestones were typically small simple crosses or other burial markers, without name or date information for the deceased. Enumerators were asked to note information about the religion, type-of-material and grave size, if it was discernible from the gravestone, for both marked and unmarked gravestones.

Methodological description of data editing, cleaning and name normalisation techniques

54. Each of the three databases used by the Commission required data editing, cleaning, and name normalising techniques in order for the data to be compared and linked between databases. Several months were spent reviewing the data for obvious typographical or spelling errors, and a random sample review was conducted to ensure data accuracy. Technical problems occurred in converting data from one database structure to another, and these were also identified and corrected.

Database cleaning and editing

55. The data processing team carried out a complete check (and corrections where required) of all HRVD records with:

- Missing district/sub-district information
- Implausible violation date information (eg day = 42, month =13)
- Records where the violation occurred before the victim's birth date
- Records where the violation occurred after the victim's death date
- Statements where the deponent was coded as a victim of a fatal violation

* Due to a lack of resources, the Commission was unable to enumerate Chinese graveyards.

- Records where the victim's age was coded as 0 or as a negative number
- Records where the victim's age was coded as greater than 75
- Records where there was no violation code recorded
- Records where there was no victim recorded for a coded violation
- Records where there was no (individual/institutional) perpetrator assigned to a coded violation.

56. In addition to the complete quick-checks described above, the coding team also did checks of a simple random sample of records of fatal violations, detentions, torture, ill-treatment, forced recruitment, sexually-based violations and displacements. The objective of the quick checks was to identify whether there were any systematic errors in assigning affiliations of victims and institutional perpetrator responsibility. One major inconsistency was identified - namely where victim affiliation was not assigned to all victims of a violation or violations which happened in the same act or acts closely linked in time. These records were identified, and appropriate rules were applied to correctly assign victim affiliation across violations in the same act or proximate acts for the same actor.

Date editing and cleaning

57. Records that had obvious errors, such as dates of birth, violation, or death that were subsequent to the current date were examined and corrected. This was especially common in the GCD database where the grave markers were so small that full four-digit year dates could not be written out. The data entry system defaulted the two-digit year dates, which should have been in the 1900s, as the 2000s. Enumerators from different teams sometimes used different date coding standards. Some used the European standard DD-MM-YYYY, some the US standard MM-DD-YYYY, some a YYYY-MM-DD format, or variations of these using a two-digit year. Furthermore, sometimes different separators were used between years, months and days – including '/', '.', and '-'. As a result, all date formats across all three datasets were mapped to the standardised format, YYYYMMDD.

58. If the DOB was after the DOD, the dates were swapped. Two types of errors which caused dates with months greater than 12 or days greater than 31 were also identified and examined. The Commission discerned that some errors were caused by variations of the spreadsheet date format settings on the data entry computers.

59. Other errors were obviously typographical. Records from the HRVD and the RMS were corrected by reviewing the original paper material and applying corrections to the database. For the GCD database there was not enough time to hand review the source, so if the error was not easily corrected, the values in that part of the date field (month or day) were left blank.

Age editing and cleaning

60. Age data were examined for possible typographical errors, for example, people over the age of 100. The sources for these records were reviewed to verify the data and

corrections made as necessary. Where DOB and DOD information was known, the age was derived. The GCD age value was calculated and a new field generated to facilitate easier matching.

Violation and relationship codes editing and cleaning

61. Reviews were conducted of the violation codes and relationship codes within the HRVD and RMS identified codes that were not valid or conflicted with other data within an individual record (for example, a female being coded as a father). The paper source files for these records were reviewed and the corrections made to the database.

Geographic location code editing and cleaning

62. The geographic location data collected for the RMS and HRVD databases was coded to the East Timorese geocode standards established by the government and approved for use by the the Commission. Locations were divided into four administrative levels – District, Sub-district, *Suco* (Village), and *Aldeia*. For those locations that were outside of Timor-Leste, codes for West Timor and Java were created and when the location was not known, they were marked to a separate code for unknown. Each cemetery was given a unique code, called an 'id', in order to differentiate between cemeteries in the same geographic area.

63. The GCD was not collected with the East Timorese geographic code standard, so it was translated to the standard codes.

GCD de-duplication of cemeteries and graves

64. Several factors led to duplicate records of graves and graveyards in the GCD database.

- Different data collection teams inadvertently covered the same cemetery. Many cemeteries did not have posted names, making it hard to identify duplicated records strictly by cemetery name.
- The exact *suco* (village) and *aldeia* location was often hard to determine in some rural areas. Even if the cemetery had the same name, it might be coded to a different geographic location. Additionally, many cemeteries shared the same name (Santa Cruz being the most common name), which meant that cemetery name alone was not enough to determine duplicate cemeteries coded to different geographic codes.
- Many of the cemeteries in Timor-Leste were not organised linearly. This sometimes led to the team of enumerators crossing over the same gravestone, recording it more than once.
- Because of the massive amount of paper files required to gather all these data, it was possible that there were data entry duplications.

65. It was possible to find linkages between cemetery id's by examining the names of the deceased, cemetery locations, cemetery names, and complete dates of birth and dates of

death after matching.* When rows of duplicates were found, one of the cemeteries was dropped from the dataset used for analysis. While it is common for people to have the same forename and surname, and possibly the same date of death, it is highly unlikely that they would have both the same dates of birth and death. Therefore, any records that had the same forename, surname, date of birth, and date of death were considered duplicates, and only one record was kept in the database for analysis.

66. The goal of the GCD de-duplication process was to ensure that the deceased were counted only once. It was initially thought that during the forced displacements people may have initially been buried where they died, with the body later retrieved by the family and interred at a cemetery in their home *aldeia*. It was also thought that if the body was not recovered, that a memorial marker in the local cemetery might be erected. While this may have occurred, careful review of the data did not reveal reburial or *post-hoc* marking with a memorial stone to be common practice. Furthermore, when the bodies were recovered, the first marker would likely have been removed or relocated with the body, thus preventing over-counting. People who were never buried, or who not were buried in public cemeteries, fall outside of the GCD. In order to account for the deaths that are missing from the HRVD testimonies, the RMS interviews, and the GCD grave data, we conducted multiple-system estimation of the total deaths. This analysis is described below.

Name-cleaning processes

67. The names of persons in the Commission data needed to be addressed in two ways. First, the names needed to be parsed into three categories – first, middle/nick and last – names. Once this was complete, name canonicalisation was required to facilitate record linkage. Canonicalisation is a process of reducing each name to the simplest and most significant form possible, without loss of generality.

68. Person names contained a significant amount of variation in the spellings, in apportionment to the three name fields, and in punctuation. Name variation has many causes. In open-ended narrative statements, such as the HRVD, the deponent may be a close relative, friend, neighbour or distant acquaintance of the victim, and he or she may or may not know how to spell the names of the reported victim. Transcription by the statement-taker may involve application of additional spelling and punctuation rules and even incorporate spelling errors. Similarly spelling and punctuation transformations may take place at the data coding and data-entry stages.

Name parsing

69. To address the significant variation in how names were apportioned to the three name fields; first, last, middle/nickname, the names were parsed according to strict rules. HRDAG decided to divide the names using the 'first' first name for *first*, and the 'last' last name as *last*, and all other names placed into the *middle/nickname* field.

* A complete record is defined as having day, month and year for both DOB and DOD.

Additionally the prepositions (for example, de, da, do, dos) were dropped from the name fields as their use was inconsistent in the data.

70. For example, the Portuguese name Maria Luisa da Costa da Silva may be been entered into the database as:

Table 4: Example of an East Timorese Portuguese name

First Name	Middle/Nickname	Last Name
MARIA LUISA		DA COSTA DA SILVA
MARIA	LUISA	DA COSTA DA SILVA
MARIA LUISA	DA COSTA	DA SILVA
MARIA	LUISA DA COSTA	DA SILVA
MARIA LUISA		SILVA

71. The name parsing process would have standardised these names so that the first name was Maria while the last name would simply be Silva. All other names, less the prepositions, were moved into the middle/nick fields.

72. The indigenous East Timorese name Mau Bere may have been entered as:

Table 5: Example of an East Timorese Indigenous name

First Name	Middle/Nickname	Last Name
MAU BERE		
MAUBERE		
MAU		BERE
		MAUBERE

73. The name parsing in this case would place Mau in the first name field and Bere in the last name field.

Name canonicalisation

74. Name canonicalisation was applied to the first and last name fields of the records after parsing to facilitate easier matching, especially the automated algorithms for record linkage. Spelling variants for names were distilled into a single representative form for each name. For example, the following spelling variations were canonicalised to AGUSTINO:

- AGUSTINUHO
- AAGUSTINO
- AGUSTIO
- AGUSTINUS
- AUGUSTINHO

- AGUSTINO
- AGUSTINU
- AGUSTONIO
- AGUSRINO
- AGUSTINHO
- AGUSTIMHO
- AGSSTINHO
- AGSTINHO
- AUGUSTINO
- AGOSTINHO
- AGUASTINHO
- ANTGOSTINHO
- AGUSTINHU
- AGOTINHO
- AGOSTINO

75. The indigenous East Timorese names were harder to canonicalise as they were generally four or five characters long and some records that appeared to be spelling variations were in fact distinctly different names. Conservative canonicalisation was applied to the indigenous East Timorese names and then tested with sample linkage of animist records looking at date, age and place information to determine additional canonicals to apply.

76. After several parses over the names to canonicalise them, a new field was generated with the name spelled out in reverse order. Then, by sorting on this new field, we were able to find additional names to be canonicalised to a single form as beginning letters could vary depending on pronounciation, but the ending syllable was likely to be the same. This process proved to be very helpful in finding additional canonicals.

77. There were Chinese, Indonesian (Muslim), and Anglo-Saxon names in the databases, as well as Portuguese names and indigenous East Timorese names. The relatively few numbers of Chinese, Indonesian and Anglo-Saxon names did not require special handling. East Timorese staff, in Timor, identified whether names were indigenous for the application of matching rules and algorithms, because indigenous East Timorese names are not always sex-specific.

78. The HRVD and RMS databases are smaller then the GCD, so we canonicalised them first. We then applied the lists of name canonicals to the GCD. The resulting names were then reviewed to identify additional canonicals.

79. During the canonicalisation process, some letters in names were found to be interchangeable with each other, most commonly with the Portuguese names. The letters S, J, G, and Z were often interchanged with each other in names. Also, the letters V, U, W, and B were often interchangeable. Less frequently, the letters H and E were interchanged, or simply dropped, for example Helder/Elder, Henrique/Enrique. An example of interchangeables would be for the name Virginia, which could be spelled with a B or V. For example, spelling variations found for the canonical VIRGINIA included BIRGINIA, BERGINA.

80. Names that began with these letters were compared to each other to assist in the canonicalisation process. Where names had more than one interchangeable or the interchangeable letter was in the middle or end of a name, it was very difficult to find potential canonicals. Therefore, a program was written that generated a list of names where combinations of interchangeable letters matched another canonical name. The record linkage expert reviewed these combinations to determine if they should be canonicalised or were distinctly unique names. Where there were additional canonicals due to interchangeables, the preferred letter for the canonical was S (for S, J, G, and Z), V (for V, U, W, B), and H (for H and E).

81. Additionally, in the canonical process, it was noted that ANJU and ANJO were often cited as the first name or the only name for a record. *Anju* is commonly used to refer to a dead infant and was found often in the GCD records when a child died before being baptised and therefore was not given a Christian name. Records with *ANJU* and a last name were used for the matching process because there was some identifying data, but records with only *ANJU* were too ambiguous to make reasonable judgments for matching.

Sex and ethnicity coding

82. During the canonicalisation process, the Portuguese first names were reviewed with the frequency of the sex codings male, female and unknown displayed.* Sex codings that were obviously incorrect were corrected. As with most Latin names, those that end with A generally are female and those ending with O (or U) are usually male. Where first names ended in letters other than A, O or U, the frequency between male codings and female codings was examined and when the disparity was great, indicating that a few records were miscoded during data entry, corrections were made to the database.

Data conversion

83. In order to expedite all the data processing steps associated with matching of duplicated records, each dataset was transferred from its original FoxPro or Excel database platform, to our Analzyer database platform.† The FoxPro database schema was first duplicated in PostgreSQL for importing into Analzyer. The relational database structures for the HRVD and RMS data were maintained in Analzyer.

84. The following table shows the total number of records from each dataset that were imported into Analzyer. Note that these totals reflect data cleaning changes which resulted in the dropping of duplicate and invalid records.

* Frequency is a count of the instances a name or code appears in a particular data field. Values with very low frequencies can reveal potential errors or misspellings in the data.

† Analzyer is a free and open source application used to collect, maintain, and analyse information about large-scale human rights violations. For more information about Analzyer, see HDRAG website at http://www.hrdag.org/resources/data_software.shtml.

Table 6: Total record count by database pre- & post-data cleaning

Database	Pre-Clean	Post Clean	Count/% Fatal	Count/% Non-Fatal
HRVD	41,456	37,651		
RMS	4,883	4,619		
GCD				n/a1*

* This field is not applicable for the GCD because by definition, someone buried in a graveyard is dead.

Record linkage overview

85. Individuals reported in the HRVD and the RMS are sometimes reported multiple times, by different deponents and may also appear as records in the GCD. To ensure the statistical analysis controlled for duplicate reports of the same person, the data required record linkage, also known as matching. Matching was applied to two general categories of violations for study - fatal and non-fatal violations. Fatal violations included civilian killings, deaths due to deprivation, disappearances, and combatant deaths. Non-fatal violation categories included attempted civilian killing, detention, torture, rape, sexual slavery, sexual violence, ill-treatment, displacement, forced marriage, impediments to reproductive rights, unfair trial, destruction of homes, destruction of livestock, extortion, threats, forced recruitment and forced labour.

86. There were two types of matching done for the purposes of statistical estimates; intra- and inter-system matching. Intra-system matching links records that identify the same person within a single dataset, and each record can match to zero, one, or many other records within that dataset. Inter-system matching joins two or more lists of unique records from different data sources together so that a multiple systems estimation of the violations can be applied. Records matching during inter-system matching can match only to zero or one other record in each of the other datasets.

87. Due to the complexity of inter-system matching and time constraints for the work, the non-fatal data in the HRVD and RMS only had intra-system matching performed for descriptive statistics. The fatal data, which included the GCD data, was both intra- and inter-system matched as the basis for multiple systems estimate calculations. Matching was done using three methods: hand-matching, computer-generated matching, and computer-assisted matching. Each of these methods may involve more than one pass.[*]

Matching rules

88. Each individual record was compared to all other records in each dataset for possible matches and was deemed a match when a significant number of the field values match *exactly*, were in *close proximity*, or did *not conflict*. The fields used

* A pass is a review of all the data in a dataset based on sort order or algorithm, to look for matches.

for matching were: first_name, last_name, age, sex, DOB, DOD, place_of_birth (POB), and place_of_death (POD). The middle/nickname and interview_location fields were also available for clarification purposes, but were not fields available in all three datasets, and were often sparse where they were available. While not part of the matching rules, these data were taken into consideration by the record linkage expert. However, it was not used in any computerised auto-matching.

89. The matching decisions used for the Commission data tended to over-match records.* Over-matching reduces the number of unique records and therefore will tend to lower the estimates. Over-matching is preferred in cases where there is uncertainty that a match is accurate, to produce conservative estimates.

Matching names

90. The first and last name fields were not always complete; some had initials or were missing either the first or last name. Attempts were made to match every record even when it was incomplete, but for fatal matching, records with neither first nor last names or that had initials only, were dropped from matching as there was not enough data to make reliable judgements. For non-fatal matching, attempts were made to match violations with DOB, DOD, and death location information to other records with the same values in those fields, even when there was no name or the record only had initials. Records with less complete name data relied more heavily on perfect dates and places to be matched to other records. Many people could have died on the same day in the same place, and knowing which of those people to match an incomplete name to is difficult and unreliable.

Matching sex and ethnicity

91. Where the sex of the victim was known, it was only potentially matchable to records of the same sex or those with unknown sex. Records where sex was marked Unknown were matchable to records coded Male and Female, but within a matched group, the sex codes could not conflict with other records in that group.

Matching locations

92. Geographic location codes used for the CAVR data were divided into four levels: district, sub-district, *suco* (village), and *aldeia*. The GCD database was the only dataset to disaggregate location information to the *aldeia* level, so it was not used for matching purposes. The frequency of displacements made location information difficult for witnesses to pinpoint exactly, except in places where the violation occurred in the place where the witness currently resided or from where they originally were displaced. People may have been displaced multiple times, across multiple locations and because the conflict was spread over three decades, recall of exact locations was subject to a number of errors.

* Over-matching means that linkages are made between records that might not in fact be duplicates.

93. Additionally, the boundaries between geographic locations is affected by three factors – changes to place names and the geographic boundaries of administrative boundaries over time, the imprecision of boundaries, especially in rural areas, and potential data collection, coding, and entry errors. As a result, matches anywhere within a single district and between bordering districts was considered. Potential matches between a sub-district and *suco* that were closer to each other were given a higher preference as well. In studying the data closely, records that matched on a preponderance of data fields other than place provided substantiation for our judgments on location matching. Where the HRVD documented a death occurring in the same location as the interview location, it was assumed that the location information was likely to be accurate.

94. In rare cases matches were made that violated the rule for location data, but only when it was clear that the records identified the same person, and that common typographical errors accounted for the difference. When there was more than one possible match, the matching algorithm tried to match to the less-specific records in order to preserve more-specific records for later match candidates. When there was equal distribution between locations at any geographic level, the less specific location was preferred and if there one was not more less specific, than one was randomly selected to be the 'rep rec'.*

Matching dates

95. As the conflicts in Timor-Leste occurred over a long period, many respondents did not remember the exact dates and places in which events occurred. The GCD data were assumed to be more accurate for date and place information because bodies would normally be buried shortly after death, and close to the place of death. When matching on the date field, the record linkage expert would link records that were plus or minus three years from each other. The exceptions to this rule were rare, and only made when the other data fields were strong exact matches. Records with month and day data were often inaccurate in the HRVD and RMS data as memory tends to be faulty over such a long period. Therefore, more-specific dates were matched to each other where they were close, and to less-specific dates where they were not close.

Record level constraints

96. Matching constraints were implemented to prevent over-matching. Specifically, the following matches were not allowed:

- Records of victims from the same statement (because each statement identified unique victims who may have had the same names because of familial relationships)

* The 'rep rec' is the record that best represents that grouping of matched records by having the most complete data. Records with the most common date or place within that group or a record with a more precise place or date are considered more complete. The more complete the data, the better each subsequent round of matching for both intra- and inter-system matching will be. Because records were being linked together and the data unique to each record preserved, as opposed to deleting duplicates, it was necessary to look at the variation within the matched records to see if the differences would significantly change the analysis.

- Two non-fatalities could not be matched if they were reported in the same source record (because the data coding and database representation methods used prevented duplicate records from a single statement being entered into the database)
- A deponent could not match to a fatal violation
- A non-fatal record could not match to a fatal record if any dates associated with the non-fatal violations were before the fatal records DOB
- A non-fatal record could not match to a fatal record if any dates associated with the non-fatal violations were after the fatal records DOD.

Intra-system matching

97. Within a dataset a person may be identified by multiple witnesses. Intra-system matching links records that identify the same person to generate a list of unique named persons to prevent over-counting, and thus, over-estimations. Intra-system matching is very complex and difficult to perform in a database as a person can match to *n* other records in the dataset. Therefore, the data are manipulated in a spreadsheet which makes it easier to order and re-order the data in multiple ways to locate linkages that need to be made.

98. Intra-system matching a dataset before merging its records with other datasets can reveal patterns inherent in that data collection project. Some of these patterns may be systematic errors in data collection, coding or data entry, or may be the result of the structure of the data collection. The observation of patterns within each dataset allows for the investigation, and if necessary, the correction of the underlying errors.

99. The three datasets of the Commission would have been too large to do high quality data matching if combined because some of the patterns would not have been noticeable to the human eye. That is, if all three datasets were combined into a single list, the resulting list would include more than 160,000 records. Finding matching records in a list that long would have been very difficult for a human reader.

HRVD intra-system fatal matching

100. First, intra-system matching on fatal data in the HRVD was performed to link records that described the same victim. The records were imported into a spreadsheet and sorted on first name, last name, POD, and DOD, to find records that matched.

101. As records were linked, a 'rep rec' was chosen. After each sort, a matching pass was performed and the linked records within a match group hidden (but not dropped) from the outputted data file, leaving just its 'rep rec'. This reduced the *noise* within the data. Noise can be defined as the non- 'rep rec' records in a match group that distract the matcher from the potential relationships of the 'rep rec' to other candidate matches. The smaller the list of unique records , the easier it is to see potential matches and other patterns within the data. Each subsequent pass identifies additional matches, and finally, a list of unique records is distilled from the entire dataset. A minimum of five passes are done on each dataset.

102. The 15,043 fatal records of the HRVD dataset were reduced to a list of 11,145 unique victims. All the records are then imported back into the Analzyer data matching system. The matched records were linked back to the 'rep rec' for analysis when all matching was completed.

RMS intra-system fatal matching

103. The RMS intra-system fatal matching was performed in a spreadsheet after the HRVD intra-matching was completed. The RMS intra-system matching used the same fields as the HRVD intra-system matching and also looked at the source of the record. Records of fatalities collected from the same household were not allowed to match to each other as they identified unique individuals, even if they shared the same name and DOD.

104. The 4,883 fatal records of the RMS dataset were reduced to a list of 4,619 unique victims.

105. The resulting linkages of both the HRVD and RMS datasets were imported back into the Analzyer data model for use in computer-assisted and computer-generated matching, and to generate data for analysis. Information and patterns documented by the record linkage expert in the hand-matching phase was then used to generate matching rules and algorithms for the computer-assisted and computer-generated matching processes.

HRVD intra-system non-fatal matching

106. Computer algorithms were devised to clean and match non-fatal violations in the HRVD. This step is referred to as *auto-matching.* Automated matching algorithms for the non-fatal violations in HRVD were developed as time and resource limitations did not permit the use of a human record linkage expert. There were three times as many non-fatal victims as fatal victims reported in the HRVD.

107. The HRVD contained 41,546 records. The intra-system auto-matching yielded a list of 37,651 unique victims of fatal and non-fatal violations.

Auto-canonicalisation of non-fatal name values and matching

108. The first step in the auto-canonicalisation process was to build a table with the different cleaned versions of all (fatal and non-fatal) original names in the database. For the first name, the versions were *normalised*, *normalised-terse*, *first word of normalised* (called first-namefirst), and *first word of normalised-terse* (called first-namefirst-terse). The same method was applied to the last name, except the last word was used instead of the first word. Then, for each victim name of a non-fatal violation, an attempt was made to match the following combinations of the normalised non-fatal full names to all of the normalised hand-canonicalised full fatal names:

- namefirst + namelast
- namefirst-terse + namelast-terse
- first-namefirst + last-namelast
- first-namefirst-terse + last-namelast-terse

109. The matching program matched on a full set of information before trying to match on less information. This matching of non-fatal to fatal-names was only done for normalised fatal names that mapped to a unique canonical name; as the information became more terse, there were fewer and fewer 'allowable' normalised names to match on (which was offset by the fact that it was easier to make the match, because the less-terse information was more resistant to coding variability and data entry errors).

110. For those full names that could not be canonicalised, the first names and last names were canonicalised independently. The order of matching first names was as follows:

- namefirst
- namefirst-terse
- first-namefirst
- first-namefirst-terse

111. A subsequent matching process was developed to follow the preliminary matching round based on the auto-cleaning and auto-matching processes. This process targeted potential matches with the non-normalised names and identified the information-density per data-field of each name record. The percentage of records that contained non-blank values for the respective data fields was as follows:

- 9% had date_birth (all of these have birth_geo1)
- 44% had birth_suco_location
- 50% had birth_sub-district_location
- 53% had birth_district_location
- 70% had Firstname
- 94% had Sex
- 100% had Lastname (since it's a mandatory field required for matching).

112. Since the last name field was the only non-blank field for all records, it was the only field that could be used in the index blocking. Blocking looks at records where the field(s) being blocked share the same value. The blocking for the last name field was done on the first four letters of each name. The match algorithm had to be carefully calibrated: if there were many blank fields, then a closer match on the non-blank fields was required (also, matches on very common last names were given less weight).

113. There were three different kinds of 'closeness' that were varied:

- The number of letters in the name that matched (4, 8, or all)
- The number of levels in the birth location that matched (from 1 through 3), and
- The required-closeness of the dates (from 1/3 year to 3 years).

114. With two-thirds of the victim names auto-canonicalised, and a well-defined set of rules for required-closeness-of-match for different numbers of non-blank fields, the resulting match rate was approximately 15% (compared to about 25% for the human matched fatal-violations data).

115. A match rate of 15% for non-fatal violations seems plausible as:

- Only two thirds of the name records could be canonicalised, and

- It is usual to expect higher reporting density for fatal violations as they are more easily identifiable and easier to recall by a larger number of people in the victim's social network.

116. The automated inter-system matching on the non-fatals reduced the dataset from 44,203 records to a list of 31,568 unique victim records.

Data linkage expert review of HRVD non-fatal intra-system matches

117. The record linkage expert studied a sample of the auto-matched results to make sure there were no obvious mis-matches (ie. over-matching). No systematic pattern of over-matching was found in the review of a random sample of 10% of the matched group records. The largest group of records which were matched to each other was 20 records. A review was done of the largest groups to ensure that their match size was plausible.

118. Intra-system matching on fatal data generates a combined list of unique individuals who are all dead, even though the cause of death can vary. When intra-matching is done on non-fatal violations, a victim can suffer one or more violations, on one or more days, in one or more places. The non-fatal matching reveals the human rights violations suffered by individual victims, where a victim may have suffered other violations that may or may not have resulted in a fatality.

Inter-system matching

119. Inter-system matching links lists of unique individuals from multiple datasets and is done cumulatively in pairs or datasets. Inter-system matching is applied only to fatal data. First, inter-system matching is applied using the 11,126 intra-system matched records from HRVD to the 4,619 RMS intra-system matched records in the Analzyer Record Linkage application. The RMS fatal *source* dataset was matched into the HRVD fatal *target* dataset.*

Phase 1 – Computer-generated matching

120. Strict matching (referred to as P1 matching) automatically identified 'exact matches'.† Processing of 'exact matches' via the automated P1 process eliminates the inefficiency of having a human compare every record in, or between the databases, with every other record.

121. Matching based on algorithms was applied to the data to generate a list of potential matches that were deemed to be highly probable. Calculations based on probabilities

*The designation of source and target is determined by the number of records in the dataset. The smaller of the two datasets in the pair is the source and the larger is the target. This is to reduce the number or records that have to be compared, but each record from both datasets is compared to all of its potential matches.

† An 'exact match' occurs where two or more records in a database are matched together when all the fields on which matching decisions are being made are identical.

and frequencies of each data field within a record were weighted and ordered by rank, and a threshold level was established where the match being made was probably correct. The threshold was set after a review was made of the prospective algorithm-based matches, which eliminated the need for a human to compare every record for possible matches. Potential matches below that threshold were handled in one of two ways, depending on whether or not matching was for fatal or non-fatal, and intra- or inter-system matching.

122. For inter-system matching of fatal violations data the algorithm-generated match pools were imported into the Analzyer data matching system and the record linkage expert reviewed these computer-assisted match targets for each of the remaining unmatched source records. Non-fatal intra-system matching was completely automated with results reviewed by the record linkage expert to ensure that extreme over- or under-matching was not occurring.

Phase 2 – Computer-assisted matching

123. Computer-assisted matching, referred to as P2, was based on algorithms that generated pockets of potential matches between source and target records that were deemed to be likely matches, but required human review to select which of the closely weighted records was the best match. Calculations based on probabilities and frequencies of each data field between pairs of records were weighted and ordered by rank based on names, date of birth, date of death, place of birth and place of death. Using the Analzyer matching interface, the record linkage expert selected which target record from that pocket, if any, matched the source record being examined.

124. The P2 fatal inter-system matching rules were:

- The sex of source and target(s) had to be equal, where sex was known.
- The first initials of names between a source and target(s) had to be the same.
- For target(s), where DOB and DOD were known, one of the dates had to be within 5 years of the source dates.
- If the source and potential targets(s) had 'perfect' DOB or DOD, at least one of the other matching fields hand to match.

125. After the inter-system match work was done in Analzyer between the HRVD and RMS datasets, the resulting list of unique fatal victims was imported into a spreadsheet. The records were then sorted on the various data fields to determine if any other possible matches could be found. This not only served to catch matches missed, it also measured how good the matching algorithms had been. Additional fine tuning of algorithms was done as a result of the hand reviews by the record linkage expert, ensuring that successive matching passes would be more thorough and accurate.

Phase 3 – Vague data matching

126. In Phase 3 (P3) matching, records that contained too many blank fields, or were records of commonly-named individuals, from the same area, or who died in the same time period, were matched. These matches did not have enough data to be specific about which source/target pair was exact, so one was randomly selected from the targets.

For example, Mau Bere was a very common name in many parts of the country, and 1999 was a year when many of them died. It is unlikely that there were missed intra-system matches for two reasons. First, they were records that often came from the same statement which indicated they were family members with the same name. Second, the GCD recorded many deaths in the same cemetery with the same name and date (or no date), but there was not enough identifying information within the HRVD and RMS datasets to distinguish them as unique individuals.

127. The P3 matching process made matches where equal probabilities of a good match for a record existed, which did not require the judgement of the record linkage expert.

Pair-wise inter-system fatal matching

128. The inter-system matching pair of HRVD and RMS resulted in the new list of unique victims, named the HRVD/RMS dataset. This dataset included 10,594 records found only in the HRVD dataset, 4,087 found only in the RMS dataset, and 532 were found in both HRVD and RMS. These 15,213 total unique records were then inter-system matched with the 149,267 records of the GCD dataset, the HRVD/RMS dataset being the source data and the GCD the target data. The pair-wise matching between the HRVD/RMS dataset into the GCD resulted in 157,000 named deceased persons. This total includes records that were out of mandate or did not have dates of death to verify that they died within the mandate period. Only records having dates of death within the mandate period were used for analysis.

129. The linkages within and between these datasets are used in estimating the total number of dead due to the conflict. Records in this final list can linked back to a single dataset, or a combination of the three datasets. Below is a simple matrix showing the results of the final fatal inter-system matching linkages between the datasets.*

Table 7: Inter-system matching matrix

	HRVD only	RMS only	GCD only	HRVD & RMS	HRVD & GCD	RMS & GCD	HRVD/ RMS/ GCD	Total
Count	5,203	2,148	141,787	382	5,391	1,939	150	157,000
Percent	3.31	1.37	90.31	0.24	3.43	1.24	0.1	100

130. If the intra-system matching caught all possible matches, then only zero or one potential match would have been possible during inter-system matching. Matches may be missed if the records being examined had missing data fields that made it unclear if the two records should have been linked. Human error is also possible when looking at the large quantity of data that was involved in the Commission's work. Generally, a match is assumed when a majority of the data fields match, or the records' match weight is within tolerances. If there are not enough fields with complete data, then it is

* These are unweighted totals, and they include records with missing dates, out of range dates, missing places, and places outside of Timor-Leste. Out of range records were subsequently eliminated from the analysis.

difficult to determine with reasonable certainty whether a record should be included or excluded from matching to another. The latter case was especially true for the very common indigenous East Timorese names, like Mau Bere where many people, from the same place, died or were killed at the same time.

131. After completing the inter-system matching in Analzyer, the data were imported into a spreadsheet for review by the record linkage expert. By looking at the data sorted on different variables, with multiple processes – both human and automated – it can be confidently concluded that all possible matches that should have been made were processed. Additionally, the inter-system matching process may be considered a measure of Inter-Rater Reliability (IRR) because it finds instances where matches were missed in the intra-system phase. By returning to the intra-system data and applying the missed matches, it was possible not only to measure the IRR but also to correct the data, producing more reliable data on which estimates could be based.

Table 8: Inter-system match record count totals & percentages for fatal violation by dataset pair

Step	HRVD to RMS	HRVD/RMS to GCD
Starting Count	HRVD + RMS=HRVD/RMS	
Spreadsheet Matching	Count & Percent	
Adjusted from Missed	Count & Percent	
HRVD/RMS total	Count & Percent	
Starting Count		HRVD/RMS + GCD = MSE
P1 Matching		Count & Percent
P2 Matching		Count & Percent
P3 Matching		Count & Percent
Total Count for MSE		Count & Percent

Data processing of reported violations involving groups of anonymous victims

132. During the statement-taking process a deponent may have talked about one or many victims. Sometimes when multiple victims were reported by a deponent, the deponent did not know some or all of the victims' names. In the Commission statement-taking process 1.9% (1,419/75,443) of victim-records which were documented by the Commission the deponent did not know the individual names of the victims, who suffered abuse as part of a larger group of people.

133. In order to integrate these data into the Commission's analysis, and thereby consider violations against named individuals as well as unnamed groups, some further

processing of the data was required to account for likely duplicate records of violations against a reported victim group. The processing steps to control for this duplication

- identified violation records (against unnamed group victims) which appeared to describe the same victim group, and then
- chose a victim record from the pool of possible duplicate records to be retained as the 'rep rec' of this reported victim-violation.

134. Unlike data on violations against individuals (which by-and-large contain personal identifiers, such as names, ages and sex), violations reported against groups do not usually contain detailed identifiers of the victim-group. As a result, group-victim records were matched by comparing the following variables of each reported violation against a group:

- the district where the violation reportedly took place
- the violation-type into which the violation was coded, and
- the year and month in which the violation reportedly occurred.

135. Then after all the like group-victim records were matched together to form a cluster, the record with the largest group-size within each cluster was retained. All other records were regarded as duplicate records and therefore dropped from the dataset.

136. The level of duplication among group-victim records is shown below. This table shows how many duplicate violation copies per violation type were identified in the dataset and the number of surplus group violation records which were dropped for the Commission's analysis on violations against group victims. `

Table 9: Level of duplication among group-victims

	Detention		Torture		Ill-Treatment		Displace-ment		Other Violations		All Violations	
Copies	Obs	Sur-plus	Obs	Sur-plus	Obs	Sur-plus	Obs	Sur-plus	Obs	Sur-plus	Obs	Sur-plus
1	441	0	134	0	121	0	180	0	736	0	1612	0
2	150	75	26	13	30	15	68	34	206	103	480	240
3	69	46	15	10	9	6	21	14	87	58	201	134
4	56	42	4	3	8	6	16	12	60	45	144	108
5	25	20	0	0	5	4	10	8	30	24	70	56
6	6	5	0	0	6	5	12	10	12	10	36	30
7	0	0	0	0	7	6	0	0	0	0	7	6
8	0	0	0	0	0	0	0	0	0	0	0	0
9	0	0	0	0	0	0	0	0	0	0	0	0
10	0	0	0	0	0	0	0	0	0	0	0	0
11	0	0	0	0	0	0	0	0	0	0	0	0
12	12	11	0	0	0	0	0	0	12	11	24	22

	Detention		Torture		Ill-Treatment		Displace-ment		Other Violations		All Violations	
Copies	Obs	Sur-plus	Obs	Sur-plus	Obs	Sur-plus	Obs	Sur-plus	Obs	Sur-plus	Obs	Sur-plus
13	13	12	0	0	0	0	0	0	13	12	26	24
Total	772	211	179	26	186	42	307	78	1156	263	2600	620

Statistical estimation techniques used in the analysis of fatal violations and displacements

137. This section presents the survey-based estimation techniques and multiple systems estimation methods used to make the estimates of the total extent and pattern of mortality and displacement during the Commission's reference period.

RMS weight calculations

138. The survey sampling was described earlier: in 2003, the CAVR field teams interviewed 1,396 households selected from 138 *aldeias* and groups of *aldeias*, called clusters. The clusters were selected by a method called 'Probability Proportional to Size' (PPS), and then ten (or 20) households were selected by simple random sampling in each cluster. If each cluster had exactly the same number of sampled households, the sampling probability of each household would be identical, a process known as 'self-weighting'.[8] Due to sampling 20 households in multi-*aldeia* clusters and non-response in other clusters, not all clusters had the same number of sampled households; however, 78.5% of the sampled clusters have exactly 10 sampled households. Non-response was 3.1%, and so no non-response adjustment was made. The weights were calculated as follows.

139. For each cluster, the adjustment for varying cluster size is:

- cluster_adjustment = median_cluster_size / cluster_size

140. The raw 1990 household sampling probability is

- sp_1990 = (total number of sampled HHs) / (total HHs in 1990) = 1,396/168,858

141. And so, for each cluster, the pps weight is

- pps_wt_1990_raw = (1/sp_1990) * cluster_adjustment

142. There was considerable population change due to migration and growth between 1990 and 2004, when the survey was conducted. Before the weights could be estimated, the total number of households in each *aldeia* was adjusted from the 1990 census using data from the 2004 census. During the sample design, the clusters were chosen using the household counts for each *aldeia* reported by the 1990 census. At the time these

calculations were done (April 2005), the Census Timor-Leste 2004 enumeration data were available disaggregated only to the sub-district level, but not by *suco* (village) or *aldeia*.[*] Note that the 1990-2004 weight adjustments do not affect the total summed weight, which is fixed at the number of households that existed in 2004. The weight adjustments affect how much households in different places affect the projection.

143. Two sub-districts listed in the 1990 census were not listed in the 2004 census results: Fatumaca in Baucau was absorbed by Baucau sub-district, and in Oecussi, Pante Macassar B was subsumed in Pante Macassar. For these sub-districts, the number of households in 2004 was estimated by using the proportion of households in the absorbing and absorbed sub-districts in 1990 multiplied by the total in the absorbing sub-district in 2004.

144. Although the 2004 household totals are available from the census at the sub-district level, the RMS has too few responses at the sub-district level for the estimates of weights by sub-district to have adequate data (29 of the 59 sampled sub-districts have fewer than 20 responses). Therefore the 1990 weights were scaled to the 2004 district totals by the following calculation:

- district_adjustment = (Total HHs in 2004 in this district)/(Total 1990 weight in this district)pps_wt_2004 = pps_wt_1990_raw * district_adjustment

145. By forcing the weights to match the 2004 census district household counts, the weights were normalised to sum to the total number of households in 2004 (194,943). The errors given in the results are calculated using Stata's standard survey modules.[9] These modules use the survey design variables (stratum, primary sampling units and sampling weight) to make weighted estimates of the totals and Taylor-series approximations of the sampling errors. The error estimates assume random sampling with unequal sample weights. This assumption is conservative (i.e. it will tend to underestimate the sampling error) with respect to weights calculated using the PPS methods described above.[10] The data files used for these calculations are available at http://www.hrdag.org/timor

RMS date assignment for displacement analysis

146. The survey asked respondents when they moved from each of their locations during the period 1974-1999. When respondents were uncertain of the specific date of their move, they often identified the year of the move and the point in the agricultural cycle or whether it was the dry or rainy season. For each of these partial or seasonal dates, we assigned the displacement to the quarter in which the period or season fell. Where the partial date identification could fall in more than one quarter, it was randomly assigned to a quarter. Of the 2,024 moves defined by the respondents as displacement events, 76.6% were identified at least to the quarter, and 15.7% more were identified by the season. Only 7.7% of the displacement events were identified by year without specifying the month.

* See http://dne.mopf.gov.tp for the census data.

RMS weight adjustments for mortality estimates

147. The calculation of the weights assumes that events reported by each household could only have been reported by that household. This assumption is the result of the weights being simply the reciprocal of the sampling probability for the given household. Therefore, if there were more than one household that could have given information about a specific death, the true sampling probability for that death is greater than the probability for a single household. Deaths reported by the survey respondents violate the single-reporting-household assumption because for each death, there may have been more than one household which could have given information about that death. Among the 5,402 total deaths reported by respondents, 545 were reported more than once (the duplicate reports were identified and removed before estimation). The duplicate reporting implicit in the survey weighting was corrected by adjusting the weights in the way described below.

148. Before the survey weights can be used to estimate the total number of deaths, they must be adjusted to account for the number of households that were potential respondents for each death. That is, for each death, how many relatives survived until 2003 to be potential respondents in the survey? Much of the information required for this calculation is available in the survey because the respondent's relatives are also the decedent's relatives. The number of surviving relatives for each decedent *D* was calculated based on the relatives reported by the respondent *R* using the following rules:

- If *D* is a parent of *R*, the expected number of relatives surviving in 2003 is the sum of the following:
    - » Assume that *D*'s parents are 25 years older than *D* (or 50 years older than *R*, if *D*'s age is not reported); use age-specific conditional probabilities of survival (calculated from the survey) to estimate the expected number of parents alive in 2003
    - » Count *R*'s siblings as *D*'s children
    - » Given an average approximate total fertility rate of 5 prior to 1975, assume that *D* had four siblings with ages (-4, -2, +2, +4) years from *D*'s age (if *D*'s age missing, set *D*'s age to *R*'s age + 25), calculate the siblings' ages in 2003, and multiply each by the conditional probability of surviving to that age, and sum over four siblings.
- If *D* is a sibling of *R*
    - » *D*'s parents are *R*'s parents, count the survivors directly
    - » *R*'s siblings are *D*'s siblings, count the survivors directly.

149. Assume that *D* had the same number of surviving adult children as *R*.

- If *D* is a child of *R*
    - » *R* and spouse are parents, count the survivors directly
    - » Adult children of *R* are *D*'s siblings, count the survivors directly
    - » Assume no surviving adult children of *D*.

150. This calculation yields the expected surviving adult relatives for each *D*, as well as indicating which of these surviving relatives live in *R*'s household, and which live in other households.

151. To convert the expected surviving adult relatives of *D* into an adjustment for the sampling weight, the number of relatives must be converted to an expected number of households in which the relatives live. There are on average 0.5 relatives of *D* (in addition to *R*) living in *R*'s household. Assume that other households in which *D*'s relatives live have the same concentration of relatives per household as *R*'s household (ie. 1.5 relatives per household). Thus, if *D* has *L* surviving relatives who live outside of *R*'s household, there are $a = 1 + L/1.5$ households which could give information about *D*. The survey weights were adjusted for possible multiple reporting of *D* by dividing each *D*'s sampling weight by this factor, *a*. This calculation assumes that the other potential respondent households are in the same cluster as *R*, or that they are in a cluster with a similar within-cluster sampling probability.

Sensitivity analysis of assumptions in mortality re-weighting

152. There are a number of assumptions in the weight adjustments for the mortality estimates, including the following:

- The period difference between generations (assumed to be 25 years)
- The number of siblings respondents' parents had (assumed to be four)
- The birth spacing of parent's siblings (assumed to be two years)
- The number of adult children respondent's siblings had (assumed to be equal to the respondent's children).

153. These assumptions were tested using the following variations, and the annual total number of deaths were calculated:

- The inter-generational spacing was varied to 18 and 30 years
- The number of siblings respondents' parents were assumed to have was increased to six
- The birth spacing was increased to five years between siblings
- The number of adult children respondent's siblings had was assumed to be double the number of the respondent's children.

154. For each variant estimation, the annual totals were tested (by a two-mean t-test) against the main model. None of the years in any of the variant models was significantly different at $p<0.05$. The minimum p-value was 0.13, and it was an outlier: the second-lowest p-value was 0.23. Therefore, the estimates are not substantially sensitive to the assumptions about family structure.

155. Although the estimates are robust to the assumptions about family structure used to estimate the number of surviving relatives who could give information about D, the magnitudes of the estimates are sensitive to the model used to transform the estimated surviving relatives to estimated households that contain relatives. The estimated number of surviving relatives is L, and the estimated number of households containing relatives of a decedent D, denoted a, is a = 1 + L/1.5. The denominator 1.5 comes from the

average number of relatives for D (including R) living in R's household (0.5). Varying this average from 0 to 3 (ie. assuming 1-4 surviving adult relatives per household) varies the resulting estimates of the total estimated deaths (by all causes) from -14.2% to +19.6%. The effect of varying this model declines over time, with the largest variations found in the early years 1972-1975 (-21%, +26%) and the smallest variations found in more recent years 2001-2003 (-11%, +16.2%). The decline is consistent over time.

156. Given a constant number of surviving relatives, fewer surviving relatives per household means more potential reporting households, a higher estimated sampling probability per reported death, and a lower sampling weight per reported death, and therefore fewer estimated total deaths; more adults per household reverses this logic.

157. Although the total estimates vary with changes in the model transforming relatives into households, the patterns are constant. The correlation coefficients for the main model to the low (0) and high (3) models above are each 0.99. Although the model of relatives-per-household does affect the total magnitude of the estimated deaths, it does not affect the estimated patterns over time.

Multiple Systems Estimation (MSE): motivation and theory

158. The survey analysis is conservative in the sense that it corrects for potential duplicate reporting by matching deaths across households, and because there is an adjustment to the sampling weights based on the estimated number of households which could have given information about each death. As some deaths may be reported by several households, there are other deaths which occurred during 1974-1999 for which there are no surviving relatives in 2003. If entire households died during the mandate period, there would have been no collineal relatives who could have given information in 2003. Given these limitations, an alternate method for estimating the total deaths may provide a check on the survey estimates.*

159. MSE uses several separately-collected incomplete lists of the population. The lists are matched identifying the elements common across lists in order to estimate the number of elements that are missing from all of the lists. In this project deaths documented in the HRVD, RMS, and GCD were matched across the three systems using the name, date of death, location of death and date of birth.

160. The most basic form of this technique is capture-tag-recapture, which uses only two lists.

161. A technical explanation of how a count of the unknown members of the population can be estimated is as follows. Consider the case of two projects P_1 (a list of A individuals) and P_2 (a list of B individuals). There are M individuals who are matched across both lists, in a universe of N total individuals (N is unknown). If all of the people in the universe N have an equal probability of appearing in List 1, then the probability of a specific individual being reported by P_1 is

* This explanation follows P Ball, J Asher, D Sulmont, D Manrique, "How many Peruvians have died? An estimate of the total number of victims killed or disappeared in the armed internal conflict between 1980 and 2000", a report to the Peruvian Truth and Reconciliation Commission. Washington, DC: AAAS. 28 August 2004. Available online at http://shr.aaas.org/hrdag/peru

$$Pr(captured\ in\ list\ 1) = \frac{A}{N}$$

162. Similarly, if all of the people in universe *N* have an equal probability of appearing in List 2, then the probability of a specific individual being reported by P_2 is

$$Pr(captured\ in\ list\ 2) = \frac{B}{N}$$

163. The probability of a specific individual being captured in both lists is

$$\text{Pr(captured in list 1 and list 2)} = \frac{M}{N}$$

164. By definition, the probability of an event composed of two independent events is the product of the independent probabilities. Therefore,

Pr(captured in lists 1 and 2) = Pr(captured in list 1) x Pr(captured in list 2)

Which is $\frac{M}{N} = \left(\frac{A}{N}\right)\cdot\left(\frac{B}{N}\right)$: given this equation, solve for *N*.

Rearranging the terms, $\frac{M}{N} = \frac{A \cdot B}{N^2}$ and then multiplying by *N*,

$M = \frac{A \cdot B}{N}$ multiplying again $M \cdot N = A \cdot B$,

and finally dividing by *M* yields $N = \frac{A \cdot B}{M}$

Note that with the final equation, the total number of deaths *N* can be estimated using the totals from *A* and *B* and from the matches between them, *M*.

165. There are many assumptions implicit in this solution. For example, that none of the lists has individuals reported twice and that matching between the lists is accurate. In this project these two assumptions were controlled during the data processing as described in the matching section.

166. Other assumptions inherent in the capture-tag-recapture model are more difficult to manage. First, the method assumes that individuals are not entering or leaving the universe during the process of creating the lists, and second that the lists were selected randomly from the population. In human rights documentation projects the first assumption is usually irrelevant because the documentation occurs retrospectively. The second assumption cannot be satisfied, and it must be replaced by the assumption that the estimation is robust to the selection process.

167. Another assumption is that the lists are independent, that is, that the probability that an individual is in list two is independent of the probability that the individual is captured in list one. The final assumption is homogeneity: that the individuals that compose the universe all have the same probability of being captured.

168. If either of these assumptions is violated, the capture-tag-recapture method will not yield an adequate estimate of the total population size. If there are more than two lists with adequate information, the problems of dependency or heterogeneity can often be managed through the specification and selection of appropriate models. However, in the data for the HRVD, RMS, and GCD, there are only two usable systems

(RMS-GCD for deaths due to hunger and illness, and HRVD-GCD for killings).* Alone these estimates would be insufficient, but in combination with the RMS estimates, they provide useful additional information.

Allocating GCD by type of death

169. The graveyard data do not include the manner of death. There were 89,894 graves with at least a first initial (or name), a last name and a year of death between 1972 and 2003. Of these 7,117 matched either the HRVD or the RMS (or both), and through this match, the manner of death can be learned from the matched record's manner of death. The remaining 82,717 GCD records need to be allocated to the four categories of manner of death (killings, deaths due to hunger and illness, combatant deaths, and other deaths). From the RMS, annual proportions of deaths by these four types are shown below. Note that these proportions exclude deaths for which the manner of death is unknown (204 of 3,235 deaths reported in the RMS between 1969 and 2004 have unknown manner of death).

Table 10: Estimated proportions of deaths, by period and manner of death

Period	Killing	Hunger/Illness	Combatant	Other
1972–1974	0.9%	95.9%	0.0%	3.2%
Margin of error	1.8%	5.1%	0.0%	4.9%
1975–1982	11.2%	83.0%	4.4%	1.4%
Margin of error	4.7%	5.1%	2.5%	0.6%
1983–1998	5.5%	86.5%	0.7%	7.2%
Margin of error	2.5%	3.7%	0.6%	2.5%
1999	16.2%	83.0%	0.4%	0.4%
Margin of error	10.2%	10.2%	0.8%	0.8%
2000–2003	3.5%	86.9%	0.8%	8.9%
Margin of error	3.1%	6.5%	1.6%	4.9%
Total	8.3%	85.1%	2.4%	4.3%
Margin of error	2.7%	3.1%	1.2%	1.2%

170. These proportions were used to allocate the unmatched GCD records to the distinct manners of death to be used in the MSE calculations for each year: the proportions from the period containing each year was used to allocate the GCD deaths in that year. The margin of error of the allocation was included in the estimated error for the MSE estimates.

* The initial application of multiple-systems estimation to demographic estimation was by C Chandra Sekar and W Edwards Deming, "On a Method of Estimating Birth and Death Rates and the Extent of Registration," *Journal of the American Statistical Association*, March 1949. A thorough discussion of the estimators for the dual-system approach and the relevant error calculations is available in Yvonne M M Bishop, Stephen E Fienberg and Paul H. Holland, *Discrete Multivariate Analysis: Theory and Practice*, Cambridge, MA: MIT Press. 1975. For commentary on the use of these methods in human rights analysis, see Fritz Scheuren, "History Corner," *The American Statistician*, February 2004.

Sensitivity analysis of the loss of social knowledge: adjustments for underestimates

171. The survey asked respondents about the deaths of their parents, siblings and children. However, some deaths left no parents, siblings or children still alive when the survey was conducted in 2004. If deaths occurred long in the past, even the decedents' children would have all died, leaving no one to report the deaths. In other cases small families may have suffered complete mortality, so that no one survived to report the deaths. As the survey estimates the number (or the rate) of deaths farther back in time, the underestimate resulting from the loss of social knowledge must become more severe. However, even in the nearly immediate past (for example, in 2003 for a survey conducted in 2004), it will be impossible to document some deaths which have left no survivors. For example, people who have no surviving parents, siblings or children who died in 2003 cannot be reported in the survey.

172. The crude death rate (CDR per 1,000 people) is an estimate of how many people died, in total, by year. It is a standard demographic and health indicator, usually estimated by indirect methods using census records. For Timor-Leste, these rates are difficult to estimate because the quality of the 1980 and 1990 census data has been in dispute.[11] The CDRs estimated by the US Bureau of the Census for Timor-Leste are shown for 1990-2004. The Indonesian overall rate is shown for 1983. The estimate shown for 1971 comes from an Indonesian government claim that in all of Indonesia between 1971 and 1990, the CDR declined by 45%; the 1971 estimate shown here is the 1990 estimate for Timor-Leste inflated by this factor. A projected CDR is also shown by linearly interpolating between the 1971 estimate and the 1990-2004 estimates.

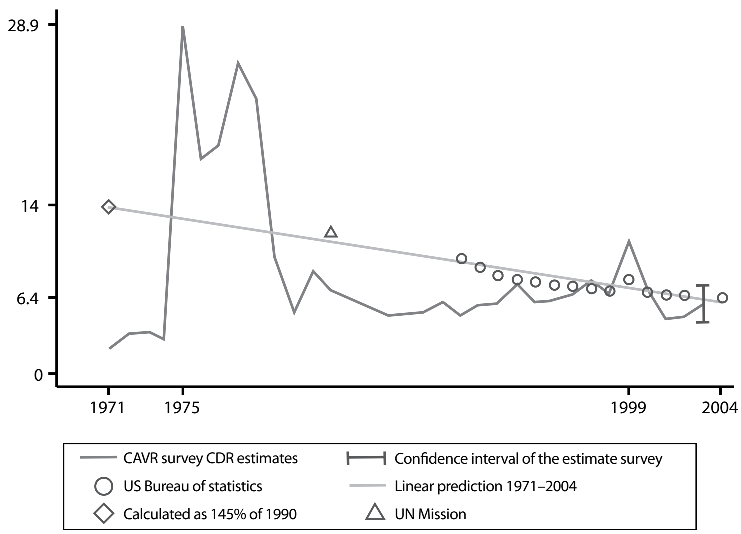
173. In addition to the CDR estimates, the CDR from the Commission's RMS is shown. This estimate is the total estimated deaths divided by the estimated population for that year (multiplied by 1,000). There are several observations to be made about this graph. First, the CDR estimated by the US Census Bureau is within the confidence interval of the CDR estimated by the RMS beginning in 1993. In 2003 the confidence interval of the RMS CDR (4.2–6.6) contains the US Census Bureau estimate (6.4), as shown in the graph by the capped spike at the end of the CAVR line. That is, while the RMS greatly underestimates the death rate in the "normal" peacetime years 1972-1974, by the mid-1990s, the RMS agrees with the results obtained via the indirect methods employed by the US Census Bureau. This observation is consistent with the notion that the RMS estimates suffer increasing downward bias into the past.

174. During years in which the historical record suggests that substantial excess deaths occurred, the linear interpolation of the CDR underestimates deaths. These years include 1975-1979 and 1999.This is consistent with the literal meaning of 'excess' deaths. (There are no census-based CDR estimates for the 1975-1979 period). Looking further into the past, the survey-based CDR captures a decreasing fraction of the total CDR (a similar graph can be drawn for the MSE estimates over time, with similar results).

175. To adjust the RMS, the deaths lost to the loss of social knowledge must be estimated over time. The model employed was the following:

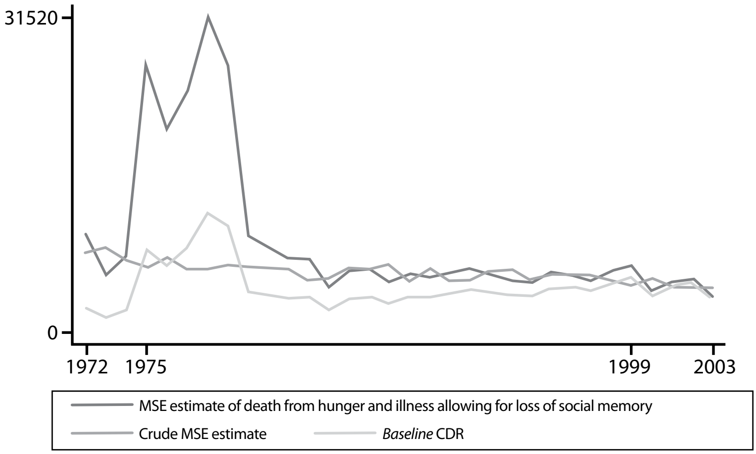
- The number of deaths estimated by the CDR and the projected population for each year was estimated (CDR deaths), shown as a rate in the figure below;
- The fraction of CDR deaths that occurred due to hunger and illness was estimated using the fraction of all deaths reported in the survey that were due to hunger and illness (similar to the allocation used for the unmatched GCD data). In the survey the mean (and median) fraction of all deaths (over years) attributed to hunger and illness is 0.80, and 50% of all years are within the range 0.754–0.846;
- The ratio of estimated deaths to CDR_deaths was calculated for the peacetime years (1972-1974 and 2002-2003); this is the fraction of 'rememberable deaths', called the 'memory fraction';
- The memory fraction for 1975-2001 was estimated by linear interpolation using the following equations:
- Estimated memory fraction (MSE) = -39.1 + 0.0200*year
- Estimated memory fraction (RMS) = -43.9 + 0.0224*year
- The memory fractions for MSE ranges from 0.241-0.936, whereas for the RMS, they ranged from 0.228 to 0.846. This difference has an enormous impact on the outcome.
- The adjusted estimate was calculated as the original estimate divided by the memory fraction for each year.

Crude death rate estimate for Timor-Leste



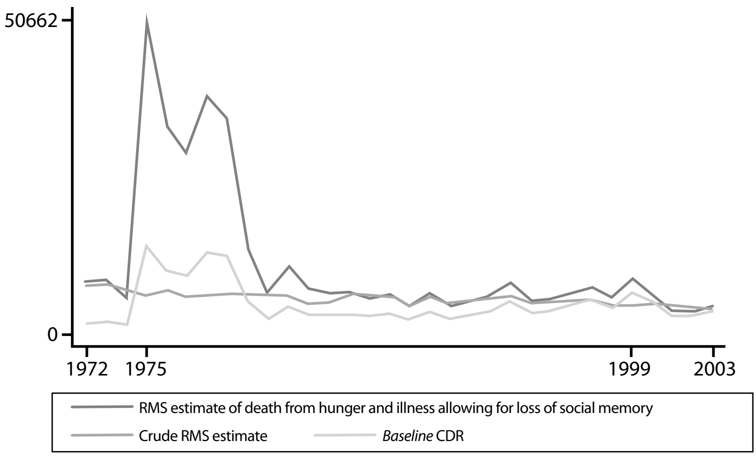
176. The adjusted estimates are presented in the two graphs below. Note that in both graphs the raw estimates and the adjusted estimates converged as the year approached 2003. The impact of the higher memory fraction for the MSE relative to the RMS was apparent in the estimated total deaths in excess of the CDR baseline: the MSE adjusted estimate was 104,000 deaths while the RMS adjusted estimate was 183,300 deaths.

Total death rate estimate from hunger and illness in Timor-Leste (based on MSE)



Estimated total deaths on CDR baseline = 103,904

Total death rate estimate from hunger and illness in Timor-Leste (based on RMS)



Estimated total deaths on CDR baseline = 183,332

177. Both of these estimates depend on a number of assumptions, including assumptions about the shape of the decline of the CDR from the early 1970s through the late 1990s and about the nature of the loss of social memory. Smooth but non-linear changes in the loss of social memory (either concave up or concave down) would not change the estimate substantially. However, if the underestimates in the MSE and RMS due to social memory loss were somehow discontinuous or otherwise drastically different

for 1972-1974 relative to the peak years 1975-1979, the adjustment employed here would not correct appropriately for the underestimate. Both of these models depend on CDRs calculated from the 1980 and 1990 census data and indirect methods used by the US Bureau of the Census. There is sampling and non-sampling error which is not represented in the graphs or the statistics, but the error is certainly substantial.

178. However, these models have the benefit of showing that with the adjustment, the estimated annual total deaths due to hunger and illness closely match the CDR baseline deaths for the pre-invasion period (1972-1974) and for the period 1984-1998.

179. There are several reasons to prefer the MSE estimate to the RMS estimate. Although the RMS more closely matches the CDR deaths estimate in the post-occupation years that approach peacetime, 2002-2003, the MSE more closely matches the pre-occupation CDR total deaths estimates. For the purposes of this estimate, the most relevant period is 1975-1979, and the choice of estimates should be guided by the best fit immediately before this period. A second reason to prefer the MSE is that it is based on considerably more data than the RMS alone: the MSE uses the GCD data in addition to the RMS.

180. The strongest conclusion which can be made is that the unadjusted RMS and MSE estimates must be too low. Vol. I, Part 6: Profile of Human Rights Violations, provides an examination of statistical support for findings in relation to the number of fatal violations during the Commission's mandate period.

Endnotes

1 UNTAET Regulation 10/2001 Section 13.1(a)(i).
2 UNTAET Regulation 10/2001 Section 13.1(a)(i).
3 UNTAET Regulation 10/2001 Section 13.1(a)(i).
4 UNTAET Regulation 10/2001 Section 13.1(a)(ii).
5 UNTAET Regulation 10/2001 Section 13.1(a)(iv).
6 UNTAET Regulation 10/2001 Section 13.1(d).
7 Patrick Ball, *Who Did What to Whom Handbook*, and Patrick Ball et al., *HR Database Design Methods*. US.
8 Paul S Levy and Stanley Lemeshow, *Sampling of Populations*, Chapter 11, Wiley, New York, 1999.
9 Stata Corporation, *Stata Survey Data Reference Manual*, v. 8, College Station, TX: Stata. 2003.
10 Donna Brogan, "Sampling error estimation for survey data," in *Household Sample Surveys in Developing and Transition Countries*, United Nations Publication ST/ESA/STAT/SER.F/96, Department of Economic and Social Affairs of the United Nations Secretariat, 2005.
11 See for example, Ben Kiernan, "The Demography of Genocide in Southeast Asia: The Death Tolls in Cambodia, 1975-79, and Timor-Leste, 1975-80." *Critical Asian Studies* 35:4 (2003), pp. 585-597.

Annexe 3:

Indictment Summaries

Indictment Summaries

Annexe 3
Indictment Summaries

This Annexe is not part of the Commission's findings. It is a summary of all the Indictments submitted to the Special Panels for Serious Crimes for trial by the Serious Crimes Unit. UNTAET (United Nations Transitional Administration in East Timor) Regulation 11/2000 gave exclusive jurisdiction to the Serious Crimes Unit over all crimes of:

- genocide
- war crimes
- crimes against humanity
- murder
- sexual offences, and
- torture

committed between 1 January and 25 October 1999. The Serious Crimes Unit wound down in May 2005 with the end of the UNMISET (United Nations Assistance Mission in East Timor) mission as the UN withdrew support.* The Commission publishes this summary as an Annexe to the Commission's Final Report in an effort to bring together in one place all relevant information about those responsible for the serious crimes committed in Timor-Leste, and through this to help address the continuing problem of impunity for these crimes. The indictments are organised alphabetically by district.

* The UN Security Council reversed this decision in response to the 2006 crisis in Timor-Leste. It created the Serious Crimes Investigation Team (SCIT) to resume the investigative function of the former Serious Crimes Unit (SCU) in cooperation with the office of the Prosecutor General (OGP) of Timor-Leste. Unlike the SCU, however, the mandate of SCIT was limited to investigative tasks. (Ed.)

Indictment summaries by district*

Aileu†

5-2001

Gaspar Leki
A TNI soldier, was indicted for the murder of one individual in Aileu on 9 September 1999. He was convicted of causing the death of an individual through negligence by the Special Panels for Serious Crimes.

6-2001

Augusto dos Santos
A member of AHI militia, was indicted for the murder of one individual in Aileu (Aileu) on 4 September 1999. He was convicted by the Special Panels for Serious Crimes.

20-2003

Domingos A Carlos
Sergeant TNI Village guidance officer (Babinsa) Aissirimou (Aileu)

Carlos Soares
AHI militia member, and

Almeida Martins
AHI militia member

were indicted for crimes against humanity for the murder of two individuals on 6 September 1999 near Aissirimou Village (Aileu). The indictees are believed to be at large in Indonesia.

35-2003

Adolfo Amaral
A TNI soldier, was indicted for crimes against humanity for the murder of one individual and the attempted murder of another on 6 September 1999 in Kotolau (Laulara, Aileu). He is believed to be at large in Indonesia.

* The number above the indictment summary is the Special Panels for Serious Crimes case number and not the Serious Crimes unit indictment number. Several indictments were withdrawn by the Prosecutor before trial and these are not included here.

† The spelling of place names and accents on the names of individuals are in accordance with the CAVR style guide and differ in some places from those in the original Serious Crimes Unit Indictments.

Ainaro

7-2001

Anigio de Oliveira
A member of the Mahidi militia, was indicted for the murder of one individual in Ainaro on 5 September 1999. He was convicted by the Special Panels for Serious Crimes.

6-2003

Cancio Lopes de Carvalho
Overall Commander Mahidi militia

Nemesio Lopes de Carvalho
Intelligence officer Mahidi militia, Coordinator Mahidi militia, Ainaro.

Orlando Baptista
Commander Company B, Mahidi militia

Celestinho Barros
Mahidi militia member

Bernardo Barros
Mahidi militia member

Francisco Mendez
Mahidi militia member

Fernando Lopes
Mahidi militia member

João Baptista
Mahidi militia member

Martinho Lopes
Mahidi militia member

Francisco Atelulo aka **Chico Zumalai**
Mahidi militia member

Manuel Gomes
Commander company A, Mahidi militia

Felismino Lopes
Mahidi militia member

José Lokomau aka **Gadapaksi**
Platoon leader Mahidi militia

José Beldasi
Platoon leader Mahidi militia

Adriano Lopes Titimao
Mahidi militia member

Alfonso Caldas
Mahidi militia member

Gilverto Lopes
Mahidi militia member

Marcelo Gomes
Mahidi militia member, and

Marcelino Beremali
Platoon leader Mahidi militia,

were indicted for crimes against humanity for

1. the murder of two individuals and other inhuman acts against five individuals on or about 3 January 1999 in Manutasi (Ainaro)
2. the murder of one individual on 5 September 1999 in Cassa (Ainaro, Ainaro)
3. the murder of one individual on or about 12 September 1999 in Cassa (Ainaro, Ainaro)
4. the murder of 11 individuals, other inhuman acts against six individuals, persecution assault against one individual and deportation and destruction of property of the civilian population of Maununo on 23 September 1999 in Maununo (Ainaro).

All indictees are believed to be at large in Indonesia.

11-2004

Cesario Tilman
A TNI solider and member of Mahidi militia, and

Lieutenant Julius Adu
Koramil commander, Hato Udo Sub-district, Ainaro

were indicted for crimes against humanity for:

1. the murder of one individual on 12 September 1999 in Hato Udo (Ainaro)
2. the murder of four individuals on 19 September 1999 in Hato Udo (Ainaro)
3. the deportation of an unknown number of civilians from Ainaro between 5 September and 30 October 1999
4. the persecution of an unknown number of civilians between February and 30 October 1999.

The charge of persecution is made up of illegal detentions and beatings, deportations, murders and destruction of property, the murder of five individuals, the imprisonment, forcible deportation and persecution of an unknown number of civilians in September and October 1999 in Ainaro.

The indictees are believed to be at large in Indonesia.

Baucau

33-2003

Richard Hutadjulu
Lieutenant Colonel, Kodim Commander, Baucau district

Karel Polla
Captain, Chief of staff and Deputy Kodim Commander, Baucau district

Irwan (Last Name Unknown)
1st Sergeant, Intelligence section, Kodim 1628

Faustino dos Santos
1st Sergeant, Intelligence section, Kodim 1628

Tomas Cardoso aka **Tomas Maurade**
2nd Sergeant, Intelligence Section, Kodim 1628

Manuel Ariate
2nd Sergeant, Intelligence Section, Kodim 1628

Agustinho Soares
1st Corporal, Intelligence Section, Kodim 1628

Adelino Freitas
1st Private, Intelligence Section, Kodim 1628

Jeronimo Soares
1st Private, Intelligence Section, Kodim 1628

Domingos Filipe
2nd Private Intelligence Section, Kodim 1628, Member Team Saka

Domingos Alaguia
Member Kodim 1628

Joanico C. Belo
Commander Team Saka, Commander PPI Sector A, 1st Sergeant Kopassus

Igidio Sarmento
Deputy Commander of PPI sector A, 1st Private Kodim 1628

Celestino Morreira
Deputy Commander Team Saka, Quelicai

Cosme Morreira
Deputy Commander Team Saka, Quelicai

Virgilio Soares
Deputy Commander Team Saka, Quelicai, and

Cristiano Ximenes
Indonesian Civil Defence (HANSIP)

were indicted for crimes against humanity for

1. the murder of three individuals and inhuman acts against one individual on or about 26 March 1999 in Baucau (Baucau)
2. the murder of one individual and inhuman acts against one individual, on or about 27 May 1999 in Baucau (Baucau)
3. the torture on five individuals on or about 27 and 28 May 1999 in Baucau (Baucau)
4. the murder of one individual and destruction of property of an unknown number of civilians in Abo Village, Liri Aldeia, and Quelicai Town (Baucau)
5. the murder of one individual on 11 September 1999 in Laga (Baucau)

All indictees are believed to be at large in Indonesia.

10-2002

Major Jacob Djoko Sarosa
Commander TNI Battalion 745, and

Camilo dos Santos
Platoon Commander in Battalion 745

were indicted for crimes against humanity for:

1. the murder of 21 individuals during September 1999 in the districts of Lautém, Baucau and Dili;
2. the imprisonment of three individuals on or about 10 September 1999 in Fuiloro, Lospalos, Lautém;
3. other inhuman acts against one individual and imprisonment against one individual on or about 21 September 1999 in Becora (Dili).

They are both believed to be at large in Indonesia.

Bobonaro

1-2000

João Fernandes
A member of Dadurus Merah Putih militia, was indicted for the murder of one individual on 8 September 1999 in the Maliana Police Station (Bobonaro). He was convicted by the Special Panels for Serious Crimes.

10-2000

Manuel G L Bere
A member of Dadurus Merah Putih militia, was indicted for the murder of one individual during September 1999 in Maliana. He was convicted by the Special Panels for Serious Crimes.

1-2001

Francisco Pedro Geger
A member of FIRMI militia, was indicted for crimes against humanity for murder, torture and other inhuman acts against eight individuals at the Balibó Fort (Balibó) on 6 September 1999, and the murder of two individuals and attempted murder of one individual on 15 September 1999 in Batugade. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

2-2001

Agusto A Tavares
A member of the Halilintar militia, was indicted for the murder of one individual in Memo (Maliana) during August 1999. He was convicted by the Special Panels for Serious Crimes.

4-2001

Bambang Indra
Commander, TNI Koramil Lolotoe, Bobonaro

Francisco Noronha
Kaer Metin Merah Putih militia member

Sabino Goveia Leite
Village Chief, Guda

João Franca da Silva
Commander, Kaer Metin Merah Putih militia, and

José Cardoso Ferreira
Commander, Kaer Metan Merah Putih militia

were indicted for the murder and torture of four individuals, the rape of three individuals and severe deprivation of physical liberty, other inhuman acts and persecution of an unknown number of individuals in Lolotoe, (Bobonaro) between May and September 1999.

Sabino Goveia Leite, João Franca da Silva and José Cardoso Ferreira were convicted of crimes against humanity by the Special Panels for Serious Crimes. Bambang Indra and Francisco Noronha are believed to be at large in Indonesia.

8-2001

Francisco dos Santos Laku
A TNI soldier was indicted for the murder of one individual on 7 September 1999 in Balibó (Bobonaro). He was convicted by the Special Panels for Serious Crimes.

10-2001

Lino de Carvalho
Saka Loronmonu militia member

Ruben Monteiro
Deputy Commander, Saka Loronmonu militia, and

Ruben Pereira Tavares
Commander, Saka Loronmonu militia

were indicted for crimes against humanity for the murder of one individual in Maudeku, Lotan, Batugade during September 1999 and other inhuman acts against an unknown number of civilians committed on 14 April, 16 April and 7 May 1999.

Lino de Carvalho was convicted of crimes against humanity by the Special Panels for Serious Crimes. The other two indictees are believed to be at large in Indonesia.

6-2002

Paulino de Jesus
A TNI soldier, was indicted for the murder of one individual and the attempted murder of another individual on or around 10 September 1999 in Lourba (Bobonaro, Bobonaro). The Special Panels for Serious Crimes acquitted him of both charges. The Court of Appeal reversed the acquittal on both charges. He is currently believed to be at large in Indonesia.

7-2002

Salvador Soares
Dadurus Merah Putih (DMP) militia member

Sutrisno
Member of TNI Kodim 1636

Asis Fontes aka **Atzis Montes**
TNI soldier

João Batista
DMP militia member

Vitalis Fernandes
DMP militia member

Marito L. Morreira
DMP militia member

José Soares
DMP militia member

Humberto Lopes
DMP militia commander

Martinho Afonso
DMP militia member, and

Manuel (last name and affiliation unknown)

were indicted for crimes against humanity for the murder of two individuals and the torture of one individual on 2 September 1999 in Raifun (Maliana, Bobonaro). Salvador Soares was convicted of crimes against humanity in several proceedings by the Special Panels for Serious Crimes. The remaining indictees are believed to be at large in Indonesia.

8-2002

Paulo Goncalves
Commander Halilintar militia

Marcelino Leto
Deputy Commander Halilintar militia, and

Rosalino Pires
Halilintar militia member

were indicted for crimes against humanity for the rape and torture of six individuals and persecution of seven individuals in Atabae, Bobonaro, between February and September 1999. The indictees are believed to be at large in Indonesia.

2-2003

Burhanuddin Siagian
Commander Kodim 1636, Maliana (Bobonaro)

Lt. Sutrisno
TNI Head of Intelligence at Kodim 1636

Assis Fontes
TNI SGI Sergeant Major at Kodim 1636

Mahalan Agus Salim
TNI Commander SGI post in Marco

Tito Leto Bere
TNI soldier, Cailaco

Yohanes Leodesi
TNI soldier, Cailaco

Guilhermi Atusuri
TNI soldier, Cailaco

Haerola (last name unknown)
TNI Commander, BTT Post, Purugoa

Manuel Mau Bere
TNI soldier, Cailaco

Silvano Siga Mau
TNI soldier, Cailaco

Manuel Bere Lete
TNI soldier,Cailaco

Gustavão Soares
TNI soldier, Cailaco

Arlindo Bere Dasi
TNI soldier, Cailaco

Agustinho Lopes
TNI soldier, Cailaco

Manuel Lopes
TNI soldier

João da Silva Tavares
Head of Integration Fighting Forces (PPI), Timor-Leste

Jorge Tavares
Head of FPDK, Bobonaro

Paulo Goncalves
Commander Halilintar militia, Bobonaro

Francisco V. Bili Ato
Deputy Commander Halilintar militia, Bobonaro

Feliciano Mau Bere
Halilintar militia member, Bobonaro

José Apalagi
Halilintar militia member, Bobonaro

Arcanzo Pereira
Halilintar militia member, Bobonaro

Carlito Gama
Halilintar militia member, Bobonaro

Adão Salsinha Babo
Commander Guntur militia, Cailaco

Flaviano Dasi Leto
Deputy Commander Guntur militia, Cailaco

Aparicio Miguel
Guntur militia member, Cailaco

Justinho Borges
Guntur militia member, Cailaco

Arnold Soares aka **Jamie**
Guntur militia member, Cailaco

Rui Bere Loe
Guntur militia member, Cailaco

Agustinho Bili Tael
Guntur militia member, Cailaco

João Coli
DMP militia member, Maliana, and

Manuel Maia
DMP militia member, Maliana

were indicted for crimes against humanity for

1. the murder, torture and imprisonment of two individuals on or about 21 and 22 March in Maliana (Bobonaro)
2. the torture of one individual on or about 13 April 1999 in Maliana (Bobonaro)
3. the torture and persecution by unlawful detention of an unknown number of individuals on 12 April 1999 in Marco, Cailaco (Bobonaro)
4. the torture of five individuals and the murder of three individuals on 12 April in Purugoa, Cailaco (Bobonaro)
5. the murder of four individuals on or about 12 April 1999 in Marco, Cailaco (Bobonaro)
6. the forcible transfer of population and persecution by destruction of property of the civilian population of Cailaco (Bobonaro) between 12 and 20 April 1999
7. the murder or persecution by unlawful detention of two individuals on or about 19 April 1999 in Purugoa, Cailaco (Bobonaro)
8. the murder of two individuals on or about 19 April 1999 in Marco, Cailaco (Bobonaro)
9. the murder of two individuals on or about 20 April 1999 in Marco, Cailaco (Bobonaro)

All indictees are believed to be at large in Indonesia.

15-2003

Five TNI soldiers were indicted for crimes against humanity for rape, torture and deportation or forcible transfer of population between March and September in Timor-Leste. All indictees are believed to be at large in Indonesia. [Some details have been suppressed at the request of the Serious Crimes Unit in order to protect the victims].

18-2003

Burhanuddin Siagian
Lieutenant Colonel, TNI, Commander Kodim 1636, Maliana

Bambang G. Supriyanto
Lieutenant Colonel, TNI, Commander Kodim 1636, Maliana

Sutrisno
Lieutenant, TNI, Chief of Intelligence section, Kodim 1636, Maliana

M. Yusuf
Lieutenant, TNI, Chief of Operation Kodim 1636, Maliana

Rizal
SGI soldier, Maliana

Domingos dos Santos
Sergeant, TNI, Intelligence section Kodim 1636, Maliana

Julião Lopes
Sergeant, TNI, Intelligence section Kodim 1636, Maliana

Mau Muti
Sergeant, TNI, Intelligence section Kodim 1636, Maliana

Manuel Lopes
Sergeant, TNI, Intelligence section Kodim 1636, Maliana

Frederico M. Pires
Sergeant, TNI, Intelligence section Kodim 1636, Maliana

José Bere Laka
TNI Intelligence section Kodim 1636, Maliana

Alvaro Mali
Sergeant, TNI, Intelligence section Kodim 1636, Maliana

Francisco Fernandes
Sergeant, TNI, Intelligence section Kodim 1636-01, Maliana

Miguel Soares
Sergeant, TNI, Intelligence section Kodim 1636, Maliana

José Simão
Sergeant, TNI, Intelligence section Kodim 1636, Maliana

Rue Bere Tali
Corporal, TNI, Intelligence Section Kodim 1636, Maliana

Romeo da Silva
Corporal, TNI, Intelligence Section Kodim 1636, Maliana

Domingos dos Santos de Carvalho
Dadurus Merah Putih militia member

Budi Susilo
Police Major (Kapolres) Bobonaro District

Clementino da Costa
Police Sergeant, Polres Maliana

Guilherme dos Santos
District Administrator, Bobonaro

João da Silva Tavares
Head of Timor-Leste Integration Fighting Forces (PPI)

Jorge Tavares
Head of FPDK, Bobonaro district

Natalino Monteiro Gonçalves
Commander Dadurus Merah Putih militia, Maliana

Marcos Tato Mali
Deputy Commander Dadurus Merah Putih militia, Maliana

Ruben Tavares
Commander Saka Loronmonu militia, Batugade

Ruben Monteiro Goncalves
Deputy Commander Saka Loronmonu militia

João aka **Laho**
Dadurus Merah Putih militia member

Luis Cardoso
Dadurus Merah Putih militia member

Armindo Soares
Dadurus Merah Putih militia member

António de Jesus
Dadurus Merah Putih militia member

Inacio da Conceição
Dadurus Merah Putih militia member

João Coli
Dadurus Merah Putih militia member

Alfredo aka **Mau**
Dadurus Merah Putih militia member

Francisco Bere Masak
Dadurus Merah Putih militia member

Fernando (last name unknown)
Dadurus Merah Putih militia member

Jacinto (last name unknown)
Dadurus Merah Putih militia member

João Baptista
Dadurus Merah Putih militia member

João Kometa
Dadurus Merah Putih militia member

José Lopes
Dadurus Merah Putih militia member

Luis Mali Dão
Dadurus Merah Putih militia member

Marito Morreira
Dadurus Merah Putih militia member

Mateus Monis
Dadurus Merah Putih militia member

Leoneto Martins
Dadurus Merah Putih militia member

Manuel Cansil
Dadurus Merah Putih militia member

Rui Kele
Dadurus Merah Putih militia member

Elias Pereira
Dadurus Merah Putih militia member

Afonso Davidson
Dadurus Merah Putih militia member

Leoneto Monis
Dadurus Merah Putih militia member

Mau Xesta
Dadurus Merah Putih militia member

Bernardino (last name unknown)
Dadurus Merah Putih militia member

Zerniah (last name unknown)
Dadurus Merah Putih militia member

Zeferino (last name unknown)
Dadurus Merah Putih militia member

João dos Nunes
Dadurus Merah Putih militia member

Daniel (last name unknown)
Dadurus Merah Putih militia member

Baptista de Sousa
Dadurus Merah Putih militia member, and

Aparicio Guterres
Dadurus Merah Putih militia member

were indicted for crimes against humanity for several crimes committed in Maliana during 1999 specifically:

1. the torture of one individual on 8 May 1999 in Lalebol, Bobonaro (Bobonaro)
2. the murder of two individuals on or about 15 May 1999 near Nunura Bridge (Maliana, Bobonaro)
3. the murder of one individual on 18 August 1999 in Buipira (Lahomea, Maliana, Bobonaro)
4. the murder of one individual and attempted murder of one individual on or about 2 September 1999 in Maliana, Bobonaro
5. the murder of an unknown number of civilians and attempted murder of two individuals on or about 8 September 1999 at the Polres compound (Maliana, Bobonaro)
6. the murder of one individual on or about 9 September in Mulau (Maliana, Bobonaro)
7. the murder of one individual on or about 9 September 1999 in Genuhaan, (Odomau, Maliana, Bobonaro)
8. the murder of one individual on or about 13 September 1999 in Genuhaan (Odomau, Maliana, Bobonaro)
9. the murder of two individuals on or about 13 September 1999 in Akadiru Laran (Maliana, Bobonaro)
10. the persecution of an unknown number of civilians in Bobonaro District during 1999.

Aparicio Guterres
was acquitted of all charges by the Special Panels for Serious Crimes in a separate case. The other indictees are believed to be at large in Indonesia.

5-2004

Ruben Gonçalves
Joint Commander Saka Loronmonu militia

Ruben Tavares
Joint Commander Saka Loronmonu militia

João Oliveira
Commander FIRMI militia, Balibó, Bobonaro

Joaquim Maia Pereira
Deputy Commander FIRMI militia, Balibó, Bobonaro

João da Silva Tavares
Head of the Timor-Leste Integration Fighting Forces (PPI)

were indicted for crimes against humanity for:

1. the torture and murder of one individual on 16 April 1999 in Batugade
2. the murder of one individual on or around 13 May 1999 in Batugade
3. the torture of two individuals on 11 May 1999 in Balibó
4. the persecution of 38 civilians between 2 and 6 September in Balibó
5. the torture of 14 individuals between 2 and 6 September 1999 in Balibó
6. the murder of eight individuals on 6 September 1999 in Balibó
7. the murder of one individual on 7 September 1999 in Batugade
8. the murder of two individuals and attempted murder of one individual on 15 September 1999 near Batugade.

All indictees are believed to be at large in Indonesia.

6-2004

Frans Tallo
A Saka Loronmonu Platoon Commander, was indicted for crimes against humanity for the torture of one individual and the murders of 11 others in April, May and September 1999 in Batugade. He is believed to be at large in Indonesia.

Covalima

5-2000

Yoseph Leki
A Laksaur militia member, was indicted for crimes against humanity for the murder of four individuals in Salole and Wea Forest on 25 and 26 May 1999. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

13-2001

Mercurious José de Deus
A Laksaur militia member, was indicted for the murder of one individual during September 1999 in Fatumean, Covalima District. He was convicted by the Special Panels for Serious Crimes.

1-2003

Damião da Costa Nunes
Indicted for crimes against humanity for the murder of three individuals in Covalima District between August and September 1999. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

7-2003

Joanico Gusmão
A Laksaur militia member, was indicted for crimes against humanity for the murder of one individual on 5 September 1999 in Sukaer Laran, (Suai, Covalima). He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

8-2003

Miguel Mau
Was indicted for crimes against humanity for the murder of four individuals and the persecution of nine on 23 April 1999 in Tilomar and the murder of an unknown number of civilians on 6 September 1999 at the Ave Maria Church (Suai). He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

9-2003

Egidio Manek
Deputy Commander Laksaur militia Covalima District, Member of Gadapaksi

Maternus Bere
Commander Laksaur militia, Suai

Pedro Teles
Commander Laksaur militia, Fatululik

Henrikus Mali
Commander Laksaur militia, Fatumean

Cosmos Amaral
Commander Laksaur militia, Fohorem

Alipio Gusmão aka **Alipio Mau**
Operations Commander Laksaur militia, Leogore, Suai town

Baltazar da Costa Nunes
Laksaur militia member

Domingos Mali aka **Bete Aloi**
Laksaur militia member

Illidio Gusmão
Laksaur militia member

Joaquim Berek aka **Berek Bot**
Laksaur militia member

Olivio Tatoo Bau
Laksaur militia member

Gabriel Nahak
Laksaur militia member

Americo Mali
Laksaur militia member, and

Zito da Silva aka **Zito Saek**
Laksaur militia member

were charged with crimes against humanity committed against the civilian population of Covalima District in 1999. Specifically:

1. the torture of one individual on or about 27 January 1999 in Uma Merah (Tilomar, Covalima)
2. the torture of three individuals on or about 26 February 1999 in Uma Merah (Tilomar, Covalima)
3. the torture of one individual on or about 14 April 1999 in Uma Merah (Tilomar, Covalima)
4. the torture of six individuals on or about 23 April in Belulik Leten Village (Fatumean, Covalima)
5. the torture of four individuals on or about 23 April in Nikir (Raihun, Tilomar, Covalima)
6. the torture of nine individuals on or about the 23 April in Fatukmetan (Tilomar, Covalima)
7. the torture of one individual on or about 26 April in Leogore (Suai, Covalima)
8. the torture of two individuals on or about 26 April in Leogore (Tilomar, Covalima)
9. the destruction of property against the civilian population of Wetaba on or about 22 April 1999 in Wetaba (Raihun, Tilomar, Covalima)
10. the torture of nine individuals on or about 30 April 1999 in Salele (Tilomar, Covalima)
11. the torture of two individuals on or about 24 April 1999 in Raihun (Tilomar, Covalima)
12. the enforced disappearance of two individuals on or about 19 April 1999 in Matai (Suai, Covalima)
13. the murder of one individual on or about 12 April 1999 in Suai (Covalima)
14. the enforced disappearance of one individual on or about 23 April 1999 in Caicoli (Tilomar, Covalima)
15. the murder of four individuals on or about 23 April in Raihun (Tilomar, Covalima)
16. the murder of one individual and attempted murder of one individual on or about 13 May 1999 in Fatuloro, (Fatululik, Covalima)

17. the murder of one individual in on or about 28 May in Uma Wesei Forest (Suai, Covalima)
18. the murder of one individual on or about 28 May 1999 in Alastehen (Fatumean, Covalima)
19. the murder of one individual on or about 27 August 1999 in Mota Ulan Fatumean (Covalima)
20. the torture of two individuals and inhuman acts against one individual on or about 5 September 1999 in Suai (Covalima)
21. the torture of two individuals on or about 17 September 1999 in Tilomar (Covalima)
22. the murder of two individuals on or about 4 September in Belulik Leten (Fatumean, Covalima)
23. the murder of one individual on or about 5 September 1999 in Debos (Suai, Covalima)
24. the execution of an unknown number of civilians at the Ave Maria Church (Suai, Covalima)
25. the abduction of one individual on or about 6 September 1999 in Suai (Covalima)
26. the murder of two individuals on or about 6 September 1999 in Manekiik (Fatumean, Covalima)
27. the murder of one individual on or about 7 September in Maukatar (Covalima)
28. the murder of one individual on or about 7 September 1999 in Suai (Covalima)
29. the persecution on one individual on or about 7 September 1999 in Suai (Covalima)
30. the murder of one individual and abduction of one individual on or about 8 September 1999 in Suai (Covalima)
31. the murder of two individuals and attempted murder of one individual on or about 9 September 1999 in Suai (Covalima)
32. the murder of 14 individuals on or about 12 September 1999 in Lactos (Fohorem, Covalima)
33. the murder of two individuals on or about 12 September 1999 in Kulit (Tilomar, Covalima)
34. the persecution of one individual on or about 19 September 1999 in Alastehen (Fatumean, Covalima)
35. the murder of three individuals and inhuman acts against one individual on or about 25 September 1999 in Wea Forest, Covalima
36. the murder of two individuals on or about 26 September 1999 in Wesei Forest, Covalima

37. the murder of one individual on or about 26 September 1999 in Wesei Forest (Covalima)
38. the murder of three individuals on or about 5 October 1999 in Laketo Forest (Lookeu, Covalima)
39. the murder of one individual on or about 5 October 1999 in Suai (Covalima)
40. the enforced disappearance of three individuals on or about 17 October 1999 in Bora, (West Timor, Indonesia)
41. the rape of one individual between 6 September and 15 December 1999 near Wemasa (West Timor, Indonesia)
42. the deportation and persecution of an unknown number of civilians between 5 September and 30 October 1999 in Covalima District.

All indictees are believed to be at large in Indonesia.

14-2003

Colonel Herman Sediyono
District Administrator Covalima, TNI officer

Lieutenant Colonel Achmad Mas Agus
Commander Kodim 1635 (Covalima) between January and 4 September 1999 and 7 September to 4 October 1999

Lieutenant Colonel Lilik Koeshardianto
Commander Kodim 1635 (Covalima) between 4 September and 7 September 1999

Lieutenant Colonel Gatot Subiaktoro
Commander Polres (Kapolres) Covalima

Captain Achmad Syamsuddin
Chief of Staff (Kasdim) Kodim 1635

Lieutenant Sugito
Commander Koramil 1635-01 (Suai)

Lieutenant Widodo
Commander Koramil 1635-02 (Tilomar)

Lieutenant Ari aka **Commandante Ari**
Commander Koramil 1635-03 Battalion 143 (Fohorem)

Sergeant Major Harun Tateny
Commander Koramil 1635-05

Sergeant Major Supoyo
Commander Koramil 1635-0? (Salele)

Simão Nahak
TNI soldier

Raul Halek
TNI soldier

Americo Seran
Village guidance officer (Babinsa) Lohorai, Matai TNI

Julio Borges
Deputy Commander Lactos TNI Post

Leoneto Cardoso
TNI soldier, and

Anito Lau
TNI soldier Lactos Post, Fohorem

were indicted for crimes against humanity for:

1. the persecution and torture of an unknown number of civilians between January and April 1999 in Covalima District, among others
2. the torture of one individual on or about 14 April 1999 in Uma Merah, (Tilomar, Covalima)
3. the torture of six individuals on or about 23 April in Belilik Leten (Fatumean, Covalima)
4. the torture of four individuals on or about 23 April 1999 in Nikir, Raihun (Tilomar, Covalima)
5. the murder of an unknown number of civilians between January and August 1999 in Covalima District, among others
6. the murder of four individuals on or about 23 April 1999 in Nikir (Tilomar, Covalima)
7. the murder of 1 individual on or about 13 May 1999 in Nikir (Tilomar, Covalima)
8. the enforced disappearance of four individuals in April 1999 in Covalima District
9. the murder of four individuals between 4 and 5 September 1999 in Covalima District.
10. the murder of an unknown number of civilians at the Ave Maria Church (Suai, Covalima) on or about 6 September 1999
11. the abduction of one individual between 6 and 7 September 1999 in Suai (Covalima)
12. the murder of 4 individuals between 6 and 8 September 1999 in Covalima
13. the murder of an unknown number of civilians, the attempted murder of one individual, and the abduction of seven individuals between 4 and 26 September 1999 in Covalima

14. the murder of an unknown number of civilians in Lactos Village on or about 12 September 1999 in Covalima
15. the deportation of an unknown number of civilians between 5 September and 30 October 1999 in Covalima
16. the execution of an unknown number of civilians between 5 September and 30 October 1999 in Covalima.

All indictees are believed to be at large in Indonesia.

34-2003

Francisco Pereira
Was indicted for crimes against humanity for the murder of one individual, the detention of four individuals and the torture of two individuals in April and May 1999 in Zumalai, Covalima. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

1-2004

Xisto Barros
Laksaur militia member

Cesar Mendonca
Laksaur militia member, and

Josep Nahak
Laksaur militia member

were indicted for crimes against humanity for

1. the murder of three individuals and the attempted murder of three individuals on 4 and 5 October 1999 in Lookeu Forest
2. several acts of persecution between April and October 1999 in Covalima District including murder, attempted murder, detention, imprisonment and deportation of an unknown number of civilians.

Josep Nahak
Was deemed not competent to stand trial.

The other two indictees were convicted of crimes against humanity by the Special Panels for Serious Crimes.

4-2004

Vasco da Cruz
Commander Mahidi militia, Zumalai

Domingos Alves
Raimea Village Chief, Deputy Commander Mahidi militia

Guilhermino de Araújo
Mape Village Chief, head BRTT, Zumalai

Napoleão dos Santos
Company Commander Mahidi militia, Bailaco, Raimea

Simão Tasion
Company Commander Mahidi militia, Beco 1

Lino Barreto
HANSIP, Mahidi militia, and

Cancio Lopes de Carvalho
Overall Commander Mahidi militia, Timor-Leste

were indicted for crimes against humanity for:

1. the imprisonment or other forms of detention and torture of an unknown number of civilians in Zumalai between January and October 1999
2. the murder of one individual on 24 January 1999 in Mape (Zumalai, Covalima)
3. the murder of three individuals on 24 January 1999 in Lour (Zumalai, Covalima)
4. the murder of one individual and forced disappearance of two individuals on 13 April 1999 in Zumalai
5. the murder of three individuals on 27 March 1999 in Mape (Zumalai, Covalima)
6. the murder of one individual on 17 April 1999 in Zulo (Zumalai, Covalima)
7. the murder of four individuals on 4 May 1999 in Mape (Zumalai, Covalima)
8. the murder of one individual on 18 June 1999 in Mape (Zumalai, Covalima)
9. the abduction of one individual on 5 September 1999 in Fatuleto (Zumalai, Covalima)
10. the murder of two individuals on 5 September 1999 in Beco 1 (Suai, Covalima)
11. the murder of an unknown number of individuals on or about 6 September 1999 at Ave Maria Church, Suai (Covalima)
12. the murder of one individual on 12 September 1999 in Fatuleto (Zumalai, Covalima)
13. the murder of one individual on 12 September 1999 in Kamenasa (Suai, Covalima)
14. the murder of one individual on 13 September 1999 in Zulo (Zumalai, Covalima)
15. the murder of two individuals in September 1999 in Kamenasa (Suai, Covalima)

16. the destruction of property of an unknown number of civilians in September 1999 in Zumalai and Suai (Covalima)
17. the deportation or forcible transfer of population of an unknown number of civilians in Zumalai and Covalima from 30 August to 30 October 1999.

All the indictees are believed to be at large in Indonesia.

7-2004

Tomás Lopes M Udin
Deputy Company Commander of Mahidi militia, was indicted for crimes against humanity for the murder of one individual and the attempted murder of another on 12 September 1999 in Kamenasa, Suai, Covalima District. He is believed to be at large in Indonesia.

8-2004

Domingos Maubuti
Mahidi militia member Mape (Zumalai), and

Adriano Nascimento
Mahidi militia member Mape (Zumalai)

were indicted for crimes against humanity for:

1. the rape and murder of one individual and murder of two others on 17 April 1999 in Mape (Zumalai, Covalima)
2. the murder of one individual and attempted murder of another individual on 18 June 1999 in Mape (Zumalai, Covalima)
3. the murder of one individual on 13 September 1999 in Zulo (Zumalai, Covalima).

The indictees are believed to be at large in Indonesia.

9-2004

Alfredo Breok
A member of Mahidi militia, was indicted for crimes against humanity for the murder of two individuals, one on the 24 January in Mape (Zumalai, Covalima) and the other on 12 September in Fatuleto (Zumalai, Covalima). He is believed to be at large in Indonesia.

Dili

14-2001

Francisco Soares
A TNI soldier, was indicted for the rape of one individual in Useleo, Dili on or about 12 September 1999. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

16-2003

Beny Ludji
Commander Company A, Aitarak militia, and

José Pereira
Aitarak militia member

were indicted for crimes against humanity for the murder of two individuals on 1 September 1999 in Mascarinhas (Dili). They were both convicted of crimes against humanity by the Special Panels for Serious Crimes.

17-2003

José Lopes da Cruz Mendonca
A member of Aitarak militia, was indicted for crimes against humanity for the murder of one individual on 1 September 1999 in Mascarinhas, Dili. He is believed to be at large in Indonesia.

2-2002

Marculino Soares
Commander Besi Merah Putih (BMP) mililia, Guico, Maubara, Liquiçá

Eurico Guterres
Deputy Commander, Integration Fighting Forces (PPI)

Manuel Sousa
Commander BMP militia, Liquiçá

João Sera
Vice Commander BMP militia, Liquiçá

Floriano da Silva
Commander BMP militia Gugleur, Liquiçá

Tomé Diogo
TNI officer

José Mateus
TNI soldier

Antonio Gomes
TNI soldier

Antonio Bescau
TNI soldier

Teofilo da S. Ribeiro
TNI soldier

Jorge Viegas
TNI soldier

Mateus Metan
BMP militia member

Domingos Bondia
BMP militia member

Fernando Sousa
BMP militia member, and

Armindo Carrion
BMP militia member

were indicted for crimes against humanity for the murder of 13 individuals as well as persecution and other inhuman acts committed against a civilian population in relation to attacks that took place in Dili District on 17 April 1999. In a separate hearing, Marculino Soares was convicted of crimes against humanity by the Special Panels for Serious Crimes. The remaining indictees are believed to be at large in Indonesia.

11-2003

Marcelino Soares

Village guidance officer (Babinsa) for Hera (Hera, Dili) was indicted for crimes against humanity for the murder of one individual, torture of three individuals and persecution by unlawful detention of three individuals on or around 20 April 1999. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

12-2003

Domingos Amati
Aitarak militia member, and

Francisco Matos
Aitarak militia member

were indicted for the murder of one individual on 5 September in Hera, (Dili). They were both convicted by the Special Panels for Serious Crimes.

13-2003

Eurico Guterres
Commander Aitarak militia

Mateus de Carvalho
Commander Company D (Hera) Aitarak militia

Timbul Silaen
Chief of Police (Kapolda), Timor-Leste

Adolfo Viera Leão
TNI soldier

Agus Suwarno
TNI captain

António Ximenes
Aitarak militia member

B. Marcelino
Deputy Commander Company C (Becora) Aitarak militia

Caitano da Silva
Military Commander Bidau Santana (Post 12) Aitarak Militia

were indicted for crimes against humanity for:

1. destruction of property against a civilian population, other inhuman acts against a civilian population, the murder of nine individuals and the enforced disappearance of six individuals in relation to the attack on the Dili Diocese on 5 September 1999
2. destruction of property against a civilian population and other inhuman acts against an unknown number of civilians in relation to attacks on the Compound of Bishop Belo, the Canossian Convent and the Red Cross Compound on 6 September 1999
3. other inhuman acts against one individual in relation to the attack on Acacio Riberio on 6 September 1999
4. the deportation or forcible transfer of population of an unknown number of civilians between 5 and 9 September 1999.

All indictees are believed to be at large in Indonesia.

24-2003

Mateus de Carvalho
Commander Company D (Hera) Aitarak militia

António Adolfo
Commander Aitarak militia, Metinaro

Luis da Costa Oliveira (aka **Luis Metan)**
Deputy Commander Aitarak militia, Metinaro

Lt Agus Yuli
Commander TNI Rajawali, Hera

Lt Untung
Commander Koramil, Metinaro

Antonio Pinto aka **Antonio B or Mautersa**
TNI soldier

Mário Malekat
TNI soldier

Lino "Watulari"
Aitarak militia member

Manuel da Silva
Aitarak militia member

Gaspar da Silva
Aitarak militia member

Florindo Malimeta
Aitarak militia member

Domingos Beremau
Aitarak militia member

Pedro Sousa
Aitarak militia member

Domingos Teebuti
Aitarak militia member

Mateus Malimeta
Aitarak militia member

José Soares
TNI soldier

Matias Soares
Aitarak militia member, and

Joaquim Godinho
TNI soldier

were indicted for crimes against humanity for:

1. the imprisonment of three individuals, the torture of three individuals, the murder of one individual in Hera (Dili) on 20 April 1999
2. the abduction of one individual on 1 May 1999 in Hera
3. the abduction, murder and torture of two individuals on 8 May 1999 in Hera
4. the imprisonment and torture of two individuals on 20 May 1999 in Hera
5. the torture and murder of two individuals on 31 August 1999 in Akanunu, Hera (Dili)
6. the persecution and forcible transfer of population against an unknown number of civilians in Metinaro (Dili) between 5 and 8 September 1999
7. the murder of one individual on 6 September 1999 in Hera
8. the murder of one individual on 7 September 1999 in Metinaro
9. inhuman acts against an unknown number of civilians on or about 12 September 1999 in Metinaro.

All indictees are believed to be at large in Indonesia.

25-2003

Julio Fernandes
A TNI soldier, was indicted for crimes against humanity for destruction of property and deportation or forcible transfer of population against an unknown number of civilians between 5 and 8 September 1999 and inhuman acts committed against an unknown number of civilians on 12 September 1999 in Metinaro. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

27-2003

Rudolfo Alves Correia
A TNI soldier, was indicted for crimes against humanity for the murder of one individual on 6 September 1999 in Hera (Dili). He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

28-2003

Alarico Mesquita
Aitarak militia member

Florindo Morreira
Aitarak militia member

Domingos Amati
Aitarak militia member

Francisco Matos
Aitarak militia member

Lorenco Tavares
Aitarak militia member

Mateus Guterres
Aitarak militia member, and

Angelino da Costa
Aitarak militia member

were indicted for crimes against humanity for the persecution and torture of two individuals on 8 May 1999 in Akanunu, Hera (Dili). They were all convicted of crimes against humanity by the Special Panels for Serious Crimes.

29-2003

Florindo Morreira
was indicted for crimes against humanity for the murder and torture of two individuals in Akanunu, Hera (Dili) on 31 August 1999. The defendant was acquitted of all charges by the Special Panels for Serious Crimes.

10-2004

Lieutenant Colonel Hulman Gultom
The Polres Commander of Dili District was indicted for crimes against humanity for

1. the murder of one individual on 14 February 1999 in Dili city
2. the murder of 12 individuals on 7 April at the house of Manuel Carrascalao, Dili
3. the murder of one individual at Kuluhan Bridge on 27 August 1999
4. the deportation or forcible transfer of population of an unknown number of civilians between 5 and 9 September
5. the persecution of an unknown number of civilians. The persecution charge comprised murders, physical assaults, threats of physical assaults, unlawful detentions, destruction of property between February and September 1999 including the attack on the Dili Diocese on 5 September, the attacks on the compound of Bishop Belo, the Canossian Convent and the Red Cross compound on 6 September, in Dili District.

He is believed to be at large in Indonesia

10-2002

Major Jacob Djoko Sarosa
Commander TNI Battalion 745, and

Camilo do Santos
Platoon Commander in Battalion 745

were indicted for crimes against humanity for:

1. the murder of 21 individuals during September 1999 in the districts of Lautém, Baucau and Dili.
2. the detention of three individuals on or about 10 September 1999 in Fuiloro, Lospalos, Lautém
3. inhuman acts against one individual and detention of one individual on or about 21 September 1999 in Becora (Dili).

They are both believed to be at large in Indonesia.

Ermera

2-2000

Julio Fernandez
A member of Falintil, was indicted for the murder of one individual in Gleno (Ermera) on 26 September 1999. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

3-2000

Carlos Soares Carmona
was indicted for the murder of one individual in Asulau (Hatolia, Ermera) on 28 May 1999. He was convicted by the Special Panels for Serious Crimes.

7-2000

Agustinho da Costa
A member of Team Pancasila, was indicted for the murder of one individual in Atara (Atsabe, Ermera) on 28 May 1999. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

12-2000

Carlos Soares
A member of Darah Integrasi militia, was indicted for the murder of one individual in Auleun, (Letefohu, Ermera) on 10 September 1999. He was convicted of murder by the Special Panels for Serious Crimes.

9-2002

Carlos Soares
A member of Falintil, was indicted for crimes against humanity for the murder of one individual in Aitura, Estado, Ermera on 19 September 1999. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

2-2004

Domingos de Deus
TNI Koramil soldier Atsabe, Village Chief Malabe, Member Team Pancasila

Mohamad Roni
Commander Koramil Atsabe, and

João da Costa
Second Sergeant Koramil Atsabe, Village Guidance Officer (Babinsa) Atara Village, Commander Team Pancasila

were indicted for crimes against humanity for the murder of two individuals and the attempted murder of one individual in an attack on the Baboe Leten polling station (Atsabe, Ermera) on 30 August 1999. Domingos de Deus was convicted by the Special Panels for Serious Crimes of crimes against humanity. The other indictees are believed to be at large in Indonesia.

12-2004

Lieutenant Colonel Muhammad Nur
Commander Kodim 1637 Ermera

First Sergeant Melky
Kodim Operational Commander

Second Sergeant Hilário
TNI soldier

Lukas Martins
Hatolia Sub-district Commander, Darah Merah militia

Zeca Pereira
Ermera Sub-district Commander, Darah Merah militia

Cipriano da Costa
Hatolia Sub-district Platoon Commander, Darah Merah militia

were indicted for crimes against humanity for:

1. the murder of one individual on or about 4 April 1999 in Ermera (Ermera)
2. the murder of one individual on or about 17 May 1999 in Hatolia (Ermera)
3. the murder of one individual on or about 19 May 1999 in Hatolia (Ermera)
4. the murder of one individual on or about 8 June 1999 in Hatolia (Ermera)
5. the murder of two individuals on or about 31 August 1999 in Hatolia (Ermera)
6. the murder of two individuals on or about 6 September 1999 in Hatolia (Ermera)
7. the murder of one individual on or about 13 September 1999 in Letefoho (Ermera)
8. the murder of one individual on or about 14 September 1999 in Letefoho (Ermera)
9. the murder of two individuals on or about 13 September 1999 in Ermera (Ermera)
10. the murder and torture of one individual on or about 5 September 1999 in Hatolia (Ermera)
11. the murder and torture of one individual on or about 13 May 1999 in Hatolia (Ermera).

The indictees are all believed to be at large in Indonesia.

Lautém

9-2000

Jony Marques
Kopassus member, Commander Team Alfa militia 1994-1996

Manuel da Costa
Commander Team Alfa militia

Joao da Costa
Team Alfa militia member

Paulo da Costa
Associated with Team Alfa militia

Amelio da Costa
PAM Swakarsa

Hilario da Silva
Associated with Team Alfa militia

Gonsalo dos Santos
Associated with Team Alfa militia

Alarico Fernandes
Associated with Team Alfa militia

Mauterca Monis
Member Team Alfa militia

Gilberto Fernandes,
Member Team Alfa militia

Syaful Anwar
1st Infantry Deputy Commander Kopassus (Indonesian Special Forces)

were indicted for the murder of 13 individuals, torture of one individual, deportation or forcible transfer of population and persecution of an unknown number of civilians in Leuro and other villages in Lospalos between April and September 1999.

All indictees were convicted of crimes against humanity by the Special Panels for Serious Crimes except Syaful Anwar who is believed to be at large in Indonesia.

3-2001

José Valenti
A member of Team Alfa militia, was indicted for crimes against humanity for the murder of one individual in Lautém on or around 25 September 1999. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

10-2002

Major Jacob Djoko Sarosa
Commander TNI Battalion 745, and

Camilo do Santos
Platoon Commander Battalion 745

were indicted for crimes against humanity for:

1. the murder of 21 individuals in September 1999 in the districts of Lautém, Baucau and Dili

2. the detention of three individuals on or about September 10 1999 in Fuiloro, Lospalos, Lautém
3. inhuman acts against one individual and detention of one individual on or about 21 September 1999 in Becora (Dili).

They are both believed to be at large in Indonesia.

12-2002

Inacio de Oliveira
Section Commander Team Alfa militia

Gilberto Fernandes
Team Alfa militia member

José da Costa
Member of Team Alfa militia and BRTT

Edmundo da Conceição
District Administrator Lautém, Chairman BRTT, Honorary member Indonesian Special Forces (Kopassus)

Rahman Zulkarnean
1st Lieutenant Infantry, Commander Indonesian Special Forces (Kopassus) Lospalos, Lautém

Syaful Anwar
1st Sergeant Infantry Kopassus, Lospalos

Thomas da Costa
Member BRTT and Company Commander Team Alfa

Anton Regu
Team Alfa militia member

Joaquim Januario
Team Alfa militia member

Lamberto dos Santos
Member of Team Alfa militia and BRTT

Martinho da Costa
Member of Team Alfa militia and BRTT, and

José Solari
Member BRTT

were indicted for crimes against humanity for the murder of one individual and persecution of an unknown number of civilians on 27 August 1999 in Lospalos. In a separate hearing, Inacio de Oliveira, Gilberto Fernandes and José da Costa were convicted of violence against property or persons by people united for a common purpose by the Special Panels for Serious Crimes. The other indictees are believed to be at large in Indonesia.

Liquiçá

11-2001

Anastasio Martins
Besi Merah Putih militia member, and

Domingos Goncalves
Besi Merah Putih militia member

were indicted for crimes against humanity for the murder of seven people in Liquiçá district and deportation or forcible transfer of the civilian population of Metagou, Bukmera, and Legimea villages during September 1999. They were both convicted of crimes against humanity by the Special Panels for Serious Crimes.

16-2001

Armando dos Santos
Besi Merah Putih militia Platoon Commander, indicted for crimes against humanity for:

1. the murders of an unknown number of people and inhuman acts against one individual during March 1999 in Gugleur (Maubara, Liquiçá)
2. the murders of an unknown number of people in Liquiçá Town (Liquiçá) on 6 April 1999
3. the murders of an unknown number of people in Dili District on 17 April 1999.

He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

19-2001

Abilio Mendes Correia
was indicted for crimes against humanity for

1. the murder of two individuals on or about 27 April 1999 in Tutuge (Loidahar, Liquiçá)
2. inhuman acts and torture of one individual on or about 9 August 1999 in Tutuge (Loidahar, Liquiçá)

He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

21-2001

Leoneto Martins
District Administrator, Liquiçá

Agustinho Alves Correia
Sub-district Administrator, Liquiçá

José Afaat
Sub-district Administrator, Maubara

Asep Kuswandi
Kodim Commander, Liquiçá

Purwanto
TNI Deputy Commander, Liquiçá

Carlos Amaral
Koramil Commander, Maubara

Domianus Y. Sade
Koramil Commander, Bazartete

Adios Salosa
Police Commander, Liquiçá

Tomé Diogo
TNI Intelligence Officer

Domingos Mendes
TNI soldier, Maubara

Henrique Morreira
TNI officer, Bazartete

Jorge Viegas
TNI officer, Maubara

Manuel Sousa
Commander, Besi Merah Putih (BMP) militia, Liquiçá

João Sera
Vice Commander, BMP militia, Liquiçá

Felipe Grasiano
(No affiliation listed)

Zacarias Alves
Commander, BMP militia, Bazartete and Liquiçá

Jacinto Goncalves
Commander BMP militia, Bazartete

Floriano da Silva
Commander BMP militia, Gugleur

Domingos Goncalves
Commander BMP militia, Bazartete

Victor da Cruz
Member BMP militia, Bazartete

Victor Lopes
Commander BMP militia, Bazartete

were indicted for crimes against humanity for several incidents that occurred in Liquiçá District between January and September 1999. They were charged with:

1. the massacre and murder of more than 50 civilians, inhuman acts committed against hundreds of civilians, in relation to the Liquiçá Church attack at Liquiçá Dato (Liquiçá, Liquiçá) on 6 April 1999
2. the persecution of the civilian population between January and September 1999 in Liquiçá District
3. the murder of one individual on 7 April 1999 in Maubara
4. the murder of two individuals and the enforced disappearance of one individual on 5 April 1999 in Liquiçá (Liquiçá)
5. the murder of one individual on 9 April 1999 in Maumeta (Bazartete)
6. the murder of three individuals on 15 April 1999 in Maumeta (Bazartete)
7. the murders of two individuals on 27 April 1999 in Tutuge (Liodahar)
8. inhuman acts against one individual, enforced disappearance of one individual on or around 9 August 1999 in Tutuge (Loidahar)
9. the murder of three individuals on 4 September 1999 in Metagou (Bazartete)
10. the murder of one individual on 7 September 1999 in Bukmera (Bazartete)
11. the deportation of hundreds of civilians from Liquiçá between 5 and 19 September 1999.

All indictees are believed to be at large in Indonesia.

23-2003

Rusdin Maubere
A Besi Merah Putih advisor, was indicted for crimes against humanity for the enforced disappearance and torture of one individual on 26 April 1999 in Bazartete, Liquiçá. He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

Manatuto

11-2002

Vidal Doutel Sarmento
District Administrator, Manatuto

Filomeno Brito
Section Commander Mahadomi militia

Antonio D. Sarmento
Section Commander Mahadomi militia

Thomas dos Reis
Section Commander Mahadomi militia, and

Aleixo do Carvalho
Commander Mahadomi militia

were indicted for crimes against humanity for:

1. the murder of one individual and inhuman acts committed against one individual on or about 16 May 1999 in Laleia (Manatuto)
2. the detention and torture of three individuals between 11 and 14 May 1999 in Manatuto (Manatuto)
3. the persecution of the civilian population of Manatuto between May and October 1999
4. the forcible transfer of the population of Manatuto in September 1999
5. the murder of five individuals and inhuman acts against two individuals between 7 and 14 September 1999 in Manatuto District.

The indictees are believed to be at large in Indonesia.

Manufahi

8-2000

Mateus Tilman
A member of ABLAI militia, was indicted for the attempted murder of six individuals, serious maltreatment and destruction of property in relation to an attack against the civilian population of Holarua (Same, Manufahi) on 2 September 1999. He was convicted by the Special Panel for Serious Crimes.

3-2002

Bernardino da Costa
The Kodim Commander for Team Sasurut-Ablai (Same), was indicted for crimes against humanity for the murder of seven individuals and deportation or forcible transfer of population, detention or other severe deprivation of liberty and persecution of an unknown number of civilians in Same district during April, August and September 1999.

He is believed to be at large in Indonesia.

18-2001

Benjamin Sarmento
Deputy Sub-district Commander, Team Sasurut, ABLAI militia

Romério Tilman
Third-in charge, Team Sasurut ABLAI militia

João Sarmento
ABLAI militia member

Domingos Mendonca
ABLAI militia member

were indicted for crimes against humanity for the murder of seven individuals and detention or other severe deprivation of physical liberty, deportation or forcible transfer of population and persecution against an unknown number of civilians in Manufahi District during April, August and September 1999.

The indictees were all convicted of crimes against humanity by the Special Panels for Serious Crimes.

13-2004

Nazario V. dos S. Cortereal
Overall Commander ABLAI militia, Manufahi

Francisco Capela Ferrão
Vice-Commander ABLAI militia, Manufahi, and Commander Same area

Captain Sugyono
Kopassus Commander, Manufahi

were indicted for crimes against humanity in Manufahi District during 1999 including:

1. the murder of two individuals on 17 April 1999 in Orluli
2. the murder of one individual on 17 April 1999 in Grotu Lau
3. the murder of one individual on 17 April 1999 in Fahikeo
4. the murder of one individual on 24 April 1999 in Same
5. the murder of one individual on 28 April 1999 in Beikala
6. the murder of two individuals on 30 August 1999 in Datina
7. the murder of one individual on 3 September 1999 in Holarua
8. the murder of one individual on 9 September 1999 in Datina
9. the murder of one individual on 9 September 1999 in Fahiluhan
10. the murder of one individual on 12 September 1999 in Ailuli (Letefoho)
11. the murder of one individual on 16 September 1999 in Ladiqui (Letefoho)
12. the murder of four individuals on 24 September 1999 near Betano
13. the murder of one individual in September 1999 in Selihasan (Betano)
14. the murder of one individual on 20 October 1999 in Beikala
15. the attempted murder of one individual on 5 August 1999 in Same
16. the infliction of injury on three individuals on 2 September 1999
17. the unlawful detention of an unknown number of civilians from 30 August to 9 September 1999

18. the forcible relocation of the population of Manufahi District from 5 September until 25 October 1999
19. the destruction of property of an unknown number of civilians between August and 25 October 1999.

The indictees are all believed to be at large in Indonesia.

14-2004

Lieutenant Sumino
Koramil Commander, Same

Guilhermino Marcal
ABLAI militia Company Commander, Hola Rua (Same) and

José Larenzeira
ABLAI militia Company Commander, Daisua (Same)

were indicted for crimes against humanity for:

1. the murder of two individuals on 17 April 1999 in Same (Manufahi)
2. the murder of one individual on 24 April 1999 in Manufahi District
3. the murder of four individuals on 24 September 1999 in Manufahi District
4. inhuman acts against four individuals on or about 2 September in Manufahi
5. the forcible deportation of an unknown number of civilians between 5 September and 30 October in Manufahi District
6. the persecution of an unknown number of civilians between January and October 1999.

All the indictees are believed to be in Indonesia.

Oecussi

20-2001

Florencio Tacaqui aka **Taquai**
Sakunar militia member

Simão Lopes
Supreme Commander, Sakunar militia

Domingos Obe
Sakunar militia member

Tomas Bubun
Sakunar militia member

Laurentino Soares
Commander, Sakunar militia

Julio da Costa
Sakunar militia member

Gabriel Kolo
Commander, Sakunar militia

António Sabraca
Commander, Sakunar militia and member of TNI, Passabe

Elvis Lopes
Sakunar militia member

Bonafacio Bobo
Sakunar militia member, and

André Ulan
TNI Sergeant

were indicted for crimes against humanity in relation to five incidents which occurred in Passabe (Oecussi) in 1999. They were charged with:

1. the massacre of 47 individuals on 10 September 1999
2. the murder of 18 people on 8 September 1999 in Nibin, Usi Taqueno Tumin, Quibiselo, and Bobo Manat villages.
3. detention or severe deprivation of physical liberty of 43 individuals at the Passabe police station on 18 April 1999
4. inhuman acts against one individual on 9 August 1999
5. inhuman acts against one individual on 8 September 1999
6. inhuman acts against eight individuals on 10 September 1999
7. deportation or forcible transfer of population against an unknown number of civilians on 9 September 1999
8. persecution of an unknown number of civilians between April and September in Oecussi District.

Florencio Tacaqui aka **Takaqui**
was convicted of crimes against humanity in a separate hearing by the Special Panels for Serious Crimes.

The other indictees are believed to be at large in Indonesia.

4-2002

X (Name suppressed by court order)
Was indicted for the murder of three individuals in Nitibe, Tumin and Quiobeselo villages on 10 September 1999. X was convicted by the Special Panels for Serious Crimes.

5-2002

Umbertus Ena
Sakunar militia member, and

Carlos Ena
Sakunar militia member

were indicted for crimes against humanity for the murder of two individuals and inhuman acts intended to cause great suffering against one individual in Naetuna (Passabe) on or about 9 September 1999.

The Special Panels for Serious Crimes convicted Umbertus Ena of crimes against humanity and acquitted Carlos Ena on both charges.

13-2002

Laurentino Soares
Commander Sakunar militia, and

Bonifacio Bobo
Commander Sakunar militia

were indicted for crimes against humanity for the killing of eight individuals in Makelab, Taiboco (Pante Makassar, Oecussi) on or around 20 October 1999.

Both indictees are believed to be at large in Indonesia.

3-2003

Agustinho Atolan
Commander of Sakunar militia, Naetuna, was indicted for crimes against humanity for the murder of one individual on 8 September 1999 in Nitas (Nibin, Oesilo, Oecussi).

He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

4-2003

Anton Lelan Sufa
Sakunar militia leader, Bebo

Agustinho Cloe
Sakunar militia member, Bebo

Agustinho Cab
Sakunar militia member, Bebo

Lazarus Tuli
Sakunar militia member, Bebo

Lino Beno
Sakunar militia member, Bebo

Antonio L. Simão
Sakunar militia member, Bebo, and

Domingos Metan
Sakunar militia member

were indicted for crimes against humanity for the murder of two individuals and inhuman acts against one individual on or about 16 September 1999 in Netensuan (Nitibe, Oecussi).

All the accused were convicted of crimes against humanity by the Special Panels for Serious Crimes.

10-2003

Mateus Lao
A member of Sakunar militia, was indicted for crimes against humanity for the murder of one individual in Naetuna (Passabe, Oecussi) on 1 September 1999.

He was convicted of crimes against humanity by the Special Panels for Serious Crimes.

19-2003

Liberatus Manu
Sakunar militia member, and

Aleixo Sepa
Sakunar militia member

were indicted for the murder of four individuals and the attempted murder of one other on 8 and 9 September 1999 in Passabe (Oecussi). The indictees are believed to be at large in Indonesia.

22-2003

Januario da Costa
Commander Sakunar militia, Passabe and

Mateus Punef
Sakunar militia member

were indicted for crimes against humanity for:

1. the murder of 18 individuals and inhuman acts against three individuals on 8 September 1999 in Nibin, Tumin and Quibiselo (Nitibe, Oecussi)
2. the deportation or forcible transfer of the civilian population in Tumin on 9 September 1999
3. the massacre of 47 individuals and inhuman acts against 7 individuals on 10 September 1999 in Tumin, Nibin and Quibiselo and persecution of a civilian population

4. the persecution of a civilian population between 8 and 10 September 1999 in Nitibe, Oecussi.

Januario da Costa and Mateus Punef were convicted of crimes against humanity by the Special Panels for Serious Crimes.

30-2003

Laurentino Soares
Deputy Commander Sakunar militia

Herman Naubasa
Sakunar militia member

Nyongky Wankai
Sakunar militia member

Eddie Talan
Sakunar militia member

Luis Infien
Sakunar militia member

Firminio Auni
Sakunar militia member

Felipe Poto
Sakunar militia member

Ala Uni
Sakunar militia member, and

Domingos Cava
Sakunar militia member

were indicted for crimes against humanity for the several offences that occurred in Pante Macassar (Oecussi) specifically:

1. the murder of one individual in Bihala on 22 September 1999
2. the murder of one individual and attempted murder of one individual on 23 September 1999 in Cutete
3. the murder of three individuals, abduction of four individuals and inhuman acts against one individual in Sikone
4. the murder of one individual on 13 October 1999 in Kolam Cina
5. the murder of three individuals on 14 October 1999 in Tono village/Lifau.

The indictees are all believed to be at large in Indonesia.

31-2003

Samuel Vaz
Sakunar militia member

Luis Infien
Sakunar militia member

Saran Bariak
Sakunar militia member, and

Lalu Manus
Sakunar militia member

were indicted for crimes against humanity for the murder of three individuals on 13 September 1999 in Padiae, Pante Makassar, Oecussi. The indictees are all believed to be at large in Indonesia.

32-2003

Jorge Ulan
TNI soldier

João Gomes
TNI soldier, and

Blasius Manek
TNI soldier

were indicted for crimes against humanity for the murder of two individuals and the attempted murder of two individuals on 11 September 1999 in Nunbei (Pante Makassar, Oecussi). The indictees are all believed to be at large in Indonesia.

Viqueque

3-2004

Lieutenant Colonel Djoko Soeharsoyo
Commander Kodim 1630 (until 15 August 1999)

Lieutenant Colonel Gustaf Heru
Commander Kodim 1630 (from 15 August 1999)

1st Lieutenant Minton
Commander Kopassus, Kodim 1630

1st Lieutenant Yusuf Tandi
Head Intelligence Section, Kodim 1630

Head Sergeant Andreas Prawin
TNI soldier Intelligence Section, village guidance officer (Babinsa) Carau Balu (Viqueque, Viqueque)

Martinho Fernandes
District Administrator, Commander Makikit militia, Chair FPDK Viqueque and honorary member of Kopassus

Emiliano Joaquim Gomes
2nd assistant to the District Administrator, Deputy Commander Makikit militia, Deputy Chair FPDK Viqueque and honorary member of Kopassus

were indicted for crimes against humanity for:

1. the torture and murder of one individual on 3 May 1999 in Old Viqueque Town
2. the murder of one individual on or about 4 May 1999 in Old Viqueque Town
3. the murder of one individual on 10 May 1999 in Buicaren
4. the murder of one individual on 27 June 1999 in Anawain (Viqueque)
5. the murder of three individuals on 11 August 1999 in Beloi
6. the murder of one individual on 18 September 1999 in Beaco
7. deportation or forcible transfer of population on or about 10 September 1999 in Viqueque district
8. persecution of an unknown number of civilians between 1 January and 25 September 1999 in Viqueque.

The indictees are all believed to be at large in Indonesia.

West Timor

11-2000

Leonardos Kasa
was indicted for crimes against humanity for one count of rape that occurred in Betun (West Timor) on 10 September 1999. The Special Panels for Serious Crimes held that it had no jurisdiction over this matter and the case was dismissed.

National indictment

5-2003

Wiranto
TNI General; Indonesian Minister of Defence and Security, Commander of the Armed Forces of Indonesia

Zacki Anwar Makarim
Major General; Head of the Special Team/Adjutant General's Task Force; Member of the Task Force to Oversee the Popular Consultation in Timor-Leste

Kiki Syahnakri

Major General; assistant for Operations to the Army Chief of Staff; Commander of the Martial Law Command in Timor-Leste

Adam R Damiri
Major General; Commander of Regional Military Command IX (Bali, East and West Nusa Tenggara and Timor-Leste)

Suhartono Suratman
Colonel; Commander of Sub-regional Military Command 164 (Korem Timor-Leste) until 13 August 1999

Mohamad Noer Muis
Commander of Sub-regional Military Command 164 (Korem Timor-Leste) from 13 August 1999

Yayat Sudrajat
Lieutenant Colonel; Commander of the Tribuana VIII Task Force Sub-regional Military Command 164 (Timor-Leste), and

Abilio José Osório Soares
Governor of Timor-Leste

were indicted as individuals and superiors for the murder of hundreds of East Timorese and deportation or forcible transfer of the population and persecution of hundreds of thousands of East Timorese during 1999. The indictees are all believed to be at large in Indonesia.

Annexe 4:

Acknowledgements

Annexe 4
Acknowledgements

Introduction

We wish to put on the record our deep appreciation to all who contributed to this Report, whatever their role. Without the knowledge, expertise, dedication, generosity and self-sacrifice of many organisations, friends and colleagues - from Timor-Leste, Indonesia and many parts of the world, this magnum opus would not have been possible.

Those to whom we owe a debt of gratitude include all who provided the raw material for our work: our Timorese brothers and sisters who shared their experiences and information with the Commission through statements, interviews and public testimony; those who provided books, documents and submissions; our staff who collected and recorded data, and those who organised and archived this mass of information. We also give thanks to those who transformed this material through its various stages into this Report: our analysts, researchers, writers, translators, editors, designers, layout staff, and printers. And finally, we extend our warmest thanks to those who provided the means of production: our administrative and support staff and the governments, multilateral agencies and non-government organisations who generously supported the Commission with funding and in-kind assistance.

Their names and contributions are recorded in the pages that follow. We thank each and every one of them for sharing our vision of a Timor-Leste reconciled and committed to human rights and for helping us contribute to the realisation of that vision through our work.

National Commissioners

Donors

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Submissions

- Akihisa Matsuno: books
- Amnesty International: reports
- Associação dos Prisioneiros Politicos (ASSEPOL): research documents
- Australian Council for International Development (ACFID): documents and books
- Australian Government: declassified documents and books
- Catholic Relief Services (CRS): 1978-1979 famine
- Family of Dr. Herb Feith: library
- Geoffrey Gunn: research on self-determination
- Hugh Dowson: declassified UK documents
- Human Rights Watch: reports
- International Centre for Transitional Justice (ICTJ): books
- Japanese Government: documents
- John Waddingham: research material
- Jill Jolliffe: research on political prisoners
- Jose Ramos-Horta: Santa Cruz documents
- Lembaga Studi dan Advokasi Masyarakat (ELSAM): research material
- Major-General Mario Lemos Pires: book
- Manuel Carceres: photos
- National Security Archives: declassified US documents
- Nelson Goncalves: photos
- New Zealand Government: declassified documents
- Office of High Commissioner for Human Rights: Geoffrey Robinson report on 1999
- Clive Scollay: video footage
- Pat Walsh:books
- Penny Tweedie: photos
- Suzannah Linton: legal research
- UN Serious Crimes Unit: UNPOL research on Craras, Balibó and Santa Cruz
- UNICEF: material on children
- UNMISET Human Rights Unit: books

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Those who gave statements to CAVR

A total of 7,824 people from all walks of life gave statements to CAVR about their experiences during the period of CAVR's mandate. Their names are not listed here both for reasons of space and to respect the confidentiality under which some people gave their statement to CAVR.

CAVR wishes to publicly acknowledge and thank every individual whose statement to CAVR has helped us to establish the facts and seek the truth about the abuses of human rights throughout the mandate period.

Those who participated in CRP

A total of 1,541 people gave statements in relation to the Community Reconciliation Process of which 1,371 went on to successfully complete a CRP hearing. Again for reasons of space and confidentiality their names are not listed here.

CAVR wishes to publicly acknowledge and thank all those individuals and communities who participated in the Community Reconciliation Processes.

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Raimundo Ruas

Saturlina Ximenes

Sixto Fernandes

List of Terms and Abbreviations

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Abbreviation/term	Extension	Explanation/Translation
59/79 Junior		Vivique based pro-integration militia
a política comanda fuzil		politics rules the gun
ABC	Australian Broadcasting Corporation	
ABITL	Asosiasaun Biblioteka no Informasaun Timor-Leste	Library and Information Association of Timor-Leste
ABLAI	Aku Berjuang Laksanakan Amanat Integrasi	Manufahi based pro-integration militia
ABRI	Angkatan Bersenjata Republik Indonesia	Indonesian Armed Forces (until restructure in 1999)
ACET	Australian Coalition for East Timor	Australian solidarity network
ACFID	Australian Council for International Development	
ACFOA	Australian Council for Overseas Aid	precursor to ACFID
Aditla	Associação Democratica para a Integração de Timor Leste na Austrália	Democratic Association for the Integration of Timor-Leste with Australia
AETA	Australia East Timor Association	
AFFET	Australians for a Free East TImor	
AHC	Australian High Commission	
AHI	Aileu Hametin Integrasi	Aileu based pro-integration militia
AI	Amnesty International	
AIBCC	Australia-Indonesia Business Cooperation Committee	
AIIETD	All-Inclusive Intra-East Timorese Dialogue	

Aitarak		Dili based pro-integration militia
AKSI	Aksi Solidaritas Indonesia	Australian solidarity group
ALP	Australian Labor Party	
ANC	African National Congress	
ANFREL	Asian Network for Free Elections	
apartidarismo		Portuguese policy for political neutrality of the military
APCET	Asia-Pacific Coalition for East Timor	
APEC	Asia Pacific Economic Co-operation	
APIK	Asosiasi Perempuan Indonesia untuk Keadilan	Indonesian Women's Association for Justice
Apodeti	Associacão Popular Democratica Timorense	historical pro-Indonesia East Timorese political party
arma branca		white troops (civil defence)
ARMUI	Atabae Rela Mati untuk Integrasi	Atabae based pro-integration militia
ASA	Asian Students' Association	
ASDT	Associação Popular Democrática Timorense	East Timorese pro-independence party, precursor to Fretilin
ASEAN	Association of Southeast Asian Nations	
ASIET		
Asintel	Asisten Intelijen	Intelligence Assistant
ASSEPOL	Association of Ex-political Prisoners (Timor-Leste)	
Assistente Comissáriado	Action in Solidarity with Indonesia and East Timor	Commissariat Assistant (Fretilin)
ASTO	Association de Solidarité avec Timor-Oriental	French solidarity organisation

AW	Asia Watch	
AWD	Action for World Development	
Babinsa	Bintara Pembina Desa	village level military officer
BAe	British Aerospace	
Bais	Badan Intelijen Strategis	Indonesian Strategic Intelligence Body
Bakin	Badan Koordinasi Intelijen Negara	Indonesian Intelligence Coordinating Body
BAP	Berita Acara Pemeriksaan	Police Investigation Report
Bappeda	Badan Perencana Pembangunan Daerah	Regional Development Planning Body
bases de apoio		support bases (Resistance)
BBC	British Broadcasting Corporation	
BCET	British Coalition for East Timor	
BCIET	British Campaign for an Independent East Timor	
BENETECH	Beneficent Technology	US human rights data-analysis body
Binpolda	Bintara Polisi Desa	village police officer
BKKBN	Badan Koordinasi Keluarga Berencana Nasional	National Family Planning Coordination Body
BMP	Besi Merah Putih	Liquiçá based pro-integration militia
BP7	Badan Pembinaan Pendidikan Pelaksanaan Pedoman Penghayatan dan Pengamalan Pancasila	Pancasila promotion body
BPS	Biro Pusat Statistik	Central Bureau of Statistics
Brichoq	Brigada de Choque	shock troops
Brigada Dinamisadora		Dynamisation Brigades

Brimob	Brigade Mobil	Indonesian mobile police
BRTT	Barisan Rakyat Timor Timur	pro-integration front
BTT	Batalion Tenaga Teritorial	Territorial Battalion
CAA	Community Aid Abroad	precursor to Oxfam Australia
CAAT	Campaign Against the Arms Trade	
CAVR	Comissão de Acolhimento, Verdade e Reconciliacão	Commission for Reception, Truth and Reconciliation
CAWG	Canada Asia Working Group	
CCF	Comite Central Fretilin	Fretilin Central Committee
CCR	Centre for Constitutional Rights	
CCT	Centro para a Cidadania Timorense	Portugal based centre for Timorese citizens
CDPM	Comissão para os Direitos do Povo Maubere	Portugal based Commission for the Rights of the Maubere People
CDR	Comité Democrático Revolucionária	Revolutionary Democratic Committee
CDR	Crude Death Rate	
CE	Comité Executivo, atau Comité Executivo da CNRM na Frente Clandestina	CNRM Executive Committee of the Clandestine Front
CEDAW	Convention on the Elimination of all forms of Discrimination against Women	
Ceforpol	Centro da Formação Política	Centre of Political Formation
Celcom	Celula de Comunidade	Community Cell
CEL/FA	Comité Executivo da Luta/Frente Armada	Executive Committee of the Armed Front
CEL/FC	Comité Executivo da Luta/Frente Clandestina	Executive Committee of the Clandestine Front

CEP	Community Empowerment Project	World Bank administered fund
Centro de Instrução		Centre of Instruction (military)
cerco e aniquilamento		encirclement and annihilation
Cernac	Centros de Resistência Nacional	National Resistance Centres
Cezo	Comité Executivo da Zona	Zone Executive Committee
CIA	Central Intelligence Agency	
CIDAC	Centro de Informação e Documentação Amílcar Cabral	Lisbon-based Amilcar Cabral centre for information and documentation
CIET	Campaign for an Independent East Timor	
CIIR	Catholic Institute for International Relations	
CISET	Christians in Solidarity with East Timor	
CNRM	Conselho Nacional da Resistência Maubere	National Council of Maubere Resistance
CNRT	Conselho Nacional de Resistência Timorense	National Council of Timorese Resistance
comandante da zona		zone commander
comando da região		regional command
comando da zona		zone command
comando de sector		sectoral command
Comissão de Inquêrito		Commission of Inquiry
Comissário Político Nacional		National Political Commission
companhia		company
CPA	Communist Party of Australia	

CPCC	Comissão de Planeomento e Coordinacao de Capanha	Commission for Planning and Campaign Coordination
CPN	Comissão Política Nacional	National Political Commission
CPD-RDTL	Conselho Popular de Defesa Republica de Timor-Leste	Popular Council for the Defence of the Republic of Timor-Leste
CPLP	Comunidade dos Países de Língua Portuguesa	Community of Portuguese Speaking Countries
CRC	Convention on the Rights of the Child	
crèche		child minding facility
critíca auto critíca		criticism/self-criticism
CRNJT	Comissão do Resistência Nacional do Jovem de Timor-Leste	Timor-Leste Youth Commission of National Resistance
CRP	Community Reconciliation Process	
CRRN	Conselho Revolucionario de Resistência Nacional	Revolutionary Council of National Resistance
CRS	Catholic Relief Services	US Catholic Church overseas aid agency
CSIS	Centre for Strategic and International Studies	Jakarta-based think tank
CSRNET	Comissão Secreto da Resistência Nacional dos Estudantes Timorense	Timorese Student Secret Commission for National Resistance
Curlog	Penghancuran Logistik	post-1984 military operation to wipe out Fretilin
Dandim	Komandan Kodim	Area Military Commander
Danramil	Komandan Koramil	Local Military Commander
Danton	Komandan Peleton	Platoon Commander
Darah Integrasi		Ermera based pro-integration militia
Darah Merah		Ermera based pro-integration militia

DDII	Dewan Dakwah Islamiyah Indonesia	Indonesian Council for Propagation of Islam
DEF	Delegação Externa da Fretilin	Fretilin External Delegation
Depnaker	Departemen Tenaga Kerja	Department of Labour
despartidarização		non-party political
DFSE	Delegação da Fretilin em Serviço no Exterior	Fretilin Foreign Service Delegation
DMP	Dadurus Merah Putih	Maliana based pro-autonomy militia
Dolog	Depot Logistik	logistics warehouse
DOPI	Departemento da Orientação Política e Ideológica	Department of Political Orientation and Ideology
DPR	Dewan Perwakilan Rakyat	House of Representatives
DPRD	Dewan Perwakilan Rakyat Daerah	Regional Parliament
DRET	Democratic Republic of East Timor	
DRSE	Delegação da Resistência em Serviço no Exterior	Resistance Foreign Service Delegation
DSMPTT	Dewan Solidaritas Mahasiswa dan Pelajar Timor-Timur	East Timorese University and Student Solidarity Council
ECHO	European Commission Humanitarian Office	
ECHR	European Court of Human Rights	
EEC	European Economic Community	
ELSAM	Lembaga Studi dan Advokasi Masyarakat	Institute for Research and Social Advocacy
equipa		team
Escuteiros		Catholic Scouts
Estado Maior das Falintil		Falintil General Staff
estafeta		courier (Resistance)

ETISC	East Timor Ireland Solidarity Campaign	
ETADEP	East Timor Agriculture and Development Project	
ETAN/Canada	East Timor Alert Network	
ETAN/US	East Timor Action Network	
ETCJ	East Timor Coalition Japan	
ETHRC	East Timor Human Rights Centre	
ETSSC	East Timor Students Solidarity Council	
ETRA	East Timor Relief Association	
ETTA	East Timor Transitional Administration	
ET-WAVE	East Timorese Women against Violence and for Child Care	
EU	European Union	
FADE	Forças Auto Defesa	Self-Defence Forces
Falintil	Forças Armada de Libertação Nacional de Timor-Leste	Timor-Leste Armed Forces of National Liberation
FBP	Fabrica de Braco de Prata	Portuguese hand gun
FD	Frente Diplomatica	Timor-Leste Diplomatic Front
FDTL	Forças de Defesa de Timor-Leste	Timor-Leste Defence Forces
Felectil	Frente Estudantil Clandestina de Timor-Leste	Timor-Leste Clandestine Student Front
FET	Friends of East Timor	
F-FDTL	Falintil-Forças de Defesa de Timor-Leste	
Firmi Merah Putih		Bobonaro based pro-integration militia
FKP	Forum Komunikasi Partisan	Baucau based pro-integration militia

FNLA	Frente Nacional para a Libertação de Angola	National Front for the Liberation of Angola
Fokupers	Forum Komunikasi untuk Perempuan Lorosae	Timor-Leste women's NGO
Força Auto Defesa		Self-defence Force
Forsarepetil	Forum Sarjana Pro-Referendum dan Pembangunan Timor-Leste	Timor-Leste Scholars Pro-Referendum and Development Forum
Forsolidareste	Forum Solidaritas Timor-Leste	Timor-Leste Solidarity Forum
Fortilos	Forum Solidaritas Rakyat Timor Lorosa'e	Timor-Leste People's Solidarity Forum
FPDK	Forum Persatuan, Demokrasi, dan Keadilan	Timor-Leste based pro Indonesia organisation
FPI	Frente Politico Internal	Internal Political Front
Frelimo	Frente de Libertação de Moçambique	Front for the Liberation of Mozambique
frente armada		armed front
frente clandestina		clandestine front
frente diplomática		diplomatic front
Fretilin	Frente Revolucionaria de Timor-Leste Independente	Revolutionary Front for Independent Timor-Leste
G3		NATO issue rifle used by Portuguese troops in Timor-Leste
Gadapaksi	Garda Muda Penegak Integrasi	pro-integration para-military organisation active in Timor-Leste
GCD	Graveyard Census Database	
Geni	Gemi Nastiti Foundation	
Golkar	Golongan Karya	Indonesian political party formed during the Soeharto period

GPK	Gerakan Pengacau Keamanan	Security Disturbers Movement (Indonesian term for Fretilin/Falintil)
GUETISG	Glasgow University East Timor and Indonesia Support Group	
Guntur Merah Putih		Bobonaro based pro-integration militia
Halilintar	Lightning	Bobonaro based pro-integration militia
HAM	Hak Asasi Manusia	human rights
Hametin Merah Putih		Bobonaro based pro-integration militia
Hansip	Pertahanan Sipil	Civil Defence
Harimau Merah Putih		Bobonaro based pro-integration militia
HPPMAI	Himpunan Pemuda, Pelajar, dan Mahasiswa Anti-Integrasi	Anti-integration Youth and Student Network
HRDAG	Human Rights Data Analysis Group	*See* Benetech
HRVD	Human Rights Violations Database	
HRW	Human Rights Watch	
IAPC	Indonesia Australia Programme for Cooperation	
ICCPR	International Covenant on Civil and Political Rights	
ICESCR	International Covenant on Economic, Social and Cultural Rights	
ICIET	International Commission of Inquiry on East Timor	
ICJ	International Court of Justice	
ICRC	International Committee of the Red Cross	

ICTJ	International Center for Transitional Justice	
IDP	Internally Displaced Persons	
IETP	Indonesia East Timor Programme	
IFET	International Federation for East Timor	
IGGI	Inter-governmental Group on Indonesia	
IMF	International Monetary Fund	
Imparsial		Indonesian human rights NGO
Impettu	Ikatan Mahasiswa dan Pelajar Timor Timur	East Timorese students network
INFID	International NGO Forum on Indonesian Development	
Infight	Indonesian Front for Human Rights	
Intel		nickname for Indonesian intelligence agent or spies
Interfet	International Force for East Timor	
IOM	International Organisation for Migration	
IPJET	International Platform of Jurists for East Timor	
IPTL	Igreja Protestante Timor-Leste	Timor-Leste Protestant Church
IRC	International Refugee Council	
IWGIA	International Working Group on Indigenous Affairs	
JAM	Joint Assessment Mission	
Jati Merah Putih		Lautém based pro-integration militia
JCCJP	Japan Catholic Council for Justice and Peace	

JCDET	Joint Committee for the Defence of East Timor	
JICA	Japan International Co-operation Agency	
JKPIT	Jaringan Kesehatan Perempuan Indonesia Timur	Women's health network in Eastern Indonesia
JRS	Jesuit Refugee Service	
JSMP	Justice System Monitoring Programme	
Kaditsospol	Kepala Direktorat Sosial Politik	Social Political Directorate
Kaixa		a clandestine unit responsible for logistics
Kamra	Keamanan Rakyat	People's Security Force
Kapolsek	Kepala Polisi Sektor	Head of sector police
Kapolwil	Kepala Kepolisian Wilayah	Head of regional police
Kasdim	Kepala Staf Kodim	Kodim chief-of-staff
Kasi I	Kepala Seksi I	Head of division
katuas		a senior Timorese (Tetum)
Kiper	Komite Independen Pemantau Suara	Independent Electoral Monitoring Committee
KIN	Koordinasi Intelijen Nasional	National Intelligence Coordination
KKN	Korupsi, Kolusi, dan Nepotisme	corruption, collusion and nepotism
KMP	Kaer-Metin Merah Putih	Bobonaro based pro-integration militia
Kodam	Komando Daerah Militer	Area Military Command
Kodim	Komando Distrik Militer	District Military Command
Kolakops	Komando Pelaksanaan Operasi	Operational Command

Komnas HAM	Komisi Nasional Hak Asasi Manusia	National Commission for Human Rights (Indonesia)
Kontras	Komisi untuk Orang-orang Hilang dan Korban Kekerasan	Commission for the Missing and Victims of Violence
Kopassandha	Komando Pasukan Sandhi Yudha	Special Operations Military Command (1971–1986)
Kopassus	Komando Pasukan Khusus	Special Operations Command (1986–)
Kopkamtib	Komando Operasi Pemulihan Keamanan dan Ketertiban	Command for Restoration of Security and Order
Koramil	Komando Rayon Militer	Area Regional Command
Korpri	Korps Pegawai Republik Indonesia	Indonesian Civil Servants Association
Kostrad	Komando Cadangan Strategis AD	Army Strategic Command
KOTA	Klibur Oan Timor Aswain	Historical East Timorese political party
Kotis	Komando Taktis	Tactical Command
Kowil	Komando Wilayah	Regional Command
KPN	Komisi Penyelidikan Nasional	Commission for National Investigation
KPPHAM	Komisi Penyelidikan Pelanggaran HAM	Komnas HAM project to investigate 1999 violations in Timor-Leste
KPS	Komisi Perdamaian dan Stabilitas	Commission for Peace and Stability
KUHAP	Kitab Undang-undang Hukum Acara Pidana	Code of Criminal Procedure
KUHP	Kitab Undang-undang Hukum Pidana	Criminal Code
KUHPM	Kitab Undang-undang Hukum Pidana Militer	Military Criminal Code
KWI	Konferensi Waligereja Indonesia	Bishops' Conference of Indonesia

Laksaur		Covalima based pro-integration militia
levantamento		uprising
lia nain		keeper of the word (Tetum)
Linud	Lintas Udara	Airborne
LIPI	Lembaga Ilmu Pengetahuan Indonesia	Indonesian Institute of Science
lisan		Timorese customs and beliefs (Tetum)
liurai		local king (Tetum)
LKMD	Lembaga Ketahanan Masyarakat Desa	Institute for Community Sustainability
LP	Lembaga Pemasyarakatan	prison
LPPS	Lembaga Penelitian dan Pembangunan Sosial	aid agency of the Indonesian Catholic church
lulik		sacred objects (Tetum)
M-16		US made firearm used by the Indonesian military
Mahadomi		Manatuto based pro-integration militia
Mahidi	Mati Hidup Demi Integrasi	Ainaro based pro-integration militia
Mamtim	Mahasiswa Muslim Asal Timor Timur	East Timorese Muslim Students
Manual e Programa Politicos da Fretilin		Fretilin political handbook
mata dalan		guide (Tetum)
Maubere		Fretilin term for indigenous Timorese
MFA	Movimento das Forças Armadas	Armed Forces Movement
Miplin	Milicia Popular de Libertacao Nacional	People's Militia for National Liberation

MMIETS	Mary McKillop Institute of East Timor Studies	
Morok		Manatuto based pro-integration militia
MoU	Memorandum of Understanding	
MPLA	Movimento Popular de Libertação de Angola	People's Movement for the Liberation of Angola
MPR	Majelis Permusyawaratan Rakyat	People's Consultative Assembly
MSF	Médecins Sans Frontières	Doctors Without Borders
Mudika	Muda-mudi Katolik	Catholic Youth
MUITD	Movimento para Unidade e Independência de Timor-Dili	Movement for the Unity and Independence of Timor-Dili
Naga Merah		Ermera based pro-integration militia
nahe biti boot		spreading the large mat (Tetum); traditional ceremony for solving disputes
Nanggala		Kopassus-related organisation
NATO	North Atlantic Treaty Organization	
NCCJP	Netherlands Catholic Commission for Justice and Peace	
Ninja		nickname for hooded paramilitaries
Nurep	Núcleo de Resistência Popular	Nucleus of Popular Resistance
OCR	Organização Coordinadora Inter-Regional	Inter-regional Coordination Organisation
ODIR	Orgão Directiva Regional	Regional Directive Organ
OGP	Office of the General Prosecutor	
OHCHR	Office of the High Commissioner for Human Rights (UN)	

OIC	Organisation of the Islamic Conference	
OJETIL	Organização da Juventude e dos Estudantes de Timor-Leste	Timor-Leste Youth and Student Organisation
OPB	Operasi Pagar Betis	Indonesian military 'Fence of Legs' operation
OPJT	Organização Popular Juventude de Timor	Popular Organisation of Timorese Youth
OPMT	Organização Popular da Mulher Timor	Popular Organisation of Timorese Women
OPS	Organização Popular de Seguranca	Popular Organisation for Security
Opsus	Operasi Khusus	Special Operation
OSIS	Organisasi Siswa Intra-Sekolah	Inter-School Students Organisation
OV-10	OV-10A Bronco	US war plane used by the Indonesian military
Pana		Liquiçá based pro-integration militia
Pangdam	Panglima Kodam	Regional Military Commander
Pasmar	Pasukan Maritim	Marines
A Paz é Possivel em Timor-Leste		Portuguese solidarity organisation
PBHI	Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia	Indonesian network of organisations involved in legal aid and human rights
PCI	Pax Christi International	
PDI-P	Partai Demokrasi Indonesia-Perjuangan	Indonesian Democratic Party – Struggle
pelotão		platoon
Permesta	Perjuangan Rakyat Semesta	North Sulawesi separatist movement
PET	Parliamentarians for East Timor	

PGI	Persatuan Gereja Indonesia	Indonesian Council of Churches (Protestant)
PIDE	Polícia Internacional de Defesa do Estado	Portuguese secret police
PIJAR	Pusat Informasi dan Jaringan Aksi Reformasi	Indonesian NGO
Pikul	Pengembangan Institusi dan Kapasitas Lokal	Indonesian NGO
PKF	Peacekeeping Forces (UN)	
PKI	Partai Komunis Indonesia	Indonesian Communist Party
PKK	Program Kesejahteraan Keluarga	Family Welfare Program
PMI	Palang Merah Indonesia	Indonesian Red Cross
PMLF	Partido Marxista-Leninista Fretilin	Fretilin Marxist-Leninist Party
PMP	Pendidikan Moral Pancasila	Pancasila Moral Education
PNT	Partido Nacionalista TImorense	Timorese Nationalist Party
PNTL	Policia Nacional Timor-Leste	Timor-Leste National Police
POKASTIM	Kelompok Kerja Kesejahteraan dan Pendidikan Timor Timur	Working Group for East Timorese Welfare and Education
Polda	Polisi Daerah	Province Level Police
Polri	Polisi Republik Indonesia	Indonesian National Police Force
Polsek	Polisi Sektoral	Sub-district Level Police
Polres	Polisi Resort	Regency Level Police
Polwil	Polisi Wilayah	Regional Level Police
PM	Polisi Militer	Military Police
PPATN	Panti Penyantunan Anak Taruna Negara	state orphans welfare program
PPI	Pasukan Pejuang Integrasi	Pro-integration Forces
PR	Pax Romana	Catholic peace NGO
Prada	Prajurit Dua	Private 2nd class
Pramuka	Praja Muda Karana	Indonesian scout

Pratu	Prajurit Satu	Private 1st class
PRD	Partai Rakyat Demokratik	Democratic People's Party
propriedade estatal		state property
PRRI	Pemerintah Revolusioner Republik Indonesia	Revolutionary Government of the Indonesian Republic
PSD	Partido Social Democratica	Democratic Socialist Party
PSDC	Partido Social Democrata Cristão	Christian Social Democratic Party
PSTT	Pemerintah Sementara Timor Timur	Provisional Government of East Timor
Puskesmas	Pusat Kesehatan Masyarakat	Community Health Centre
Quartel Geral		Portuguese military HQ in Dili
RAFT	Reunite in Australia the Families of Timor	
Ramelau		Ermera based pro-integration militia
Ratih	Rakyat Terlatih	community trained in security
RDTL	Republica Democratica Timor-Leste	Democratic Republic of Timor-Leste
Renal	Rehabilitacão Nacional	education and detention centre (Fretilin)
Renetil	Resistência Nacional Estudantes de Timor-Leste	Timor-Leste National Students Resistance
Repelita	Rencana Pembangunan Lima Tahun	Indonesian five year development plan
RER	Reajustamento Estrutural da Resistência e Proposta da Paz	Structural Reorganisation of the Resistance and Peace Proposal
RK	Rukun Kampung	village neighbourhood association
RMS	Retrospective Mortality Survey	

RoI	Record of Interrogation	*see* BAP
RPKAD	Resimen Para-Komando Angkatan Darat	Army Para-Commando Regiment (precursor to Kopassandha)
RT	Rukun Tetangga	neighbourhood organisation
RTP	Resimen Tim Tempur	Combat Regiment
SAETA	Sydney Australia East Timor Association	
Sagrada Familia		'Holy Family': East Timorese clandestine organisation
Saka Loromonu		Bobonaro based pro-integration militia
Sakunar		Oecussi based pro-integration militia
Sang Tai Hoo		Chinese shop in Dili used by the Indonesian military as a detention centre
SAPT	Sociedade Agricola Patria e Trabalho	colonial Portuguese trading company
SARET	Special Autonomous Region of East Timor	
Satgas	Satuan Tugas	Task Force
Satgas Intel	Satuan Tugas Intelijen	Intelligence Task Force
Satgas P3TT	Satuan Tugas Pelaksanaan Penentuan Pendapat di Timor Timur	Task Force for the Popular Consultation in Timor-Leste
Satpur	Satuan Tempur	Combat Unit
SCU	Serious Crimes Unit	
Sekwilda	Sekretariat Wilayah Daerah	Regional Area Secretariat
SGI	Satuan Gabungan Intelijen	Intelligence Gathering Unit (until 1993)
Simonov	Senapan Simonov	semi-automatic Russian weapon used by the Indonesian police

Solidamor	Solidaritas Indonesia untuk Perdamaian Timor Timur	Solidarity for Peace in East Timor
SPRIM	Solidaritas Perjuangan Rakyat Indonesia untuk Maubere	Indonesian Timor-Leste solidarity organisation
SRSG	Special Representative of the Secretary General (UN)	
Sub Chefe do Estado Maior		Deputy Chief-of-Staff
suicido ideológico		ideological suicide
Susenas	Survei Sosial Ekonomi Nasional	National Socio-economic Survey
tais		hand woven textiles (Tetum)
TAPOL	Tahanan Politik	London-based NGO which takes its name from the Indonesian for 'political prisoner'
TBO	Tenaga Bantuan Operasi	Military Operations Assistant
TFET	Trust Fund for East Timor	
Team Alfa		Lospalos based pro-integration militia
Team Makikit		Vivique based pro-integration militia
Team Saka		Baucau based Pro-integration militia
Team Sera		Baucau based Pro-integration militia
TIS	Timor Information Service	
TKTB	Tim Kemanusiaan Timor Barat	West Timor Humanitarian Team
TNI	Tentara Nasional Indonesia	Indonesian National Army
Tokodede		local language in Liquiçá area

Tonsus	Peleton Khusus	Special Platoon
Trabalhista	Partido Trabalhista	Labour Party
TPD	Tim Pembina Desa	village development team
TPPP	Tim Pelaksana Pembangunan Pusat	
TPR	Tentara Pembebasan Rakyat	People's Liberation Army
TVTL	Televisi Timor-Leste	Timor-Leste television
UDHR	Universal Declaration of Human Rights	
UDT	União Democratica Timorense	Timorese Democratic Union
UNAA	United Nations Association of Australia	
UNAMET	United Nations Mission in East Timor	
UNATIL	Universidade Nacional Timor-Leste	National University of Timor-Leste
UNHCR	United Nations Commission for Human Rights	
UNDP	United Nations Development Program	
Unetim	União Nacional dos Estudantes de Timor	National Students Union of Timor
UNFPA	United Nations Population Fund	
UNHCHR	United Nations High Commissioner for Human Rights	
UNHCR	United Nations High Commissioner for Refugees	
UNICEF	United Nations Children's Fund	
UNIF	United Front for East Timor Autonomy	
UNITA	União Nacional para a Independência Total de Angola	National Union for the Total Independence of Angola

Unidade Nacional		National Unity
UNMISET	United Nations Mission of Support in East Timor	
UNSCD	United Nations Special Committee on Decolonisation	
UNTAET	UN Transitional Administration in East Timor	
UNTAS	Unidades Timor Asswain	United Warriors of Timor
Untim	Universitas Timor Timur	University of East Timor (Indonesian period)
UNV	UN Volunteers	
USAID	U.S. Agency for International Development	
vias de canais		channels
Wanra	Perlawanan Rakyat	People's Resistance
WFP	World Food Programme	
WHO	World Health Organisation	
WTO	World Trade Organisation	
WV	World Vision	
YAKIN	Yayasan Kesejahteraan Islam Nasrullah	Islamic welfare organisation
Yayasan HAK	Yayasan Hukum, Hak Asasi, dan Keadilan	Timor-Leste human rights NGO
YLBHI	Yayasan Lembaga Bantuan Hukum Indonesia	Indonesian legal aid organisation
Yon Armed	Yonif Artileri Medan	Field artillery
Yonif	Batalion Infanteri	Infantry Battalion

Zipur	Zeni Tempur	Combat Troops
zonas libertadas		liberated zones

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Note on usage

To facilitate usage, the page numbers of the respective volumes are given at the foot of each of the following pages.

It has not been possible to include every reference to each of the topics, places, events, organisations and individuals found in these volumes or, indeed, to include all of the items that fall under these headings. Further word searches can be conducted electronically using the cd of the full report.

Generally speaking, names are entered starting with the last or family name. Some Indonesian names, however, are entered according to Indonesian usage, e.g. Benny Moerdani not Moerdani, Benny.

C

Passabe. *See* massacre sites

After looking at forty truth commissions world-round, I concluded that the truth commission of East Timor was among the five strongest. It was an impressive, passionate and scrupulous exercise. And its report, *Chega!*, stands in testament to this careful and rigorous exercise, honestly reflecting the victims' stories as well as the far-reaching conclusions that emerged from this work. It is wonderful that this will now be available, in full, in English; it will be an important reference for others embarking on a similar path.

Priscilla Hayner,
Author, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd ed., 2011)

"The extensive CAVR Report is an encyclopedia of our history, rich in both teachings and suffering. We must utilise its great teachings to better understand today's crisis and to help prevent future crises."

Jose Ramos-Horta,
Nobel Peace Laureate, former President and Prime Minister of Timor-Leste (July 2006)

"*Chega!* is troubling testimony. This report will jolt Indonesian readers who think that under the Soeharto regime everything was peaceful in Indonesia's then 27th province. Page after page recounts the stories of victims of massacres, rape, forced disappearances, torture and other unimaginable crimes ... Indonesia can learn from *Chega!* This report is an important contribution to democratisation and security sector reform in Indonesia."

Ifdhal Kasim,
Chair, Indonesian Commission on Human Rights (August 2010)

"The CAVR Report constitutes an important milestone in the search for justice, truth and reconciliation in Timor-Leste. It is my sincere hope that (it) will be an enduring contribution to building the Timorese nation and will help to prevent the recurrence of such tragic events in Timor-Leste and elsewhere."

Kofi Annan,
UN Secretary-General (July 2006)



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